



TURKS AND CAICOS ISLANDS

CHAPTER 19.04
CUSTOMS ORDINANCE
and Subsidiary Legislation

Revised Edition
showing the law as at 31 March 2018

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance.

This edition contains a consolidation of the following laws—

	Page
CUSTOMS ORDINANCE	3
Ordinance 3 of 1995 .. in force 2 February 1996 (Part) and 1 April 1996 (L.N. 8/1996)	
Amended by Ordinances 9 of 2001 .. in force 22 May 2001 (L.N. 15/2001)	
27 of 2010 .. in force 17 November 2010 (L. N. 29/2010)	
1 of 2014 .. in force 10 March 2014 (L. N. 5/2014)	
15 of 2016 .. in force 1 June 2016 (L. N. 35/2016)	
Consolidated with CUSTOMS (PROCESSING FEE) ORDINANCE	
Ordinance 8 of 2011 .. in force 6 April 2011	
Amended by Legal Notices 37/2011 .. in force 1 December 2011	
48/2013 .. in force 1 November 2013	
CUSTOMS REGULATIONS—	
Additional Import Duty On Fuel Order – Section 70	109
Legal Notices: 11/2010 .. in force 1 July 2010	
Amended by Legal Notices: 12/2011 .. in force 11 April 2011	
38/2013 .. in force 1 October 2013	

Continued on the Inside Cover ...



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Continued on the Inside Cover ...

CHAPTER 19.04
CUSTOMS ORDINANCE

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

SECTION

1. Short title
2. Interpretation
3. Time of importation and exportation

PART II

ADMINISTRATION

4. Electronic documents
5. Collector of Customs
6. Delegation and appointment by Collector
7. Obligation of secrecy
8. Times of attendance of officers
9. Assistance to be rendered by the police
19. Officers to disclose interest in certain vessels or aircraft or merchandise
11. Directions

PART III

CUSTOMS CONTROLLED AREAS

12. Appointment of ports and boarding stations
13. Approved wharves
14. Appointment of customs airports
15. Customs areas
16. Examination stations
17. Unauthorised entry
18. Transit sheds
19. Government transit sheds
20. Agents
21. Control of movement of uncleared goods

PART IV

IMPORTATION

22. Control of movement of vessels
23. Control of movement of aircraft
24. Power to give directions for arriving vessels and aircraft and the unloading of imported goods
25. Report inwards
26. Commissioned ships and aircraft
27. Control of pleasure craft
28. Control of small craft
29. Entry of goods on importation
30. Pre-entry of goods in specified circumstances
31. Failure to comply with provisions as to entry
32. Removal of uncleared goods to a Queen's warehouse
33. Goods improperly imported
34. Offences in relation to improper importation

PART V

IMPORTATION AND EXPORTATION BY POST

35. Application of customs enactments to postal packets and letters
36. Procedure on importation
37. Procedure on exportation
38. Power to examine and detain letters and postal packets
39. Duties of masters of vessels and commanders of aircraft regarding letters and postal packets
40. Offences in relation to importation and exportation by post

PART VI

EXPORTATION

41. Power to give directions as to the loading of goods and departing vessels and aircraft
42. Entry of goods for exportation
43. Stores
44. Clearance
45. Power to refuse or demand return of clearance
46. Offences in relation to exportation
47. Exportation of prohibited or restricted goods

PART VII

COASTING TRADE

48. Definition of coasting trade
49. Power to give directions as to coasting trade
50. Limits on coasting vessels and aircraft
51. Account of goods on coasting vessels or aircraft
52. Examination of goods in coasting vessels
53. Offences in relation to carriage of goods coastwise

PART VIII

WAREHOUSING

54. Approval of warehouses
55. Power to give directions as to warehouses and warehoused goods
56. Goods not to be warehoused
57. Production of goods in warehouse
58. Proprietor may inspect and show goods for sale
59. Entry, marking, etc. of goods for warehousing
60. Re-entry of goods entered for warehousing
61. Operations on warehoused goods
62. Deficiency in warehoused goods
63. Removal of goods from warehouse
64. Duty liability on warehoused goods
65. Removal of warehoused goods without payment of duty
66. Provisions as to goods to be deposited in a Queen's warehouse
67. Offences in relation to warehouses and warehoused goods
68. Duty free shops

PART IX

DUTIES, DRAWBACK, PROHIBITIONS AND RESTRICTIONS

Duty on Imported Goods

69. Duty on imported goods other than goods entered for warehousing
70. Customs duties and tariff
71. Exemptions in particular cases
72. Duty deferment
73. Delivery of imported goods on giving of security
74. Variation of duties on goods from specified countries
75. Power to allow flat rate of duty
76. Goods to be warehoused without payment of duty
77. Relief from duty of goods entered for transit or transshipment
78. Calculation of duty

79. Securing and deferment of export duties
80. Special provisions
81. Relief from duty on re-imported goods
82. Offences and forfeiture for breach of conditions
83. Abatement of duty
84. Goods temporarily imported for re-export
85. Goods imported other than as cargo, stores or baggage
86. Value of goods entered for home use or disposed of after relief
87. Relief from duty on re-imported goods locally produced
88. Repayment of sums overpaid in error
89. Repayment on goods not in accordance with contract
90. Recovery of amounts due
91. Application of import duty provisions to export duty
92. Ascertainment of strength and volume of alcoholic liquor
93. Valuation of goods for purpose of *ad valorem* duties

Drawback

94. Extent of drawback
95. Claims for drawback
96. Drawback on goods destroyed or damaged after shipment
97. Offences in relation to drawback
98. Refund of duty paid on goods exported after undergoing a process of manufacture

Prohibitions and Restrictions

99. Power of Governor to make orders relating to prohibited or restricted goods
100. Restriction on carriage of beer, wine, spirits and tobacco

PART X

POWERS

101. Customs control of persons entering or leaving the Islands
102. Right of access and search
103. Power of boarding vessels and aircraft
104. Power to direct vessel
105. Power to station officer on vessel
106. Power to patrol and moor
107. Power to prevent flight of aircraft
108. Power to examine and take account of goods
109. Power to require provision of facilities, etc
110. Power to take samples
111. Power to search premises

- 112. Power to search vehicles, vessels or aircraft
- 113. Power to search persons
- 114. Power of arrest
- 115. Power to summon vessels to bring to or aircraft to land
- 116. Power to pay rewards
- 117. Retention of Records
- 118. Power to require information and the production of evidence
- 119. Power to require security

PART XI

OFFENCES

- 120. Unlawful assumption of character of Collector or officer
- 121. Bribery and collusion
- 122. Offences against officers
- 123. Carrying away officers
- 124. Servicing uncleared vessel or aircraft
- 125. Interfering with customs vessels, etc
- 126. Signalling to smugglers
- 127. Offering goods for sale as smuggled goods
- 128. Special penalty where offender armed or disguised
- 129. Untrue declarations
- 130. Counterfeiting documents
- 131. False scales
- 132. Fraudulent evasion
- 133. Removing locks, seals or marks

PART XII

IMPORTED GOODS - CUSTOMS PROCESSING FEE

General Provisions as to Legal Proceedings

- 134. Imposition and rate of customs processing fee
- 135. Collection of customs processing fee

PART XIII

LEGAL PROCEEDINGS, FORFEITURE AND SALE OF GOODS

General Provisions as to Legal Proceedings

- 136. Institution and nature of proceedings
- 137. Place of trial
- 138. Procedure for recovery of duty, rent, etc
- 139. Persons who may conduct proceedings

140. Service of process
141. Incidental provisions
142. Power to compound offences and mitigate penalties
143. Proof of certain documents
144. Proof of certain matters other than documents
145. Detention of persons about to leave the Islands
146. Actions against officers

Forfeiture

147. Detention, seizure and condemnation of goods
148. Forfeiture of vessels, etc. used in connection with goods liable to forfeiture
149. Forfeiture of vessel or aircraft unable to account for missing cargo
150. Special provisions as to forfeiture of larger vessels
151. Special provisions as to forfeiture of larger aircraft
152. Protection of officers seizing or detaining goods
153. Disposal of goods condemned as forfeited

PART XIV

DETERMINATION OF DISPUTES

154. Appeals to the Collector
 155. Appeals to referees
 156. Right of further appeal
 157. Payment of duty after appeal
- | | |
|-------------|---|
| SCHEDULE 1: | Goods not permitted to be warehoused on importation |
| SCHEDULE 2: | Goods to which flat rate of duty not to apply |
| SCHEDULE 3: | Exemption from Charges and fees under Part XII |
| SCHEDULE 4: | Forfeiture |

CHAPTER 19.04
CUSTOMS ORDINANCE

*(Ordinances 3 of 1995, 9 of 2001, 27 of 2010, 1 of 2014, 15 of 2016, 8 of 2011
and Legal Notices 37/2011, 48/2013, 30/2014)*

AN ORDINANCE RELATING TO CUSTOMS AND FOR CONNECTED MATTERS

Commencement

- (a) *the following sections came into operation on 2 February 1996—*
8(1), 8(3), 12(1), 14(1), 19(2), 21(1), 24(1), 25, 27, 28(2), 29, 30, 35(2), 41(1),
42, 44(1), 44(2), 49(1), 63, 68, 70, 72, 75, 98, 101 and 142;
- (b) *the remainder of the Ordinance, except sections 4, 25(2) and section 119 came
into operation on 1 April 1996;*
- (c) *sections 4, 25(2) and 119 came into operation on 17 November 2010;*
- (d) *section 134 and 135 came into operation on 6 April 2011.*

PART I

PRELIMINARY

Short title

1. This Ordinance may be cited as the Customs Ordinance.

Interpretation

2. In this Ordinance, unless the context otherwise requires—

“agent” means any person appointed as an agent under section 20;

“aircraft” includes any balloon (whether captive or free), kite, glider, airship,
helicopter or other flying machine;

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

“approved wharf” means any place approved under section 13(1);

“assigned matter” means any matter in relation to which the Collector is for the
time being required in pursuance of any enactment to perform any duties;

“boarding station” means any place directed to be a boarding station under
section 12(2);

“cargo” means any goods, other than stores, crew members’ effects and
passengers’ accompanied baggage, carried on board a vessel or aircraft;

- “claimant”, in relation to proceedings for the condemnation of any thing as being liable to forfeiture, means any person claiming that the thing is not liable to forfeiture;
- “coasting aircraft” and “coasting vessel” have the meaning given to them by section 48(1);
- “Collector” means the Collector of Customs;
- “commander”, in relation to an aircraft, includes any person having or taking charge or command of that aircraft;
- “computer” means an electronic device capable of storing and processing information according to a set of instructions; (*Inserted by Ord. 27 of 2010*)
- “container” includes any bundle or package and any box, cask or other receptacle whatsoever;
- “crew” means any person employed in duties on board any vessel or aircraft during a voyage or flight, whether or not such a person is on any crew list;
- “Customs” means the Customs Department in the Ministry of Finance and includes the personnel mentioned in section 4(1); (*Inserted by Ord. 27 of 2010*)
- “customs airport” means any place prescribed as such or appointed under section 14;
- “customs area” means any place approved under section 15(1);
- “declaration” means the provision of any information whether verbally or in a document by a person or their agent and includes an entry relating to particular importations, exportations or intransit;
- “document” includes—
- (a) any information in writing relating directly or indirectly to goods which are imported, exported or in transit;
 - (b) any declaration in writing required by the Collector;
 - (c) any electronic document and any material derived therefrom;
 - (d) a copy or duplicate of a document or any part thereof;
 - (e) anything which is in writing; (*Inserted by Ord. 27 of 2010*)
- “drawback goods” means goods in the case of which a claim for drawback has been or is to be made;
- “dutiable goods” means goods of a class or description subject to any duty of customs whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid thereon;
- “duty” means a duty of customs chargeable on goods on importation or exportation and includes any tax or surcharge imposed on importation or exportation;

- “duty free shop” means any premises approved by the Collector for the sale of goods intended for re-export on which customs import duty has not been paid;
- “electronic document” means a document processed and maintained by electronic means; (*Inserted by Ord. 27 of 2010*)
- “electronic signature” means a signature in electronic form, attached to or logically associated with information which is used by a signatory to indicate his adoption of the content to that information and is—
- (a) linked solely to the signatory;
 - (b) capable of identifying the signatory;
 - (c) created using means which the signatory can control; and
 - (d) linked to the information to which it relates in such a manner that any subsequent alteration of the information is revealed; (*Inserted by Ord. 27 of 2010*)
- “enactment” means any Ordinance and any enactment of the United Kingdom extended to the Islands;
- “enactment relating to an assigned matter” includes this Ordinance;
- “entry”, in relation to the importation or exportation of goods, means any document delivered to the proper officer in accordance with section 29(1) or section 42(1) respectively;
- “examination station” means any place approved under section 16(1);
- “export” means to take out or cause to be taken out or attempt to take out of the Islands;
- “exporter”, in relation to goods for exportation or for use as stores, includes the shipper of the goods and any person performing in relation to any aircraft functions corresponding with those of a shipper;
- “goods” includes merchandise, stores, baggage and livestock;
- “Government transit shed” means a building or place in the occupation of the Government, other than a Queen’s warehouse, which is used as a transit shed;
- “import” means to bring or cause to be brought into the Islands;
- “importer”, in relation to any goods at any time between their importation and the time when they are delivered out of customs charge, includes any owner or other person for the time being possessed of or beneficially interested in the goods;
- “Islands” means the Turks and Caicos Islands and includes the territorial sea of the Islands;
- “land” and “landing”, in relation to the landing of aircraft, includes alighting on water;

- “letter” means an item transmitted at the letter rate of postage;
- “master”, in relation to a vessel, includes any person having or taking charge or command of the vessel;
- “Minister” means the Minister for the time being responsible for administering this Ordinance;
- “net tonnage”, in relation to the weight of a vessel, means the net tonnage, as calculated by the Merchant Shipping Tonnage Regulations 1982^a;
- “night” means the period between the hours of eleven o’clock at night and five o’clock in the morning;
- “occupier”, in relation to any warehouse, means the person who has given security to the Collector in respect of those premises;
- “officer” means any person employed in the Customs Department, and includes the Collector, the Deputy Collectors and Assistant Collectors; (*Amended by Ord. 27 of 2010*)
- “owner”, in relation to a vessel or an aircraft, includes the operator of that vessel or aircraft;
- “passenger” means any person other than a crew member travelling on or arriving from any vessel or aircraft;
- “passengers’ accompanied baggage” means property, including currency, carried for a passenger on a vessel or aircraft whether in his personal possession or not, so long as it is not carried under a contract of carriage or other similar agreement but, for the purposes of sections 29 and 42, does not include any article intended for sale, exchange or use for commercial purposes;
- “perfect entry” means any entry made in accordance with sections 29 and 42;
- “police officer” means any member of the Royal Turks and Caicos Islands Police Force;
- “port” means any place prescribed as such or appointed under section 12;
- “post” includes all postal communications by land or by water or by air;
- “postal packet” means all packets or parcels sent by post;
- “Postmaster” has the same meaning as in the Post Office Ordinance and includes any person authorised by him to perform any function;
- “prohibited or restricted goods” means goods of a class or description of which the importation, exportation or carriage coastwise is for the time being prohibited or restricted under or by virtue of any enactment;
- “proper”, in relation to the person by, with or to whom or the place at which any thing is to be done, means the person or place appointed or authorised by the Collector in that behalf;

^a U.K. S.I. 1982/841

- “proprietor”, in relation to any goods, includes any owner, importer, exporter, shipper or other person for the time being possessed of or beneficially interested in those goods;
- “Queen’s warehouse” means any place appointed as such under section 66;
- “shipment” includes loading into a vessel or an aircraft, and “shipped” and cognate expressions shall be construed accordingly;
- “stores” means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles or equipment, whether or not for immediate fitting;
- “territorial sea”, in relation to the Islands, has the same meaning as in the Turks and Caicos Islands (Territorial Sea) Order 1989;
- “transit” or “transshipment”, in relation to the entry of goods, means transit through the Islands or transshipment with a view to the re-exportation of the goods in question;
- “transit shed” means any place approved under section 18(1) and, subject to this Ordinance, includes a Government transit shed;
- “vehicle” includes any conveyance or carriage or any cart or wagon and any trailer attached to any such vehicle;
- “vessel” includes any ship, hovercraft or boat;
- “warehouse”, except in the expression “Queen’s warehouse”, means any place of security approved by the Collector under section 54(1), and “warehoused” and cognate expressions shall be construed accordingly;
- “writing” includes electronically generated information or data which is accessible and capable of retention for subsequent reference. (*Inserted by Ord. 27 of 2010*)

Time of importation and exportation

3. (1) This section shall have effect for the purposes of any enactment relating to an assigned matter.

(2) Subject to subsection (3), the time of importation of any goods, shall be deemed to be—

- (a) where the goods are brought by sea, the time when the vessel carrying them comes within the limits of a port or the time when the goods are unloaded in the Islands, whichever is the earlier;
- (b) where the goods are brought by air, the time when the aircraft carrying them lands in the Islands or the time when the goods are unloaded in the Islands, whichever is the earlier.

(3) The time of importation of prohibited or restricted goods shall be deemed to be—

- (a) where the goods are brought by sea, the time when the vessel carrying them enters the territorial sea of the Islands;

(b) where the goods are brought by air, when the aircraft carrying them lands in the Islands or when the goods are unloaded in the Islands, whichever is the earlier.

(4) The time of exportation of any goods from the Islands shall be deemed to be, where the goods are exported by sea or air, the time when the goods are shipped for exportation:

Provided that in the case of goods exported by sea or air of a class or description with respect to the exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment, the time of exportation shall be deemed to be the time when the exporting vessel or aircraft departs from the last port or customs airport at which it is cleared before departing for a destination outside the Islands.

(5) A vessel shall be deemed to have arrived at or departed from a port at the time when the ship comes within or, as the case may be, leaves the limits of that port.

Electronic documents

4. (1) Where a document is required or permitted to be in writing, that requirement or permission may be met by information in the form of an electronic document.

(2) Subsection (3) applies to every provision of this Ordinance and to every direction given by the Collector under it which requires or enables an entry to be delivered or made by electronic document.

(3) Where an electronic document is used as is mentioned in subsection (1), the time of delivery or the making of an entry shall be the time when the particulars of the entry are registered by the computer. *(Inserted by Ord. 27 of 2010)*

PART II

ADMINISTRATION

Collector of Customs

5. (1) There shall be a Collector of Customs, whose office shall be a public office, and who shall be responsible, subject to the general control of the Minister, for the management and administration of the Customs Department, for collecting the revenues of customs and for the performance of such other duties as may by any enactment or by direction of the Governor be assigned to him; and there shall be such other officers of the Department, to be called Deputy Collectors, Assistant Collectors, and customs officers, who shall perform such duties as may from time to time be assigned to them by the Collector.

(2) All monies and security for monies collected or received under any enactment relating to an assigned matter shall be paid as soon as practicable by

the Collector into the Consolidated Fund of the Islands. (*Amended by Ord. 27 of 2010*)

Delegation and appointment by Collector

6. (1) Any act or thing required or authorised by any enactment relating to an assigned matter to be done by the Collector may be done by an officer authorised generally or specifically in that behalf, in writing or otherwise, by the Collector, except that where, for any reason, the post of Collector for any time is unfilled, any authorisation given by a previous Collector which has not been revoked shall continue in force until revoked by any person subsequently appointed as Collector.

(2) Where under any enactment relating to an assigned matter a function may be performed or power exercised by a person other than the Collector, such function or power may be performed or exercised by an officer with the authority of the Collector.

(3) If any officer or other person previously authorised in writing by the Collector to do any thing fails, when required to do so by the Collector, to return to him that written authority, he commits an offence and is liable on summary conviction to a fine of \$2,000.

(4) Where any act is required by any enactment to be done in any particular place it shall be deemed to be done in such place if done in any other place authorised by the Collector for that purpose.

Obligation of secrecy

7. (1) Subject to subsection (3), any person appointed or employed in carrying out any requirement of or any duty imposed or any power granted by any enactment relating to an assigned matter, who—

- (a) discloses to an unauthorised person any document, information or confidential instruction which has come into his possession or to his knowledge in the course of his duties; or
- (b) permits any unauthorised person to have access to any records in his possession or custody,

commits an offence.

(2) Any person who commits an offence under subsection (1) is liable—

- (a) on summary conviction to a fine of \$10,000 or to imprisonment for a term of one year, or to both, and may be arrested;
- (b) on conviction on indictment to a fine of \$20,000 or to imprisonment for a term of two years, or to both, and may be arrested.

(3) Nothing in subsection (1) shall prevent the disclosure by any person of any document, information or confidential instruction where that disclosure is authorised by or under any enactment or by the Collector.

Times of attendance of officers

8. (1) The days on which and the hours between which offices of Customs are to be opened or officers are to be available for the performance of particular duties shall be such as the Minister may by regulation prescribe.

(2) Any request for an officer to perform any duty outside the normal hours of attendance of officers shall be made in writing to the Collector who may grant such request if he thinks fit.

(3) The fees payable for the performance of specific duties or for the performance of duties outside the hours prescribed by regulation under subsection (1) shall be such as the Minister may by regulation prescribe.

Assistance to be rendered by the police

9. It shall be the duty of every police officer and of every member of Her Majesty's armed forces to assist in the enforcement of the law relating to any assigned matter.

Officers to disclose interest in certain vessels or aircraft or merchandise

- 10.** (1) Any officer who fails to disclose to the Collector in writing that he—
- (a) owns either in whole or in part any vessels or vessel or aircraft engaged in trade;
 - (b) acts on behalf of the owner of any vessel or aircraft engaged in trade;
 - (c) imports or exports or is concerned in the importation or exportation of any merchandise for sale; or
 - (d) owns either in whole or in part or acts on behalf of the owner of any other business subject to customs control,

commits an offence and is liable on conviction to a fine of \$2,000.

- (2) Any officer who—
- (a) discloses an interest to the Collector as required under subsection (1);
 - (b) is given notice in writing by the Collector to relinquish such interest; and
 - (c) fails to comply with such notice,

commits an offence and is liable on conviction to a fine of \$5,000 or to imprisonment for a term of six months, or to both, and may be arrested.

Directions

11. (1) Any direction by the Collector given under this Ordinance or any regulations or orders made under it—

- (a) may be published in the *Gazette*;
- (b) may make different provisions for different circumstances;

- (c) may be varied or revoked by any subsequent direction; and
- (d) unless varied or revoked by a subsequent direction, shall continue to apply notwithstanding that the person who gave the direction is no longer the Collector or an officer or, for any other reason, no longer has the authority to give such a direction.

(2) Where in this Ordinance it is provided that the Collector may give his approval in respect of any matter, such approval may be given by way of a direction.

PART III

CUSTOMS CONTROLLED AREAS

Appointment of ports and boarding stations

12. (1) The Minister may by order—
- (a) appoint, delimit and name as a port for the purpose of customs any area in the Islands;
 - (b) alter the name or limits of any such port;
 - (c) revoke the appointment of any such port; and
 - (d) impose any condition or restriction, or vary or revoke any condition or restriction imposed, on the use of an area in the Islands as a port.

(2) The Collector may direct that any place in a port shall be a boarding station for the purpose of the boarding of or disembarkation from vessels by officers.

(3) Any person who contravenes or fails to comply with any condition or restriction imposed by an order made under subsection (1) commits an offence and is liable on conviction to a fine of \$5,000.

Approved wharves

13. (1) The Collector may in any port approve, for such period and subject to such conditions and restrictions as he may see fit to impose, any place in the Islands for the embarkation and disembarkation of passengers onto and from vessels and for the loading and the unloading of goods or any class or description of goods onto or from vessels, and any place so approved shall be referred to in this Ordinance as an “approved wharf”.

(2) The Collector may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(3) An officer may at any time enter an approved wharf and inspect it and any goods for the time being at the wharf.

(4) Any person who contravenes or fails to comply with any condition or restriction imposed by the Collector under subsection (1) commits an offence and is liable on conviction to a fine of \$5,000.

Appointment of customs airports

14. (1) The Minister may by order—

- (a) appoint, delimit and name any area in the Islands as a customs airport;
- (b) alter the name or limits of any customs airport; and
- (c) revoke the appointment of any customs airport.

(2) The Collector may give directions—

- (a) specifying hours for customs clearance at customs airports;
- (b) imposing any condition or restriction, or vary or revoke any condition or restriction imposed, on the use of any area in the Islands as a customs airport; and
- (c) generally as to the operation of any customs airport.

(3) Any person in control of any part of any customs airport shall—

- (a) permit an officer at any time to enter upon and inspect that airport and all buildings and goods on it; and
- (b) if so required by the Collector—
 - (i) keep a record, in such form and manner and containing such particulars as the Collector may direct, of all aircraft arriving at or departing from that airport;
 - (ii) keep that record available and produce it on demand to any officer, together with all other documents kept at the airport which relate to the movement of aircraft; and
 - (iii) permit any officer to make copies of, take extracts from or remove for a reasonable period any such record or document.

(4) Any person who contravenes or fails to comply with subsection (3) or any direction made under subsection (2) shall be commits an offence and is liable on conviction to a fine of \$10,000.

Customs areas

15. (1) The Collector may approve, for such periods and subject to such conditions and restrictions as he may see fit to impose, any place in the Islands, not being a port, approved wharf or customs airport, as a “customs area”.

(2) The Collector may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(3) Any person who contravenes or fails to comply with any condition or restriction imposed by the Collector under subsection (1) shall be commits an offence and is liable on conviction to a fine of \$5,000.

Examination stations

16. (1) The Collector may approve, for such periods and subject to such conditions and restrictions as he thinks fit to impose, any place at a customs airport or customs area, for the loading and unloading of goods and the embarkation and disembarkation of passengers, and any such place so approved shall be referred to in this Ordinance as an “examination station”.

(2) The Collector may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(3) Any person who contravenes or fails to comply with any condition or restriction imposed by the Collector shall be commits an offence and is liable on conviction to a fine of \$5,000.

Unauthorised entry

17. Save as authorised by or under this Ordinance or any other enactment any person who, without the consent of the Collector, enters upon or remains upon any port, approved wharf, customs airport, customs area or examination station commits an offence and is liable on conviction to a fine of \$5,000 or to imprisonment for a term of six months, or to both, and may be arrested.

Transit sheds

18. (1) The Collector may approve for such periods and subject to such conditions and restrictions as he sees fit, places for the deposit of goods imported and not yet cleared from customs charge, including goods not yet reported and entered under this Ordinance, and any place so approved is in this Ordinance referred to as a “transit shed”.

(2) An officer may at any time enter a transit shed and inspect it and any goods for the time being therein.

(3) If, at any time after any goods have been placed in a transit shed and before they are lawfully removed therefrom, any goods are found to be missing or deficient, and it is not shown to the satisfaction of the Collector that their absence or deficiency can be accounted for by natural waste or other legitimate cause, then, without prejudice to any fine or forfeiture incurred under this Ordinance, the Collector may require the transit shed keeper to pay immediately in respect of the missing goods or of the whole or any part of the deficiency, as he sees fit, the duty on such goods.

(4) The Collector may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(5) Any person who contravenes or fails to comply with any condition or restriction imposed by the Collector under subsection (1) commits an offence and is liable on conviction to a fine of \$5,000.

(6) This section, other than subsection (1), shall not apply to Government transit sheds.

Government transit sheds

19. (1) The Collector may, in relation to any Government transit shed, give directions as to—

- (a) the classes or descriptions of goods which shall or may be deposited in such shed on the first importation thereof;
- (b) the rent and other charges which shall be payable in respect of goods so deposited; and
- (c) the acts which must be done and the conditions and restrictions which must be observed by the importer of any goods, and any other person concerned with any goods, so deposited or to be deposited.

(2) Such rent and other charges shall be payable in respect of any goods so deposited as the Minister may by regulation prescribe.

(3) Any person contravening or failing to comply with any direction under subsection (1) shall be commits an offence and is liable on conviction to a fine of \$5,000.

(4) No compensation shall be payable by the Government in respect of any loss or damage to any goods deposited in any Government transit shed unless such loss or damage occurs as the result of the wilful act or negligence of an officer.

(5) The proper officer may, at the expense of the owner of any goods deposited in a Government transit shed, do all reasonable acts which he deems necessary for the proper preservation and custody of such goods; but no such acts shall be done until the expiration of forty-eight hours after the officer has notified the importer of the acts required, unless that officer shall decide in his discretion that immediate action is necessary for the proper custody or preservation of the goods.

(6) The importer of any goods in relation to which the proper officer does any act under subsection (5) shall pay any expenses incurred at such times and in such manner as the Collector may direct; and in default of such payment the goods may be taken by an officer to a Queen's warehouse and, without prejudice to section 66(8)(a), if they are not cleared therefrom and all duties and charges due to the Government paid within one month, they may be sold.

(7) The Collector may, if in his discretion he considers that such action is necessary, remove goods from one Government transit shed to another in any manner he may deem reasonable.

Agents

20. (1) The master of any vessel exceeding 100 net tons or the commander of any aircraft may appoint as his agent any person to perform any act required by any enactment relating to an assigned matter to be performed by a master or a commander, and, if he does so, he shall notify the Collector in writing of the name and address of that person. The Collector shall, subject to such terms and conditions as he sees fit to impose, accept that person as the agent.

(2) Unless the Collector otherwise permits, the master of any vessel not exceeding 100 net tons shall appoint an agent to perform any act required by any enactment relating to an assigned matter to be performed by a master and shall notify the Collector of the name and address of that person. The Collector shall, subject to such terms and conditions as he sees fit to impose, accept that person as the agent.

(3) If any agent appointed under subsections (1) or (2) wilfully or persistently neglects or refuses to comply with any requirement imposed by any enactment relating to an assigned matter on a master of a vessel or a commander of an aircraft, the Collector may, by notice in writing, advise any master of that vessel or any commander of that aircraft that he no longer accepts the person appointed as the agent of that master or that commander, and that person shall upon such notification cease to be the agent of the master of that vessel or the commander of that aircraft.

(4) Where any importer or exporter of goods or any other person other than the master of a vessel or the commander of an aircraft is required by any enactment relating to an assigned matter to perform any act or duty, he may appoint as his agent any other person to perform that act or duty.

(5) Before accepting any request by an agent to act on behalf of a person in relation to any assigned matter, an officer may require that agent to produce to him written authority from the person whose agent he is, certifying that he is so authorised to act.

(6) The Collector may if he sees fit require any person appointed to act as an agent under subsection (1) or (2) to give security by bond or otherwise for the due performance of his functions as an agent in such form and manner as the Collector may direct, and such bond—

- (a) shall be taken on behalf of the Government;
- (b) shall be valid notwithstanding that it is entered into by a person under twenty-one years of age; and
- (c) may be cancelled at any time by or by the order of the Collector.

Control of movement of uncleared goods

21. (1) The Collector may give directions as to the manner in which and the conditions and restrictions under which goods to which this section applies may be moved within the limits of any port, approved wharf, customs airport or customs area, between any of them or between any of them and any other place.

(2) This section applies to—

- (a) all goods chargeable with any duty which has not been paid;
- (b) any goods on which any drawback has been paid; and
- (c) any other goods which have not yet been cleared out of customs charge.

(3) Any directions under subsection (1) may require that goods to which this section applies shall only be moved—

- (a) by persons licensed by the Collector for that purpose; or
- (b) in such vessels, aircraft, vehicles or by such other means as may be approved by the Collector for that purpose,

and any such licence or approval may be granted for such periods and be subject to such conditions and restrictions as the Collector may see fit to impose and may be revoked at any time by the Collector.

(4) Any person who contravenes or fails to comply with any such directions, or any condition or restriction imposed, or the terms of any licence or approval granted by the Collector under subsection (1), commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of goods, whichever is the greater.

PART IV

IMPORTATION

Control of movement of vessel

22. (1) Subject to this section, and save as the Collector may otherwise permit—

- (a) the master of any vessel arriving in the Islands from a place outside the Islands shall cause that vessel to proceed directly to a port; and
- (b) no person importing or concerned in importing any goods into the Islands in any vessel shall bring those goods into the Islands at any place other than a port,

and any master or other person who contravenes or fails to comply with any requirement of this subsection and of subsection (2) commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater, and any goods imported in contravention of this subsection shall be liable to forfeiture.

(2) Save as permitted by the Collector—

- (a) no person shall depart on a voyage to a place or area outside the Islands from any place in the Islands other than a port;
- (b) the master of any vessel engaged in a voyage from a port to a place or area outside the Islands shall not cause or permit it to call at any place in the Islands other than the port specified in the vessel's clearance.

(3) Subsections (1) and (2) shall not apply in relation to any vessel which is compelled by accident, stress of weather or other unavoidable cause to arrive at a place other than a port, but, subject to subsection (4)—

- (a) the master of any such vessel—

- (i) shall immediately report the arrival to an officer or police officer;
 - (ii) shall not, without the consent of an officer, permit any goods carried on the vessel to be unloaded therefrom, or any passenger or member of the crew to depart from the vicinity of the vessel; and
 - (iii) shall comply with any direction given by an officer in respect of such goods;
- (b) no passenger or member of the crew shall, without the consent of an officer or a police officer, leave the immediate vicinity of any such vessel,

and any master or any other person who contravenes or fails to comply with any requirement of this subsection commits an offence and is liable on conviction to a fine of \$5,000.

(4) Nothing in subsection (2) shall prohibit—

- (a) the departure of any passenger or member of the crew from the vicinity of a vessel; or
- (b) the removal of goods from a vessel,

where that departure or removal is necessary for reasons of health, safety or the preservation of life or property.

Control of movement of aircraft

23. (1) Subject to this section and save as the Collector may otherwise permit—

- (a) the commander of any aircraft arriving in the Islands from a place outside the Islands shall not cause or permit that aircraft to land—
 - (i) for the first time on its arrival in the Islands; or
 - (ii) at any time while it is carrying passengers or goods brought in that aircraft from a place outside the Islands and not yet cleared,at any place other than a customs airport; and
- (b) no person importing or concerned in importing any goods in any aircraft shall bring those goods into the Islands at any place other than a customs airport.

(2) Save as the Collector may otherwise permit—

- (a) no person shall depart on a flight to a place or area outside the Islands from any place in the Islands other than a customs airport; and
- (b) the commander of any aircraft engaged in a flight from a customs airport to a place or area outside the Islands shall not cause or

permit it to land at any place in the Islands other than the customs airport specified in the application for clearance of that flight.

(3) Any commander or other person who contravenes or fails to comply with any requirement of subsection (1) or (2) commits an offence and is liable on conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested, and any goods imported in contravention of this subsection shall be liable to forfeiture.

(4) Subsections (1) and (2) shall not apply in relation to any aircraft which is required by or under any enactment relating to air navigation, or is compelled by accident, stress of weather or other unavoidable cause, to land at or depart from a place other than a customs airport, but subject to subsection (5)—

- (a) the commander of any such aircraft—
 - (i) shall immediately report the landing to an officer or a police officer and shall on demand produce to him the journey log belonging to the aircraft;
 - (ii) shall not without the consent of an officer permit any goods carried on the aircraft to be unloaded from, or any passenger or member of the crew to depart from the vicinity of, the aircraft; and
 - (iii) shall comply with any direction given by an officer with respect to such goods; and
- (b) no passenger or member of the crew shall without the consent of an officer leave the immediate vicinity of any such aircraft,

and any commander or any other person who contravenes or fails to comply with any requirement of this subsection commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater.

(5) Nothing in subsection (4) shall prohibit—

- (a) the departure of any passenger or member of the crew from the vicinity of an aircraft; or
- (b) the removal of goods from an aircraft,

where that departure or removal is necessary for reasons of health, safety or the preservation of life or property.

Power to give directions for arriving vessels and aircraft and the unloading of imported goods

24. (1) The Collector may give directions—

- (a) prescribing the procedure to be followed by a vessel arriving at a port and an aircraft arriving at a customs airport;
- (b) prescribing the procedure to be followed for the unloading, landing, movement and removal of goods on their importation;

- (c) prescribing forms; and
- (d) generally, as to the procedures upon arrival of vessels and aircraft and the movement of goods upon importation,

and different directions may be given with respect to vessels and aircraft and with respect to importations by sea or air.

(2) Without prejudice to the generality of subsection (1), directions given under that subsection may provide for the imposition of a fine not exceeding \$5,000 for any contravention of or failure to comply with any such direction, and for the forfeiture of any goods involved in any such offence.

Report inwards

25. (1) The master of every vessel not exceeding 100 net tons arriving at a port—

- (a) from any place outside the Islands; or
- (b) carrying goods brought in that or another vessel or aircraft from a place outside the Islands and not yet cleared on importation,

shall, within twenty-four hours after that arrival, deliver to the Collector a report in such form and manner and containing such particulars as the Collector may direct. (*Amended by Ord. 27 of 2010*)

(2) The master of every vessel over 100 net tons arriving at a port—

- (a) from any place outside the Islands; or
- (b) carrying goods brought in that or another vessel or aircraft from a place outside the Islands and not yet cleared on importation,

shall, within twenty-four hours before arrival, deliver to the proper officer a report in such form and manner and containing such particulars as the Collector may direct. (*Inserted by Ord. 27 of 2010*)

(3) The commander of every aircraft arriving at a customs airport—

- (a) from any place outside the Islands;
- (b) carrying goods or passengers taken on board that aircraft at a place outside the Islands, being goods or passengers either—
 - (i) bound for a destination in the Islands and not yet cleared at a customs airport; or
 - (ii) bound for a destination outside the Islands; or
- (c) carrying goods brought in another aircraft or vessel from a place outside the Islands and not yet cleared,

shall, immediately upon that arrival, deliver to the Collector a report in such form and manner and containing such particulars as the Collector may direct.

(4) The Collector may give further directions prescribing the procedure for making a report under this section.

(5) Where—

- (a) a person by whom a report is required to be made by this section fails to make a report as required, he commits an offence and is liable on conviction to a fine of \$5,000, and any goods required to be reported which are not duly reported shall be liable to forfeiture;
- (b) any goods which appear on any clearance required to be produced by this section do not appear on the report, the master or commander shall—
 - (i) pay to the Collector the duty on such goods; and
 - (ii) commit an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater, and the goods shall be liable to forfeiture.

(6) Any person making a report under this section shall, at the time of making it, or if required, at any time thereafter—

- (a) answer all such questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as may be put to him by the proper officer; and
- (b) produce all books and documents in his custody or control relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as the proper officer may require,

and any person who fails to comply with this subsection commits an offence and is liable on conviction to a fine of \$5,000.

(7) If, at any time after a vessel or aircraft carrying goods brought in that vessel or aircraft from a place outside the Islands arrives within the Islands or lands and before a report has been made in accordance with this section—

- (a) bulk is broken;
- (b) goods are unloaded from or taken on board that vessel or aircraft;
- (c) any alteration is made in the stowage of any goods carried; or
- (d) any goods are staved, destroyed or thrown overboard, or any container is opened,

then, unless the matter is explained to the satisfaction of the Collector, the master or commander commits an offence and is liable on conviction to a fine of \$10,000 or three times the value of the goods, whichever is the greater, and any goods in respect of which the offence was committed shall be liable to forfeiture.

(8) The Collector may require any goods reported as stores on board any vessel or aircraft, or any portion of them, to be entered for warehousing under section 28, and for the purposes of this subsection the master or commander shall be deemed to be the importer of those goods.

Commissioned ships and aircraft

26. (1) The person in command of any vessel or aircraft having a commission from Her Majesty or any foreign state which has on board any goods loaded in any place outside the Islands shall, before any such goods are unloaded, or at any time when called upon to do so by the proper officer, deliver to the proper officer an account of the goods in such form and manner and containing such particulars as the Collector may direct, and if he fails to do so he commits an offence and is liable on conviction to a fine of \$5,000.

(2) The person delivering such an account shall at the time of delivering it answer all such questions relating to the goods as may be put to him by the proper officer, and if he refuses to answer he commits an offence and liable on conviction to a fine of \$5,000.

(3) Subject to any enactment, or any order or regulations in force under any enactment in relation to vessels or aircraft belonging to Her Majesty, the provisions of this Part as to the boarding and searching of vessels and aircraft shall have effect in relation to such ship or aircraft as aforesaid as they have in relation to any other vessel or aircraft, and any officer may remove to a Queen's warehouse any goods loaded as aforesaid or found on board the vessel or aircraft:

Provided that no such vessel or aircraft shall be boarded or searched except with the permission in writing of the Governor.

Control of pleasure craft

27. (1) The Collector may give directions with regard to the arrival, report and departure of pleasure craft.

(2) In this section, "pleasure craft" means—

(a) any vessel which, at the time of its arrival at a place in the Islands from a place outside the Islands, is being used for private recreational purposes only; or

(b) any vessel which the proper officer, after application is made to him in writing, permits to be treated as a pleasure craft.

(3) Directions under subsection (1) may provide for the imposition of a fine of \$5,000 for any contravention of, or failure to comply with, any direction and for the forfeiture of any vessel or goods involved in any such offence.

(4) The Minister may by regulations prescribe the fees payable by the master of a pleasure craft for cruising within the territorial sea of the Islands.

Control of small craft

28. (1) In this section small craft means any vessel not exceeding 100 net tons and not being a pleasure craft as defined in section 27(2).

(2) The Collector may give directions with respect to small craft providing for—

- (a) the time limits within which such small craft may remain at a port or in the Islands;
- (b) the loading and unloading of cargo;
- (c) the embarkation and disembarkation of passengers;
- (d) the purposes for which and the limits within which such small craft may be used;
- (e) the articles which may be carried thereon;
- (f) the designation of ports of entry for such craft where such ports are distinct from ports appointed under section 12(1)(a);
- (g) the obligation, form and manner of reporting any matter in connection with small craft; and
- (h) any matter generally for the purpose of this Ordinance affecting small craft,

and different provisions may be made for different classes or descriptions of such small craft.

(3) Directions under subsection (2) may provide for the imposition of a fine of \$5,000 for any contravention of any direction and for the forfeiture of any goods and any small craft involved in any such offence.

Entry of goods on importation

29. (1) The importer of any goods, other than goods which are exempt from the requirements of this section, shall within fourteen days after their importation deliver to the Customs an entry of those goods, in such form and manner and containing such particulars as the Collector may direct:

Provided that this subsection shall not apply to—

- (i) fresh fish (including shellfish) taken by fishermen of the Islands and brought by them in their vessels; or
 - (ii) the accompanied baggage of any passenger or any member of the crew of a vessel or aircraft. (*Amended by Ord. 27 of 2010*)
- (2) Goods may be entered under subsection (1)—
- (a) for warehousing, if so eligible;
 - (b) for home use, if so eligible;
 - (c) for transit or transshipment; or
 - (d) in such cases as the Collector may permit, for temporary importation with a view to subsequent re-exportation:

Provided the Collector may—

- (i) refuse to accept an entry of any goods if he is not satisfied that those goods were imported before the time of the delivery of the entry;

- (ii) direct that goods of any class or description specified in the direction shall not be permitted to be entered for warehousing.

Pre-entry of goods in specified circumstances

30. (1) Without prejudice to section 29, where on the importation of any goods—

- (a) the importer is unable for want of any document or information to make perfect entry of those goods; or
- (b) in any other circumstances where the Collector sees fit,

the importer shall make a declaration to the Customs in such form and manner and containing such particulars as the Collector may direct. (*Amended by Ord. 27 of 2010*)

(2) Where a declaration under subsection (1) is made to the proper officer, he shall permit the importer to examine in his presence the goods imported.

(3) Within three days from the date of making an entry under subsection (1), or such longer time as the Collector may in any case permit, the importer shall make a perfect entry, in electronic format unless the Collector otherwise allows. (*Amended by Ord. 27 of 2010*)

(4) Where no perfect entry is made within the time limit laid down by subsection (3), the specified sum paid shall be deemed to be the amount of duty payable on the importation of the goods.

Failure to comply with provisions as to entry

31. Without prejudice to any liability under any other provision of this Ordinance, any person making entry of goods on their importation who fails to comply with any of the requirements of this Part in connection with that entry commits an offence and is liable on conviction to a fine of \$5,000, and the goods shall be liable to forfeiture.

Removal of uncleared goods to a Queen's warehouse

32. (1) Where in the case of any imported goods for which an entry is required—

- (a) entry has not been made by the expiration of the relevant period; or
- (b) at the expiration of fourteen clear days from the relevant date, entry having been made of the goods, they have not been unloaded from the importing vessel or aircraft, or in the case of goods which have been unloaded, they have not been produced for examination and clearance,

the proper officer may cause the goods to be deposited in a Queen's warehouse.

(2) In this section—

- (a) “the relevant period” means a period of fourteen days from the relevant date; and
- (b) “the relevant date” means the date when report was made of the importing vessel or aircraft or of the goods under section 24 or, where no such report was made, the date when it should properly have been made.

(3) Where any restriction is placed upon the unloading of goods from any vessel or aircraft by virtue of any enactment relating to the prevention of epidemic or infectious diseases, then in relation to those goods, “the relevant date” means the date of the removal of the restriction.

(4) If any goods deposited in a Queen’s warehouse by the proper officer under this section are not cleared by the importer thereof the Collector may sell them in accordance with section 66.

Goods improperly imported

33. (1) Without prejudice to any other provision of any enactment relating to an assigned matter, where—

- (a) except as expressly provided by such an enactment, any imported goods, being goods chargeable on their importation with any duty are, without payment of that duty—
 - (i) unloaded at any port in the Islands;
 - (ii) unloaded from any aircraft in the Islands; or
 - (iii) removed from their place of importation or from any approved wharf, examination station, transit shed or other customs area in the Islands;
- (b) any goods are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect to them under or by virtue of any enactment;
- (c) any goods, being goods chargeable with any duty or goods the importation of which is for the time being prohibited or restricted by or under any enactment, are found, whether before or after the unloading thereof, to have been concealed in any manner on board any vessel or aircraft;
- (d) any goods are imported concealed in a container holding goods of a different description;
- (e) any imported goods are found, whether before or after delivery, not to correspond with any entry made in respect of them; or
- (f) any imported goods are concealed or packed in any manner appearing to be intended to deceive an officer,

those goods shall, subject to subsection (2), be liable to forfeiture.

(2) Where any goods, the importation of which is for the time being prohibited or restricted under or by virtue of any enactment, are on their importation either—

- (a) reported as intended for exportation in the same vessel or aircraft;
or
- (b) entered for transit or transshipment,

the Collector may, if he sees fit, permit those goods to be dealt with accordingly.

Offences in relation to improper importation

34. (1) If any person unships or lands in the Islands or unloads from any aircraft in the Islands or removes from their place of importation or from any approved wharf, examination station, transit shed or customs area—

- (a) any goods chargeable with a duty which has not been paid; or
- (b) any goods imported, landed or unloaded contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods,

or assists or is otherwise concerned in such unshipping, landing, unloading or removal, or if any person imports or is concerned in importing any goods contrary to any such prohibition or restriction as aforesaid, whether or not the goods are unloaded, then, if he does so with intent to defraud the Government of any such duty or to evade any such prohibition or restriction he commits an offence.

(2) Any person who commits an offence under subsection (1) is, subject to subsection (4), liable—

- (a) on summary conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
- (b) on conviction on indictment to a fine of \$50,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of five years, or to both, and may be arrested,

and the goods in respect of which the offence was committed shall be liable to forfeiture.

(3) If any person—

- (a) imports or causes to be imported any goods—
 - (i) concealed in a container holding goods of a different description; or
 - (ii) packed in a manner appearing to be intended to deceive an officer; or
- (b) directly or indirectly imports or causes to be imported or entered any goods found, whether before or after delivery, not to correspond with any entry made in respect of them,

he commits an offence and is liable on conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested, and the goods shall be liable to forfeiture.

(4) Where the goods in respect of which the offence specified in subsection (1) was committed are a controlled drug as defined in section 3 of the Control of Drugs Ordinance, a person who commits an offence under this section is liable—

- (a) where that controlled drug is a Class A or Class B drug—
 - (i) on summary conviction to a fine of three times the value of the controlled drug or \$50,000, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of twenty years, or to both, and may be arrested;
- (b) where that controlled drug is a Class C drug—
 - (i) on summary conviction to a fine of three times the value of the controlled drug or \$30,000, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of ten years, or to both, and may be arrested,

and the goods shall be liable to forfeiture.

(5) Where the goods in respect of which the offence specified in subsection (1) was committed, are a prohibited weapon or prohibited ammunition as defined in section 2 of the Firearms Ordinance, a person who commits an offence under this section is liable on conviction on indictment to a mandatory term of imprisonment of not less than seven years with a maximum term of imprisonment for life and a fine without limit, and may be arrested, and the goods shall be liable to forfeiture. (*Inserted by Ord. 15 of 2016*)

(6) Where the goods in respect of which the offence specified in subsection (1) was committed, are a firearm or ammunition as defined in section 2 of the Firearms Ordinance, a person who commits an offence under this section is liable—

- (a) on summary conviction to a fine of \$40,000 or to imprisonment for a term of two years, or to both, and may be arrested; or
- (b) on indictment to a fine without limit or to imprisonment for a term of ten years, or to both, and may be arrested,

and the goods shall be liable to forfeiture. (*Inserted by Ord. 15 of 2016*)

PART V

IMPORTATION AND EXPORTATION BY POST

Application of customs enactments to postal packets and letters

35. (1) Subject to this section, this Ordinance and of any enactment relating to an assigned matter shall apply in relation to goods contained in any letter or postal packet to which this section applies brought into or sent out of the Islands by post from or to any place outside the Islands as they apply to goods otherwise imported, exported or removed into or out of the Islands from or to any such place.

(2) Without prejudice to any other provision of this Ordinance, the Minister may make regulations providing generally for the procedure on importation or exportation of letters and postal packets and, in particular, for—

- (a) the application to letters and postal packets of such of the provisions of this Ordinance subject to such modifications and exceptions as the Minister shall specify;
- (b) the carrying into effect of any arrangement with the government or postal administration of any other country with respect to foreign letters or postal packets; and
- (c) the giving of directions by the Collector pursuant to the regulations.

(3) Subject to this section, the Postmaster shall have the same rights and powers of collection of duty in respect of letters and postal packets under this Ordinance as are given to the Collector, and no goods imported into the Islands by post shall be removed from the control of the Postmaster until all duty chargeable thereon is paid, and if any such goods are so removed they shall be liable to forfeiture.

Procedure on importation

36. (1) All postal packets, and all letters containing goods, arriving in the Islands from abroad shall be accompanied by a customs declaration of content and value and if not so accompanied, the Postmaster or an officer may require such declaration to be made.

(2) Any letter or postal packet arriving in the Islands from abroad may be opened by the Postmaster or by an officer, and where any goods contained in such letter or postal packet—

- (a) do not correspond with any declaration made in respect of them;
or
- (b) are found to contain prohibited or restricted goods,

those goods shall be liable to forfeiture.

Procedure on exportation

37. (1) The sender of any postal packet posted in the Islands for transmission to any place outside shall, if so required by the Postmaster or an officer, make a customs declaration of content and value.

(2) Any letter or postal packet referred to in subsection (1) may be opened by the Postmaster or an officer and where any goods contained in such letter or postal packet—

(a) do not correspond with any declaration made in respect of them;
or

(b) are found to contain prohibited or restricted goods,

those goods shall be liable to forfeiture.

Power to examine and detain letters and postal packets

38. (1) Without prejudice to section 37, the Postmaster may detain any letter or postal packet which he has reasonable grounds to suspect contains—

(a) any goods chargeable with any duty which has not been paid or secured, and may forward such letter or postal packet to the Collector; or

(b) any goods the importation, exportation or removal into or out of the Islands of which is contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, and shall forward the letter or postal packet to the Collector.

(2) Where any letter or postal packet has been forwarded to the Collector under this section, he or an officer may open and examine the letter or postal packet.

(3) Where the Collector or an officer opens and examines a letter or postal packet under this section—

(a) and finds any goods described in subsection (1), such goods shall be liable to forfeiture;

(b) and finds no such goods, he shall deliver the letter or postal packet to the addressee upon the addressee paying any postage or other sums chargeable thereon or forward the letter or postal packet to him by post.

Duties of masters of vessels and commanders of aircraft regarding letters and postal packets

39. (1) The master of every vessel and the commander of every aircraft shall collect all letters and postal packets on board his vessel or aircraft being within the exclusive privilege of the Postmaster, not being letters addressed to *bona fide* consignees of cargo on board such vessels or aircraft, in a bag, seal such bag and address it to the Postmaster and duly deliver that bag to the Postmaster or to the Post Office or to the officer who may open it.

(2) If the master of a vessel or the commander of an aircraft does not deliver any letter or postal packet in accordance with this section, he commits an offence and is liable on conviction to a fine of \$5,000.

Offences in relation to importation and exportation by post

40. (1) If any person is in any way knowingly concerned with the importation or exportation by post of—

- (a) any goods chargeable with a duty which has not been paid; or
- (b) any goods contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods,

or assists or is otherwise concerned in any such importation or exportation, he commits an offence.

(2) Any person who commits an offence under subsection (1) is, subject to subsection (3), liable—

- (a) on summary conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
- (b) on conviction on indictment to a fine of \$50,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of five years, or to both, and may be arrested,

and the goods in respect of which the offence was committed shall be liable to forfeiture.

(3) Where the goods in respect of which the offence specified in subsection (1) was committed are a controlled drug as defined in section 3 of the Control of Drugs Ordinance, a person who commits an offence under this section is liable—

- (a) where that controlled drug is a Class A or Class B drug—
 - (i) on summary conviction to a fine of \$50,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of twenty years, or to both, and may be arrested;
- (b) where that controlled drug is a Class C drug—
 - (i) on summary conviction to a fine of \$30,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of ten years, or to both, and may be arrested,

and the goods shall be liable to forfeiture.

(5) Where the goods in respect of which the offence specified in subsection (1) was committed, are a prohibited weapon or prohibited ammunition as defined in section 2 of the Firearms Ordinance, a person who commits an offence under this section is liable on conviction on indictment to a mandatory term of imprisonment of not less than seven years with a maximum term of imprisonment for life and a fine without limit, and may be arrested, and the goods shall be liable to forfeiture. *(Inserted by Ord. 15 of 2016)*

(6) Where the goods in respect of which the offence specified in subsection (1) was committed, are a firearm or ammunition as defined in section 2 of the Firearms Ordinance, a person who commits an offence under this section is liable—

- (a) on summary conviction to a fine of \$40,000 or to imprisonment for a term of two years, or to both, and may be arrested; or
- (b) on indictment to a fine without limit or to imprisonment for a term of ten years, or to both, and may be arrested,

and the goods shall be liable to forfeiture. *(Insertd by Ord. 15 of 2016)*

PART VI

EXPORTATION

Power to give directions as to the loading of goods and departing vessels and aircraft

41. (1) The Collector may give directions—

- (a) regulating the storage, putting alongside, making waterborne and loading of goods intended for export or for use as stores or the embarking of passengers for a destination outside the Islands;
- (b) prescribing the procedure to be followed by vessels intending to leave ports and aircraft intending to leave customs airports; and
- (c) generally as to departing vessels and aircraft and to the loading of goods.

(2) Directions made under subsection (1) may provide for the imposition of a fine of an amount not exceeding \$5,000 for any contravention of or failure to comply with any such direction, and for the forfeiture of any goods involved in any such offence.

Entry of goods for exportation

42. (1) Subject to subsection (3), before any goods are loaded onto any vessel or aircraft on a voyage or flight outside the Islands the exporter of any goods, other than passengers' accompanied baggage, shall deliver to the Customs an entry of those goods in such form and manner and containing such particulars as the Collector may direct. *(Amended by Ord. 27 of 2010)*

(2) Save as the Collector may otherwise permit, no goods shall be shipped, put off, or made waterborne for exportation by sea from any place in the Islands that is not a port.

(3) The Collector may—

(a) relax, subject to such conditions and restrictions as he may see fit to impose, all or any of the requirements imposed under subsection (1) in relation to any goods, or class or description of goods;

(b) require security be given to his satisfaction that the goods will be duly shipped or exported and discharged at the destination for which they are entered.

(4) Where any goods which have been entered for exportation or for use as stores are not duly shipped onto the vessel or aircraft for which they are entered, then unless within twenty-four hours of the departure of that vessel or aircraft the person who entered them notifies the Customs of that short shipping, those goods shall be liable to forfeiture. (*Amended by Ord. 27 of 2010*)

(5) If any goods are found not to correspond with any entry thereof then, subject to subsection (3), they shall be liable to forfeiture.

(6) Where a person by whom an entry is required to be made by subsection (1) fails to make an entry as required, he commits an offence and is liable on conviction to a fine of \$5,000.

(7) Where goods are shipped on board any vessel or loaded onto any aircraft in contravention of subsection (1), those goods shall be liable to forfeiture and if the shipping or loading is done with fraudulent intent the master of that vessel or the commander of that aircraft or the exporter of any goods commits an offence and is liable—

(a) on summary conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or

(b) on conviction on indictment to a fine of \$50,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of five years, or to both, and may be arrested.

Stores

43. (1) Subject to subsection (2), upon an application being made in such form and manner and containing such particulars as the Collector may direct—

(a) by the master of any vessel over 100 net tons; or

(b) by the commander of any aircraft,

which is about to leave the Islands for a destination outside the Islands, the Collector may permit, subject to such conditions and restrictions as he may see fit to impose and having regard to the number of persons on board that vessel or aircraft, the likely destination of the voyage or flight, and the stores, if any, remaining on board that vessel or aircraft, such quantity of goods as he considers

reasonable to be removed without payment of duty from any warehouse or on drawback, and loaded on to that vessel or aircraft for use as stores during that voyage or flight.

(2) Where the application under subsection (1) is in respect of fuel and lubricants only, that application may be made by the master of any vessel, regardless of its net tonnage.

(3) The proper officer may lock up, mark, seal or otherwise secure any goods entered, shipped or carried as stores, or any place or container in which such goods are kept.

(4) If any goods shipped or carried as stores for use on a voyage or flight outside the Islands are without the authority of the proper officer landed or unloaded at any place in the Islands or in any way consumed or offered for consumption in the Islands, the goods shall be liable to forfeiture and the master or commander and the owner of the vessel or aircraft commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater.

(5) If any vessel or aircraft, having left the Islands for a destination outside the Islands, fails to reach that or any other destination outside the Islands, and returns to the Islands, and in the opinion of the proper officer the deficiency in the stores of that vessel or aircraft is in excess of the quantity that might reasonably have been consumed having regard to the period between the departure and the discovery of the deficiency, the master or commander shall—

- (a) pay to the Collector the duty on that excess; and
- (b) commit an offence and is liable on conviction to a fine of \$5,000 or three times the value of that excess, whichever is the greater.

Clearance

44. (1) Save as the Collector may otherwise permit—

- (a) the master of any vessel intending to depart from any port; and
- (b) the commander of any aircraft intending to depart from any airport,

to a destination outside the Islands, shall obtain from the proper officer clearance in such form and manner as the Collector may direct.

(2) Any person applying for clearance under subsection (1) shall—

- (a) deliver to the proper officer in such form and manner and containing such particulars as the Collector may direct an account of all cargo, stores, crew, passengers and baggage taken on or remaining on board the vessel or aircraft in the Islands;
- (b) produce all such books and documents in his custody or control relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as the proper officer may require; and

(c) answer all such questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as may be put to him by the proper officer.

(3) Where clearance is sought under subsection (1) for any vessel which is in ballast, or any vessel or aircraft which has on board no goods other than stores, passengers' accompanied baggage or empty containers upon which no freight or profit is earned, the proper officer granting clearance of that vessel or aircraft shall, on the application of the master or commander, clear that vessel or aircraft as in ballast.

(4) Any officer may board any vessel which is cleared outwards from a port at any time while within the territorial sea of the Islands, or any aircraft which is cleared outwards and is within the Islands, and require the production of the clearance of such vessel or aircraft, and if the master of the vessel or the commander of the aircraft refuses to produce it or to answer such questions as the officer shall put to him concerning the vessel or aircraft, as the case may be, or its cargo or intended flight or voyage, he commits an offence and is liable on conviction to a fine of \$5,000.

(5) Every ship departing from a port shall, if so required for the purpose of disembarking an officer or of further examination, bring to at the boarding station, and if any ship fails to comply with any such requirement the master commits an offence and is liable on conviction to a fine of \$5,000.

(6) Where it appears to any officer that a vessel or aircraft intends or is likely to depart for a destination outside the Islands without clearance, he may give such instructions and take such steps by way of the detention of that vessel or aircraft as appear to him necessary to prevent that departure.

(7) If any vessel or aircraft required to be cleared under this section departs from any port or airport for a destination outside the Islands without a valid clearance, or after clearance calls at the Islands or any airport without the permission of the proper officer, the master or commander shall, except where the departure or call was caused by accident, stress of weather or other unavoidable cause, commit an offence and is liable on conviction to a fine of \$5,000.

(8) If, 24 hours after the granting of a clearance under subsection (1), the vessel cleared has not left the limits of the port or the aircraft cleared has not taken off for a destination outside the Islands, that clearance shall become void.

(9) If, where any aircraft is required to obtain clearance from any customs airport under this section, any goods are loaded into that aircraft at that airport before application for clearance has been made, the goods shall be liable to forfeiture and, where the loading is done with fraudulent intent, any person concerned therein with knowledge of that intent commits an offence and is liable on conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested.

Power to refuse or demand return of clearance

45. (1) For the purpose of securing the detention of any vessel or aircraft in pursuance of any power or duty conferred or imposed by any enactment relating to an assigned matter, or for the purpose of securing compliance with any provision of any such enactment—

- (a) the proper officer may at any time refuse clearance of any vessel or aircraft; and
- (b) where clearance has been granted to a vessel or aircraft, any officer may at any time while the vessel is within the territorial sea of the Islands, or the aircraft is at a customs airport, demand that any clearance granted shall be returned to him.

(2) Any demand for the return of a clearance may be made either orally or in writing to the master of the vessel or the commander of the aircraft, and if made in writing may be served—

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

(3) Where a demand for the return of a clearance is made under subsection (2)—

- (a) the clearance shall forthwith become void; and
- (b) if the demand is not complied with, the master or commander commits an offence and is liable on conviction to a fine of \$5,000.

Offences in relation to exportation

46. (1) If any goods which have been loaded or retained on board any vessel or aircraft for exportation or for use as stores are not exported and discharged at a place outside the Islands or used as stores but are unloaded in the Islands then unless—

- (a) the unloading was authorised by the proper officer; and
- (b) except where that officer otherwise permits, any duty chargeable and unpaid on those goods is paid and any drawback or other allowance made in respect of those goods is repaid,

the master of the vessel or the commander of the aircraft and any person concerned in the unshipping, relanding, landing, unloading or carrying of the goods from the vessel or aircraft without such authority, payment or repayment commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater, and the goods shall be liable to forfeiture.

(2) The Collector may impose such conditions and restrictions as he may see fit with respect to any goods loaded or retained as mentioned in subsection (1) which are permitted to be unloaded in the Islands, and if any person contravenes or fails to comply with, or is concerned in any contravention or failure to comply with any condition or restriction imposed under this subsection, he commits an offence and is liable on conviction to a fine of \$5,000.

(3) If, after a vessel or aircraft has obtained clearance but before it has left the Islands, it is discovered that any goods cleared for exportation or for use as stores are no longer on board, then, unless those goods have been unloaded with the permission of the proper officer, or are stores which could reasonably have been consumed since the granting of the clearance, the master or the commander shall—

- (a) pay to the Collector the duty on that deficiency; and
- (b) commit an offence and be liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater.

(4) If any person—

- (a) exports, causes to be exported or attempts to export any goods—
 - (i) concealed in a container holding goods of a different description; or
 - (ii) packed in a manner appearing to be intended to deceive an officer; or
- (b) directly or indirectly exports or causes to be exported or entered any goods found not to correspond with the entry made in respect of them,

he commits an offence and is liable on conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested, and the goods is liable to forfeiture.

(5) Where any goods loaded or retained as mentioned in subsection (1) are—

- (a) goods from warehouse;
- (b) transit goods; or
- (c) drawback goods,

then if any container in which the goods are held is, without the authority of the proper officer, opened or any mark, letter or device on any such container of the goods is without that authority cancelled, obliterated or altered, every person concerned in the opening, cancellation, obliteration or alteration commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater, and the goods shall be liable to forfeiture.

Exportation of prohibited or restricted goods

47. (1) If any goods are—

- (a) exported or shipped as stores; or
- (b) brought to any place in the Islands for the purpose of being exported or shipped as stores,

and the exportation or shipment is or would be contrary to any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any enactment, the goods shall be liable to forfeiture and the exporter or intending exporter of the goods and any agent of his concerned in the exportation or shipment or intended exportation or shipment commits an offence and, subject to subsection (3), are each liable on conviction to a fine of \$10,000 or three times the value of the goods, whichever is the greater.

(2) Any person knowingly concerned in the exportation or shipment as stores, or in the attempted exportation or shipment as stores, of any goods with intent to evade any such prohibition or restriction as aforesaid commits an offence and, subject to subsection (3), is liable—

- (a) on summary conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
- (b) on conviction on indictment to a fine of \$50,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of five years, or to both, and may be arrested.

(3) Where the goods in respect of which the offence specified in subsection (1) was committed are a controlled drug as defined in section 3 of the Control of Drugs Ordinance, a person who commits an offence under this section is liable—

- (a) where that controlled drug is a Class A or Class B drug—
 - (i) on summary conviction to a fine of \$50,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of twenty years, or to both, and may be arrested;
- (b) where that controlled drug is a Class C drug—
 - (i) on summary conviction to a fine of \$30,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of ten years, or to both, and may be arrested,

and the goods shall be liable to forfeiture.

PART VII
COASTING TRADE

Definition of coasting trade

48. (1) Subject to this Part, the carriage of goods by sea or air from one part of the Islands to another shall be deemed to be coasting trade, and any vessel or aircraft whilst so employed shall be deemed to be a coasting vessel or coasting aircraft.

(2) The Collector may direct the carriage of any goods or any class or description of goods from any specified place in the Islands to another specified place not to be coasting trade.

Power to give directions as to coasting trade

49. (1) The Collector may give directions—

- (a) regulating the loading, unloading or making waterborne for loading of goods carried, or to be carried, by way of coasting trade;
- (b) prescribing the procedure to be followed by—
 - (i) coasting vessels on their arrival at or departure from any port; and
 - (ii) coasting aircraft on their arrival at or departure from any airport;
- (c) require the keeping and production by the master of any coasting vessel or the commander of any coasting aircraft of any such record carried in that vessel or aircraft as the Collector may direct;
- (d) prescribing forms; and
- (e) generally, in respect of coasting vessels and coasting aircraft.

(2) Without prejudice to the generality of subsection (1), directions made under that subsection may provide for the imposition of a fine of an amount not exceeding \$5,000 for any contravention of or failure to comply with any such direction, and for the forfeiture of any goods involved in any such offence.

Limits on coasting vessels and aircraft

50. (1) Subject to subsection (2), no goods not yet entered on importation and no goods for exportation shall be carried by way of coasting trade in any vessel or aircraft used for that purpose.

(2) The Collector may permit, subject to such conditions and restrictions as he may see fit to impose—

- (a) any vessel or aircraft to carry goods by way of coasting trade notwithstanding that that vessel or aircraft is carrying goods brought therein from a place outside the Islands and not yet

entered on their importation, provided that any vessel or aircraft so permitted to carry such unentered goods by way of coasting trade shall not for the purposes of this Part be a coasting vessel or a coasting aircraft;

- (b) goods brought by another vessel or aircraft to a place in the Islands from a place outside the Islands which are consigned to and intended to be delivered to another place in the Islands to be transhipped before due entry of the goods has been made to another vessel or another aircraft for carriage by way of coasting trade to that other place; and
- (c) any vessel or aircraft which has begun to load goods for exportation or for use as stores on a voyage to a destination outside the Islands to carry goods by way of coasting trade until that loading has been completed.

(3) If any goods are carried by way of coasting trade in contravention of subsection (1), or any goods are loaded, unloaded, carried or otherwise dealt with contrary to any condition or restriction imposed by the Collector under subsection (2), those goods shall be liable to forfeiture and the master of the vessel or the commander of the aircraft commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater.

Account of goods on coasting vessels or aircraft

51. (1) Notwithstanding any other provision of this Ordinance, the Collector may—

- (a) require the owner of any goods which it is intended to carry coastwise to deliver to the proper officer, prior to loading, an account of such goods in such form and manner as the Collector may direct;
- (b) require the master of any coasting vessel or the commander of any coasting aircraft, before the departure of any such vessel or aircraft from any port or place of loading, to deliver to the proper officer in such form and manner and containing such particulars as the Collector may direct, an account of all goods loaded on board that ship or aircraft.

(2) Where no officer is stationed at the place where an account is required to be produced under subsection (1), the vessel or aircraft may depart from that place and shall proceed directly to an approved wharf or customs airport and produce the account to the proper officer.

(3) If any coasting vessel or coasting aircraft carrying goods departs otherwise than as permitted under subsection (2) from any place in the Islands in contravention of any condition or restriction imposed by the Collector, the master of that vessel or the commander of that aircraft commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater, and any goods in respect of which the offence was committed shall be liable to forfeiture.

Examination of goods in coasting vessels

52. (1) The proper officer may examine any goods carried or to be carried in a coasting vessel or coasting aircraft—

- (a) at any time while they are on board the vessel or aircraft;
- (b) at any place in the Islands to which the goods have been brought for shipment in, or at which they have been unloaded from, the vessel or aircraft,

and for that purpose may require any container to be opened or unpacked, and any such opening or unpacking and any repacking shall be done by or at the expense of the proprietor of the goods.

(2) The proper officer—

- (a) may at any time board and search a coasting vessel or coasting aircraft at any port or place in the Islands or any coasting vessel at any time during its voyage;
- (b) may at any time require any document which should properly be on board a coasting vessel or coasting aircraft to be produced or brought to him for examination.

(3) The master of a coasting vessel or the commander of a coasting aircraft shall answer all such questions relating to the vessel or aircraft, its cargo, baggage, crew, passengers, voyage or flight as may be put to him by the proper officer.

(4) If the master of the vessel or the commander of the aircraft fails to allow the proper officer to board and search, or to produce or bring any such document to the proper officer when required or to answer any questions put to him, he commits an offence and is liable on conviction to a fine of \$5,000.

Offences in relation to carriage of goods coastwise

53. (1) If in the case of any coasting vessel or coasting aircraft—

- (a) goods are taken on board or unloaded at sea or at any place outside the Islands; or
- (b) the vessel or aircraft touches at some place outside the Islands, or deviates from its voyage or flight, and the master of the vessel or the commander of the aircraft does not report that fact in writing to the proper officer at the first place in the Islands at which the vessel or aircraft arrives,

then those goods shall be liable to forfeiture and the master or commander commits an offence and is liable on conviction to a fine of \$10,000 or three times the value of the goods, whichever is the greater.

(2) Any goods which are shipped or carried coastwise, or which, having been carried coastwise, are unloaded in any place in the Islands otherwise than in accordance with this Part, or with any directions made under section 48, or which are brought to any place for the purpose of being so shipped and carried coastwise, shall be liable to forfeiture.

(3) If any goods—

- (a) are carried by way of a coasting vessel or a coasting aircraft contrary to any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any enactment; or
- (b) are brought to any place in the Islands for the purpose of being so carried or shipped,

then those goods shall be liable to forfeiture and any person knowingly concerned in the carriage, bringing or shipping of the goods commits an offence.

(4) Any person who commits an offence under subsection (3) is, subject to subsection (5), liable—

- (a) on summary conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
- (b) on conviction on indictment to a fine of \$50,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of five years, or to both, and may be arrested.

(5) Where the goods in respect of which the offence specified in subsection (1) was committed are a controlled drug as defined in section 3 of the Control of Drugs Ordinance, a person who commits an offence under this section is liable—

- (a) where that controlled drug is a Class A or Class B drug—
 - (i) on summary conviction to a fine of \$50,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of twenty years, or to both, and may be arrested;
- (b) where that controlled drug is a Class C drug—
 - (i) on summary conviction to a fine of \$30,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of ten years, or to both, and may be arrested.

PART VIII

WAREHOUSING

Approval of warehouses

54. (1) The Collector may approve, for such periods and subject to such conditions and restrictions as he may see fit to impose, places of security for the deposit, keeping and securing of any goods entered for warehousing being—

- (a) any goods chargeable with a duty of customs without payment of that duty;
- (b) any goods for exportation or for use as stores, being goods not eligible for home use;
- (c) any goods permitted by or under this Ordinance to be warehoused on drawback,

and any place so approved shall be referred to in this Ordinance as a “warehouse”.

(2) Without prejudice to the generality of subsection (1), the Collector may give directions—

- (a) restricting the goods which may be permitted to be warehoused in a particular warehouse to those goods owned by the occupier of that warehouse;
- (b) making the approval of any warehouse conditional upon the warehousing of a minimum amount of goods during a specified period, and different amounts may be required in respect of warehouses restricted under paragraph (a) and warehouses not so restricted;
- (c) as to goods which may or may not be deposited in any particular warehouse or class of warehouse;
- (d) as to the part of any warehouse in which any class or description of goods may be kept or secured;
- (e) as to the proper conduct and management of warehouses, including the imposition of conditions and restrictions subject to which goods may be carried to or from, deposited in, kept in or removed from warehouses, or made available to their owners for prescribed purposes;
- (f) as to the attendance of officers at warehouses;
- (g) as to the provision of facilities to officers;
- (h) as to the minimum quantities of descriptions of goods which may be deposited in or removed from a warehouse at any one time; or
- (i) as to the goods to be destroyed or abandoned to the Collector without payment of duty, in such circumstances and subject to such conditions and restrictions as may be determined by the directions.

(3) If, after the approval of a warehouse under subsection (1), the occupier of that warehouse contravenes or fails to comply with any condition or restriction imposed or direction given by the Collector under that subsection and subsection (2), he commits an offence and is liable on conviction to a fine of \$5,000.

(4) The Collector may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(5) Where the Collector intends to revoke or not to renew any approval of a warehouse given under subsection (1), he shall, not later than fourteen days before the date when the revocation is due to take effect or the approval is due to expire, hereinafter in this section referred to as “the date of cessation”, give notice of his intention in writing, and such notice shall be deemed to have been served on all persons interested in any goods then deposited in that warehouse, or permitted by or under this Ordinance to be so deposited between the date of the giving of the notice and the date of cessation, if addressed to the occupier of, and left at, the warehouse.

(6) If, after the date of cessation or such later date as the Collector may in any case permit, uncleared goods remain in a place no longer approved under subsection (1), they may be taken by an officer to a Queen’s warehouse and, without prejudice to any other power of earlier sale provided by this Ordinance, if they are not cleared within one month, may be sold.

Power to give directions as to warehouses and warehoused goods

55. The Collector may give directions—

- (a) for the control of the depositing, marking, keeping, securing and treatment of goods in, and the removal of goods from, warehouses;
- (b) making different provisions for different types of warehouses or parts of warehouses, or for goods of different classes or descriptions, or goods of the same class or description in different circumstances; and
- (c) imposing fines not exceeding \$5,000 for any contravention of, or failure to comply with, any direction given or any requirement made under any direction and for the forfeiture of any goods involved in any such offence.

Goods not to be warehoused

56. (1) No goods, class or description of goods prescribed in the Schedule 1 may be warehoused.

(2) The Minister may by order delete from, vary or add to the goods, class or description of goods prescribed in Schedule 1.

(3) No damaged goods or goods enclosed in any insecure or otherwise defective container, or in a container from which any portion of the contents have been removed, may be warehoused.

(4) Save as the Collector may otherwise permit, and subject to such conditions and restrictions as he may see fit to impose, no warehoused goods may remain warehoused for longer than six months, and any warehoused goods which remain warehoused after such time shall be entered for home use or be re-exported.

(5) If any warehoused goods are not removed from the warehouse contrary to this section, they shall be liable to forfeiture.

Production of goods in warehouse

57. (1) The occupier of a warehouse shall produce to any officer on request any goods deposited therein which have not been lawfully authorised to be removed therefrom; and if he fails so to produce any such goods he commits an offence and is liable on conviction to a fine of \$1,000 for each container not produced or three times the value of the goods, whichever is the greater.

(2) The occupier of a warehouse shall so stow every container of goods warehoused therein that easy access may be had thereto, and for every container not so stowed he commits an offence and is liable on conviction to a fine of \$1,000.

Proprietor may inspect and show goods for sale

58. (1) Without prejudice to any restrictions or conditions imposed by the occupier of the warehouse, the proprietor of any warehoused goods may, with the authority of the proper officer—

- (a) inspect the goods and their containers and prevent any loss therefrom; and
- (b) show the goods for sale.

(2) Where the proper officer requires that he shall be present at any such inspection or showing of goods, he shall so far as is practicable attend at any reasonable time requested, but shall not be obliged to attend for the purposes of this section more than once in any period of twenty-four hours at the request of the same person or in respect of the same goods.

(3) The proper officer may allow the proprietor of any warehoused goods to take such samples thereof subject to such conditions, and with or without entry or payment of duty, as he thinks fit.

(4) If any person does, without the permission of the proper officer, any act requiring such permission, or contravenes or fails to comply with any condition or restriction imposed under this section, he commits an offence and is liable on conviction to a fine of \$5,000, and the goods shall be liable to forfeiture.

Entry, marking, etc. of goods for warehousing

59. (1) Imported goods which are on importation entered for warehousing shall be deemed to be duly warehoused when an entry is delivered to the Customs. (*Amended by Ord. 27 of 2010*)

(2) Before any other goods are warehoused, the proprietor of the goods shall deliver to the Customs an entry thereof in such form and manner and containing such particulars as the Collector may direct. (*Amended by Ord. 27 of 2010*)

(3) Any goods brought to a warehouse for re-warehousing after removal for that purpose from another warehouse shall be dealt with in like manner as if they were goods being warehoused for the first time.

(4) Save as permitted by or under this Ordinance, goods shall be warehoused in the containers in which they were first entered for warehousing.

(5) The proprietor of any warehoused goods shall mark the containers thereof in such manner as the proper officer may direct and shall, subject to any further such direction, keep them so marked while they are warehoused, and if any person fails to comply with this subsection he commits an offence and is liable on conviction to a fine of \$5,000.

(6) Where without the authority of the proper officer and save as permitted by or under this Ordinance—

(a) any goods are warehoused in containers other than those in which they were entered for warehousing; or

(b) any alteration is made in any goods in warehouse, or in the packing or marking of the containers of any such goods, after the goods have been duly warehoused,

those goods shall be liable to forfeiture and any person contravening or failing to comply with this subsection commits an offence and is liable on conviction to a fine of \$5,000.

Re-entry of goods entered for warehousing

60. (1) Subject to subsection (2), any goods which have been entered for warehousing or which have been permitted to be removed from a warehouse for transport to another warehouse may, at any time before they have been warehoused or re-warehoused—

(a) be further entered by their proprietor for home use, if so eligible, for exportation or for use as stores, and shall then be dealt with as if they had been so entered from warehouse; or

(b) be removed for transport to another warehouse approved for the warehousing of such goods, and shall then be dealt with as if they had been duly warehoused.

(2) Where goods are held in containers, no part of those goods shall be further entered or removed under subsection (1) unless that part consists of one or more complete containers.

Operations on warehoused goods

61. (1) Without prejudice to any other provision of this Ordinance or any other enactment by or under which an operation on warehoused goods is or may be permitted, the Collector may, in the case of such goods and subject to such

conditions and restrictions as he may from time to time think fit, permit the sorting, separating, packing or repacking of goods in warehouse and the carrying out on warehoused goods of such other operations necessary for the preservation, sale, shipment or disposal of the goods as he sees fit, and may give directions as to the warehouses or the part of any warehouse in which any such operation on goods may be carried out.

(2) The Collector may at any time revoke or vary any permission granted or deemed to have been granted under this section.

(3) If any person carries out any operation on goods in warehouse otherwise than as permitted by or under this section or such other provision as aforesaid, he commits an offence and is liable on conviction to a fine of \$5,000, and the goods shall be liable to forfeiture.

Deficiency in warehoused goods

62. (1) If, at any time after goods have been warehoused and before they have been lawfully removed, all or part of those goods are found to be missing then, without prejudice to any other fine or liability to forfeiture incurred by or under this Ordinance, the occupier of the warehouse shall—

(a) pay to the Collector—

- (i) the duty that such goods would have borne if they had been entered for home use on the date of the discovery of the deficiency; or
- (ii) in the case of goods not eligible for home use, an amount which in the opinion of the Customs was the value of the goods, at the date of the deficiency; and

(b) commit an offence and be liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater.
(Amended by Ord. 27 of 2010)

(2) Where any goods have, without payment of duty, been lawfully removed from a warehouse for transport to some other warehouse or to some other place, and all or part of those goods fail to reach that other warehouse or place, then, without prejudice to any other fine or liability to forfeiture incurred by or under this Ordinance, the proprietor of the goods shall—

(a) pay to the Collector—

- (i) the duty that such goods would have borne if they had been entered for home use on the date of the discovery of the deficiency; or
- (ii) in the case of goods not eligible for home use, an amount which in the opinion of the proper officer was the value of the goods, at the date of the discovery of the deficiency; and

(b) commit an offence and be liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater.

(3) Subject to subsection (4), no compensation shall be payable by, and no action shall lie against, the Collector, for any loss or damage caused to any goods while in a warehouse or for any unlawful removal of goods from a warehouse.

(4) Where warehoused goods are damaged, destroyed or unlawfully removed by or with the assistance or connivance of an officer, and that officer is convicted of an offence in relation to that damage, destruction or removal, then, except where the occupier of the warehouse or the proprietor of the goods was a party to the offence, the Collector shall pay compensation for any loss caused by such damage, destruction or removal, and notwithstanding any other provision of any enactment relating to an assigned matter, no duty shall be payable on the goods by the occupier or the proprietor and any sum paid by way of duty by him before the conviction shall be repaid.

Removal of goods from warehouse

63. (1) Before any goods are removed from warehouse the proprietor of the goods shall deliver to the proper officer an entry thereof in such form and manner and containing such particulars as the Collector may direct.

(2) Subject to this Ordinance or any other enactment as to the purposes for which any goods may be warehoused, goods may be entered under this section for any of the following purposes, that is to say—

- (a) for home use;
- (b) for exportation;
- (c) for use as stores;
- (d) subject to such conditions and restrictions as the Collector sees fit to impose, for removal to another warehouse approved for the warehousing of such goods;
- (e) subject to such conditions and restrictions as aforesaid, for removal for such other purposes, to such places and for such periods as the Collector may allow.

(3) Warehoused goods shall not be removed from the warehouse or loaded into any vessel, aircraft or vehicle for removal or for exportation or use as stores except with the authority of and in accordance with any directions given by the proper officer.

Duty liability on warehoused goods

64. (1) Save as permitted by or under this Ordinance no goods shall be removed from warehouse until all duty due thereon has been paid.

(2) The amount payable in respect of any duty shall be based on the value of the goods when the entry referred to in section 63(1) is delivered to the Customs. (*Amended by Ord. 27 of 2010*)

(3) Save as otherwise provided by or under this Ordinance where goods removed from a warehouse for home use or any other purpose become liable to duty, then duty shall be chargeable on those goods at the rate in force with

respect to goods of that class or description at the time when the entry referred to in section 63(1) is delivered to the Customs. (*Amended by Ord. 27 of 2010*)

(4) The rate of duties of customs on goods which have been lawfully removed from warehouse without payment of duty with the intention that they shall be re-warehoused, but which are entered for home use before being re-warehoused, shall be that in force with respect to goods of that class or description—

(a) where removal for home use is allowed under section 73 on the giving of security for the duty chargeable thereon, at the date of the giving of the security; or

(b) in any other case, at the date when the entry for home use is delivered to the Customs. (*Amended by Ord. 27 of 2010*)

(5) Where under or by virtue of any enactment the amount payable in respect of any duty is based on the quantity of the goods, the quantity shall be taken as at the time of entry into a warehouse.

(6) Where the quantity of goods is ascertained by taking an account thereof, it shall be ascertained by reference to weight or measure, as the case may be.

(7) Where any sum has been paid in respect of duty before the appropriate date under this Ordinance, the difference, if any, between the sum so paid and the amount properly payable shall be paid or repaid, as the case may be.

Removal of warehoused goods without payment of duty

65. Without prejudice to any other provision of this Ordinance authorising the removal of goods from warehouse without payment of duty, the Collector may permit warehoused goods entered for removal for any purpose other than home use to be removed for that purpose, subject to such conditions and restrictions as he may see fit to impose, without payment of duty, provided that where any condition or restriction imposed under this section is contravened or not complied with, the goods shall be liable to forfeiture.

Provisions as to goods to be deposited in a Queen's warehouse

66. (1) This section has effect in relation to any goods which are deposited in a Queen's warehouse under or by virtue of this Ordinance.

(2) The Collector may appoint any place for the deposit of goods, for the security thereof and of the duty liable thereon, and any place so appointed shall be referred to in this Ordinance as a Queen's warehouse.

(3) Where, in respect of any goods which may or are required to be warehoused, the Collector is of the opinion that it would be undesirable or inconvenient to deposit such goods in a Queen's warehouse, he may deem those goods to be deposited in a Queen's warehouse, and this section shall then apply to those goods as if they were deposited in such a warehouse.

(4) Such rent shall be payable in respect of any goods deposited in a Queen's warehouse as the Minister may by regulation prescribe.

(5) The Collector may, in respect of any goods deposited in a Queen's warehouse, do all such acts as appear to him necessary for the custody and preservation of such goods, and the expenses of so doing shall be payable in addition to any other charges payable in respect of those goods.

(6) The Collector shall not be liable to make good any damage which the goods referred to in subsection (5) may sustain.

(7) Save as permitted by or under this Ordinance, no goods shall be removed from a Queen's warehouse until all duty chargeable on those goods, and any charges—

- (a) in respect of the removal of the goods to the Queen's warehouse; and
- (b) arising by virtue of subsections (3), (4), (5) and (6),

have been paid, and in the case of goods requiring entry and not yet entered, until entry of those goods has been made.

(8) The Collector may, with respect to uncleared goods deposited in a Queen's warehouse by a proper officer under this Ordinance—

- (a) sell them immediately, if they are goods which in his opinion are hazardous or perishable, and have not been cleared immediately or after such further time as he may allow; or
- (b) sell them seven days after giving notice of the sale in the *Gazette*, if they are not hazardous or perishable and have not been cleared within three months of the date of deposit.

(9) All monies arising from the sale of any goods under subsection (8) shall be used to pay—

- (a) firstly, any duty chargeable on those goods;
- (b) secondly, the expenses of the sale;
- (c) thirdly, sums due to the Collector in respect of the carriage, warehousing and other services performed and facilities provided in respect of the goods;
- (d) fourthly, freight and rent due and payable and any other claims due and payable of which notice and proof satisfactory to the Collector has been given prior to the sale,

and the balance, if any, shall be paid to the owner of such goods on his application for the same, if such application is made within one month of the time of the sale of such goods, but otherwise shall be paid into the Consolidated Fund.

(10) When any goods are authorised to be sold under or by virtue of this Ordinance but cannot be sold, or are in the opinion of the Collector of a perishable or hazardous nature, and not fit for sale, he may destroy them.

(11) The Collector shall give the owner of the goods referred to in subsection (10) not less than twenty-four hours written notice of the destruction and afford him the opportunity to be present thereat:

Provided that if, in the opinion of the Collector, it is expedient to destroy such goods immediately, it shall suffice for him to notify the owner in writing of the destruction as soon as practicable after it has taken place.

(12) If the owner of the goods referred to in subsection (10) cannot be ascertained, notice of the destruction of the goods shall be published in the *Gazette* within fourteen days of the destruction.

(13) No compensation shall be payable by the Government in respect of any loss or damage to any goods deposited or deemed to be deposited in any Queen's warehouse unless such loss or damage occurs as the result of the wilful neglect or act of an officer.

Offences in relation to warehouses and warehoused goods

67. (1) If any person without the authority of the proper officer or without just and sufficient cause opens any door or lock of a warehouse or a Queen's warehouse or makes or obtains access to any such warehouse or to any goods in such a warehouse, he commits an offence and is liable on summary conviction to a fine of \$5,000.

(2) Where—

- (a) any goods which have been entered for warehousing are taken into a warehouse without the authority of, or otherwise than in accordance with any direction given by, the proper officer;
- (b) save as permitted by or under this Ordinance, any goods which have been entered for warehousing are removed without being duly warehoused or are otherwise not duly warehoused;
- (c) any goods which have been deposited in a warehouse or a Queen's warehouse are unlawfully removed or are unlawfully loaded into any vessel, aircraft or vehicle for removal or for exportation or for use as stores;
- (d) any goods entered for warehousing are concealed, either before or after they have been warehoused; or
- (e) any goods which have been lawfully permitted to be removed from a warehouse or a Queen's warehouse without payment of duty for any purpose are not duly delivered at the destination to which they should have been taken in accordance with that permission,

those goods shall be liable to forfeiture.

(3) Where any person is in any way concerned with the taking, removal, loading, concealing or non-delivery of goods, as described in subsection (2), he commits an offence and is liable on conviction to a fine of \$5,000.

(4) Where any person is in any way concerned with the taking, removal, loading, concealing or non-delivery of goods as described in subsection (2), with intent to defraud the Government of any duty chargeable on those goods or to evade any prohibition or restriction for the time being in force with respect to

those goods under or by virtue of any enactment, he commits an offence and, subject to subsection (5), is liable—

- (a) on summary conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
- (b) on conviction on indictment to a fine of \$50,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of five years, or to both, and may be arrested.

(5) Where the goods in respect of which an offence specified in subsection (1) or (2) was committed are a controlled drug as defined in section 3 of the Control of Drugs Ordinance, a person who commits the offence is liable—

- (a) where that controlled drug is a Class A or Class B drug—
 - (i) on summary conviction to a fine of \$50,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of twenty years, or to both, and may be arrested;
- (b) where that controlled drug is a Class C drug—
 - (i) on summary conviction to a fine of \$30,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of ten years, or to both, and may be arrested.

Duty free shops

68. (1) The Minister may by regulation make provision for the sale in a duty free shop of warehoused goods for export or re-export on which customs import duty has not been paid, subject to such conditions and restrictions as he sees fit to impose.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for—

- (a) the issue of a certificate by the Collector upon such conditions as he sees fit to impose;
- (b) the payment of a royalty;
- (c) the making of entry of the goods;
- (d) the keeping of such records as the Collector may direct;

- (e) the imposition of a fine of \$5,000 for failure to comply with any of the requirements of the regulations and for the forfeiture of any goods involved in any such offence.

PART IX

DUTIES, DRAWBACK, PROHIBITIONS AND RESTRICTIONS

Duty on Imported Goods

Duty on imported goods other than goods entered for warehousing

69. (1) Save as permitted by or under this Ordinance or any other enactment, no imported goods shall be delivered or removed on importation until the importer has—

- (a) paid to the Customs any duty chargeable thereon, and that duty shall, in the case of goods of which entry is made, be paid on making that entry; or
- (b) has delivered to the Customs a bond, security or guarantee, in terms acceptable to the Collector, to the effect that the duty chargeable on the goods will be paid. (*Inserted by Ord. 27 of 2010*)

(2) Save as otherwise provided by or under this Ordinance, duty shall be chargeable on goods at the rate in force with respect to goods of that class or description—

- (a) where an entry for home use is delivered in respect of goods imported into the Islands, or an entry is delivered in respect of goods to be exported out of the Islands, at the time of the delivery of the entry in respect of those goods to the proper officer;
- (b) where an entry is required in respect of the importation of goods into, or the exportation of goods out of the Islands, but no entry is delivered to any officer, at the time of the importation or exportation of the goods;
- (c) where goods are removed from any vessel, aircraft or transit shed under any bond or other security, at the time of the delivery of the goods;
- (d) in any other case, at the time of the importation of the goods.

Customs duties and tariff

70. (1) The Minister may by order provide for the imposition of a tariff of import or export duties of customs upon any goods which may be imported into or exported from the Islands or upon removal from bond, and without restricting the generality of the foregoing, may by such order—

- (a) impose different rates of duty in relation to different persons or categories of persons or different goods or categories or classifications of goods;
- (b) impose rates of duty of temporary duration;
- (c) exempt such persons or categories of persons or such goods or categories of goods from the payment of duties of customs as he thinks fit, subject to such conditions and restrictions as he sees fit to impose including restrictions and conditions to be complied with after the importation of the goods to which the relief applies;
- (d) prescribe a form of customs tariff in accordance with which goods may be classified for other purposes as well as for the purpose of import or export duties of customs and provide accordingly for goods to be classified in any way appearing to him to be appropriate, having regard to the duties of customs imposed or to be imposed under this section and to any international agreement relating to customs;
- (e) permit the Collector to give such directions as he considers necessary.

(2) An order made under this section shall be laid before the House of Assembly at its next meeting immediately following the date of publication of the order in the *Gazette*.

(3) If, at the meeting of the House of Assembly referred to in subsection (2), the House of Assembly passes a resolution annulling an order which has been laid before it in accordance with that subsection or if an order made under this section is not laid before the House of Assembly in accordance with that subsection, that order shall cease to have effect on and after the day of the annulment or the day next following the day that the meeting is concluded, as the case may require, but without affecting the validity or curing the invalidity of anything done or omitted to be done thereunder before that day or the making of a new order.

(4) Notwithstanding section 23(2) of the Interpretation Ordinance, where—

- (a) an order is annulled under subsection (3) or is not laid before the House of Assembly in accordance with subsection (2); and
- (b) that order amended or revoked an order that was in operation immediately before the first mentioned order came into operation,

the annulment or failure to comply with subsection (2) revives the previous order on and after the day of the annulment or, in the case of failure to comply with subsection (2), on and after the day next following the day that the meeting of the House of Assembly referred to in that subsection is concluded.

Exemptions in particular cases

71. (1) The Minister may, upon written application being made to him for the purpose, exempt such persons or categories of persons as he thinks fit, subject to

such conditions and restrictions as he sees fit to impose, including conditions and restrictions to be complied with after the importation of goods to which relief applies, from the payment of the whole or any part of any duties of customs which would, but for this section, be payable in relation to any goods or category or classification of goods.

(2) Any such exemption may permit the Collector to give such directions as he considers necessary.

(3) No goods to which an exemption made under this section applies shall be delivered to the person or category of persons exempted before the Collector publishes a notice in the *Gazette* specifying—

- (a) the name of the person or category of persons exempted; and
- (b) the value of the goods concerned and the amount of duties of customs which would, but for the exemption, have been payable in relation to those goods:

Provided that the Collector may, for good cause, deliver the goods concerned before publication of the notice under this subsection.

Duty deferment

72. (1) The Collector may permit the deferment of payment of duty on the delivery of goods for home use subject to deferment such restrictions or conditions as he may by directions impose and subject to the provision of security as prescribed in the directions, sufficient to cover the amount of duty deferred.

(2) Without prejudice to the generality of subsection (1), directions given under that subsection may provide for the imposition of a fine of \$5,000 or three times the value of the goods, whichever is the greater, for any contravention of or failure to comply with any direction and for the forfeiture of any goods involved in any such offence.

Delivery of imported goods on giving of security

73. (1) Where it is impracticable immediately to ascertain whether any or what duty is payable in respect of any imported goods which are entered for home use, whether on importation or from warehouse, the Collector may, if he thinks fit and notwithstanding any other provision of this Ordinance, allow those goods to be delivered upon the importer giving security by deposit of money or otherwise to the satisfaction of the Collector for payment of any amount unpaid which may be payable by way of duty.

(2) Where goods are allowed to be delivered under this section the Collector shall, when he has determined the amount of duty which in his opinion is payable, give to the importer a notice specifying that amount.

(3) On the giving of a notice under subsection (2) the amount specified in the notice or, where any amount has been deposited under subsection (1), any difference between those amounts, shall forthwith be paid or repaid as the case may require.

Variation of duties on goods from specified countries

74. (1) The Governor may by order make provision for the rate of import duty imposed on goods grown, produced or manufactured in specified countries to be reduced or increased.

(2) Subject to any order made under this section, where in connection with any duty of customs chargeable on any goods any question arises as to where such goods were grown, produced or manufactured, the Collector may require the importer of the goods to furnish to him, in such form and manner as he may direct, proof of any statement made to him as to any fact necessary to determine that question and, if such proof is not furnished to his satisfaction, the question may be determined without regard to that statement.

Power to allow flat rate of duty

75. (1) Notwithstanding any other provision of this Ordinance, where dutiable goods are imported as specified below, a flat rate of duty of customs of 33%, or other such rate as the Minister may by order prescribe, may be charged *in lieu* of the rate of import duty of customs prescribed by order made under section 70—

- (a) goods for personal use in passengers' or crews' accompanied baggage to any value;
- (b) goods for any other use in passengers' or crews' accompanied baggage to a value not exceeding \$1,000;
- (c) unaccompanied personal effects imported by air or by sea to any value;
- (d) unaccompanied goods imported by air or by sea for personal use to a value not exceeding \$200;
- (e) goods imported by parcel post to any value.

(2) The flat rate of duty of customs specified in subsection (1) shall not apply to the goods listed in Schedule 2.

(3) In determining, for the purpose of this section, whether the total value of goods exceeds the amount specified in subsection (1)(b) and (d), the following shall be excluded—

- (a) the value of the goods specified in Schedule 2;
- (b) the value of the goods in passengers' accompanied baggage which are exempt from any duty of customs; and
- (c) goods which are not liable to any duty of customs.

(4) Where two or more unaccompanied consignments of goods consigned to the same consignee, imported by air or by sea for personal use, arrive at the same time and the total value of the goods—

- (a) does not exceed \$200, the flat rate of duty of customs shall apply as if the consignments were a single consignment; or

(b) exceeds \$200, the flat rate of duty of customs shall not apply in respect of any of the goods.

(5) The Minister may by order delete, amend, add to or vary any item in Schedule 2.

Goods to be warehoused without payment of duty

76. Any goods which are on their importation permitted to be entered for warehousing shall be allowed to be warehoused without payment of duty.

Relief from duty of goods entered for transit or transshipment

77. Where goods are entered for transit or transshipment, the Collector may allow the goods to be removed for that purpose, subject to such conditions and restrictions as he sees fit, without payment of duty.

Calculation of duty

78. (1) Any duty, drawback, allowance or rebate the rate of which is expressed by reference to a specified quantity or weight of any goods shall be chargeable or allowable on any fraction of that quantity or weight of the goods, and the amount payable or allowable on any such fraction shall be calculated proportionately:

Provided that the Collector may determine the fractions to be taken into account in the case of any weight or quantity.

(2) For the purpose of calculating any amount due from or to any person under any enactment relating to an assigned matter by way of duty, drawback, allowance, repayment or rebate, any fraction of a cent in that amount shall be disregarded.

Securing and deferment of export duties

79. (1) The Collector may give directions for securing and collecting the export duties of customs on any goods exported from the Islands subject to such duties; and such directions may permit, subject to such conditions and restrictions as may be imposed, payment of the export duty on any such goods to be deferred.

(2) Directions under this section may make different provisions for goods of different descriptions or for goods of the same description in different circumstances.

(3) Such directions may provide for a fine not exceeding \$5,000 in respect of any breach of any condition or restriction, and for the forfeiture of the goods.

Special provisions

80. (1) If any goods, being goods chargeable with any duty on their importation into or exportation out of the Islands—

- (a) are imported or exported in any package intended for sale, or of a kind normally sold with those goods, and the package is marked or labelled or commonly sold as, or reputed as containing a specified quantity of those goods, then the package shall be deemed to contain not less than that specified quantity of those goods;
- (b) are imported or exported in any package intended for sale, or of a kind normally sold with those goods, but the package is not marked or labelled, or commonly sold as, or reputed as containing a specified quantity of those goods, then, unless the importer or exporter is able to satisfy the Collector as to the net weight of the goods, the duty shall be calculated on the gross weight of the package and the goods;
- (c) are imported or exported in any package or covering which, in the opinion of the Collector—
 - (i) is not the usual or proper package or covering for such goods; or
 - (ii) is designed for separate use, other than as a package or covering for the same or similar goods, subsequent to the importation or exportation,
 that package or covering shall be deemed to be a separate article;
- (d) are brought or come into the Islands as derelict goods, jetsam, flotsam or as, or as part of, a wreck, and are sold in the Islands, they shall be liable to the same duty as goods of that class or description would be subject to at the time of their discovery or sale.

(2) The Collector may give directions specifying the standard capacities for containers of liquid goods, and where goods liable to duty by liquid volume are, or are reputed to be, sold in containers of the size specified in the directions, the quantity of goods in that container shall be deemed to be the specified quantity.

Relief from duty on re-imported goods

81. (1) Where any goods are re-imported into the Islands after exportation therefrom and it is shown to the satisfaction of the Collector that—

- (a) (i) no duty was due on those goods on any previous importation into the Islands or that if any duty was so due, it has been paid;
- (ii) no drawback has been paid or duty refunded on their exportation or that any drawback so paid or duty so refunded has been repaid; and
- (iii) the goods have not undergone any process outside the Islands since their exportation,

those goods may be permitted to be imported, subject to such conditions and restrictions as the Collector may see fit to impose, without payment of duty;

- (b) the goods while exported have been subject to any process of repair, renovation or improvement but that their form or character has not been changed, duty shall be charged and payable on the value, including parts and labour, of the repair, renovation or improvement:

Provided that if the process of repair, renovation or improvement is carried out free of charge under manufacturer's warranty and within six months of the date of first importation, no duty shall be payable on the re-importation of the goods.

(2) Where any goods, after importation, are exported from the Islands for the process of repair, renovation or improvement under and within six months of the date of a manufacturer's warranty, and it is shown to the satisfaction of the Collector that such exported goods have not been re-imported but that other goods of identical form, character and description, are imported as a replacement, such goods may be imported without payment of duty.

(3) Where any goods, after importation, are exported from the Islands for the process of repair, renovation or improvement, within six months of the date of first importation, and such goods are, subject to the satisfaction of the Collector, replaced by other goods of identical form, character and description, but increased value, and are themselves imported, duty shall be payable on the difference in value between the goods originally imported and exported, and the goods subsequently imported.

Offences and forfeiture for breach of conditions

82. (1) Where under any enactment relating to an assigned matter any goods which are relieved or exempted from any duty due on them subject to—

- (a) any condition or restriction that they will not be sold or will be re-exported or will be used by some particular person or will be used for a particular purpose or upon any like condition or restriction including any condition or restriction imposed after the goods have been imported; and
- (b) the amount of duty payable on any goods is subject to their being imported on any such condition,

and that condition or restriction is contravened or not complied with, the duty relieved or exempted shall become payable by the person who, but for that relief or exemption, would have had to pay the full amount of such duty.

(2) Such person described in subsection (1) and any other person concerned in such contravention or non-compliance commits an offence and is liable on conviction to a fine of \$5,000, and the goods in respect of which the relief or exemption was granted shall be liable to forfeiture.

(3) Such person described in subsection (1) and any other person knowingly concerned in such contravention or non-compliance commits an

offence and is liable on conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or both, and may be arrested, and the goods in respect of which the relief or exemption was granted shall be liable to forfeiture.

(4) Any goods relieved or exempted from duty shall, upon demand made by an officer, be produced or otherwise accounted for to him, and if any person fails to produce or account for such goods he and any person knowingly concerned in such failure commits an offence and is liable on conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested, and if any goods not produced or accounted for are subsequently found they shall be liable to forfeiture.

Abatement of duty

83. (1) Where it is shown to the satisfaction of the Collector that any goods chargeable with any duty have deteriorated, or been lost, damaged or destroyed by unavoidable accident—

- (a) after importation but before clearance for any purpose for which they might be entered on importation;
- (b) while in a warehouse or Queen's warehouse;
- (c) at any time while that duty is otherwise lawfully unpaid, except when payment of that duty has become due but has been allowed by the Collector to be deferred; or
- (d) at any time after drawback of that duty has been paid,

the Collector may remit or repay any duty chargeable or paid thereon or waive repayment of any drawback paid on their warehousing.

(2) The Collector may allow such abatement of the duty chargeable on the goods mentioned in subsection (1) as, in his opinion, the amount of the deterioration, damage, loss or destruction bears to the original value of the goods.

(3) When duty has already been paid on goods in respect of which an abatement would be allowable under subsection (1), no repayment of the amount of the abatement shall be made unless the claim is made within six months of the payment of the duty.

Goods temporarily imported for re-export

84. The Collector may make provision by directions for the delivery on importation without payment of duty on those goods which he is satisfied are imported only temporarily with a view to subsequent re-exportation, and the Collector may in such directions impose different conditions for different classes of goods.

Goods imported other than as cargo, stores or baggage

85. Any goods brought or coming into the Islands by sea otherwise than as cargo, stores or baggage carried in a vessel shall be liable to the like duty, if any, as would be applicable to those goods if they had been imported as merchandise; and if any question arises as to the origin of the goods they shall be deemed to be the produce of such country as the Collector may on investigation determine.

Value of goods entered for home use or disposed of after relief

86. The amount of duty payable on goods which on importation were relieved or exempted from payment of duty for as long as they were not disposed of nor entered for home use shall—

- (a) in the case of goods referred to in section 84, be the duty which would have been payable at importation but for that relief or exemption; or
- (b) in the case of goods so exempted or relieved pursuant to an enactment relating to an assigned matter, be calculated on the value of the goods at the time of their disposal or entry for home use.

Relief from duty on re-imported goods locally produced

87. Without prejudice to any other enactment relating to an assigned matter, if it is shown to the satisfaction of the Collector that any goods manufactured or produced in the Islands are re-imported into the Islands after exportation therefrom and have not undergone any process outside the Islands since their exportation, the goods may on their re-importation be delivered for home use without payment of duty.

Repayment of sums overpaid in error

88. No repayment of sums overpaid in error shall be made unless the claim thereto is made and evidence in support thereof is submitted to the Collector within one year of the overpayment and the claim is established to the satisfaction of the Collector.

Repayment on goods not in accordance with contract

89. Subject to such conditions as the Collector sees fit to impose, where it is shown to the satisfaction of the Collector—

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

the importer shall be entitled to obtain from the Collector the repayment of any duty of customs paid on the importation of the goods:

Provided that this section shall not apply to goods imported on approval, or on sale or return, or on similar terms.

Recovery of amounts due

90. Without prejudice to any other provision of this Ordinance, any amount due by way of customs duty shall be recoverable as a debt due to the Government.

Application of import duty provisions to export duty

91. The following sections concerning goods which are or may be chargeable with duties of customs on importation shall be applicable to exported goods which are or may be chargeable with duties of customs on exportation—

- (a) section 30 as to goods in relation to which it is impracticable immediately to ascertain whether any or what duty is payable;
- (b) section 93 as to the valuation of goods for the purpose of *ad valorem* duties;
- (c) section 154 as to disputes as to whether any or what duty of customs is payable on any goods,

as though in each of the aforesaid sections every reference to an importer, or to imported goods, or to importation, or to entry for home use, there were substituted references to an exporter, to exported goods, to exportation, or to entry for exportation, according to the requirements of the context.

Ascertainment of strength and volume of alcoholic liquor

92. (1) Subject to subsection (4), this section applies to spirits, methylated spirits and any fermented liquor other than wash, and “liquor” shall be construed accordingly.

(2) For all purposes of this Ordinance—

- (a) except where some other measure of quantity is specified, any computation of the quantity of any liquor or of the alcohol contained in any liquor shall be made in terms of the volume of the liquor or alcohol, as the case may be;
- (b) any computation of the volume of any liquor or of the alcohol contained in any liquor shall be made in imperial gallons as at 20°C; and
- (c) the alcoholic strength of any liquor is the ratio of the volume of the alcohol contained in the liquor to the volume of the liquor (inclusive of the alcohol contained in it),

and in this Ordinance, unless the context otherwise requires—

“alcohol” means ethyl alcohol; and

“strength” in relation to any liquor, means its alcoholic strength computed in accordance with this section, the ratio referred to in paragraph (c) being expressed as a percentage.

(3) The Collector may direct the means to be used for ascertaining for any purpose the strength, weight or volume of any liquor, and any such directions may provide that in computing for any purpose the strength of any liquor any substance contained therein which is not alcohol or distilled water may be treated as if it were.

(4) Nothing in this section shall prevent the strength, weight or volume of wine, made-wine or cider from being computed for the purpose of charging duty thereon by methods other than that provided in this section.

Valuation of goods for purpose of *ad valorem* duties

93. (1) For the purpose of any enactment for the time being in force whereunder a duty of customs is chargeable on imported goods by reference to their value, the value of any such goods shall be taken to be the normal price, that is to say, the price which they would fetch at the time when they are entered for home use (or, if they are not so entered, the time of importation) on a sale in the open market between a buyer in the Islands and a seller in the country from which the goods were despatched to him, such buyer and seller being independent of each other; and duty shall be paid on that value:

Provided that, in the case of goods imported under a contract of sale and entered for home use, duty shall be deemed to have been paid on that value if, before the goods are delivered for home use, duty is tendered and accepted on a declared value based on the contract price.

(2) For the purpose of the proviso to subsection (1)—

- (a) the declared value of any goods is their value as declared by or on behalf of the importer in making entry of the goods for home use;
- (b) that value shall be deemed to be based on the contract price if, but only if, it represents that price properly adjusted to take account of circumstances differentiating the contract from such a contract as is contemplated by subsections (5) and (6).

(3) Subject to subsection (4) the normal price of any goods shall be determined on the assumptions—

- (a) that the goods are treated as having been delivered to the buyer at the place at which the goods were sold or otherwise obtained; and
- (b) that it is exclusive of freight, insurance, commission and all other costs, charges and expenses incidental to the sale or obtaining and to the removal and carriage of goods from the place of sale or obtaining as the case may be.

(4) The Minister may by order, in respect of goods specified in the order, provide that the normal price of any such goods shall be taken to be the landed cost of the goods, which shall be the aggregate of—

- (a) the contract price of the goods or the normal price of the goods as defined in subsection (1), whichever is the greater; and

- (b) the freight, insurance and all other costs, charges and expenses incidental to the sale of the goods and to the removal or carriage from the place of despatch to the Islands.

(5) A sale in the open market between buyer and seller independent of each other presupposes—

- (a) that the price is the sole consideration;
- (b) that the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question); and
- (c) that no part of the proceeds of the subsequent resale, use or disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

(6) Where the goods to be valued—

- (a) are manufactured in accordance with any patented invention or are goods to which any registered design has been applied; or
- (b) are imported under a foreign trade mark, or are imported for sale (whether or not after further manufacture) under a foreign trade mark,

the normal price shall be determined on the assumption that the price covers the right to use the patent, design or trade mark in respect of the goods.

(7) For the purpose of subsection (6), the expression “trade mark” includes a trade name and a get-up, and a foreign trade mark is a trade mark indicating that the goods in relation to which it is used are those of—

- (a) a person by whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside the Islands;
- (b) a person associated in business with any such person as is mentioned in paragraph (a); or
- (c) a person to whom any such person as is mentioned in paragraph (a) or (b) has assigned the goodwill of the business in connection with which the trade mark is used.

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

(9) Where any amount shown on any invoice or other document is expressed in a foreign currency, the value of those goods shall be calculated according to the appropriate rate of exchange for that currency, quoted by Government bankers on the day in which the charge to duty arises.

(10) The Collector or an officer may require any importer or other person concerned with the importation of goods to furnish in such form as he may direct—

- (a) such information as is in his opinion necessary for a proper valuation of the goods; and
- (b) such declarations and evidence in support of such declarations relating to the goods as he may think fit,

and to produce any books of account or other documents of whatever nature relating to the purchase, importation or sale of the goods by that person.

(11) If the person mentioned in subsection (10)—

- (a) fails to furnish the information, declaration, evidence or documents required, the Collector may substitute the declared value by a valuation which, in his opinion, reflects the open market value of the goods in issue, and the duty shall be chargeable accordingly;
- (b) furnishes the information, declarations, evidence or documents required but the Collector is not satisfied that the declared value reflects the open market value of the goods in issue, the goods may be detained and, fourteen days after the date of importation, may be deposited in the Queen's warehouse, and if the Collector remains unsatisfied as to the declared value within three months after they have been so deposited, he may sell them.

(12) If any person contravenes or fails to comply with any requirement or direction of the Collector under subsection (10), he commits an offence and is liable on conviction to a fine of \$5,000.

Drawback

Extent of drawback

94. (1) Subject to this section, where goods are entered—

- (a) for exportation;
- (b) for shipment for use as stores; or
- (c) for warehousing for subsequent exportation or shipment for use as stores,

drawback may be claimed in respect of such proportion of any duty paid on their importation into the Islands as the Collector may direct.

(2) No drawback may be claimed in respect of—

- (a) any goods of a value of less than \$100, such value being that at which the goods were originally imported;
- (b) goods which were imported into the Islands more than six months before the date of the claim for drawback; and

- (c) goods not in the packages in which they were originally imported into the Islands or, in the case of bulk goods, where that bulk has been broken,

except that where imported goods are re-exported within six months of their importation by their importer to the same country and to the same person or firm from which they were imported or are entered for shipment for use as stores, this subsection shall not apply.

Claims for drawback

95. (1) Any claim for drawback shall be made in such form and manner and contain such particulars as the Collector may direct.

(2) No drawback shall be payable—

- (a) unless it is shown to the satisfaction of the Collector that all duty due on the goods in respect of which the claim is made has been paid and not otherwise drawn back;
- (b) until the person making the claim has furnished the Collector with such information and produced to him such books of account or other documents relating to the goods as the Collector may demand.

Drawback on goods destroyed or damaged after shipment

96. (1) Where it is proved to the satisfaction of the Collector that after being duly shipped for exportation or for use as stores, goods have been destroyed by accident on board the exporting vessel or aircraft, any amount payable by way of drawback on those goods shall be payable as if they had been exported to their destination.

(2) Where it is proved to the satisfaction of the Collector that after being duly shipped for exportation or for use as stores, goods have been materially damaged by accident on board the exporting vessel or aircraft, those goods may, with the consent of and in accordance with any conditions and restrictions as may be imposed by the Collector, be reloaded or unloaded again or brought back into the Islands, and—

- (a) if re-entered for home use shall be liable to the duty due on the importation of such damaged goods; or
- (b) if abandoned to the Collector or destroyed, the importer shall be entitled to such drawback payable on those goods as if they had been duly exported to their destination, and notwithstanding any other provision of any enactment relating to an assigned matter, no duty shall be payable on the importation or unloading of those goods.

(3) Without prejudice to the foregoing provisions of this section, if, in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made, it is found that those goods do not correspond with any entry made thereof in connection with that claim, the goods shall, subject to subsection (4), be liable to forfeiture, and any person by whom any

such entry or claim was made commits an offence and is liable on conviction to a fine of \$5,000.

(4) In the case of a claim for drawback on goods in respect of which an offence under subsection (3) is committed, the Collector may, if he sees fit, instead of seizing the goods either refuse to allow any drawback thereon or allow only such drawback as he considers proper.

Offences in relation to drawback

97. (1) If any person obtains or attempts to obtain or does anything whereby there might be obtained by any person any amount by way of drawback in respect of goods for which there is no entitlement, he commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater.

(2) If any person, with intent to defraud, obtains or attempts to obtain or does anything whereby there might be obtained by any person any amount by way of drawback in respect of goods for which there is no lawful entitlement, he commits an offence and is liable on conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested.

(3) Any goods in respect of which an offence under subsection (1) or (2) has been committed shall be liable to forfeiture.

Refund of duty paid on goods exported after undergoing a process of manufacture

98. (1) If it is shown to the satisfaction of the Collector that duty has been paid on goods on importation and that such goods have—

- (a) undergone a process of manufacture in the Islands; and
- (b) have been exported,

the Collector shall, subject to such conditions and restrictions as he sees fit to impose, authorise repayment to the importer upon a claim being made of an amount equivalent to the duty paid on the importation of the goods.

(2) Any such claim shall be made in such form and manner and contain such particulars as the Collector may direct.

Prohibitions and Restrictions

Power of Governor to make orders relating to prohibited or restricted goods

99. (1) The Governor may by order—

- (a) prohibit the importation of any goods, class or description of goods;
- (b) prohibit the exportation of any goods, class or description of goods;

- (c) prohibit the carriage coastwise of any goods, class or description of goods;
- (d) permit goods to be imported under licence subject to such conditions and restrictions as he sees fit to impose;
- (e) permit goods to be exported under licence subject to such conditions and restrictions as he sees fit to impose.

(2) Such order may permit the Collector to give directions as to the form, particulars and manner of any application or licence under subsections (1)(d) and (e).

Restriction on carriage of beer, wine, spirits and tobacco

100. (1) Save where the Collector—

- (a) may otherwise permit and subject to such conditions and restrictions as he may see fit to impose; or
- (b) is satisfied that to do so was caused by accident, stress of weather or other unavoidable cause,

no spirits, wines, beer, tobacco, cigars, cigarillos or cigarettes may be imported into or exported out of the Islands in any vessel of less than fifty net tons.

(2) Where any goods specified in subsection (1) are imported into or exported out of the Islands in contravention of subsection (1), they shall be liable to forfeiture and any person concerned in that importation or exportation commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater, and any vessel carrying such goods in contravention of subsection (1) shall be liable to forfeiture.

PART X

POWERS

Customs control of persons entering or leaving the Islands

101. (1) For the purpose of this section—

“negotiable instrument” includes a draft or bill of exchange payable to bearer but not dividend warrants payable to bearer, debenture bonds of a company payable to bearer, scrip certificates to bearer for shares or share warrants to bearer; and

“cash” includes notes and coins of any currency which is legal tender in the Islands or in any country or territory outside the Islands;

(Inserted by Ord. 9 of 2001)

(2) Any person entering the Islands, for the purpose of determining whether he has any goods or cash or negotiable instruments with a value over \$10,000 contained in his baggage or carried with him which—

- (a) he has obtained outside the Islands; or

(b) in the case of goods are dutiable goods which he has obtained in the Islands without payment of duty,

shall make such declaration in such form and manner and containing such particulars and at such place as the Collector may direct. (*Amended by Ord. 9 of 2001*)

(3) Any person leaving the Islands shall, at such place and in such manner as the Collector may direct, declare any thing contained in his baggage or carried with him which is liable to duty on exportation.

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

(5) Any person failing to make any declaration or declare or produce any baggage or thing or cash or negotiable instruments with a value over \$10,000 or answer any question as required under this section commits an offence and is liable on conviction to a fine of \$10,000 or three times the value of the thing or cash or negotiable instruments with a value of over \$10,000 not declared or the baggage or thing not produced, as the case may be, whichever is the greater. (*Amended by Ord.9 of 2001*)

(6) Any thing chargeable with any duty which is found concealed or is not declared and any thing which is being taken into or out of the Islands contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, shall be liable to forfeiture.

Right of access and search

102. (1) Without prejudice to any other power contained in this Ordinance, any officer shall have a right of access to, and a power of search of, any part of a port, approved wharf, customs airport or other customs area or any building thereon and any vehicle or goods found at such a place.

(2) The power of search provided by subsection (1) shall include the power to break into or open any building, vehicle or container which is locked and to which there is no access.

(3) Any goods chargeable with any duty or subject to any prohibition or restriction for the time being in force found concealed at a port, approved wharf, customs airport or other customs area, or in any building thereon or in any vehicle found at such a place, shall be liable to forfeiture.

Power of boarding vessels and aircraft

103. (1) At any time while a vessel is at a port in the Islands or in the territorial sea, or an aircraft is at any airport, any officer may require that vessel or aircraft to stop and then may board it, and may remain on board it, and may rummage and search any part of it.

(2) Any officer on board any vessel or aircraft in pursuance of subsection (1) shall have free access to any part of any vessel or aircraft and may—

- (a) cause any goods to be marked before they are unloaded from that vessel or aircraft;
- (b) examine any goods in the course of their loading and unloading;
- (c) lock up, seal, mark or otherwise secure any goods carried in that vessel or aircraft or any place or container in which they are so carried;
- (d) break open any place or container which is locked and to which there is no access;
- (e) require any document or book which should be on board that vessel or aircraft to be produced to him for examination;
- (f) require answers to all such questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight, as may be put by him,

and if any person on board prevents him from so doing, or refuses to produce any such document or book, or answer any such question, he commits an offence and is liable on conviction to a fine of \$10,000.

(3) Any goods found concealed on board a vessel within the limit of the port or in the territorial sea or on board an aircraft at any airport, shall be liable to forfeiture.

(4) Where the master of any vessel or the commander of any aircraft refuses to stop or permit an officer to board when required to do so under subsection (1), the master of that vessel or the commander of that aircraft commits an offence and is liable on conviction to a fine of \$20,000 or to imprisonment for a term of two years or to both, and may be arrested, and the vessel or aircraft shall be liable to forfeiture.

Power to direct vessel

104. (1) An officer or police officer may go on board any vessel which is within the territorial sea and if any direct dutiable goods are on board and it appears to the officer or police officer that they are intended to be landed in the Islands, the officer or police officer may direct the master either orally or in writing to proceed at once with his vessel to such port as may be specified in the direction, but if it appears to the officer or the police officer that the vessel is bound for some other territory, he may direct the master either orally, or in writing, to proceed on his voyage thereto immediately.

(2) If, notwithstanding that a direction has been given by an officer or a police officer under subsection (1), a vessel does not with all due despatch proceed in accordance with such direction but remains within the territorial sea, then the goods on board shall be liable to forfeiture and the officer or police officer may bring the vessel into such port or place as he thinks fit in order that the goods may be landed or secured.

(3) If the master of any such vessel—

- (a) hinders, resists or prevents the removal of such vessel; or

(b) refuses to assist in the removal of such vessel when required by an officer or police officer to do so,

he commits an offence and is liable on conviction to a fine of \$20,000 or to imprisonment for a term of two years, or to both, and may be arrested.

Power to station officer on vessel

105. The Collector may station an officer on board any vessel at any time while it is within the limits of a port or within the territorial sea and if the master of any vessel on which an officer is stationed by virtue of this section neglects or refuses to provide—

(a) proper and sufficient food and water, together with reasonable accommodation for such an officer; and

(b) means of safe access to and egress from that vessel as required by the officer,

he commits an offence and is liable on conviction to a fine of \$10,000.

Power to patrol and moor

106. (1) In relation to any assigned matter, any officer may patrol upon and pass freely either on foot or otherwise along and over, and enter any part of, the Islands; and any such officer so proceeding shall not be liable to any prosecution or any other action for so doing.

(2) Any officer so engaged in command or in charge of any vessel, aircraft or vehicle may haul up and moor that vessel, or land that aircraft or park that vehicle, at any place in the Islands and for such time as he shall consider necessary:

Provided that nothing in this section shall authorise the use of or entry into any dwelling house or other building or garden.

Power to prevent flight of aircraft

107. (1) If it appears to any officer or police officer that an aircraft is intended or likely to depart for a destination outside the Islands from—

(a) any place other than a customs airport; or

(b) a customs airport before clearance outwards is given,

he may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to him necessary in order to prevent the flight.

(2) Any person who contravenes any instructions given under subsection (1) commits an offence and is liable on conviction to a fine of \$10,000 or to imprisonment for a term of one year, or to both, and may be arrested.

(3) If an aircraft flies in contravention of any instruction given under subsection (1) notwithstanding any steps taken to prevent the flight, the owner and the commander thereon shall, without prejudice to the liability of any other person under subsection (2), each commit and be liable on conviction to a fine of \$10,000 or to imprisonment for a term of one year, or to both, and may be

arrested, unless he proves that the flight took place without his consent or connivance.

Power to examine and take account of goods

108. (1) Without prejudice to any other power conferred by any enactment relating to an assigned matter, an officer may examine and take account of any goods—

- (a) which have been imported;
- (b) which are in a warehouse or a Queen's warehouse;
- (c) which have been loaded into or unloaded from any vessel or aircraft at any place in the Islands;
- (d) which have been entered for exportation or for use as stores;
- (e) which have been brought to any place in the Islands for exportation or for use as stores, or for shipment for exportation or for use as stores; or
- (f) in respect of which any claim for drawback, allowance, rebate, remission or repayment of duty has been made,

and may for that purpose require any container to be opened or unpacked.

(2) Any examination of goods by an officer under subsection (1) shall be made at such time and place as the officer may direct.

(3) Any bringing of goods to a place directed under subsection (2), and their unloading, opening, unpacking, weighing, repacking, bulking, sorting, lotting, marking, numbering, loading, carrying or landing, and any such treatment to the containers in which the goods are kept, for the purposes of and incidental to the examination or for use as stores, or warehousing, shall be done, and any facilities or assistance required for such examination shall be provided, by or at the expense of the owner of the goods.

(4) If any—

- (a) imported goods which an officer has the power under this Ordinance to examine; and
- (b) goods, other than imported goods, which an officer has directed to be brought to a place for the purposes of examination,

are without the authority of the proper officer removed from customs charge before they have been examined, those goods shall be liable to forfeiture.

(5) If any goods falling within subsection (4) are removed by any person with intent to defraud the Government of any duty chargeable thereon or to evade any prohibition or restriction with respect to the goods, that person commits an offence and, subject to subsection (6), is liable on conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested.

(6) Where the goods in respect of which the offence specified in subsection (5) was committed are a controlled drug as defined in section 3 of the

Control of Drugs Ordinance, a person who commits an offence under this section is liable—

- (a) where that controlled drug is a Class A or Class B drug—
 - (i) on summary conviction to a fine of \$50,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of twenty years, or to both, and may be arrested;
- (b) where that controlled drug is a Class C drug—
 - (i) on summary conviction to a fine of \$30,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of ten years, or to both, and may be arrested.

Power to require provision of facilities, etc

109. (1) Any person required by the Collector under this Ordinance to give security in respect of any premises or place to be used for the examination of goods by an officer shall—

- (a) provide and maintain such appliances and afford such other facilities reasonably necessary to enable an officer to take any account or make any examination or search or to perform any other of his duties on the premises of that trader or at the bonded premises or place as the Collector may direct;
- (b) keep any appliances so provided in a convenient place approved by the proper officer for that purpose; and
- (c) allow the proper officer at any time to use anything so provided and give him any assistance necessary for the performance of his duties,

and any person who contravenes or fails to comply with any provision of this subsection commits an offence and is liable on conviction to a fine of \$5,000.

(2) Any such person as aforesaid shall provide and maintain any fitting required for the purpose of affixing any lock which the proper officer may require to be affixed to the premises of that trader or person or any part thereof or to any utensil or other apparatus whatsoever kept thereon, and in default—

- (a) the fitting may be provided or any work necessary for its maintenance may be carried out by the proper officer, or on his behalf, and any expenses so incurred shall be paid on demand by the trader or person aforesaid; and

(b) if the trader or person aforesaid fails to pay those expenses on demand, he shall in addition commit an offence and is liable on conviction to a fine of \$5,000.

(3) If any such person as aforesaid or any person on his behalf—

(a) wilfully destroys or damages any such fitting as aforesaid or any lock or key provided for use therewith, or any label or seal placed on any such lock;

(b) improperly obtains access to any place or article secured by any such lock; or

(c) has any such fitting or any article intended to be secured by means thereof so constructed that that intention is defeated,

he commits an offence and is liable on conviction to a fine of \$10,000.

Power to take samples

110. (1) An officer may at any time take a sample of any goods which he is empowered by any enactment relating to an assigned matter to examine.

(2) Any sample taken by an officer under subsection (1) shall be disposed of and accounted for in such manner as the Collector may direct.

Power to search premises

111. (1) Without prejudice to any other power conferred by any enactment relating to an assigned matter, where there are reasonable grounds to suspect that any thing liable to forfeiture by virtue of such enactment is kept or concealed in any building or place, any officer having a warrant issued under subsection (2) or (4) may—

(a) enter that building or place at any time, whether by day or night, on any day, and search for, seize and detain or remove any such thing;

(b) so far as is reasonably necessary for the purpose of such entry, search, seizure, detention or removal, break open any door, window or container and force or remove any other impediment or obstruction; and

(c) search for and remove any books, papers, invoices, bills of lading or any other documents or books relating to any thing liable to forfeiture.

(2) The Chief Justice, on the application of the Collector seeking general authority, personally and on behalf of any officer who may be authorised by him, to search any unspecified building or place referred to in subsection (1), may issue a warrant, to be called a “customs open warrant”, authorising the Collector to that effect for a period of twelve months from the date of issue, subject to the conditions that—

(a) the warrant be executed only in circumstances where the Collector is satisfied that it is not possible to obtain a warrant

under subsection (4) in time to prevent the thing liable to forfeiture being removed to another building or place, or being disposed of;

- (b) on each occasion that the warrant is executed the Collector shall make and keep a minute of the time and circumstances of its execution; and
- (c) entry shall not be made at night into any building or place except in the company of a police officer.

(3) The Collector may make application in accordance with subsection (2) to renew a customs open warrant for a period of twelve months and shall annex to the application any minutes made pursuant to subsection (2)(b) in the preceding twelve months.

(4) A Magistrate or Justice of the Peace, if satisfied by an information in writing by an officer that there are reasonable grounds to suspect that any thing liable to forfeiture under or by virtue of any enactment relating to an assigned matter is kept or concealed in any specified building or place, may issue a warrant authorising the officer or any other person named in the warrant to enter and search the building or place so specified:

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

(5) Where in the case of any entry, search, seizure, detention or removal, damage is caused and no goods which are liable to forfeiture are found, the owner of the building, place or goods damaged shall be entitled to recover from the Collector the costs of making good that damage.

Power to search vehicles, vessels or aircraft

112. (1) Without prejudice to any other power conferred by this Ordinance, where there are reasonable grounds to suspect that any vessel, aircraft or vehicle is or may be carrying any goods which are—

- (a) chargeable with any duty which has not been paid or secured;
- (b) in the course of being unlawfully removed from or to any place;
or
- (c) otherwise liable to forfeiture under any enactment relating to an assigned matter,

any officer or police officer or member of Her Majesty's armed forces may stop and search that vessel, aircraft or vehicle.

(2) If, when so required by any such officer, police officer or member, the person in charge of any such vessel, aircraft or vehicle refuses to stop or to permit the vessel, aircraft or vehicle to be searched, he commits an offence and is liable on conviction to a fine of \$5,000.

(3) An officer or police officer or member may use reasonable force to stop a vessel, aircraft or vehicle which has failed to do so when so required under subsection (1).

Power to search persons

113. (1) Where there are reasonable grounds to suspect that any person has in his possession anything which is liable to forfeiture under any enactment relating to an assigned matter, an officer, police officer or member of Her Majesty's armed forces, or any person acting under the directions of an officer may stop and search that person and any article which that person has with him.

(2) No person shall be searched in pursuance of subsection (1) except by a person of the same sex.

(3) Any person to be searched in pursuance of subsection (1) may require to be taken before the superior of the officer, police officer or member of Her Majesty's armed forces concerned, or before a Magistrate, or if a Magistrate is not immediately available, a Justice of the Peace, who shall consider the grounds for suspicion and direct whether or not the search is to take place.

Power of arrest

114. (1) Subject to subsection (2), any officer, police officer or member of Her Majesty's armed forces may arrest any person who has committed, or whom there are reasonable grounds to suspect of having committed, any offence for which he is liable to be arrested under any enactment relating to an assigned matter:

Provided that such person shall, as soon as practicable, be brought before a Magistrate or a Justice of the Peace who may order his release either on bail or unconditionally or remand him in custody.

(2) No person may be arrested for an offence by virtue of subsection (1) more than three years after the commission of that offence, except that where, for any reason, it was not practicable to arrest that person at the time of the commission of the offence, or where any such person having been then or subsequently arrested for that offence has escaped, he may be arrested by an officer, police officer or member of Her Majesty's armed forces and proceeded against as if the offence had been committed at the time when he was finally arrested.

(3) Where any person has been arrested by virtue of this section otherwise than by an officer, the person arresting him shall give notice of the arrest to the Collector.

Power to summon vessels to bring to or aircraft to land

115. (1) If any part of the cargo of a vessel or aircraft is thrown overboard or is staved or destroyed to prevent seizure—

- (a) while the vessel is within the territorial sea of the Islands;
- (b) while the aircraft is within or over the Islands;
- (c) where the vessel, having been properly summoned to bring to by any vessel in the service of the Government, or any vessel acting under its direction, fails so to do and chase is given, at any time during the chase;

(d) where the aircraft, having been properly instructed to land by or on behalf of the Government fails so to do,

the vessel or aircraft shall be liable to forfeiture.

(2) If, save for just and sufficient cause, any vessel or aircraft which is liable to forfeiture or examination under or by virtue of any enactment relating to an assigned matter does not bring to or land when summoned to do so, the master of the vessel or commander of the aircraft commits an offence and is liable on conviction to a fine of \$20,000 or to imprisonment for a term of two years, or to both, and may be arrested.

Power to pay rewards

116. The Collector may, with the approval of the Minister, reward any person, including an officer, for any service in relation to any assigned matter which appears to him to merit reward.

Retention of records

117. (1) Every person concerned with—

(a) the importation, exportation or carriage coastwise of any goods;
or

(b) the carriage, loading, landing or unloading of any goods,

shall keep or cause to be kept in the Islands, in the English language and in the currency of the Islands, all documents, books, records, including computer records, and any information relating to those goods, for a period of not less than five years from the date of import, export or carriage coastwise of those goods. *(Substituted by Ord. 1 of 2014)*

(2) Any person who, without reasonable cause, fails to comply with a requirement imposed on him under subsection (1) is guilty of an offence and liable on conviction to a fine of \$10,000. *(Amended by Ord. 1 of 2014)*

(3) Any person mentioned in subsection (1) who alters or tampers with any of the documents or computer records referred to in that subsection for the purposes of evading any of the provisions in this Ordinance is guilty of an offence and liable on conviction to a fine of \$10,000. *(Inserted by Ord. 27 of 2010 and amended by Ord. 1 of 2014)*

Power to require information and the production of evidence

118. (1) Any officer may require any person mentioned in section 117 (1) to—

(a) furnish to the officer, in such form or manner as the Collector may require, information relating to the goods; *(Amended by Ord. 1 of 2014)*

(b) produce, and permit the officer to inspect, take extracts from, make copies of or remove for a reasonable period, any contract, invoice, bill of lading, or other book, document or computer record relating to those goods; and

- (c) produce to the officer any computer in the control of that person which may contain information relating to the goods and to allow the officer to remove that computer for a reasonable period for the purpose of examining the information held on the computer which relates to the goods. *(Inserted by Ord. 27 of 2010)*
- (2) The Collector may—
- (a) take possession of and retain any document, book or record or other information presented in connection with any entry or required to be produced under this Ordinance; and
- (b) require evidence to be produced to his satisfaction in support of any information provided by virtue of this Ordinance in respect of any goods imported, exported or carried coastwise or in respect of which any repayment of duty is claimed. *(Inserted by Ord. 1 of 2014)*
- (3) Notwithstanding subsection (2), where the Collector requires original invoices or certificates of origin, or both, to be produced for imported or exported goods, the Collector may—
- (a) require such invoices or certificates of origin, or both, to be submitted in duplicate; or
- (b) retain the originals if such invoices or certificates of origin, or both, are not submitted in duplicate. *(Inserted by Ord. 1 of 2014)*
- (4) Any person who without reasonable cause fails to comply with a requirement imposed on him under subsection (1) or (2) commits an offence and is liable on conviction to a fine of \$20,000. *(Amended by Ord. 1 of 2014)*
- (5) If—
- (a) there is in force under or by virtue of any enactment any prohibition or restriction of the exportation of any goods or class or description of goods to any destination; and
- (b) the Collector has reason to suspect that any person about to export or load such goods for exportation has made, in the course of entering them for exportation, a declaration as to their ultimate destination that is untrue in any material particular,
- the Collector may detain the goods until satisfied as to the truth of the declaration, and if he is not so satisfied the goods shall be liable to forfeiture.
- (6) Any person concerned in the exportation of any goods which are subject to any such prohibition or restriction as aforesaid shall, if so required by the Collector, satisfy the Collector that those goods have not reached any destination other than that mentioned in the entry delivered in respect of the goods, and if he fails to do so he commits an offence and is liable on conviction to a fine of \$10,000 or three times the value of the goods, whichever is the greater, unless he proves that he did not consent to or connive at the goods reaching any destination other than that mentioned as aforesaid and that he took all reasonable steps to secure that the ultimate destination of the goods was not other than that so mentioned.

(7) The Minister may by Order prescribe the type of documents, books, records and information to be kept under this Ordinance, and the form and manner in which they are to be kept. (*Amended by Ord. 1 of 2014*)

Power to require security

119. (1) Without prejudice to any express requirement as to security provided for by any other enactment relating to an assigned matter, the Collector may, if he sees fit, require any person to give security by bond or otherwise in such form and manner as the Collector may direct, for the observance of any condition or restriction in connection with any assigned matter.

(2) Any bond taken for the purposes of any assigned matter—

- (a) shall be taken on behalf of Her Majesty;
- (b) shall be valid notwithstanding that it is entered into by a person under twenty-one years of age; and
- (c) may be cancelled at any time by, or by the order of, the Collector.

PART XI OFFENCES

Unlawful assumption of character of Collector or officer

120. If, for the purpose of obtaining admission to any aircraft, vessel or building or other place, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, any person falsely assumes the name, designation or character of the Collector, or of an officer or any other person appointed by the Collector to discharge any duty relating to an assigned matter, he may be arrested and, in addition to any other proceedings which may be taken against him, he commits an offence and is liable—

- (a) on summary conviction to a fine of \$20,000 or to imprisonment for a term of two years, or to both, and may be arrested;
- (b) on conviction on indictment to a fine of \$50,000 or to imprisonment for a term of five years, or to both, and may be arrested.

Bribery and collusion

121. (1) If the Collector, an officer or any other person appointed or authorised by the Collector to discharge any duty relating to an assigned matter—

- (a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive; or

- (b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Government is or may be defrauded or which is otherwise unlawful, being an act or thing relating to an assigned matter,

he commits an offence.

(2) If any person—

- (a) directly or indirectly offers or gives to the Collector, an officer or any other person appointed or authorised by the Collector to discharge any duty relating to an assigned matter, any payment or other reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward; or
- (b) proposes or enters into any agreement with the Collector, an officer or other person so appointed or authorised,

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

(3) A person who commits an offence under subsection (1) or (2) is liable—

- (a) on summary conviction to a fine of \$20,000 or to imprisonment for a term of two years, or to both, and may be arrested; or
- (b) on conviction on indictment to a fine of \$50,000 or to imprisonment for a term of of five years, or to both, and may be arrested.

Offences against officers

122. (1) Any person who—

- (a) obstructs, hinders, molests or assaults any person engaged in the performance of any duty or the exercise of any power, imposed or conferred on him by or under any enactment relating to an assigned matter, or any person acting in his aid;
- (b) does anything which impedes or is calculated to impede the carrying out of any search for any thing liable to forfeiture under any such enactment or the detention, seizure or removal of any such thing;
- (c) rescues, damages or destroys any thing so liable to forfeiture or does anything calculated to prevent the procuring or giving of evidence as to whether or not any thing is so liable to forfeiture;
- (d) prevents the arrest of any person by a person duly engaged or acting as aforesaid or rescues any person so arrested; or
- (e) attempts to do any act specified in subsection (a), (b), (c) or (d) or aids and abets any person doing such an act,

commits an offence.

(2) Any person who commits an offence under subsection (1) is liable—

- (a) on summary conviction to a fine of \$20,000 or to imprisonment for a term of two years, or to both, and may be arrested; or
- (b) on conviction on indictment to a fine of \$50,000 or to imprisonment for a term of five years, or to both, and may be arrested.

(3) In addition to any other penalty that may be imposed under or by virtue of any enactment, any person who maliciously shoots at, maims or wounds any officer in the performance of, or in connection with the performance of his duty, and every person aiding and abetting therewith commits an offence and is liable on conviction on indictment to a term of imprisonment of life and may be arrested.

(4) If any person uses abusive, offensive or threatening language or behaviour to any officer engaged in the performance of any duty or the exercise of any power imposed or conferred upon him by any enactment relating to an assigned matter, he commits an offence and is liable on conviction to a fine of \$10,000 or to imprisonment for a term of one year, or to both, and may be arrested.

Carrying away officers

123. (1) If any vessel or aircraft departs from any place in the Islands carrying on board without his consent any officer, the master of that vessel or the commander of that aircraft commits an offence and is liable on conviction to a fine of \$20,000 or to imprisonment for a term of two years or to both, and may be arrested.

(2) Without prejudice to the liability of any person under subsection (1), the amount of any expenses incurred by the Collector or the Government by reason of the carrying away of any officer may be recovered from that person or from the owner of the vessel or aircraft.

Servicing uncleared vessel or aircraft

124. Any person who is in any way involved in the refuelling or servicing of any vessel or aircraft without the consent of the Collector commits an offence and is liable on conviction to a fine of \$20,000 or to imprisonment for a term of two years, or to both, and may be arrested:

Provided that this section shall not apply where the defendant can prove there is an emergency endangering life or property.

Interfering with customs vessels, etc

125. (1) If any person, save for just and sufficient cause, interferes in any way with any vessel, aircraft, vehicle, buoy, anchor, chain, rope or mark which is used by an officer in the performance of his duty, or interferes with, damages, injures or destroys any animal or thing so used, he commits an offence and is

liable on conviction to a fine of \$20,000 or to imprisonment for a term of two years, or to both, and may be arrested.

(2) If any person fires upon any vessel, aircraft or vehicle being used by an officer in the performance of his duty, he commits an offence and is liable on conviction on indictment to a term of imprisonment of life and may be arrested.

Signalling to smugglers

126. (1) In this section references to a “prohibited signal” or a “prohibited message” are references to a signal or message connected with the smuggling or intended smuggling of goods into or out of the Islands.

(2) If any person by any means sends any prohibited signal or transmits any prohibited message from any part of the Islands or from any vessel or aircraft, for the information of any person in any vessel or aircraft, he commits an offence and is liable on conviction to a fine of \$20,000 or to imprisonment for a term of two years, or to both, and may be arrested, and any equipment or apparatus used for the sending of the signal or message shall be liable to forfeiture.

(3) Subsection (2) applies whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at that time in smuggling goods.

(4) If, in any proceedings against a person under subsection (2), any question arises as to whether any signal or message was a prohibited signal or a prohibited message, the burden of proof shall lie on the defendant or claimant.

(5) If any officer, police officer or any member of Her Majesty’s armed forces has reasonable grounds for suspecting that a prohibited signal or a prohibited message is being or is about to be made or transmitted from any vessel, aircraft, vehicle, building or other place in the Islands, he may board or enter that vessel, aircraft, vehicle, building or other place in the Islands, and take such other steps as are reasonably necessary to stop or prevent the sending of that signal or message.

Offering goods for sale as smuggled goods

127. If any person offers for sale any goods as having been imported without payment of duty, or as having been otherwise unlawfully imported, then, whether or not those goods were in fact chargeable with duty or were so imported, the goods shall be liable to forfeiture and the person so offering them for sale commits an offence and is liable on conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested.

Special penalty where offender armed or disguised

128. Any person concerned in the movement, carriage or concealment of goods—

- (a) contrary to or for the purpose of contravening any prohibition or restriction for the time being in force under or by virtue of any

enactment with respect to the importation, exportation or carriage coastwise of those goods; or

(b) without payment having been made of or security given for, any duty payable on those goods,

who, while so concerned, is armed with any offensive weapon or disguised in any way, and any person so armed or disguised found in the Islands in possession of any goods liable to forfeiture under any enactment relating to an assigned matter, commits an offence and is liable on conviction on indictment to imprisonment for a term of five years, and may be arrested, and the goods shall be liable to forfeiture.

Untrue declarations

129. (1) If any person—

(a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Collector or an officer, any declaration, notice, certificate or other document whatsoever; or

(b) makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer,

being a document or statement produced or made for any purpose of an assigned matter, which is untrue in a material particular, he commits an offence and is liable on conviction to a fine of \$5,000, and any goods in relation to which the document or statement was made shall be liable to forfeiture.

(2) If any person knowingly or recklessly—

(a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Collector or an officer, any declaration, notice, certificate or other document; or

(b) makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer,

being a document or statement produced or made for any purpose of an assigned matter, which is untrue in a material particular, he commits an offence and is liable on conviction to a fine of \$20,000 or to imprisonment for a term of two years, or to both, and may be arrested, and any goods in relation to which the document or statement was made shall be liable to forfeiture.

(3) Where by reason of any such document or statement as is mentioned in subsection (1) or (2), the full amount of any duty payable is not paid or any over-payment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of duty unpaid or of the overpayment shall be payable immediately to the Collector, and may be recovered accordingly.

(4) The references in subsections (1) to (2) to making or causing to be made, or delivering or causing to be delivered, shall include making or causing to be made, or delivering or causing to be delivered by means involving the use of a computer. (*Inserted by Ord. 27 of 2010*)

Counterfeiting documents

130. (1) If any person—

- (a) counterfeits or falsifies any document which is required by or under any enactment relating to an assigned matter or which is used in the transaction of any business relating to any assigned matter;
- (b) knowingly accepts, receives or uses any such document so counterfeited or falsified;
- (c) alters any document after it is officially issued; or
- (d) counterfeits any seal, signature, initials or other mark of, or used by, any officer for the verification of such a document or for the security of goods or for any other purpose relating to an assigned matter,

he commits an offence and is liable on conviction to a fine of \$20,000 or to imprisonment for a term of two years, or to both, and may be arrested.

(2) Subsection (1) shall apply to any document, seal, signature, initials or other mark produced electronically. (*Inserted by Ord. 27 of 2010*)

False scales

131. (1) If any person required by any enactment relating to an assigned matter to provide scales for any purpose of such enactment, provides, uses or permits to be used any scales which do not give a true reading, he commits an offence and is liable on conviction to a fine of \$5,000 and the scales and any articles in connection with which the offence was committed shall be liable to forfeiture.

(2) Where any article is or is to be weighed, counted, gauged or measured for the purposes of the taking of an account or the making of an examination by an officer, then if—

- (a) any such person as is mentioned in subsection (1); or
- (b) any person by whom or on whose behalf the article is or is to be weighed, counted, gauged or measured,

does anything whereby the officer is or might be prevented from, or hindered or deceived in, taking a true and just account or making a due examination, he commits an offence and is liable on conviction to a fine of \$5,000, and the scales and any articles in connection with which the offence was committed shall be liable to forfeiture.

This subsection applies whether the thing is done before, during or after the weighing, counting, gauging or measuring of the article in question.

(3) In this section, “scales” includes weights, measures and weighing or measuring machines or instruments.

Fraudulent evasion

132. (1) Without prejudice to any other provision of any enactment relating to an assigned matter, if any person—

- (a) knowingly acquires possession of any of the following goods, that is to say—
 - (i) goods which have been unlawfully removed from a warehouse or a Queen's warehouse;
 - (ii) goods which are chargeable with any duty which has not been paid; or
 - (iii) goods with respect to the importation, exportation or carriage coastwise of which any prohibition or restriction is for the time being in force under or by virtue of any enactment; or
- (b) is in any way knowingly concerned in carrying, removing, depositing, landing, harbouring, keeping or concealing or in any manner dealing with any such goods,

and does so with intent to defraud the Government of any duty payable on the goods or to evade any such prohibition or restriction with respect to the goods, he commits an offence.

(2) Any person who commits an offence under subsection (1) is, subject to subsection (5), liable—

- (a) on summary conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
- (b) on conviction on indictment to a fine of \$50,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of five years, or to both, and may be arrested,

and the goods in respect of which the offence was committed shall be liable to forfeiture.

(3) Without prejudice to any other provision of any enactment relating to an assigned matter, if any person is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion—

- (a) of any duty chargeable thereon;
- (b) of any prohibition or restriction for the time being in force with respect to the importation, exportation or carriage coastwise of those goods under or by virtue of any enactment; or
- (c) of any provision of this Ordinance applicable to those goods,

he commits an offence.

(4) Any person who commits an offence under subsection (3) is, subject to subsection (5), liable—

- (a) on summary conviction to a fine of \$20,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
- (b) on conviction on indictment to a fine of \$50,000 or three times the value of the goods, whichever is the greater, or to imprisonment for a term of five years, or to both, and may be arrested,

and the goods in respect of which the offence was committed shall be liable to forfeiture.

(5) Where the goods in respect of which an offence specified in subsection (1) or (3) was committed are a controlled drug as defined in section 3 of the Control of Drugs Ordinance, a person who commits an offence under this section is liable—

- (a) where that controlled drug is a Class A or Class B drug—
 - (i) on summary conviction to a fine of \$50,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of twenty years, or to both, and may be arrested;
- (b) where that controlled drug is a Class C drug—
 - (i) on summary conviction to a fine of \$5,000 or three times the value of the controlled drug, whichever is the greater, or to imprisonment for a term of two years, or to both, and may be arrested; or
 - (ii) on conviction on indictment to a fine of any amount or to imprisonment for a term of ten years, or to both, and may be arrested,

and the goods shall be liable to forfeiture.

Removing locks, seals or marks

133. (1) Where, in pursuance of any power conferred by or any requirement or condition imposed by or under any enactment relating to an assigned matter, any lock, seal or mark is used to secure or identify any goods, or place or container in which goods are kept, then if, without the authority of the proper officer—

- (a) that lock, seal or mark is unlawfully and prematurely removed or tampered with by any person; or
- (b) at any time before the lock, seal or mark is lawfully removed, any of the goods are wilfully removed by any person,

that person and the person then in charge of the goods shall each commit an offence and be liable on conviction to a fine of \$5,000 or three times the value of the goods removed, whichever is the greater, and the goods shall be liable to forfeiture.

(2) For the purposes of subsection (1), goods in a vessel or aircraft shall be deemed to be in the charge of the master of that vessel or the commander of that aircraft.

PART XII

IMPORTED GOODS – CUSTOMS PROCESSING FEE

General Provisions as to Legal Proceedings

Imposition and rate of customs processing fee

134. (1) Subject to subsection (3), every importer shall pay to the Government, in respect of all goods imported into the Islands, a customs processing fee at the rate of 7.5 per cent of the value of goods imported. *(Amended by L.Ns. 37/2011 and 48/2013)*

(2) The Governor may, by order, vary the rate of customs processing fee fixed by subsection (1).

(3) This section does not apply to goods imported by a person listed in Schedule 3.

(Consolidated from sections 2 and 4 of Ord. 8 of 2011)

Collection of customs processing fee

135. (1) The customs processing fee imposed under section 134 shall be collected by the Collector of Customs and paid into the Consolidated Fund.

(2) The provisions of the Customs Ordinance relating to—

(a) the payment, collection, recovery and refund of customs duties; and

(b) offences and penalties,

shall apply with such modifications as the circumstances require to the customs processing fee as they apply to customs duties.

(Consolidated from section 3 of Ord. 8 of 2011)

PART XIII

LEGAL PROCEEDINGS, FORFEITURE AND SALE OF GOODS

General Provisions as to Legal Proceedings

Institution and nature of proceedings

136. (1) Subject to subsection (3), no proceedings for an offence under any enactment relating to an assigned matter or for the condemnation of goods as forfeited under Schedule 4, shall be commenced except—

(a) by order of the Collector in writing; and

(b) in the name of the Collector by reference to his office.

(2) In the case of the death, removal, discharge or absence of the Collector, where proceedings were commenced by virtue of subsection (1)(b), those proceedings may be continued by any officer authorised in that behalf by the Collector or by the officer holding the post of Collector.

(3) Notwithstanding anything in the foregoing provisions of this section, where any person has been arrested for any offence for which he is liable to be arrested under any enactment relating to an assigned matter, any court before which he is brought shall proceed to deal with the case although the proceedings have not been instituted by order of the Collector or have not been commenced in the name of the Collector.

(4) Save as otherwise expressly provided by or under any enactment relating to an assigned matter and notwithstanding anything in any other enactment, any proceedings for an offence under this Ordinance—

(a) may be commenced at any time within three years from the date of the commission of offence; and

(b) shall not be commenced later than three years from that date.

(5) Unless otherwise provided, all offences under any enactment relating to an assigned matter shall be tried summarily.

Place of trial

137. (1) Proceedings for an offence under any enactment relating to an assigned matter may be commenced—

(a) in any court having jurisdiction in the place—

(i) where the offence was committed;

(ii) where the person charged with the offence resides or is found;
or

(iii) in the case of a body corporate charged with the offence, where that body corporate has its registered or principal office; and

(b) if any thing was detained or seized in connection with that offence, in any court having jurisdiction in the place where that thing was so detained or seized or was found or condemned as forfeited.

(2) If the amount of any fine which may be imposed in respect of any offence under any enactment relating to an assigned matter exceeds \$20,000, a Magistrate may direct that the proceedings be transferred to the Supreme Court upon the application of the Collector or of any other party to the proceedings.

Procedure for recovery of duty, rent, etc

138. Proceedings under any enactment relating to an assigned matter for the recovery of any duty, rent, fees or other charges shall be civil proceedings and may be instituted—

- (a) in any Magistrate's Court having jurisdiction in the place—
 - (i) where the liability for any duty, rent or charge is incurred;
 - (ii) where the defendant resides; or
 - (iii) in the case of a body corporate, where that body corporate has its registered or principal office; or
- (b) in the Supreme Court.

Persons who may conduct proceedings

139. Any proceedings before a Magistrate's Court instituted in relation to an assigned matter may be conducted by an officer or any other person authorised in that behalf by the Collector.

Service of process

140. (1) Any summons or other process issued for the purpose of any enactment relating to an assigned matter shall be deemed to have been duly served on a person—

- (a) if delivered to him personally;
- (b) if left at his last known place of abode or business or, in the case of a body corporate, at its registered or principal office; or
- (c) if left on board any vessel or aircraft of which he is the owner.

(2) Any summons, notice, order or other document issued for the purposes of any proceedings under any enactment relating to an assigned matter, or of an appeal from a decision of any court in any such proceedings, may be served by an officer.

Incidental provisions

141. (1) Where liability for an offence under any enactment relating to an assigned matter is incurred by two or more persons jointly, those persons shall each be liable for the full amount of any fine and may be proceeded against either jointly or severally as the Collector thinks fit.

(2) Where any offence under any enactment relating to an assigned matter which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of that body corporate, or any person purporting to act in such capacity, he as well as the body corporate commits the offence and shall be liable to be proceeded against and punished accordingly.

(3) Where a fine for an offence under any enactment relating to an assigned matter is required to be fixed by reference to the value of any goods, that value shall be taken as the price those goods might reasonably be expected to have fetched, after payment of any duty chargeable on them, if they had been sold in the open market at or about the date of the commission of the offence for which the penalty is imposed.

(4) Where, in any proceedings for an offence under any enactment relating to an assigned matter, any question arises as to the duty or rate chargeable on any imported or exported goods, or goods which were intended to be exported, and it is not possible to ascertain the relevant time specified in section 3, the duty or rate shall be determined as if the goods had been imported, exported or brought to a place for exportation at the time when the proceedings were commenced.

(5) In any proceedings for an offence under any enactment relating to an assigned matter, or for condemnation of goods as forfeited under Schedule 4, the fact that payment has been made, or that security has been given by bond or otherwise, for payment of any duty or for compliance with any condition in respect of the non-payment of which or non-compliance with which the proceedings are instituted, shall not be a defence.

(6) Where by any provision of any enactment relating to an assigned matter a punishment is prescribed for any offence thereunder or for any contravention of or failure to comply with any regulation, direction, condition or requirement made, given or imposed thereunder, and any person is convicted in the same proceedings of more than one such offence, contravention or failure, that person shall be liable to that punishment for each such offence, contravention or failure of which he is so convicted.

(7) The maximum period of imprisonment that may be imposed in respect of the non-payment of any sum (including costs) adjudged to be paid on conviction by a Magistrate's Court under any enactment relating to an assigned matter shall—

- (a) if the sum adjudged does not exceed \$5,000, be six months;
- (b) if the sum adjudged exceeds \$5,000, be two years.

(8) If a person has previously been convicted of an offence against any enactment relating to an assigned matter, or suffered any penalty or forfeiture under such enactment, a Magistrate's Court may on a subsequent conviction of the person for such offence impose a maximum period of imprisonment of two years in addition to, or in lieu of, any fine.

Power to compound offences and mitigate penalties

142. (1) The Collector may, as he thinks fit—

- (a) compound any proceedings for any offence under any enactment relating to an assigned matter;
- (b) stay the proceedings for condemnation of anything as being forfeited under any enactment relating to an assigned matter; or
- (c) restore, subject to such conditions (if any) as he thinks proper, anything forfeited or seized under any enactment relating to an assigned matter.

(2) The Governor may, as he thinks fit—

- (a) after judgment, mitigate or remit any fine imposed under any enactment relating to an assigned matter; or

- (b) order any person who has been imprisoned to be discharged before the expiration of his term of imprisonment, being a person imprisoned for any offence under any enactment relating to an assigned matter.

(3) The Collector may give directions with respect to the compounding of proceedings for any offence pursuant to subsection (1)(a).

Proof of certain documents

143. (1) Any document purporting to be signed by the Governor, the Minister, the Clerk to the Cabinet, the Collector, or by their order or by any person with their authority, or by a Government chemist approved by the Governor under section 21(1) of the Control of Drugs Ordinance shall, until the contrary is proved, be deemed to have been so signed, and the matters contained in that document may, in any proceedings under any enactment relating to an assigned matter, be proved by the production of that document or any document purporting to be a copy of that document.

(2) Where any book or other document or copy of it is required to be kept by virtue of any enactment relating to an assigned matter, the production of that book or other document, or a copy of it certified as a true copy by an officer, shall in any proceedings under such an enactment be sufficient evidence of the matters contained therein unless the contrary be proved.

Proof of certain matters other than documents

144. (1) An averment in any process in proceedings under any enactment relating to an assigned matter that—

- (a) those proceedings were instituted by order of the Collector;
- (b) any person is or was the Collector, an officer or a police officer or member of Her Majesty's armed forces;
- (c) any person is or was appointed or authorised by the Collector to discharge, or was engaged by the order or with the concurrence of the Collector in the discharge of any duty;
- (d) the Collector is or is not satisfied as to any matter as to which he is required by any enactment relating to an assigned matter to be satisfied;
- (e) any place is within the limits of a port, approved wharf, customs airport or other customs area, or within the territorial sea of the Islands;
- (f) any goods thrown overboard, staved or destroyed were so dealt with in order to prevent or avoid their seizure; or
- (g) a vessel is a Turks and Caicos Islands vessel,

shall, until the contrary is proved, be sufficient evidence of the matter in question.

(2) Where in any proceedings relating to an assigned matter instituted by the Collector, an officer or a police officer or against the Collector, any question arises as to the place from which goods have been brought or as to whether or not—

- (a) any duty has been paid or secured in respect of any goods;
- (b) any goods or other things are of the description or nature alleged in the information, writ or other process;
- (c) any goods have been lawfully imported or lawfully unloaded from any vessel or aircraft;
- (d) any goods have been lawfully loaded into any vessel or aircraft or lawfully exported or were lawfully waterborne;
- (e) any goods were lawfully brought to any place for the purpose of being loaded into any vessel or aircraft, or exported; or
- (f) any goods are or were subject to any prohibition or restriction on their importation, exportation or carriage coastwise,

the burden of proof shall be upon the other party to the proceedings.

Detention of persons about to leave the Islands

145. Where any person has by any action rendered himself liable to be prosecuted for any offence under any enactment relating to an assigned matter and the Collector is of the opinion that that person is about to leave the Islands the Collector may apply to a Magistrate for a warrant for the arrest of that person.

Actions against officers

146. No action, suit or other proceedings shall be brought or instituted personally against any officer in respect of any act done by him in pursuance of any power granted to or duty imposed on him by any enactment relating to an assigned matter.

Forfeiture

Detention, seizure and condemnation of goods

147. (1) Any thing which is liable to forfeiture under any enactment relating to an assigned matter may be seized or detained by any officer, police officer, or member of Her Majesty's armed forces.

(2) Where any thing which is liable to forfeiture is seized or detained by a police officer, or member of Her Majesty's armed forces, that thing shall be delivered to the Collector within two days unless—

- (a) such delivery is not practicable; or

(b) that thing is or may be required for use in connection with any proceedings to be brought otherwise than under any enactment relating to an assigned matter.

(3) Where, by virtue of subsection (2), any thing seized or detained by a police officer or member is not delivered up to the Collector within two days, notice in writing of the seizure or detention, containing full details of the thing seized or detained, shall be given to the Collector, and any officer shall be permitted to examine and take account of that thing at any time while it remains in the custody of the police or the armed forces.

(4) Schedule 4 shall have effect in relation to appeals against the seizure of anything seized as liable to forfeiture under any enactment relating to an assigned matter, and for proceedings for the condemnation as forfeited of that thing.

(5) Where the person seizing or detaining any thing liable to forfeiture under any enactment relating to an assigned matter is a police officer, and that thing may be required for use in any proceedings other than under such enactment, it may be retained in the custody of the police until those proceedings are completed or it is decided that no proceedings shall be brought, but notice in writing of the seizure or detention, and the intention to retain that thing in the custody of the police, shall be given immediately to the Collector, and any officer shall be permitted to examine and take account of that thing at any time while it remains in the custody of the police.

(6) Subject to subsection (5) and to Schedule 4, anything seized or detained under any enactment relating to an assigned matter shall, pending the determination as to its forfeiture or disposal, be dealt with, and if condemned or deemed to have been condemned as forfeited, shall be disposed of, in such manner as the Collector may direct.

(7) If any person, not being an officer, by whom anything is seized or detained or who has custody thereof after its seizure or detention fails to comply with any direction of the Collector in relation thereto he commits an offence and is liable on conviction to a fine of \$5,000.

(8) Subsections (2) to (7) shall apply to any dutiable, restricted or prohibited goods seized or detained by any person other than an officer notwithstanding that they were not so seized or detained as liable to forfeiture under any enactment relating to an assigned matter.

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

148. (1) Where any thing has become liable to forfeiture under any enactment relating to an assigned matter—

(a) any vessel, aircraft, vehicle, animal, container (including any article of passengers' baggage) or any other thing whatsoever which has been used for the carriage, handling, deposit or concealment of the thing so liable to forfeiture, either at the time when it was so liable or for the purposes of the commission of the offence for which it later became so liable; and

(b) any other thing mixed, packed or found with the thing so liable, shall also be liable to forfeiture.

(2) Where—

- (a) any vessel is or has been within a port of the Islands or the territorial sea of the Islands;
- (b) any aircraft is or has been at any place whether on land or water in the Islands; or
- (c) any vehicle is or has been within the limits of any port, approved wharf, customs airport or other customs area,

while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that vessel, aircraft or vehicle shall be liable to forfeiture.

(3) Where any vessel, aircraft, vehicle or animal has become liable to forfeiture, all tackle, apparel or furniture belonging to it shall also be liable to forfeiture.

(4) Where any of the following, that is to say—

- (a) any vessel not exceeding 250 net tons;
- (b) any aircraft,

becomes liable to forfeiture under this section by reason of having been used in the importation, exportation or carriage of goods contrary to or for the purpose of contravening any prohibition or restriction for the time being in force with respect to those goods, or without payment having been made of, or security given for, any duty payable thereon, the owner and the master or commander shall each commit an offence and be liable on conviction to a fine equal to the value of the vessel or aircraft or \$20,000, whichever is the less.

Forfeiture of vessel or aircraft unable to account for missing cargo

149. Where a vessel has been within the territorial sea of the Islands or an aircraft has been in the Islands with cargo on board and a substantial part of that cargo is afterwards found to be missing, then, if the master of the vessel or commander of the aircraft fails to account therefor to the satisfaction of the Collector, the vessel or aircraft shall be liable to forfeiture.

Special provisions as to forfeiture of larger vessels

150. (1) Notwithstanding any other provision of any enactment relating to an assigned matter, no vessel of 250 or more net tons shall be liable to forfeiture unless—

- (a) the offence in respect of or in connection with which the forfeiture is claimed—
 - (i) was substantially the object of the voyage during which the offence was committed; or
 - (ii) was committed while the vessel was under chase after refusing to stop when required to do so;

(b) the vessel was constructed, adapted, altered or fitted in any manner solely for the purpose of concealing goods; or

(c) subsection (3) applies.

(2) Where any vessel of 250 or more net tons would, but for subsection (1), be liable to forfeiture for or in connection with an offence under any enactment relating to an assigned matter and, in the opinion of the Collector, a responsible officer of the vessel is implicated by his own act or by neglect in that offence, the Collector shall have the power to impose a fine on that vessel in any sum not exceeding \$50,000, and until that fine is paid, he may withhold clearance of that vessel.

(3) Where any vessel is liable to a fine under subsection (2), but the Collector is not satisfied that such a fine is adequate in relation to the offence committed, the Collector may take proceeding under Schedule 4 for the condemnation as forfeited of that vessel in any sum not exceeding \$100,000 as the court thinks fit.

(4) Where condemnation proceedings are taken under subsection (3), the Collector may require such sum as he thinks fit, not exceeding \$100,000, to be deposited with him, and until that sum is so deposited, he may withhold clearance of that vessel.

(5) No claim shall lie against the Collector for damages in respect of the payment of any deposit or the detention of any vessel under this section.

(6) The exemption from forfeiture of any vessel under this section shall not affect the liability to forfeiture of any goods carried on board.

(7) For the purposes of this section—

(a) “responsible officer”, in relation to any vessel, means the master, mate, or engineer of the vessel, and in the case of a vessel carrying a passenger certificate, the purser or chief steward, and in the case of a vessel manned wholly or partly by Asiatic seamen, the Serang or other leading Asiatic officer of the vessel;

(b) without prejudice to any other grounds upon which a responsible officer of any vessel may be held to be implicated by neglect, he may be so liable if goods not owned by any member of the crew are discovered in any place under that officer’s supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the vessel or subsequently.

Special provisions as to forfeiture of larger aircraft

151. (1) Notwithstanding any other provision of any enactment relating to an assigned matter, no aircraft capable of carrying twenty or more passengers shall be liable to forfeiture unless—

(a) the offence in respect of or in connection with which the forfeiture is claimed was substantially the object of the flight during which the offence was committed;

(b) the aircraft was constructed, adapted, altered or fitted in any manner solely for the purpose of concealing goods; or

(c) subsection (3) applies.

(2) Where any aircraft capable of carrying more than twenty passengers would, but for subsection (1), be liable to forfeiture for or in connection with an offence under any enactment relating to an assigned matter and, in the opinion of the Collector, any member of the crew of the aircraft is implicated by his own act or by neglect in that offence, the Collector shall have the power to impose a fine on that aircraft in any sum not exceeding \$50,000, and until that fine is paid, he may withhold clearance of that aircraft.

(3) Where any aircraft is liable to a fine under subsection (2), but the Collector is not satisfied that such a fine is adequate in relation to the offence committed, the Collector may take proceedings under Schedule 4 for the condemnation as forfeited of that aircraft in any sum not exceeding \$100,000 as the court thinks fit.

(4) Where condemnation proceedings are taken under subsection (3), the Collector may require such sum as he thinks fit, not exceeding \$100,000, to be deposited with him, and until that sum is so deposited he may withhold clearance of that aircraft.

(5) No claim shall lie against the Collector for damages in respect of the payment of any deposit or the detention of any aircraft under this section.

(6) The exemption from forfeiture of any aircraft under this section shall not affect the liability to forfeiture of any goods carried on board.

Protection of officers seizing or detaining goods

152. (1) Where, in any proceedings for the condemnation of any thing seized as liable to forfeiture under any enactment relating to an assigned matter, judgment is given for the claimant, the court may, if it thinks fit, certify that there were reasonable grounds for the seizure.

(2) Where any proceedings, whether civil or criminal, are brought against the Government or the Collector or any officer on account of the seizure or detention of any thing as liable to forfeiture, and judgment is given for the plaintiff or prosecutor, then if either—

(a) a certificate relating to the seizure has been granted under subsection (1); or

(b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing,

the plaintiff or prosecutor shall not be entitled to recover any damages, compensation or costs and the defendant shall not be liable to any punishment.

(3) Nothing in subsection (2) shall affect any right of any person for the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction of it.

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

Disposal of goods condemned as forfeited

153. (1) Subject to subsections (6) and (7), any thing condemned as forfeited by virtue of Schedule 4, or deemed to have been condemned as forfeited by that Schedule, may, unless a prohibited or restricted article, be sold by public auction.

(2) Any auction under this section shall be advertised in the *Gazette* not less than seven days before it is due to take place.

(3) The Collector shall appoint a person, who may be an officer, to act as auctioneer at an auction under this section.

(4) All monies arising from the sale of any thing at an auction under this section shall be used to pay all the charges of and incidental to the seizure of that thing and any proceedings for the condemnation and the sale of it and any residue shall be paid by the Collector into the Consolidated Fund.

(5) Any thing not sold at an auction under this section, and all prohibited or restricted goods condemned or deemed to be condemned as forfeited, may be destroyed or otherwise disposed of as the Collector may direct.

(6) Where for any reason it is impracticable in the opinion of the Collector for any thing to be sold at a public auction, such thing may be sold by the Collector acting upon the directions of a seizure committee, such committee to be appointed on each occasion by the Minister and to consist of three public servants of whom none shall be officers.

(7) In respect of any thing, other than a prohibited or restricted article, which is condemned as forfeited in consequence of any offence committed against this Ordinance, the Minister may, on the advice of the Collector that such thing may usefully be requisitioned for any Government purpose, authorise the requisition in writing, and notice of the requisition shall be published in the *Gazette* within fourteen days of the authorisation therefor, describing the thing and the purpose for which the Government has requisitioned it.

PART XIV

DETERMINATION OF DISPUTES

Appeals to the Collector

154. (1) If, before the delivery of any imported goods from customs charge, any dispute arises as to whether any or what amount of duty of customs is payable on those goods, the importer shall pay the amount demanded by the proper officer but then may, at any time before the expiration of one month from the date the duty was demanded, require the Collector, by a notice in writing under this section, to reconsider the amount of duty so demanded.

(2) A notice under subsection (1) shall state the grounds for disputing the amount of duty demanded.

(3) The Collector, after reconsidering the amount of duty demanded and taking into account the grounds contained in the notice, may increase, decrease or confirm that amount, and shall notify the person who paid the amount demanded (hereinafter in this Part referred to as “the appellant”) of his decision in writing and repay any amount, if any, found by him to have been overpaid.

Appeals to referees

155. (1) Any person notified of a decision under section 154 may—

- (a) if the dispute is in relation to the value of goods, or to the rate of duty chargeable thereon, or the tariff classification relating to the goods, require the question to be referred to the arbitration of not less than two referees appointed by the Minister; or
- (b) in any other case apply to a Magistrate for a declaration as to the amount of duty, if any, properly payable on the goods.

(2) If, on any such reference or application the referees determine that a lesser or no amount was properly payable in respect of duty on the goods, the amount overpaid shall be repaid by the Collector, and any sum so repaid shall be accepted by the appellant in satisfaction of all claims in respect of the importation of the goods in question and the duty payable thereon, and of all damages and expenses incidental to the dispute.

(3) If on any such reference or application any question arises the determination of which depends on the classification of any goods within any tariff imposed by order under section 70, the classification of those goods shall be determined in accordance with any rules for interpretation and any explanatory notes set out in or applied by such order.

(4) The procedure on any reference to a referee under this section shall be such as may be determined by the referees.

(5) On any such reference or application—

- (a) the burden of proof of any matter shall lie with the appellant; and
- (b) the appellant shall be responsible for the costs of the appeal, unless the referees otherwise direct.

(6) Any decision of the referees and the reasons for that decision shall be notified in writing to the Collector and the appellant within seven days of the decision being reached.

Right of further appeal

156. (1) The Collector or the appellant may appeal to the Supreme Court against any decision of the referees which involves a question of law, including a question of mixed fact and law.

(2) The Collector or the appellant may appeal to the Court of Appeal against any judgment of the Supreme Court, being a judgment on an appeal from

the referees, which involves a question of law, including a question of mixed fact and law.

(3) On an appeal to the Supreme Court or the Court of Appeal under this section, that Court shall have the power to—

- (a) increase, decrease or confirm the amount of duty due;
- (b) make any such other order as it thinks fit; and
- (c) make such order as to costs as it thinks fit.

Payment of duty after appeal

157. (1) Subject to subsection (2), where a decision of the referees, or a judgment of the Supreme Court or the Court of Appeal on an appeal under this Part is—

- (a) that the amount of duty due should be increased, the appellant shall pay the amount of the increase to the Collector; and
- (b) that the amount of duty should be decreased, the Collector shall authorise payment of the amount of the decrease to the appellant,

within thirty days of the decision.

(2) Where the decision referred to in subsection (1) is that of the referees or the Supreme Court, no amount shall be payable if, within the thirty day time limit provided by that subsection, an appeal against that decision is lodged with the Supreme Court or the Court of Appeal, as the case may be.

SCHEDULE 1*(Section 56(1))***GOODS NOT PERMITTED TO BE WAREHOUSED ON IMPORTATION**

Aircraft
Animals, living
Arms, ammunition and explosives
Chemicals
Fireworks
Manure
Matches
Meats (other than tins packed in cases)
Oil fuel (other than at installations approved for the purpose)
Ships, boats and launches.

Any other goods which in the opinion of the Collector are likely to cause damage to other goods stored in the same warehouse or which may be considered hazardous to warehouse users.

SCHEDULE 2

(Section 75)

GOODS TO WHICH FLAT RATE OF DUTY NOT TO APPLY

Goods	Tariff Heading
(a) beer made from malt	22.03
(b) wines of fresh grapes including fortified wines; grape must other than that in heading 22.09.	22.04
(c) vermouth and other wines of fresh grapes flavoured with plants or aromatic substances.	22.05
(d) undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used in the manufacture of beverages.	22.08
(e) unmanufactured tobacco; tobacco refuse.	24.01
(f) cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.	24.02
(g) other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco, tobacco extracts and essences.	24.03

SCHEDULE 3

Section (134)

EXEMPTION FROM CHARGES AND FEES UNDER PART XII

- (i) The Government
- (ii) Interhealth Canada (on goods exempted from custom duties under the
Interhealth Group Development Order 2008 (*L.N. 11/2008*))
(Consolidated Ordinance 8 of 2011 and Ordinance 8 of 2013)

SCHEDULE 4*(Section 147)***FORFEITURE***Notice of seizure*

1. (1) The Collector shall, except as provided by subparagraph (2), give notice of the seizure of anything seized as liable to forfeiture and of the grounds of that seizure to any person who to his knowledge was the owner of, or one of the owners of, that thing at the time of its seizure.

(2) Notice shall not be required to be given under subparagraph (1) if the seizure was made in the presence of—

- (a) the person whose offence or suspected offence occasioned the seizure;
- (b) the owner or any of the owners of the thing seized or any employee or agent of his; or
- (c) in the case of any thing seized in a vessel or aircraft, the master or commander of that vessel or aircraft.

2. Notice under paragraph 1 shall be given in writing and shall be deemed to have been duly served on the person concerned—

- (a) if delivered to him personally;
- (b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business, or, in the case of a body corporate, at its registered or principal office; or
- (c) where he has no address in the Islands, or his address is unknown, by publication of the notice of seizure in the *Gazette*.

Notice of claim

3. Where any person who was at the time of the seizure of any thing the owner or one of the owners of it claims that it was not liable to forfeiture he shall, within one month of the date of service of the notice of seizure or, where no such notice has been served on him, within one month of the date of seizure, give notice of his claim in writing to the Collector at any office of the Customs Department.

4. Any notice under paragraph 3 shall specify the name and address of the claimant and, in the case of a claimant who is outside the Islands, shall specify the name and address of a person in the Islands who is authorised to accept service and to act on behalf of the claimant, and service upon a person so specified shall be deemed to be proper service upon the claimant.

Condemnation

5. If, on the expiration of the relevant period under paragraph 3 for the giving of a notice of claim, no such notice has been given to the Collector, or where such notice is given, that notice does not comply with any requirement of paragraph 4, the thing seized shall be deemed to have been duly condemned as forfeited.

6. Where notice of claim in respect of any thing seized is duly given in accordance with the foregoing provisions of this Schedule, the Collector shall take proceedings for the condemnation of that thing by the court, and if the court finds that the thing was at the time of its seizure liable to forfeiture, that court shall condemn that thing as forfeited.

7. Where any thing is in accordance with either paragraph 5 or 6 deemed to have been condemned, or condemned as forfeited, then, without prejudice to any delivery up or sale of the thing by the Collector under paragraph 14, the forfeiture shall be deemed to have effect as from the date when the liability to forfeiture arose.

Proceedings for condemnation by court

8. Proceedings for the condemnation of any thing as forfeited shall be civil proceedings, and may be instituted by the Collector either—

(a) in a Magistrate's Court having jurisdiction in the place—

- (i) where any offence in connection with that thing was committed or where any proceedings for such an offence have been instituted;
- (ii) where the claimant resides or, if the claimant has specified a person under paragraph 4, where that person has his office; or
- (iii) where that thing was found, detained or seized or to where the thing was first brought after being found, detained or seized; or

(b) in the Supreme Court,

as he thinks fit.

9. (1) In any proceedings for condemnation, the claimant shall make oath that the thing was, or was to the best of his knowledge and belief, the property of the claimant at the time of the seizure.

(2) In any proceedings for condemnation before the Supreme Court, the claimant shall give such security for the costs of the proceedings as may be determined by the Court.

(3) If any requirement of this paragraph is not complied with, the Court shall give judgment for the Collector.

10. (1) Any party to condemnation proceedings in a Magistrate's Court may appeal to the Supreme Court against the decision of the Magistrate's Court in those proceedings.

(2) Where any appeal is made against the decision of any court in condemnation proceedings, the thing seized shall remain in the possession of, or be returned to the possession of, the Collector until the final determination of the matter.

Provisions as to proof

11. In any proceedings arising out of the seizure of any thing, the fact, form and manner of the seizure shall be taken to have been as set forth in the process, unless the contrary is proved.

12. In any proceedings, the condemnation by a court of any thing as forfeited may be proved by the production either of the order or certificate of condemnation or of a certified copy thereof purporting to be signed by an officer of the court by which the order or certificate was made or granted.

Special provisions as to certain claimants

13. Where any thing is at the time of its seizure the property of a body corporate, or of two or more partners, or of any number of persons exceeding five not being in partnership, the oath required to be taken under paragraph 9, and any other thing required by this Schedule or any rules of court to be done by the claimant or owner may be taken or done by the following persons respectively, that is to say—

- (a) where the owner is a body corporate, the secretary or some other authorised officer of that body;
- (b) where the owners are in partnership, any of those owners; or
- (c) where the owners are any number of persons exceeding five not being in partnership, any two of those persons on behalf of themselves and their co-owners.

Power to deal with seizures before condemnation, etc.

14. Where any thing seized as liable to forfeiture has not been condemned as forfeited, or deemed to have been condemned as forfeited, the Collector may at any time if he sees fit—

- (a) deliver it up to any claimant upon his paying to the Collector such sum as the Collector thinks proper, being a sum not exceeding that which in his opinion represents the value of the thing, including any duty chargeable thereon which has not been paid; or
- (b) if the thing seized is a living creature or is in his opinion of a perishable or hazardous nature, sell or destroy it.

15. (1) If any thing is delivered up, sold or destroyed as provided in paragraph 14, and it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Collector shall on demand by the claimant tender to him—

- (a) where the thing was restored, an amount equal to any amount paid as a condition of that restoration;
- (b) where the thing was sold, an amount equal to the proceeds of sale; or
- (c) where the thing was destroyed, an amount equal to its market value at the time of its seizure:

Provided that where the said amount includes any sum on account of any duty chargeable on the thing which had not been paid before its seizure the Collector may deduct so much of that amount as represents duty.

(2) Where an amount tendered under subparagraph (1) includes a sum on account of the duty chargeable on the thing which has not been paid, the Collector may deduct so much of that amount as represents the duty.

(3) If the claimant accepts an amount tendered to him under subparagraph (1) he shall not be entitled to maintain any action on account of the seizure, detention, restoration, sale or destruction of the thing seized.

(4) Where the claimant and the Collector are unable to agree upon the market value of any thing destroyed, that value shall be determined by the seizure committee as appointed under section 153(6) of this Ordinance, whose decision shall be final.

CHAPTER 19.04
CUSTOMS (ADDITIONAL IMPORT DUTY ON FUEL)
ORDER – SECTION 70

(Legal Notices 11/2010, 12/2011 and 38/2013)

Commencement

[1 July 2010]

Short title

1. This Order may be cited as the Customs (Additional Import Duty On Fuel) Order.

Additional import duty on fuel

2. (1) In addition to the import duties of customs imposed by paragraphs 4(1) and 5 of the Customs Tariff (General) Order on fuel an additional duty is imposed on fuel imported into the Islands from 1 July 2010 at the rate of eighty-five cents per gallon. *(Amended by L.Ns. 12/2011 and 38/2013)*

(2) The additional duty imposed by subsection (1) on fuel imported into the Islands shall be used for the purpose of defraying expenditure and debt service incurred on the development and maintenance of roads and other infrastructure in the Islands.

(3) The moneys received in respect of the additional duty imposed by subsection (1) on fuel imported into the Islands shall be paid into the Special Fund called the “Infrastructure Development Fund” established by section 2 of the Appropriation (2004/2005) Ordinance 2004.

**CUSTOMS (APPOINTMENT AND LIMITS OF PORTS
AND CUSTOMS AIRPORTS) ORDER – SECTIONS 12 AND 14**

(Legal Notices 23/1996, 15/1997, 22/1999 and 27/2008)

Commencement

[22 March 1998]

Short title

1. This Order may be cited as the Customs (Appointment and Limits of Ports and Customs Airports) Order.

Appointment and limits of ports

2. (1) Subject to subparagraph (2), the following are appointed as ports for the purpose of customs—

- (a) South Dock, Grand Turk;*
- (b) South Dock, Providenciales;*
- (c) Cockburn Harbour, South Caicos;*
- (d) Sandy Point, North Caicos;*
- (e) Caicos Marina and Shipyard, Juba Salina, Providenciales;*
- (f) Sapodilla Bay, Providenciales;*
- (g) Turtle Cove Marina, Providenciales;*
- (h) Leeward Going Through Marina, Providenciales;*
- (i) Balfour Town, Salt Cay; (Inserted by L.N. 22/1999)*
- (j) Dellis Cay. (Inserted by L.N. 27/2008)*

(2) Except for South Dock, Grand Turk, no port appointed under subparagraph (1) shall be a port of entry for the purposes of customs for pleasure craft or small craft arriving from the Republic of Haiti. *(Inserted by L.N. 15/1997)*

(3) The limits of the ports appointed under subparagraph (1) are shown on maps designated that may be inspected at the offices of the Customs Department during normal working hours.

Appointment and limits of customs airports

3. (1) The following are appointed as customs airports—

- (a) Grand Turk International Airport;*
- (b) South Caicos International Airport;*
- (c) North Caicos Airport;*
- (d) Providenciales International Airport.*

(2) The limits of the customs airports appointed under subparagraph (1) are shown on maps designated that may be inspected at the offices of the Customs Department during normal working hours.

**CUSTOMS (ARRIVING AND DEPARTING
VESSELS AND AIRCRAFT) DIRECTION**

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

SECTION

1. Short title
2. Interpretation
3. Direction not apply to pleasure craft

PART II

VESSELS

4. Vessel's report
- Importation by sea*
5. Other requirements relating to arriving vessels
 6. Vessels not to be moved
 7. Landing of cargo
 8. Goods unloaded onto another vessel for landing
 9. Vessel continuing on an inward voyage

Exportation by sea

10. Restriction on loading goods
11. Other requirements relating to exporting vessels
12. Where inward voyage precedes outward voyage
13. Clearance for voyage outwards

PART III

AIRCRAFT

14. Aircraft arrival
15. Unloading or removal by importer of imported goods
16. Restriction on removal of goods from examination station or transit shed
17. Aircraft departure and clearance

PART IV

PASSENGER AND CREW

18. Passengers entering the Islands
19. Crew entering the Islands

PART V

GENERAL

20. Baggage and article examination
21. Penalty

**CUSTOMS (ARRIVING AND DEPARTING
VESSELS AND AIRCRAFT) DIRECTION – SECTION 24**

(Legal Notice 30/2010)

Commencement

[17 November 2010]

PART I

PRELIMINARY

Short title

1. This Direction may be cited as the Customs (Arriving and Departing Vessels and Aircraft) Direction.

Interpretation

2. In this Direction—

“arrival” in relation to a vessel, means the anchoring, berthing and mooring of a vessel within the limits of a port;

“arrival in the Islands” in relation to an aircraft, means the arrival of the aircraft in the Islands, from outside them and includes arrival at any customs airport to which the officer at the customs airport at which it first arrives has permitted an aircraft to proceed in continuation of its inward flight;

“form” means one of a series of numbered forms specified in Schedule 1;

“port” means any port named in Schedule 2.

Direction not to apply to pleasure craft

3. This Direction does not apply to pleasure craft except for sections 18, 19 and 20.

PART II

VESSELS

Vessel’s report

4. (1) Subject to subsections (2) and (3) the Master of every arriving vessel shall immediately upon arrival of the vessel make a report to Customs of the port at which the vessel has arrived, and such report shall comprise of the following—

(a) a cargo manifest;

(b) a list of passengers and crew;

- (c) a crew declaration in Form C111;
- (d) the clearance outwards from the last port of call;
- (e) the vessel's registration documents; and
- (f) a report of the stores on board the vessels on arrival in Form C126.

(2) In regard to a vessel of 100 net tonnes or more the cargo manifest referred to in subsection (1)(a) must be delivered electronically to Customs within twenty-four hours before arrival, unless the Collector otherwise allows.

(3) In regard to a vessel of less than 100 net tonnes the cargo manifest referred to in subsection (1)(a) must be delivered electronically to Customs within twenty-four hours after arrival, unless the Collector otherwise allows.

(4) In the case of any importing vessel arriving in the Islands, the report and documents referred to in subsection (1) may be made by an agent of the master or owner of the importing vessel.

Importation by sea

Other requirements relating to arriving vessels

5. Unless the Collector otherwise permits, the master of an arrival vessel shall—
- (a) cause to be flown a yellow flag (the signal flag for 'Q' in the International Code of Signals) at all times between the entry by the vessel of the limits of the port and the making of a report in accordance with section 4;
 - (b) immediately bring the vessel to a boarding station; and
 - (c) thereafter bring the vessel as quickly up to the proper mooring and unloading place as the nature of the port will permit without touching at any other place except as may be necessary for the safe navigation of the vessel.

Vessel not to be moved

6. No vessel after arrival shall be removed from its mooring or unloading place except directly to some other mooring and unloading place and with the authority of Customs.

Landing of cargo

7. Goods imported by sea shall not be landed except at an approved wharf and shall not be—
- (a) unloaded, landed or removed from a transit shed outside such hours as the Collector may approve, save as otherwise permitted by him;
 - (b) unloaded, landed or removed from a transit shed without the prior authority of a proper officer;
 - (c) unloaded or landed except into a transit shed nor removed from a transit shed until due report of the importing vessel has been made, save as otherwise permitted by the Collector;

- (d) unloaded or landed except into a transit shed nor removed from a transit shed until due entry of the goods (other than passengers' accompanied baggage) has been made, save as otherwise permitted by the Collector.

Goods unloaded onto another vessel for landing

8. Goods unloaded from an importing vessel onto another vessel for landing at an approved wharf shall not, except with the permission of the proper officer, be again removed into another vessel before being, so landed, but shall forthwith be taken to and landed at that wharf.

Vessel continuing on an inward voyage

9. The master of any vessel shall before departure from a port to another port in the Islands—

- (a) deliver to Customs for certification a document to be called a 'transire' in Form No. C115;
- (b) retain a copy of the transire on board; and
- (c) upon arrival deliver that copy transire to Customs.

Exportation by sea

Restrictions on loading of goods

10. No person shall load onto any vessel or make waterborne for loading any goods for exportation or as stores—

- (a) outside such hours as the Collector may approve, save as otherwise permitted by him;
- (b) except at an approved wharf, save as otherwise permitted by the Collector;
- (c) without the prior authority of Customs.

Other requirements relating to exporting vessels

11. The master or owner of every exporting vessel shall, save as otherwise permitted by the Collector, either himself or by his agent—

- (a) deliver electronically to Customs before the final clearance of the vessel a manifest of all goods shipped as cargo specifying—
- (i) the shipper;
- (ii) the names of the consignors according to the bill of lading;
- (iii) the goods, the marks, numbers and descriptions of the containers; and
- (b) make a declaration that the manifest contains a true and accurate account of the cargo of the vessel.

Where inward voyage precedes outward voyage

12. The master of every exporting vessel shall before departure from a port to another port in the Islands—

- (a) deliver to Customs for certification a transire in Form No. C115;
- (b) retain a copy of the transire on board;
- (c) upon arrival deliver that copy transire to Customs.

Clearance for voyage outwards

13. (1) The master of every vessel intending to depart from any port to a destination outside the Islands shall obtain from Customs a clearance in Form C110, and the application for such clearance shall be accompanied by the following documents—

- (a) the cargo manifest of the vessel;
- (b) a list of passengers and crew; and
- (c) a list of surplus stores remaining on the vessel.

(2) The cargo manifest referred to in subsection (1)(a) must be delivered electronically to the Customs within twenty-four hours before departure of the vessel, unless the Collector otherwise allows.

PART III

AIRCRAFT

Aircraft arrival

14. (1) Upon arrival in the Islands of an aircraft the Commander shall immediately—
- (a) subject to subsection (2), take the aircraft or cause it to be taken to an examination station at the customs airport at which the aircraft has arrived;
 - (b) make report to Customs, and such report shall be accompanied by the following documents—
 - (i) the cargo manifest of the aircraft;
 - (ii) a list of the passengers and crew;
 - (iii) Crew Declaration (on Form C111);
 - (iv) a list of surplus stores remaining on board the aircraft (on Form C126);
 - (v) the aircraft's registration documents (if requested by the proper officer);
 - (vi) the pilot's licence (if requested by the proper officer);
 - (c) subject to section 15(1), unload all goods in the aircraft except such as are to be carried on to another customs airport or to a destination outside the Islands and are permitted by Customs to remain in the aircraft; and—
 - (i) unless the Customs permits, deposit all goods not being passengers' accompanied baggage unloaded from the aircraft in the transit shed at the airport;
 - (ii) unless the Customs otherwise permits, deliver all passengers' accompanied baggage to the customs examination hall at the airport.

(2) In the case of any aircraft arriving in the Islands the cargo manifest and list of passengers and crew referred to in subsection (1)(b)(i) and (ii) must be delivered electronically to Customs immediately upon arrival, unless the Collector otherwise allows.

(3) If through circumstances over which the Commander has no control an aircraft is prevented from being taken to an examination station as required by subsection (1)(a), the Commander shall immediately make report of the aircraft as required by subsection (1)(b) and remove all goods in the aircraft to the examination station in the presence of a proper officer.

(4) No passenger shall disembark from any aircraft arriving from a place outside the Islands, nor shall the Commander or any other person permit any passenger so to disembark, except at an examination station.

(5) Any act required to be performed by the Commander of an aircraft under subsections (1)(b) may, subject to such conditions as the Collector sees fit, be carried out on his behalf by an agent authorised for the purpose by the Commander of the aircraft.

Unloading or removal by importer of imported goods

15. (1) The importer of any goods imported by air shall not unload or permit the unloading of any such goods from the importing aircraft, except—

- (a) during the hours prescribed in the Customs (Control of Customs Airports) Direction 1996;
- (b) with the authority of Customs; and
- (c) subject to section 14(2), at an examination station.

(2) The importer of any such goods imported by air shall not remove or permit the removal of any such goods from an examination station without the authority of Customs except in accordance with any special permission granted by the Collector and in compliance with any conditions attached to the grant of such permission.

Restriction on removal of goods from examination station or transit shed

16. (1) No person shall remove any imported goods, not being passengers' accompanied baggage, from an examination station except to a transit shed, or from a transit shed until due entry of the goods has been made.

(2) No person shall remove any goods from a transit shed without the authority of Customs.

(3) Any passenger's accompanied baggage remaining in—

- (a) the examination station for a period exceeding forty-eight hours may be removed to a transit shed and shall be deemed to be cargo; and
- (b) the transit shed for a period exceeding fourteen days may be removed to a Queen's warehouse.

Aircraft departure and clearance

17. (1) No goods shall be loaded or made available for loading on an aircraft about to depart from a customs airport on a flight to an eventual destination outside the Islands except at an examination station and with the authority of Customs.

(2) No passenger shall embark on any aircraft as aforesaid nor shall the commander or any other person permit any passenger so to embark except at an examination station.

(3) The commander of every departing aircraft shall, either himself or by his agent, obtain from the Customs a clearance in Form GD1, and the application for such clearance shall be accompanied by the following documents—

- (a) the cargo manifest of the aircraft;
- (b) a list of the passengers and crew, if not already listed on the report form; and
- (c) a list of surplus stores remaining on board the aircraft.

(4) In regard to the cargo manifest and list of passengers and crew referred to in subsections (3)(a) and (b) must be delivered electronically to the Customs within twenty-four hours before departure, unless the Collector otherwise allows.

PART IV

PASSENGERS AND CREW

Passengers entering the Islands

18. (1) Any passengers entering the Islands shall deliver to Customs a declaration in Form No. C105—

- (a) in the case of passengers entering the Islands by air, in the customs examination hall in the terminal building at each customs airport or at such other place as the Collector may allow;
- (b) in the case of passengers entering the islands by sea, shall deliver to Customs a declaration in Form C111 at such place that the Collector may allow.

(2) Subject to the requirements of subsection (1) in particular circumstances the Collector may allow for the submission of the Form C105 to Customs by electronic means and in advance of the arrival of the passenger.

Crew entering the Islands

19. (1) Any crew member entering the Islands, whether by air or sea, shall deliver to Customs a declaration in Form C111 at such place that the Collector may direct.

(2) Subject to the requirements of subsection (1) in particular circumstances the Collector may allow for the submission of the Form C105 to Customs by electronic means and in advance of the arrival of the crew member.

PART V
GENERAL

Baggage and article examination

20. For the purposes of section 101 of the Ordinance, the place for the production and examination of baggage or anything contained therein or anything carried with persons entering the Islands shall be—

- (a) the customs examination hall in the terminal building or at any other location at each customs airport;
- (b) the Government or approved transit sheds at each port or airport specified in the Customs (Appointment of Ports and Airports) Order 1996.

Penalty

21. If any person contravenes or fails to comply with any requirement of this Direction he shall be guilty of an offence and liable on conviction to a fine of \$5,000, and any goods concerned in the offence shall be liable to forfeiture.

**CUSTOMS (CARRIAGE OF GOODS BY
COASTING VESSELS AND AIRCRAFT) DIRECTION – SECTION 49**

(Legal Notice 31/2010)

Commencement

[17 November 2010]

Short title

1. This Direction may be cited as the Customs (Carriage of Goods by Coasting Vessels and Aircraft) Direction.

Documents and account of cargo

2. The master or commander of a coasting vessel or aircraft shall keep such accounts of cargo and details of voyages or flights in such form and manner as the Collector may direct.

Entry of Goods

3. (1) No person shall unload any imported goods which have been transshipped or unloaded from one vessel or another or from one aircraft to another and carried coastwise by virtue of section 50(2) of the Ordinance before due entry thereof has been made, except where the goods are unloaded for deposit in a transit shed and duly deposited therein.

(2) Where an entry is made to Customs as is mentioned in subsection (1) it shall be in an electronic format unless the Collector otherwise allows.

Penalty

4. If a person contravenes or fails to comply with any requirement of this Direction he shall be guilty of an offence and liable on conviction to a fine of \$5,000, and any goods concerned in the offence shall be liable to forfeiture.

(Inserted by L.N. 31/2010)

**CUSTOMS (COMPOUNDING OF OFFENCES) DIRECTION
– SECTION 137**

(Legal Notice 35/1996)

Commencement

[1 April 1996]

Short title

1. This Direction may be cited as the Customs (Compounding of Offences) Direction.

Procedure for compounding offences

2. (1) If a person has, in the opinion of the Collector, committed an offence under any enactment relating to an assigned matter which the Collector is prepared to compound, the Collector may make an offer to the person to compound the offence for the payment of such penalty, not exceeding the maximum fine payable for the offence, as the Collector thinks fit.

(2) If the person concerned accepts the offer within such period as the Collector may allow, that person shall sign and date a completed Form No. C104 annexed to this Direction.



Turks and Caicos Islands Government
CUSTOMS DEPARTMENT

Request to Compound Proceedings subject to Collector's Decision
(Section 142 of the Customs Ordinance).

Name:	Date of Birth:	Vessel/Flight No:
Address:	Place of Birth:	Date:
	Nationality:	AWB/B of L #:
Passport No:		Date/Place of Issue

Details of Alleged Offence: (Description)	(Section)
<p>I understand that the law provides substantial penalties for Customs offences, and that when a person is proceeded against in court and convicted, the amount of penalty is decided by the court.</p> <p>I request to be allowed to pay the sum of dollars as an alternative to proceedings being taken against me for a Customs offence.</p> <p>I understand that this request is subject to the agreement of the Collector of Customs, and hereby undertake to abide by his decision in this matter.</p> <p>Signed: Date:</p>	

Details of Payment: Amount: \$ Receipt No: Date: For Collector of Customs	The amount of \$ is to be brought to account as follows: Head Sub-Head Amount \$ Head Sub-Head Amount \$ To be refunded to Applicant - Amount \$ Collector of Customs Date:
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CUSTOMS (CONTROL OF EXPORTATION OF ARMS) ORDER – SECTION 99

(Legal Notices 2/1998 and 4/2000)

Commencement

[30 January 1998]

Short title

1. This Order may be cited as the Customs (Control of Exportation of Arms) Order.

Interpretation

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

“aircraft” means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing airborne vehicle or helicopter;

“country” includes territory;

“goods”, unless otherwise specified, means both used and unused goods;

“importation” and “exportation” in relation to a vessel, submersible vehicle or aircraft includes the taking into or out of the Islands of the vessel, submersible vehicle or aircraft notwithstanding that the vessel, submersible vehicle or aircraft is conveying goods or passengers, and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“normal commercial journey” means a journey providing transport services in the ordinary course of business;

“scheduled journey” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such manner that the benefits thereof are available to members of the public from time to time seeking to take advantage of it;

“surface effect vehicle” means any air cushion vehicle (whether side wall or skirted) and any vehicle using the wing-in-ground effect for positive lift;

“vessel” includes any ship, surface effect vessel, vessel of small waterplane area or hydrofoil, and the hull or part of the hull of a vessel.

- (2) In this Order—

- (a) a prohibition on exportation is a prohibition on exportation from the Islands including a prohibition on shipment as ships’ stores;

- (b) numerical references in Schedule 1 to standards and recommendations are references to the relevant standards and recommendations so numbered.

Prohibitions and restrictions on exportation

3. Subject to this Order, all goods of a description specified in Schedule 1 are prohibited to be exported to any destination.

Exceptions

4. Nothing in this Order shall be taken to prohibit the exportation of—

- (a) goods under the authority of a licence granted by the Governor (provided that all conditions attaching to the licence are complied with);
- (b) an aircraft—
 - (i) which is being exported (except to a destination in Iran, Iraq, or Libya or in a country specified in Schedule 2) after temporary importation into the Islands (provided that there has been no change of ownership or registration since the importation);
 - (ii) on a scheduled journey;
 - (iii) the immediately preceding importation of which was on a scheduled journey and which is intended for further scheduled journeys;
- (c) a vessel—
 - (i) registered or constructed outside the Islands which is being exported (except to a destination in Iran, Iraq or Libya or in a country specified in Schedule 2) after temporary importation into the Islands;
 - (ii) which is departing temporarily from the Islands on trials;
 - (iii) proceeding on a normal commercial journey;
- (d) firearms and ammunition by a person licensed to deal in, carry or keep firearms under the Firearms Ordinance where the exportation is in accordance with the Customs Ordinance;
- (e) goods as ships' stores with the permission of the proper officer of Customs at the port of departure for use on board the ship (provided that all conditions attaching to the permission are complied with);
- (f) goods which have been imported into the Islands for transit or transshipment to any destination other than—
 - (i) a destination in Iran, Iraq, Libya or North Korea; or
 - (ii) in the case of goods of a description specified in Schedule 1, a destination in a country specified in Schedule 2:

Provided that—

- (i) the goods remain on board a ship or aircraft for the period that they remain in the Islands or are goods on a throughbill of lading or through air waybill and in any event are exported within thirty days of their importation;
- (ii) the destination for those goods following exportation from the Islands has been determined in the country from which (they were originally exported prior to their original) exportation in connection with the transaction which has given rise to transit or transshipment and has not been changed prior to their exportation from the Islands, or the goods are being returned to that country; and
- (iii) the goods in question were exported from that country in accordance with any laws or regulations relating to the export of goods applying in that country at the time of exportation from that country of those goods.

Customs' powers to demand evidence of destination which goods reach

5. An exporter or a shipper of goods which have been exported from the Islands shall, if so required by the Collector of Customs, furnish within such time as the Collector may allow proof to the satisfaction of the Collector that the goods have reached either—

- (a) a destination to which they were authorised to be exported by a licence granted for the purposes of this Order; or
- (b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, commits an offence and is liable on conviction to a fine of \$5,000 unless he proves that he did not consent to or connive at the goods reaching a destination other than a destination permitted under this paragraph.

Offences in connection with application for licences, conditions attaching to licences, etc.

6. (1) If for the purpose of obtaining a licence or permission under this Order for the exportation or shipment as ships' stores of any goods a person—

- (a) makes a statement or furnishes a document or information which to his knowledge is false in a material particular; or
- (b) recklessly makes a statement or furnishes a document or information which is false in a material particular,

commits an offence, and any licence or permission which may have been granted for the exportation or shipment as ships' stores of any goods in connection with the application for which the false statement was made or the false document or information furnished, shall be void as from the time it was granted.

(2) A person who commits an offence under subparagraph (1) is liable—

- (a) on summary conviction to a fine of \$3,000;
- (b) on conviction on indictment to a fine of \$5,000, or to imprisonment for a term of two years, or to both.

(3) Subject to subparagraph (5), a person commits an offence if he exports goods from the Islands under the authority of a licence granted by the Governor in pursuance of paragraph 3(a) and fails to comply with any condition attaching to that licence, or fails to comply with paragraph 8.

(4) A person who commits an offence under subparagraph (3) is liable—

- (a) on summary conviction to a fine of \$3,000;
- (b) on conviction on indictment to a fine of \$5,000, or to imprisonment for a term of two years, or to both.

(5) A person does not commit an offence under subparagraph (3) if he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor and that the goods in question had, at the time the condition was modified, been exported from the Islands.

Declaration as to goods: powers of search

7. (1) A person who, on any occasion, is about to leave the Islands shall, if on that occasion he is required to do so by an officer of Customs—

- (a) declare whether or not he has with him any goods the export of which from the Islands is subject to a prohibition or restriction under this Order; and

(b) produce any such goods which he has with him,

and the officer, and any person acting under his directions, may search that person for the purpose of ascertaining whether he has with him any such goods.

(2) No person shall be searched in pursuance of subparagraph (1) except by a person of the same sex.

(3) A person who without reasonable excuse refuses to make a declaration, fails to produce any goods or refuses to allow himself to be searched in accordance with subparagraphs (1) and (2) commits an offence and is liable on conviction to a fine of \$5,000.

(4) A person who makes a declaration which to his knowledge is false in a material particular or recklessly makes a declaration which is false in a material particular commits an offence and is liable—

(a) on summary conviction to a fine of \$3,000;

(b) on conviction on indictment to a fine of \$5,000 or to imprisonment for a term of two years, or to both.

Licences

8. (1) A licence granted by the Governor in pursuance of paragraph 4(a) or having effect as if so granted may be either general or special, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the Governor at any time.

(2) A licence may be subject to or without conditions and any condition may require an act or omission before or after the exportation of goods under the licence.

(3) Any permission granted by the proper officer of Customs for the shipment of goods as ships' stores may be modified or revoked by the officer at any time.

(4) Subject to the provisions of Schedule 1 or any contrary provisions in a licence, a licence granted in relation to any goods specified in Schedule 1 shall also authorise the export of the minimum technology required for the installation, operation, maintenance and repair of the goods, to the same destination as the goods.

Use of General Licences

9. (1) Before or within thirty days after the first exportation of any goods by a person under the authority of a general licence granted under this Order that does not provide otherwise, that person shall give written notice to the Governor of the following particulars—

(a) his name; and

(b) the address at which copies of the records referred to in subparagraph (3) may be inspected by a person authorised by the Governor under subparagraph (4).

(2) After a change in any of the particulars referred to in subparagraph (1)(a) or (b), before or within thirty days after the first exportation of any goods by a person under the authority of a general licence granted under this Order that does not provide otherwise, that person shall give written notice to the Governor of that change.

(3) Subject to the particular general licence under which he has exported goods, a person who has exported goods under the authority of a general licence shall keep records of the exportation including the following information—

- (a) in so far as it is known to him, the name and address of any consignee of the goods, and any person to whom the goods are to be, or have been, delivered;
- (b) his address;
- (c) the date of exportation;
- (d) a description of the goods including the quantity of the goods exported;
- (e) any further information required by the licence to be kept.

(4) The records referred to in subparagraph (3) shall be kept for at least four years from the date of the relevant exportation, and the person exporting the goods under the authority of a general licence shall permit the records to be inspected, and copied, by any person authorised by the Governor, and for these purposes any such person shall, on producing, if required to do so, some duly authenticated document showing his authority, have the right at all reasonable hours to enter the premises the address of which has been most recently notified to the Governor under subparagraph (1) or (2).

(5) Where any records referred to in subparagraph (3) are kept in a form which is not legible the exporter shall, at the request of the person authorised by the Governor, reproduce the records in a legible form.

(6) Any notice to be given by a person under subparagraph (1) or (2) may be given by the agent of that person.

SCHEDULE 1

(Paragraph 2)

Note: The goods in this Schedule are for convenience specified by reference to the classification system used by the United Kingdom Department of Trade and Industry for export control purposes.

MILITARY, SECURITY AND PARA-MILITARY GOODS AND ARMS, AMMUNITION AND RELATED MATERIAL

General Technology Note

1. Subject to item 2 of this Schedule, the export of technology specified in this Schedule is prohibited by paragraph 2 of this Order if it is capable of being required for the development, production or use of goods specified in this Schedule, whether or not the technology being exported in the particular case is intended to be applied in respect of such goods.

2. The prohibition in paragraph 2 of this Order does not apply to that technology which is the minimum necessary for the installation, operation, maintenance (checking) and repair of goods not specified in this Schedule, to technology in the public domain, to basic scientific research or to the minimum necessary information for patent applications.

Definitions

In this Schedule—

“adapted for use in war” means any modification or selection (such as altering purity, shelf life, virulence, dissemination characteristics, or resistance to ultra violet (UV) radiation) designed to increase the effectiveness in producing casualties in humans or animals, degrading equipment or damaging crops or the environment;

“additives” means substances used in explosive formulations to improve their properties;

“anti-idiotypic antibodies” means antibodies which bind to the specific antigen binding sites of other antibodies;

“basic scientific research” means experimental or theoretical work undertaken principally to acquire new knowledge of the fundamental principles of phenomena or observable facts, not primarily directed towards a specific practical aim or objective;

“biocatalyst” means enzymes and other biological compounds which bind to and accelerate the degradation of chemical warfare (CW) agents;

“biopolymer” means the following biological macromolecules—

- a. enzymes;
- b. antibodies, monoclonal, polyclonal or anti-idiotypic;
- c. specially designed or specially processed receptors;

“critical temperature” (sometimes referred to as the transition temperature) of a specific superconductive material means the temperature at which the specific material loses all resistance to the flow of direct electrical current;

“development” is related to all stages prior to serial production, such as: design, design research, design analyses, design concepts, assembly and testing of prototypes, pilot production schemes, design

data, process of transforming design data into a product, configuration design, integration design, layouts;

“end-effectors” include grippers, active tooling units and any other tooling that is attached to the baseplate on the end of a robot manipulator arm;

“enzymes” means biocatalysts for specific chemical or biochemical reactions.

Technical Note

“active tooling unit” means a device for applying motive power, process energy or sensing to the workpiece;

“expression vectors” means carriers (e.g. plasmid or virus) used to introduce genetic material into host cells;

“first generation image intensifier tubes” means electrostatically focused tubes, employing input and output fibre optic or glass face plates, multi-alkali photocathodes (S-20 or S-25), but not microchannel plate amplifiers;

“improvised explosive devices” means devices fabricated or intended to be placed in an improvised manner incorporating destructive, lethal, noxious, pyrotechnic or incendiary chemicals, designed to destroy, disfigure or harass; they may incorporate military stores, but are normally devised from non-military components;

“laser” means an assembly of components which produce both spatially and temporally coherent light which is amplified by stimulated emission of radiation;

“microprogramme” means a sequence of elementary instructions, maintained in a special storage, the execution of which is initiated by the introduction of a reference instruction into an instruction register;

“military explosives” means solid, liquid or gaseous substances or mixtures of substances which, in their application as primary, booster or main charges in warheads, demolition and other military applications, are required to detonate;

“military pyrotechnics” means mixtures of solid or liquid fuels and oxidisers which, when ignited, undergo an energetic chemical reaction at a controlled rate intended to produce specific time delays, or quantities of heat, noise, smoke, visible light or infrared radiation; pyrophorics are a subclass of pyrotechnics, which contain no oxidisers but ignite spontaneously on contact with air;

“monoclonal antibodies” means proteins which bind to one antigenic site and are produced by a single clone of cells;

“nuclear reactor” means the items within or attached directly to the reactor vessel, the equipment which controls the level of power in the core, and the components which normally contain, come into direct contact with or control the primary coolant of the reactor core;

“polyclonal antibodies” means a mixture of proteins which bind to the specific antigen and are produced by more than one clone of cells;

“production” means all production stages, such as: product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance;

“programme” means a sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer;

“receptors” means biological macromolecular structure capable of binding ligands, the binding of which affects physiological functions;

“required” as applied to technology, refers to only that portion of technology which is peculiarly responsible for achieving or exceeding the controlled performance levels, characteristics or functions; such required technology may be shared by different goods;

“riot control agents” means substances which produce temporary, irritating or disabling physical effects which disappear within minutes of removal from exposure; there is no significant risk of permanent injury and medical treatment is rarely required;

“robot” means a manipulation mechanism, which may be of the continuous path or of the point-to-point variety, may use sensors and which—

- a. is multifunctional;
- b. is capable of positioning or orienting material, parts, tools or special devices through variable movements in three dimensional space;
- c. incorporates three or more closed or open loop servo-devices which may include stepping motors; and
- d. has user-accessible programmability by means of the teach/playback method or by means of an electronic computer which may be a programmable logic controller, i.e., without mechanical intervention;

except—

- a. manipulation mechanisms which are only manually/teleoperator controllable;
- b. fixed sequence manipulation mechanisms, which are automated moving devices, operating according to programmes where the motions are limited by fixed stops, such as pins or cams and the sequence of motions and the selection of paths or angles are not variable or changeable by mechanical, electronic or electrical means;
- c. mechanically controlled variable sequence manipulation mechanisms, which are automated moving devices, operating according to programmes where the motions are limited by fixed, but adjustable stops, such as pins or cams and the sequence of motions and the selection of paths or angles are variable within the fixed programme pattern; variations or modifications of the programme pattern (e.g. changes of pins or exchanges of cams) in one or more motion axes are accomplished only through mechanical operations;
- d. non-servo-controlled variable sequence manipulation mechanisms, which are automated moving devices, operating according to mechanically fixed programmed motions; the programme is variable but the sequence proceeds only by the binary signal from mechanically fixed electrical binary devices or adjustable stops;
- e. stacker cranes defined as Cartesian coordinate manipulator systems manufactured as an integral part of a vertical array of storage bins and designed to access the contents of those bins for storage or retrieval;

“software” means one or more programmes or microprogrammes fixed in any tangible medium of expression;

“special gun-mounting” means any fixture designed to mount a gun;

- “superconductive” in relation to materials (i.e. metals, alloys or compounds) means those which can lose all electrical resistance (i.e. which can attain infinite electrical conductivity and carry very large electrical currents without Joule heating); the superconductive state of a material is individually characterized by a critical temperature, a critical magnetic field, which is a function of temperature, and a critical current density which is a function of both magnetic field and temperature;
- “tear gases” means gases which produce temporary irritating or disabling effects which disappear within minutes of removal of exposure;
- “technology” means specific information necessary for the development, production or use of a product. The information may take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories;
- “use” means operation, installation (which includes on-site installation), maintenance, checking, repair, overhaul and refurbishing;
- “user-accessible programmability” means the facility allowing a user to insert, modify or replace programmes by means other than—
- a. a physical change in wiring or interconnections; or
 - b. the setting of function controls including entry of parameters.

Controlled Goods

ML1 Arms and automatic weapons with a calibre of 12.7 mm (calibre 0.50 inches) or less and accessories as follows and specially designed components therefor—

- a. rifles, carbines, revolvers, pistols, machine pistols and machine guns;
- b. smooth-bore weapons specially designed for military use;
- c. weapons using caseless ammunition;
- d. silencers, special gun-mountings, clips and flash suppressors for arms specified in entry ML1.a., ML1.b. or ML1.c.;

except—

- a. air weapons (other than those declared by the Firearms (Dangerous Air Weapons) Rules 1969 [U.K.] to be specially dangerous);
- b. firearms specially designed for dummy ammunition and which are incapable of firing any ammunition specified in this Schedule;
- c. weapons using non-centre fire cased ammunition and which are not of the fully automatic firing type;
- d. firearms which have been de-activated by a registered U.K. Proof House as being incapable of firing any ammunition specified in this Schedule;
- e. bayonets.

Technical Note

Smooth-bore weapons specially designed for military use as specified in entry ML1.b. are those which—

- a. are proof tested at pressures above 1,300 bars;

- b. operate normally and safely at pressures above 1,000 bars; and
- c. are capable of accepting ammunition above 76.2 mm in length (e.g. commercial 12-gauge magnum shot gun shells).

PL5002 Telescopic sights for goods specified in entry MLI and PL5018, other than those specified in entry ML5.

PL5018 Smooth-bore weapons, other than those specified in entry ML1.b. and ML2, and specially designed components therefor;

except—

- a. air weapons (other than those declared by the Firearms (Dangerous Air Weapons) Rules 1969 [U.K.] to be specially dangerous);
- b. air (pneumatic) or cartridge (explosive) powered guns or pistols designed as—
 - 1. industrial tools; or
 - 2. humane stunning devices employed specifically for animal slaughter;
- c. signal pistols.

PL5021 Ammunition or cartridges, including projectiles, and specially designed components therefor, for the goods specified in entry PL5018;

except—

- a. lead or lead alloy pellet ammunition specially designed for air weapons;
- b. ammunition crimped without a projectile (blank star) and dummy ammunition with a pierced powder chamber.

ML2 Armament or weapons with a calibre greater than 12.7 mm (calibre 0.50 inches), projectors and accessories, as follows, and specially designed components therefor—

- a. guns, howitzers, cannon, mortars, anti-tank weapons, projectile launchers, military flame throwers, recoilless rifles and signature reduction devices therefor;
- b. military smoke, gas and pyrotechnic projectors or generators;

except—

signal pistols.

ML3 Ammunition, and specially designed components therefor, for the weapons specified in entry ML1, ML2 or ML12;

except—

- a. ammunition crimped without a projectile (blank star) and dummy ammunition with a pierced powder chamber;
- b. lead or lead alloy pellet ammunition specially designed for air weapons.

ML4 Bombs, torpedoes, rockets, missiles, and related equipment and accessories, as follows, specially designed for military use, and specially designed components therefor—

- a. bombs, torpedoes, grenades, smoke canisters, rockets, mines, missiles, depth charges, demolition-charges, demolition-devices and demolition-kits, military pyrotechnics,

cartridges and simulators (i.e. equipment simulating the characteristics of any of these items);

- b. equipment specially designed for the handling, control, activation, powering with one-time operational output, launching, laying, sweeping, discharging, decoying, jamming, detonation or detection of items specified in entry M L4.a.

PL5006 Apparatus or devices specially designed for military use, used for the handling, control, discharging, decoying, jamming, detonation, disruption or detection of improvised explosive devices or other explosive devices not specified in entry ML4.a., and specially designed components therefor;

except—

inspection devices not employing electronic management.

PL5030 Bombs and grenades, other than those specified in entry ML4 and specially designed components therefor.

ML5 Fire control, and related alerting and warning equipment, and related systems and countermeasure equipment, as follows, specially designed for military use, and specially designed components and accessories therefor—

- a. weapon sights, bombing computers, gun laying equipment and weapon control systems;
- b. target acquisition, designation, range-finding, surveillance or tracking systems, detection, data fusion, recognition or identification equipment and sensor integration equipment;
- c. countermeasure equipment for items specified in entry ML5.a. and ML5.b.

ML6 Ground vehicles and components therefor specially designed or modified for military use.

Technical Note

For the purposes of entry ML6 the term ground vehicles includes trailers.

Note: Modification of a ground vehicle for military use entails a structural, electrical or mechanical change involving one or more specially designed military components.

PL5031 Ground vehicles and related equipment, other than those specified elsewhere in this Schedule, as follows—

- a. all wheel drive utility vehicles capable of off road use which have been manufactured or fitted with metallic or non-metallic materials to provide ballistic protection;
- b. containers for mounting on vehicles, specially designed or modified for military use and components therefor specially designed or modified for military use.

ML7 In this entry, references in square brackets to Chemical Abstract Service (“CAS”) numbers are included for convenience only. Goods of which the description in this entry includes a CAS reference are specified in this entry whether or not they fall within that reference.

Toxicological agents, toxic chemicals, “tear gases”, related equipment, components, materials and technology as follows—

- a. toxicological agents and toxic chemicals as follows—
 - 1. biological agents and radioactive materials adapted for use in war to produce casualties in humans or animals, degrade equipment or damage crops or the environment, and chemical warfare (“CW”) agents;

2. the chemicals listed in items (1) to (6) of the Schedule to the Chemical Weapons Act 1996 [U.K.], read with notes 2 and 3 of that Schedule, whether or not they are CW agents within entry ML7.a.;
 3. 3 – Quinuclidinyl benzilate (BZ) [CAS 6581-06-02];
- b. CW. Binary precursors and key precursors, as follows—
1. alkyl (Methyl, Ethyl, n-Propyl or Isopropyl Phosphonyl Difluorides, such as: DF: Methyl Phosphonyl Difluoride [CAS 676-99-3];
 2. 0-Alkyl (H or equal to or less than C10, including cycloalkyl) 0-2-dialkyl (Methyl, Ethyl, n-Propyl or Isopropyl) aminoethyl alkyl (Methyl, Ethyl, n-Propyl or Isopropyl) phosphonite and corresponding alkylated and protonated salts, such as: QL O-Ethyl-2-di-isopropylaminoethyl methylphosphonite [CAS 57856-11-8];
 3. chlorosarin: O-Isopropyl methyl phosphonochloridate [CAS 1445-76-7];
 4. chlorosoman: O-Pinakolyl methyl phosphonochloridate [CAS 7040-57-5];
- c. tear gases and riot control agents including—
1. bromobenzyl cyanide (CA) [CAS 5798-79-8];
 2. o-chlorobenzylidenemalononitrile (o-chlorobenzalmalononitrile) (CS) [CAS 2698-41-1];
 3. phenylacetyl chloride (w-chloroacetophenone) (CN) [CAS 532-27-4];
 4. dibenz-(b,f)-1,4-oxazaphine (CR) [CAS 257-07-8];

except—

tear gases or riot control agents individually packaged for personal self defence purposes;

- d. equipment specially designed or modified for the dissemination of the materials or agents specified in entry ML7.a. and specially designed components therefor;

Note: entry ML7.d. does not include equipment not specially designed or modified for military purposes;

- e. goods specially designed for defence against materials specified in entry ML7.a. and specially designed components therefor;

Note: entry ML7.e. does not include goods not specially designed or modified for military purposes;

- f. goods specially designed for the detection or identification of materials specified in ML7.a. and specially designed components therefor;

except—

personal radiation monitoring dosimeters;

Note: entry ML7.f. does not include goods not specially designed or modified for military purposes;

- g. biopolymers specially designed or processed for the detection or identification of CW agents specified in entry ML7.a. and the cultures of specific cells used to produce them;
- h. biocatalysts for the decontamination or degradation of CW agents and biological systems therefor, as follows—

1. biocatalysts specially designed for the decontamination or degradation of CW agents specified in entry ML7.a. resulting from directed laboratory selection or genetic manipulation of biological systems;
2. biological systems, as follows: expression vectors, viruses or cultures of cells containing the generic information specific to the production of biocatalysts specified in entry ML7.h.1.;
- i.* technology as follows—
 1. technology for the development, production or use of toxicological agents, related equipment or components specified in entry ML7.a. to ML7.f.;
 2. technology for the development, production or use of biopolymers or cultures of specific cells specified in entry ML7.g.;
 3. technology exclusively for the incorporation of biocatalysts, specified in entry ML7.h.1., into military carrier substances or military material.

Notes: 1. ML7.a. and ML7.c. do not include—

- a.* cyanogen chloride;
- b.* hydrocyanic acid;
- c.* chlorine;
- d.* carbonyl chloride (phosgene);
- e.* diphosgene (trichloromethyl-chloroformate);
- f.* ethyl bromoacetate;
- g.* xylyl bromide;
- h.* benzyl bromide;
- i.* benzyl iodide;
- j.* bromo acetone;
- k.* cyanogen bromide;
- l.* bromo methylethylketone;
- m.* chloro acetone;
- n.* ethyl iodoacetate;
- o.* iodo acetone;
- p.* chloropicrin.

2. The technology, cultures of cells and biological systems listed in entries ML7.g., ML7.h.2. and ML7.i.3. are exclusive and do not include technology, cells or biological systems for civil purposes, such as agricultural, pharmaceutical, medical, veterinary, environmental, waste management, or in the food industry.

ML8 In this entry, references in square brackets to Chemical Abstract Service (“CAS”) numbers are included for convenience only. Goods of which the description in this entry includes a CAS reference are specified in this entry whether or not they fall within that reference.

Military explosives and fuels, including propellants, and related substances, as follows—

- a.* substances, as follows, and mixtures thereof—

1. spherical aluminium powder [CAS 7429-90-5] with a particle size of 60 µm or less, manufactured from material with an aluminium content of 99% or more;
2. metal fuels in particle form whether spherical, atomized, spheroidal, flaked or ground, manufactured from material consisting of 99% or more of any of the following—
 - a. metals and mixtures thereof—
 - beryllium [CAS 7440-41-7] in particle sizes of less than 60 µm;
 - iron powder [CAS 7439-89-6] with particle size of 3 µm or less produced by reduction of iron oxide with hydrogen;
 - b. mixtures which contain any of the following—
 - zirconium [CAS 7440-67-7], magnesium [CAS 7439-95-4] and alloys of these in particle sizes of less than 60 µm;
 - boron [CAS 7440-42-8] or boron carbide [CAS 12069-32-8] fuels of 85% purity or higher and particle sizes of less than 60 µm;
3. perchlorates, chlorates and chromates composited with powdered metal or other high energy fuel components;
4. nitroguanidine (NQ) [CAS 556-88-7];
5. compounds composed of fluorine and any of the following: other halogens, oxygen, nitrogen;
6. carboranes; decaborane [CAS 17702-41-9]; pentaborane and derivatives thereof;
7. cyclotetramethylenetetranitramine [CAS 2691-41-0] (HMX); octahydro- 1, 3, 5, 7 - tetranitro- 1, 3, 5, 7-tetrazine; 1, 3, 5, 7 - tetranitro - 1, 3, 5, 7-tetraza-cyclooctane; (octogen, octogene);
8. hexanitrostilbene (HNS) [CAS 20062 -22 - 0];
9. diaminotrinitrobenzene (DATB) [CAS 1630-08-6];
10. triaminotrinitrobenzene (TATB) [CAS 3058-38-6];
11. triaminoguanidinenitrate (TAGN) [CAS 4000- 16-2];
12. titanium subhydride of stoichiometry TiH 0.65-1.68;
13. dinitroglycoluril (DNGU, DINGU) [CAS 55510-04-8]; tetranitroglycoluril (TNGU, SOR-GUYL) [CAS 55510-03-7];
14. tetranitrobenzotriazolobenzotriazole (TACOT) [CAS 25243-36-1];
15. diaminohexanitrobiphenyl (DIPAM) [CAS 17215- 44-0];
16. picrylaminedinitropyridine (PYX) [CAS 38082- 89-2];
17. 3-nitro-1, 2, 4-triazol-5-one (NTO or ONTA) [CAS 932-64-9];
18. hydrazine [CAS 302-01-2] in concentrations of 70% or more; hydrazine nitrate [CAS 37836-27-4]; hydrazine perchlorate [CAS 27978-54-7]; unsymmetrical dimethyl hydrazine [CAS 57- 14-7]; monomethyl [CAS 60-34-4] hydrazine; symmetrical dimethyl hydrazine [CAS 540-73-8];

19. ammonium perchlorate [CAS 7790-98-9];
 20. cyclotrimethylenetrinitramine (RDX) [CAS 121-82-4]; cyclonite; T4; hexahydro- 1,3,5-trinitro- 1,3,5-triazine;1,3,5-trinitro- 1,3,5-triaza-cyclohexane (hexogen, hexogene);
 21. hydroxylammonium nitrate (HAN) [CAS 13465- 08-2]; hydroxylammonium perchlorate (HAP) [CAS 15588-62-2];
 22. 2-(5-cyanotetrazolato) penta amine-cobalt (III) perchlorate (or CP) [CAS 70247-32-4];
 23. cis-bis (5-nitrotetrazolato) tetra amine-cobalt (III) perchlorate (or BNCP);
 24. 7-Amino-4, 6-dinitrobenzofurazane-1-oxide (ADN-BF) [CAS 97096-78-1]; amino dinitrobenzofuroxan;
 25. 5,7-diamino-4, 6-dinitrobenzofurazane-1-oxide [CAS 117907-74-1], (CL-14 or diamino dinitrobenzofuroxan);
 26. 2,4,6-trinitro-2,4,6-triazacyclohexanone (K-6 or Keto-RDX) [CAS 115029-35-1];
 27. 2,4,6,8-tetranitro-2,4,6,8-tetraazabicyclo [3,3,0]- octanone-3 [CAS 130256-72-3] (tetranitrosemi-glycouril, K-55 or keto-bicyclic HMX);
 28. 1,1,3-trinitroazetidine (TNAZ) [CAS 97645-24-4];
 29. 1,4,5,8-tetranitro-1,4,5,8-tetraazadecalin (TNAD) [CAS 135877-16-6];
 30. hexanitrohexaazaisowurtzitane [CAS 135285-90-4] (CL-20 or HNIW); and chlathrates of CL-20;
 31. polynitrocubanes with more than four nitro groups;
 32. ammonium dinitramide (ADN or SR 12) [CAS 140456-78-6];
 33. trinitrophenylmethylnitramine (tetryl) [CAS 479- 45-8];
- b. explosives and propellants that meet the following performance parameters—
1. any explosive with a detonation velocity exceeding 8,700 m/s or a detonation pressure exceeding 34 GPa (340 kbar);
 2. other organic explosives not listed in ML8, yielding detonation pressures of 25 GPa (250 kbar) or more that will remain stable at temperatures of 523 K (250°C) or higher for periods of 5 minutes or longer;
 3. any other United Nations (UN) Class 1.1 solid propellant not listed in ML8 with a theoretical specific impulse (under standard conditions) of more than 250 s for non-metallised or more than 270 s for aluminised compositions;
 4. any UN Class 1.3 solid propellant with a theoretical specific impulse of more than 230 s for non-halogenised, 250 s for non-metallised and 266 s for metallised compositions;
 5. any other gun propellants not listed in ML8 having a force constant of more than 1,200 kJ/kg;

6. any other explosive, propellant or pyrotechnic not listed in ML8 that can sustain a steady-state burning rate of more than 38 mm/s under standard conditions of 6.89 MPa (68.9 bar) pressure and 294 K (21°C); or
 7. elastomer modified cast double based propellants (EMCDB) with extensibility at maximum stress of more than 5% at 233 K (-40°C);
- c. military pyrotechnics;
- d. other substances as follows—
1. aircraft fuels specially formulated for military purposes;
 2. military materials containing thickeners for hydrocarbon fuels specially formulated for use in flamethrowers or incendiary munitions, such as metal stearates or palmates (also known as octal) [CAS 637-12-7] and M1, M2, M3 thickeners;
 3. liquid oxidisers comprised of or containing inhibited red fuming nitric acid (IRFNA) [CAS 8007-58-7] or oxygen difluoride;
- e. additives and precursors, as follows—
1. azidomethylmethyloxetane (AMMO) and its poly-mers;
 2. basic copper salicylate [CAS 62320-94-9]; lead salicylate [CAS 15748-73-9];
 3. bis (2,2-dinitropropyl) formal [CAS 5917-61-3] or bis (2,2-dinitropropyl) acetal [CAS 5108-69-0];
 4. bis-(2-fluoro-2, 2-dinitroethyl) formal (FEFO) [CAS 17003-79-1];
 5. bis-(2-hydroxyethyl) glycolamide (BHEGA) [CAS 17409-41-5];
 6. bis(2-methyl aziridinyl) methylamino phosphine oxide (Methyl BAPO)[CAS 85068-72-0];
 7. bisazidomethyloxetane and its polymers [CAS 17607-20-4];
 8. bischloromethyloxetane (BCMO) [CAS 142173-26-0];
 9. butadienenitrileoxide (BNO);
 10. butanetrioltrinitrate (BTTN) [CAS 6659-60-5];
 11. catocene [CAS 37206-42-1] (2,2-Bis-ethylferrocenyl propane); ferrocene carboxylic acids; N-butyl- ferrocene [CAS 319904-29-7]; butacene [CAS 125856-62-4] and other adducted polymer ferrocene derivatives;
 12. dinitroazetidene-t-butyl salt;
 13. energetic monomers, plasticisers and polymers containing nitro, azido, nitrate, nitraza or difluoroamino groups;
 14. poly-2, 2, 3, 3, 4, 4-hexafluoropentane-1, 5-diol formal (FPF-1);
 15. poly-2, 4, 4, 5, 5, 6, 6-heptafluoro-2-tri-fluoromethyl- 3-oxaheptane-1, 7-diol formal (FPF-3);
 16. glycidylazide polymer (GAP) [CAS 143178-24-9] and its derivatives;
 17. hexabenzylhexaazaisowurtzitane (HBIW) [CAS 124782- 15-6];

18. hydroxyl terminated polybutadiene (HTPB) with a hydroxyl functionality equal to or greater than 2.2 and less than or equal to 2.4, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30°C of less than 47 poise [CAS 69102-90-5];
19. superfine iron oxide (Fe₂O₃ hematite) with a specific surface area more than 250 m²/g and an average particle size of 0.003 μm or less [CAS 1309-37-1];
20. lead beta -resorcylate [CAS 20936-32-7];
21. lead stannate [CAS 12036-31-6], lead maleate [CAS 19136-34-6], lead citrate [CAS 14450-60-3];
22. lead-copper chelates of beta-resorcylate or salicylates [CAS 68411-07-4];
23. nitratomethylmethyloxetane or poly (3-Nitrato-methyl, 3-methyl oxetane); (Poly-NIMMO) (NMMO) [CAS 84051-81-0];
24. 3-Nitrazo-1, 5-pentane diisocyanate [CAS 7406-61-9];
25. N-Methyl-p-Nitroaniline [CAS 100-15-2];
26. organo-metallic coupling agents, specifically—
 - neopentyl [diallyl] oxy, tri [dioctyl] phosphato titanate [CAS 103850-22-2]; also known as titanium IV, 2,2[bis 2-propenolato-methyl, butanolato, tris (dioctyl) phosphato] [CAS 110438-25-0]; or LICA 12 [CAS 103850-22-2];
 - titanium IV, [(2-propenolato-1) methyl, n- propanolato-methyl] butanolato-1, tris[dioctyl]pyrophosphate; or KR3538;
 - titanium IV, [(2-propenolato-1)methyl, n-propa-nolato-methyl] butanolato-1, tris(dioctyl) phos-phate;
27. polycyanodifluoroaminoethyleneoxide (PCDE);
28. polyfunctional aziridine amides with isophthalic, trimesic (BITA or butylene imine trimesamide), isocyanuric or trimethyladipic backbone structures and 2-methyl or 2-ethyl substitutions on the aziridine ring;
29. polyglycidynitrate or poly (nitratomethyl oxirane); (Poly-GLYN) (PGN) [CAS 27814-48-8];
30. polynitroorthocarbonates;
31. propyleneimine, 2-methylaziridine [CAS 75-55-8];
32. tetraacetyldibenzylhexaazaisowurtzitane (TAIW);
33. tetraethylenepentaamineacrylonitrile (TEPAN) [CAS 68412-45-3]; cyanoethylated polyamine and its salts;
34. tetraethylenepentaamineacrylonitrileglycido 1 (TEPANOL) [CAS 68412-4-4]; cyanoethylated polyamine adducted with glycidol and its salts;
35. triphenyl bismuth (TPB) [CAS 603-33-8];
36. tris-1-(2-methyl)aziridinyl phosphine oxide (MAPO) [CAS 57-39-6]; bis(2-methyl aziridinyl) 2-(2-hydro-xypropanoxy) propylamino phosphine oxide (BOBBA 8); and other MAPO derivatives;

37. 1,2,3-Tris[1,2-bis(difluoroamino)ethoxy] propane [CAS 53159-39-0]; tris vinoxyl propane adduct (TVOPA);
38. 1,3,5-trichlorobenzene [CAS 108-70-3];
39. 1,2,4 trihydroxybutane (1,2,4 butanetriol);
40. 1,3,5,7 tetraacetyl-1,3,5,7-tetraaza cyclo-octane (TAT) [CAS 41378-98-7];
41. 1,4,5,8 Tetraazadecalin [CAS 5409-42-7];
42. low (less than 10,000) molecular weight, alcohol-functionalised, poly (epichlorohydrin); poly (epi-chlorohydrindiol) and triol;

except—

boron and boron carbide enriched with boron-10 (20% or more of total boron-10 content).

ML9 Combatant vessels and vessels (surface or underwater) specially designed or modified for offensive or defensive action, whether or not converted to non-military use, regardless of current state of repair or operating condition, and whether or not they contain weapon delivery systems or armour, and components therefor specially designed or modified for military use.

ML10 Aircraft, unmanned airborne vehicles, aero engines and aircraft equipment, related goods and components, specially designed or modified for military use, as follows—

- a. combat aircraft and specially designed components therefor;
- b. other aircraft specially designed or modified for military use, including military reconnaissance, assault, military training, transporting and airdropping troops or military equipment, logistics support and specially designed components therefor;
- c. aero-engines specially designed or modified for military use, and specially designed components therefor;
- d. unmanned airborne vehicles, including remotely piloted air vehicles (RPVs), and autonomous, programmable vehicles specially designed or modified for military use and their launchers, ground support and related equipment for command and control;
- e. airborne equipment, including airborne refuelling equipment, specially designed for use with the aircraft specified in entry ML10.a. or ML10.b. or the aero-engines specified in entry ML10.c. and specially designed components therefor;
- f. pressure refuellers, pressure refuelling equipment, equipment specially designed to facilitate operations in confined areas and ground equipment, developed specially for aircraft specified in entry ML10.a. or ML10.b. or for aero-engines specified in entry ML10.c.;
- g. pressurised breathing equipment and partial pressure suits for use in aircraft, anti-g suits, military crash helmets and protective masks, liquid oxygen converters used for aircraft or missiles, and catapults and cartridge actuated devices for emergency escape of personnel from aircraft;
- h. parachutes used for combat personnel, cargo dropping or aircraft deceleration, as follows—
 1. parachutes for—
 - a. pin-point dropping of military personnel;

- d.* body armour and flak suits manufactured according to military standards or specifications, or equivalent, and specially designed components therefor;

except—

individual suits of body armour for personal protection and accessories therefor when accompanying their users.

PL5014 Specially designed components for the goods specified in entries ML13.a., ML13.b. and ML13.c.

ML14 Specialised equipment for military training or for simulating military scenarios and specially designed components and accessories therefor.

ML15 Imaging or countermeasure equipment, as follows, specially designed for military use and specially designed components and accessories therefor—

- a.* recorders and image processing equipment;
- b.* cameras, photographic equipment and film processing equipment;
- c.* image intensifier equipment;
- d.* infra-red or thermal imaging equipment;
- e.* imaging radar sensor equipment;
- f.* countermeasure or counter-countermeasure equipment for the equipment specified in entries ML15.a. to ML15.e.;

except—

first generation image intensifier tubes.

ML16 Forgings, castings and other unfinished products the use of which in a controlled product is identifiable by material composition, geometry or function, and which are specially designed for any of the goods specified in entries ML1 to ML4, ML6, ML9, ML10, ML12 and ML19.

PL5020 Forgings, castings and semi-finished products specially designed for goods specified in entry PL5006 or PL5018.

ML17 Miscellaneous goods, materials and libraries, as follows, and specially designed components therefor—

- a.* self-contained diving and underwater swimming apparatus as follows—
1. closed or semi-closed circuit (rebreathing) apparatus specially designed for military use (i.e. specially designed to be non-magnetic);
 2. specially designed components for use in the conversion of open-circuit apparatus to military use;
 3. articles designed exclusively for military use with self-contained diving and underwater swimming apparatus;
- b.* construction equipment specially designed for military use;
- c.* fittings, coatings and treatments for signature suppression, specially designed for military use;
- d.* field engineer equipment specially designed for use in a combat zone;

- e. robots, robot controllers and robot end-effectors, having any of the following characteristics—
 - 1. specially designed for military use;
 - 2. incorporating means of protecting hydraulic lines against externally induced punctures caused by ballistic fragments (e.g. incorporating self-sealing lines) and designed to use hydraulic fluids with flash points higher than 839 K (566°C); or
 - 3. specially designed or rated for operating in an electro-magnetic pulse (EMP) environment;
- f. libraries (parametric technical databases) specially designed for military use with equipment specified in this Schedule;
- g. nuclear power generating equipment or propulsion equipment, including nuclear reactors, specially designed for military use and components therefor specially designed or modified for military use;
- h. goods and material, coated or treated for signature suppression, specially designed for military use, other than those controlled elsewhere in this Schedule;
- i. simulators specially designed for military nuclear reactors;
- j. mobile repair shops specially designed to service military equipment;
- k. field generators specially designed for military use; and
- l. containers specially designed for military use.

Technical Note

For the purpose of entry ML17, the term “library” (parametric technical database) means a collection of technical information of a military nature, reference to which may enhance the performance of military equipment or systems.

ML18 Equipment and technology for the production (including design, examination, manufacture, testing and checking) of goods referred to in this Schedule, as follows—

- a. specially designed or modified production equipment for the production of products specified in this Schedule, and specially designed components therefor;
- b. specially designed environmental test facilities and specially designed equipment therefor, for the certification, qualification or testing of products specified in this Schedule;
- c. specific production technology, even if the equipment with which such technology is to be used is not controlled;
- d. technology specific to the design of, the assembly of components into, and the operation, maintenance and repair of complete production installations even if the components themselves are not controlled.

PL5017 Equipment and test models specially designed or modified for the development or use of military goods specified in this Schedule.

ML19 Directed energy weapon systems (DEW), related or countermeasure equipment and test models, as follows, and specially designed components therefor—

- a. laser systems specially designed for destruction or effecting mission-abort of a target;
- b. particle beam systems capable of destruction or effecting mission-abort of a target;
- c. high power radio-frequency (RF) systems capable of destruction or effecting mission-abort of a target;
- d. equipment specially designed for the detection or identification of, or defence against, systems specified in entries ML19.a. to ML19.c.;
- e. physical test models and related test results for the systems, equipment and components specified in this entry.

ML20 Cryogenic and superconductive equipment, as follows, and specially designed components and accessories therefor—

- a. equipment specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K (-170°C);
- b. superconductive electrical equipment (rotating machinery and transformers) specially designed or configured to be installed in a vehicle for military ground, marine, airborne or space applications, capable of operating while in motion;

except—

direct-current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting component in the generator.

ML21 Software, as follows—

- a. software specially designed or modified for the development, production or use of equipment or materials specified in this Schedule;
- b. specific software, as follows—
 1. software specially designed for—
 - modelling, simulation or evaluation of military weapon systems;
 - development, monitoring, maintenance or up-dating of software embedded in military weapon systems;
 - modelling or simulating military operation scenarios, not specified in ML14;
 - Command, Communications, Control and Intelligence (C3 I) applications;
 2. software for determining the effects of conventional, nuclear, chemical or biological warfare weapons.

PL5001 Other security and para-military police goods, as follows—

- a. acoustic devices represented by the manufacturers or suppliers thereof as suitable for riot control purposes, and specialised components therefor;
- b. anti-riot shields and components therefor;
- c. leg-irons, shackles (excluding any pair of handcuffs the maximum dimension of which when locked does not exceed 240 mm) and gangchains, specially designed for restraining human beings;

- d.* portable anti-riot devices for administering an electric shock or an incapacitating substance, and specialized components therefor;
- e.* water cannon and components therefor;
- f.* riot control vehicles which have been specially designed or modified to be electrified to repel boarders.

ML22 Technology according to the General Technology Note for the development, production or use of goods specified in this Schedule, other than technology controlled in entries ML7 and ML 18.

SCHEDULE 2*(Paragraph 4)***LIST OF COUNTRIES REFERRED TO
IN PARAGRAPH 4(B), (C) AND (F)**

Afghanistan
Angola
Armenia
Azerbaijan
Bosnia-Herzegovina
Burma (Myanmar)
Burundi
China (People's Republic of)
Croatia
Eritrea
Ethiopia
Liberia
Nigeria
Rwanda
Somalia
Sudan
Tanzania
Uganda
Yugoslavia (Federal Republic of)
Zaire

(Amended by L.N. 4/2000)

**CUSTOMS (CONTROL OF MOVEMENT OF GOODS) DIRECTION
– SECTION 21**

(Legal Notice 25/1996)

Commencement

[1 April 1996]

PART I

PRELIMINARY

Short title

1. This Direction may be cited as the Customs (Control of Movement of Goods) Direction.

Interpretation

2. In this Direction—

“approved place”, in relation to imported goods or goods intended for export, means a place approved by the Collector under sections 13, 15, 16, 18 and 54 of the Ordinance for the clearance or storage of such goods.

PART II

RESTRICTIONS ON THE MOVEMENT OF GOODS

Imported goods

3. (1) No imported goods not yet cleared from customs control shall be moved between their place of importation and any other approved place unless the movement is approved by the proper officer.

(2) Save as the Collector may otherwise permit, application under subparagraph (1) shall be made by the importer or by the person in charge of the goods in such form and manner as the Collector may direct.

Exported goods

4. (1) No goods intended for export and made available at an approved place for the purposes of examination shall be moved between such approved place and a place of exportation unless the movement is authorised by the proper officer upon application being made to him.

(2) Save as the Collector may otherwise permit, application under subparagraph (1) shall be made by the exporter or by the person in charge of the goods in such form and manner as the Collector may direct.

Warehouse goods

5. (1) No goods entered for warehousing shall be moved between any approved places unless the movement is authorised by the proper officer upon application being made to him.

(2) Save as the Collector may otherwise permit, application under subparagraph (1) shall be made by the proprietor of the goods.

Vehicles and containers

6. (1) The Collector may in respect of any class or description of goods require that vehicles or containers in which goods of a particular class or description are removed shall be approved by him for the removal of such goods.

(2) Save as provided by subparagraph (3), no person shall remove any goods in respect of which a requirement under subparagraph (1) above has been imposed unless the vehicle or container in which they are carried conforms to such requirement.

(3) The proper officer upon application being made to him by the person in charge of the goods to be removed may for the purposes of the removal in question relax any requirement imposed under subparagraph (1).

(4) Vehicles and containers proceeding under a removal shall be moved by such routes as the Collector may specify.

PART III

SECURITY OF VEHICLES AND CONTAINERS

Security

7. (1) Before any goods are removed the vehicle or containers carrying the goods shall be secured or identified by any such seals, locks or marks by the proper officer as the Collector may specify.

(2) Such seals, locks or marks shall be supplied at the expense of the importer, exporter or person in charge of the goods.

Restrictions

8. (1) Save in the circumstances mentioned in subparagraph (2), no person shall at any time during a removal—

- (a) wilfully break open or remove any seal, lock, or mark affixed for any customs purpose to a vehicle or container;
- (b) load or unload or assist in the loading or unloading of a container; or
- (c) abandon the goods.

(2) The circumstances referred to in subparagraph (1) are—

- (a) where authorisation has been given by the proper officer; or
- (b) in an emergency to safeguard the goods or to protect life or property.

PART IV

COMPLETION OF REMOVALS, TIME LIMITS AND ACCIDENTS

Production of goods and vehicle

9. Save as the Collector may otherwise permit, the person in charge of goods proceeding under a removal shall complete the removal by producing the goods together with the vehicle or container in which they are carried to the proper officer at the approved place, or in the case of goods intended for export, at the place of exportation.

Time limits

10. The person in charge of goods proceeding under removal shall complete the removal within such period as the Collector may specify.

Accident

11. Where as a result of an accident or other occurrence arising during a removal a vehicle or container is delayed or diverted from a specified route, the person in charge of the goods shall as soon as practicable give sufficient notification of the accident or occurrence as required by the Collector to the nearest customs station.

PART V

GENERAL

Penalty

12. If any person contravenes or fails to comply with any requirement under this Direction he commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is the greater, and the vehicle, container and goods concerned in the offence shall be liable to forfeiture.

**CUSTOMS (CONTROL OF SMALL CRAFT) DIRECTION
– SECTION 28**

(Legal Notices 28/1996, 14/1997, 15/2007, 19/2007 and 23/2007)

Commencement

[1 April 1996]

Short title

1. This Direction may be cited as the Customs (Control of Small Craft) Direction.

Interpretation

2. In this Direction—

“arrival”, in relation to a small craft, means the anchoring, berthing or mooring of the craft within the limits of a port;

“port” means any port named in the Schedule.

Arrival at a port

3. Subject to paragraph 4, no person shall disembark, and no person shall unload or permit the unloading of goods from any small craft arriving from outside the Islands which is carrying cargo or passengers for reward, or which is otherwise engaged in trade or business, except at a port.

Arrival from Haiti

4. Small craft arriving from the Republic of Haiti are required to arrive at South Dock, Grand Turk. *(Inserted by L.N. 14/1997)*

5. (1) Small crafts of wooden hull shall not be permitted to arrive in the Islands. *(Inserted by L.N. 15/2007 and Substituted by L.N. 23/2007)*

(2) Subparagraph (1) shall not apply in relation to any craft which is compelled by accident, stress of weather, maritime emergency or force majeure to arrive in the Islands. *(Inserted by L.N. 23/2007)*

Flying of the signal flag “Q”

6. The master of a small craft arriving in the Islands shall cause to be flown a yellow flag (the signal flag for “Q” in the International Code of Signals) at all times between the entry by the craft of the limits of a port and the making of a report in accordance with this Direction.

Movement of small craft and removal or unloading of goods therefrom after arrival

7. Save as the proper officer may otherwise permit or direct, no person after the arrival of the vessel shall move the vessel or unload or remove any goods therefrom or disembark any passengers until report of that vessel in accordance with the Customs (Arriving and Departing Vessels and Aircraft) Direction has been made.

Applications of other provisions to small craft

8. Paragraphs 4 to 13 of the Customs (Arriving and Departing Vessels and Aircraft) Direction shall apply to small craft.

Time Limits

9. The proper officer shall determine the time limits within which a small craft may remain at a port or within the territorial sea of the Islands, and shall notify the master of the small craft in writing accordingly.

Penalty

10. Any person who fails to comply with any requirement of any provisions of this Direction commits an offence and is liable on conviction to a fine of \$5,000, and any goods and any craft concerned in the offence shall be liable to forfeiture.

SCHEDULE

(Paragraph 2)

PORTS AT WHICH SMALL CRAFT REQUIRED TO ARRIVE

South Dock, Grand Turk
South Dock, Providenciales
Sandy Point, North Caicos
Cockburn Harbour, South Caicos

**CUSTOMS (PRE-ENTRY OF PERISHABLE GOODS) DIRECTION
– SECTION 29**

(Legal Notice 12 /2014)

Commencement

[1 April 2014]

Short title

1. This Direction may be cited as the Customs (Pre-Entry of Perishable Goods) Direction.

Interpretation

2. In this Direction—

“perfect entry” means a complete entry made under the ASYCUDA World customs management system at a stage after a pre-entry is made;

“perishable goods” means goods which are subject to decay, ruin or destruction; and

“pre-entry” means an incomplete entry made under the automated ASYCUDA World customs management system as a stage before a perfect entry is made.

Pre-entry of perishable goods

3. Any perishable goods may, with the consent of the Collector, be imported into the Islands without the proper entry documentation, subject to the following conditions—

- (a) that the goods must be of a perishable nature as determined by the Collector;
- (b) that the importer must be unable to make a perfect entry for specified reasons (usually for want of documentation), which may be provided to the Collector;
- (c) that the importer or his agent is approved by the Collector as a person allowed to make such pre-entry;
- (d) that a pre-entry shall be made to Customs in such form and manner as the Collector may direct;
- (e) at the time of submission of the pre-entry, that Customs shall assess the amount of duties to be paid, based on documentation submitted;
- (f) at the time of submission of pre-entry and upon assessment of duties by Customs, that the importer shall pay the assessed sum prior to release of the goods;
- (g) that Customs may require an additional sum to be paid in addition to the duties, of an amount not less than one half of the duty assessed; and
- (h) that a perfect entry shall be made within three days, or such longer time as the Collector may permit, from the date of making a pre-entry.

Offence

4. A person who fails to comply with any condition imposed by this Direction, commits an offence and is liable on conviction to a fine of \$5,000 and the goods shall be liable to forfeiture, as provided by section 30 of the Ordinance.

**CUSTOMS (CHARGE ON INSURANCE AND
FREIGHT)(BUILDING MATERIALS) ORDER – SECTION 136**

(Legal Notice 39/2013)

Commencement

[16 September 2013]

Short title

1. This Order may be cited as the Customs (Charge on Insurance and Freight) (Building Materials) Order.

Variation of rate of charge on building materials

2. The rate of charge payable on the cost of insurance and freight in respect of goods (building materials) of the description specified in the Schedule shall be 5%.

SCHEDULE

Goods	Tariff Code	Description
Sand	2505100	Silica sands and quartz sands
	2505900	Natural sands, (other than metal-bearing sands)
Gravel/aggregate	2517100	Pebble, gravel broken or crushed stone, of a kind commonly used for concrete aggregates, for road metalling or for railway or other ballast, shingle and flint, whether or not heat-treated
	2517200	Macadam of slag, dross or similar industrial waste, whether or not incorporating the materials cited in subheading 2517.100
	2517300	Tarred macadam
Cement	2523100	Cement clinkers
	2523210	White cement, whether or not artificially coloured
	2523291	Building cement (grey)
	2523292	Oilwell cement

	2523299	Other. Portland cement (except white)
	2523300	Aluminous cement
	2523900	Other hydraulic cements
Blocks	6810110	Building blocks and bricks
	6810190	Flagstones and similar articles of cement, concrete
Steel	7213100	Containing indentations, ribs, grooves or other deformations produced during the rolling process
	7213200	Other, of free-cutting steel
	7213910	Of circular cross-section measuring less than 14mm in diameter
	7213990	Hot-rolled iron or non-alloy steel bars and rods

**CUSTOMS (POST CLEARANCE AUDIT) ORDER
– SECTION 118(7)**

(Legal Notice 6 /2014)

Commencement

[10 March 2014]

Short title

1. This Order may be cited as the Customs (Post Clearance Audit) Order.

Type of records

2. The documents, books, records or information required to be kept for the purposes of importation, exportation or carriage coastwise of any goods, and the carriage loading, landing or unloading of any goods, in terms of section 118 of the Ordinance may include—

- (a) commercial invoices;
- (b) shipping records;
- (c) purchase orders;
- (d) delivery notes;
- (e) audited accounts;
- (f) record of contracts;
- (g) royalty and marketing agreements;
- (h) inventory records;
- (i) journals;
- (j) ledgers;
- (k) business correspondence;
- (l) records of payments; and
- (m) any other documents, books, records or information relating to the goods, as may be required by the Collector.

Form and manner

3. (1) In addition to the requirement under section 117 of the Ordinance, the documents, books or records shall be kept in such form or manner that records and explains all transactions and other acts engaged by a person that are relevant for the purposes of the Ordinance, and may include —

- (a) an account of any goods entering the business with the following particulars—
 - (i) name of the importing vessel or aircraft;
 - (ii) date of arrival of importing vessel or aircraft;

- (iii) invoices detailing the quantity, description and value of goods; and
- (iv) shipping documents including a packing list, bill of lading and airway bill;
- (b) an account of any goods leaving the business, whether for export or local consumption;
and
- (c) the balance of goods to be found in the business at any point in time.

(2) The documents, books or records shall be kept in such form or manner as is readily accessible and as may be determined by the Collector from time to time.

CUSTOMS TARIFF (GENERAL) ORDER

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Short title
2. Interpretation
3. Classification of goods
4. Import and export duties of customs
5. Exemptions
6. Exemptions for goods carried in accompanied baggage

SCHEDULE

CUSTOMS TARIFF (GENERAL) ORDER – Section 70

(Legal Notice 13/2010)

Commencement

[1 August 2010]

Short title

1. This Order may be cited as the Customs Tariff (General) Order.

Interpretation

2. (1) In this Order, the Customs Tariff 2010 set out in Part III of the Schedule is referred to as “the Tariff”.

(2) In this Order, the abbreviations and symbols set out in the first column of Part I of the Schedule have the meanings given to them in the second column of that Part.

(3) For the purposes of section XVII of the Tariff, the landed cost of a motor vehicle shall be taken to be the aggregate of —

- (a) the contract price of the vehicle or the normal price of the vehicle, whichever is the greater; and
- (b) the freight, insurance and all other costs, charges and expenses incidental to the removal or carriage of the vehicle from the place of dispatch to the Islands.

(4) In subparagraph (3) the normal price of a motor vehicle shall be taken to be the price which the vehicle would fetch at the time of importation on a sale in the open market (as construed in accordance with section 93 (5) of the Ordinance) between a buyer in the Islands and a seller at the place from which the vehicle was dispatched, the buyer and seller being independent of each other.

Classification of goods

3. (1) Any goods which are to be imported into or exported from the Islands shall, for the purpose of determining the rate of duty applicable to those goods, as well as for statistical purposes, be classified in accordance with the form of customs tariff set the Schedule out in Part III of the Schedule.

(2) The form mentioned in subparagraph (1) may be referred to as the Customs Tariff 2010 and shall be interpreted and applied in accordance with the principles set out in Part II of the Schedule.

Import and export duties of customs

4. (1) Subject to paragraphs 5 and 6, duties of customs are imposed on any of customs goods imported into the Islands which fall within any description specified in the third column of the Tariff headed “DESCRIPTION” at the rate specified in the sixth column of the Tariff headed “IMPORT DUTY RATE” in relation to goods falling within that description.

(2) Export duties of customs are imposed on any goods exported from the Islands which fall within any description specified in the third column of the Tariff headed “DESCRIPTION” at the rate specified in the seventh column of the Tariff headed “EXPORT DUTY RATE” in relation to goods falling within that description.

Exemptions

5. Subject to any conditions of use or purpose and to any other requirements set out in Part IV of the Schedule in relation to goods of any description specified therein, import duties of customs shall not be payable in respect of goods of any such description.

Exemptions for goods carried in accompanied baggage

6. (1) Import duties of customs shall not be payable in respect of any goods to which this paragraph applies.

(2) Subject to subparagraph (3), this paragraph applies to the following dutiable goods, if those goods are contained in the accompanied baggage of a person when he enters the Islands and are not imported for commercial purposes—

- (a) normally potable spirits of not more than one reputed quart or not more than two litres of wine containing less than 42% of proof spirit;
- (b) 200 cigarettes, or 100 cigarillos (cigars with a maximum weight of 3 grammes), or 50 cigars or 125 grammes of smoking tobacco;
- (c) 50 grammes of perfume or 0.25 litres of toilet water; and
- (d) any other dutiable goods purchased or obtained outside the Islands to a total value not exceeding \$400 USD.

(3) Subparagraph 2(a) and (b) do not apply to a person who is under the age of seventeen years.

SCHEDULE

(Paragraphs 2(2), 3(1), 3(2) and 5)

PART I

ABBREVIATIONS AND SYMBOLS

(Paragraph 2(2))

ABBREVIATION OR SYMBOL	MEANING
Cc	Cubic centimetre(s)
Cm	Cm centimetre(s)
Gal	US Gallons
Kg	Kilogram(s)
Kva	Kilovolt(s) – ampere(s)
Kw	Kilowatt(s)
L	Litre(s)
Lb	Pounds
Mm	Millimetre(s)
no.	Number of items
Qt	Quarter of a US gallon
suppl unit	Supplementary
Ton	Ton avoirdupois
12u	Dozens

2u	Pairs(s)
%	Percent

(Amended by L.N. 38/2011)

PART II

**EXPLANATORY NOTES AND GENERAL RULES FOR THE INTERPRETATION OF
THE
CUSTOMS TARIFF 2010**

(Paragraph 3(2))

A. Interpretation

1. In this Part—

- (a) the Harmonized Commodity Description and Coding System or the Harmonized System is referred to as “the HS” and means the Nomenclature comprising the headings, subheadings and their related numerical codes, the Section, Chapter and Subheading Notes and the General Rules for the Interpretation of the Harmonized System, set out in the Annex to the Convention; and
- (b) a reference to the HS, unless the context otherwise requires, is a reference to the HS as amended in accordance with Article 16 of the Convention on or before 1 September 1991.

2. In this Part—

“the Convention” means the International Convention on the Harmonized Commodity Description and Coding System done at Brussels on 14 June 1983 as amended by the Protocol of Amendment to the International Convention on the Harmonized Commodity Description and Coding System, both of which entered into force on 1 January 1988 and both of which are registered with the Secretariat of the United Nations;

“the Council” means the Customs Co-operation Council (now the World Customs Organisation) established by the Convention establishing a Customs Co-operation Council done at Brussels on 15 December 1950;

“the HS Committee” means the Harmonized System Committee established under Article 6 of the Convention;

“the HS Notes” means the Section, Chapter and Subheading Notes referred to in paragraph 1(a) as amended on or before 1 January 2007;

“the Tariff” means the Custom Tariff 2010 set out in Part III of this Schedule; and

“the Tariff Rules” means the General Rules for the Interpretation of the Tariff set out at heading C of this Part.

3. A copy of the Convention and of the HS shall be lodged for record at the Customs Department in Grand Turk and shall be open for inspection by the public during the normal business hours of that Department.

B. Explanatory Notes

1. The Tariff is divided into 21 Sections and 97 Chapters. Each Section and Chapter has a title. The text of each Section title sets out the most general description of the goods which fall within that Section.

The text of each Chapter title sets out the most general description of the goods which fall within that Chapter.

The descriptions of the goods set out in the text of each Chapter title within any Section all fall within the most general description set out in the text of the Section title of that Section.

2. (1) The texts of the headings and subheadings are set out in the third column of the Tariff headed "DESCRIPTION". The text of the one dash subheadings in that column are preceded by a single dash. The text of the two dash subheadings in that column are preceded by a double dash. The text of the three dash subheadings in that column are preceded by a triple dash.

(2) The text of each heading within a Chapter sets out a more specific description of the goods which fall within the more general description set out in the text of the Chapter title of that Chapter. The text of each one dash subheading within a heading, sets out a more specific description of the goods which fall within the more general description set out in the text of that heading. The text of each two dash subheading within a one dash subheading sets out the most specific description of the goods which fall within the more general description set out in the text of that one dash subheading. The text of each three dash sub-heading within a two dash sub-heading sets out a specific description of goods afforded special treatment in the Turks and Caicos Islands.

3. The two and three dash subheadings, taken together, describe all the goods which make up the one dash subheading within which they fall. The one dash subheadings, taken together, describe all the goods which make up the heading within which they fall. The headings, taken together, describe all the goods which make up the Chapter within which they fall.

The Chapters, taken together, describe all the goods which make up the Section within which they fall.

4. The Sections, Chapters, headings and subheadings are arranged in numerical order. Each heading is identified by a heading number consisting of 4 digits. The first 2 digits indicate the number of the Chapter within which that heading falls. The next 2 digits indicate the numerical order in which the heading appears within that Chapter. The heading numbers are shown in the first column of the Tariff headed "HEADING NO."

5. The second column of the Tariff headed "TARIFF CODE" sets out the 7 digit Tariff codes. Where a heading is not further subdivided into subheadings, the 7 digit code in that column appears on the same line as the 4 digit heading number of that heading in the first column and the text of that heading in the third column. In this case, the last 2 digits of the code are always '000', indicating that the heading is not further subdivided, and the first 4 digits of the code indicate the heading number of that heading.

6. Where a heading is further subdivided into one dash subheadings but those one dash subheadings are not themselves further subdivided into two or three dash subheadings, the 7 digit code in the second column appears on the same line as the text of the one dash subheading in the third column, which is preceded by a single dash, and the code represents the subheading number of that one dash subheading. In this case, the first 4 digits of the code indicate the heading number of the heading into which that subheading falls, and the next 2 digits indicate the numerical order in which that subheading appears within that heading.

7. Where a heading is further subdivided into one dash subheadings, and any of those one dash subheadings are themselves further subdivided into two or three dash subheadings, the 7 digit code in the

second column appears on the same line as the text of the two or three dash subheading in the third column, which is preceded by a double dash, or triple dash and the code represents the subheading number of that two or three dash subheading. In this case, the first 4 digits of the code indicate the heading number of the heading into which that two and three dash subheading falls, and the next 3 digits indicate the numerical order in which the two or three dash subheading appears within that heading.

8. The arrangement of the Tariff described above and the text of the Section and Chapter titles and of the headings and one dash subheadings and two dash subheadings are based on the HS.

9. All the Sections and Chapters and the text of the Section and Chapter titles of the HS are reproduced verbatim in the Tariff.

C. General Rules for the Interpretation of the Tariff

Classification of goods in the Turks and Caicos Islands Tariff shall be governed by the following principles, which shall be read with the Explanatory Notes set out at heading B of this Part.

1. The titles of Sections, Chapters and sub -Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions.

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.

(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

3. When by application of Rule 2 (b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to paragraph (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

- (c) When goods cannot be classified by reference to paragraph (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.
4. Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.
5. In addition to the foregoing provisions, the following Rules shall apply in respect of the goods referred to therein:
- (a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This Rule does not, however, apply to containers which give the whole its essential character;
- (b) subject to Rule 5(a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.
6. For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related Subheading Notes and, with such modifications as the circumstances require, to the above Rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this Rule the relative Section and Chapter Notes also apply, unless the context otherwise requires.

PART III

THE CUSTOMS TARIFF
(AMENDED BY L.N. 16/2010, 38/2011 AND L.N 24/2016)

(Paragraph 3(1))

(Omitted)

NOTE: A COPY OF THE CUSTOMS TARIFF MAY BE OBTAINED FROM THE CUSTOMS DEPARTMENT DURING NORMAL BUSINESS HOURS

PART IV

EXEMPTIONS

(Paragraph 5)

For purposes associated with Government Institutions and Personnel

1. Government Ministries and Departments

Subject to the satisfaction of the Collector of Customs and with the written approval of the appropriate Permanent Secretary, Head of Department or designated nominee, goods imported or taken out of bond by Ministries or Departments in the Turks and Caicos Islands intended for use solely in the course of Government business.

2. Public Servants

Subject to the provision of a certificate from the Office of the Public Service Management (OPSM), the importation of motor vehicles by public servants currently serving in the employment of the Turks and Caicos government to a maximum value of \$25,000 USD. The vehicle must be for the sole and exclusive use of the public servant or his/her immediate family and must not be disposed of for a period of three years from the date of importation or the full duty will become payable.

The concession will be granted once every five years and will constitute 50% of the duty liability. The conjoining of the relief by spouses, both of whom are serving public servants, is not allowed.

For the purposes of this concession, “immediate family” is defined as the spouse or child of the public servant.

3. Natural Disasters and Emergencies

Subject to the satisfaction of the Collector of Customs goods imported by individuals, organisations and/or businesses in the aftermath of any natural disaster or emergency in the Turks and Caicos Islands in an endeavour to relieve suffering, render assistance and minimise loss.

The extent of any relief given will be determined by the Minister of Finance following consultation with the Governor, the Minister of Home Affairs and Public Safety, the Minister of the Environment and District Administration, the Minister of Public Works, Housing and Utilities, the Permanent Secretary in the Ministry of Finance, the Collector of Customs and the Director for Department of National Disaster Management and Emergency. The relief afforded will be strictly controlled by:

- limiting the amount to be given;
- setting a time limit for the granting of the relief; and
- establishing any other conditions which are deemed necessary, including the issuance of a certificate by the Department of Disaster Management and Emergency.

4. Scientific and Meteorological Research

Subject to the satisfaction of the Collector of Customs technical and ancillary equipment necessary for conducting scientific research or meteorological observation imported by 'bona fide' persons or organisations approved by the Director of Environmental and Coastal Resources.

For purposes associated with Statutory Bodies

5. Statutory Bodies

Subject to the satisfaction of the Collector of Customs and with the written approval of the Head of the organisation or his/her delegated nominee, goods imported solely for the use by the Tourist Board, the National Insurance Board, TC Investment Agency or any other statutory body in the Turks and Caicos Islands for use solely and exclusively in the course of the business of the organisation.

6. National Trust

Subject to the satisfaction of the Collector of Customs and with the written approval of the Director of the National Trust, any plant, machinery, apparatus, appliances, equipment and/or materials imported by the Turks and Caicos National Trust for use solely and exclusively in fulfilling the aims and objectives of the organisation.

For purposes associated with Non-Profit Making Organisations (NPO), Youth Organisation and Sports Clubs

7. Charities

Subject to the satisfaction of the Collector of Customs and with the written approval of the Head of the organisation or his/her designated nominee, the importation of goods – whether as gifts or otherwise – in support of the activities of any charitable or service institution in the Turks and Caicos Islands, subject to the following conditions:

- The institution must be registered with the Financial Services Commission as a non-profit making organisation;
- The goods imported must be used exclusively to promote the principal aims and objectives of the charitable or service organisation in enhancing the health, education and welfare of the community in the Turks and Caicos Islands.

The relief may extend to the importation of motor vehicles but will be subject to the following conditions. The vehicle must be:

- For the sole and exclusive use of the organisation and may not be lent, hired or used by any other individual or organisation;
- Duty paid if disposed of within five years of the date of importation;
- Clearly marked with the name of the charitable organisation.

8. Youth Organisations

Subject to the satisfaction of the Collector of Customs and with the written approval of the Head of the organisation or his/her designated nominee the importation of goods, including uniforms and equipment – in support of the activities of the Boy Scout's Organisation, the Girl Guides Association or any other 'bona fide' youth organisation registered with the Ministry of Education, Youth, Sports and Culture.

The relief does not extend to the importation of motor vehicles.

9. Sports Clubs

Subject to the satisfaction of the Collector of Customs and with the written approval of the Head of the organisation and his/her designated nominee the importation of goods in support of the activities of any 'bona fide' sports club or organisation registered with the Ministry of Education, Youth, Sports and Culture and not imported for sale or hire.

The relief does not extend to the importation of motor vehicles.

For purposes associated with Culture

10. Museums

Subject to the satisfaction of the Collector of Customs and with the written approval of the Curator of the Museum or his designated nominee the importation of all plant, machinery, apparatus, appliances, equipment, materials (including office stationery) artefacts and exhibits used solely and exclusively for the operation, renovation, repair, extension or maintenance of the Museum, including the advancement of specific cultural and historical programmes to the community.

The relief may extend to the:

- (a) The importation of items for resale that are related in theme or context to exhibits, displays, and artwork directly associated with the museum;
- (b) The importation of a motor vehicle subject to the following conditions:
 - For the exclusive use of the organisation and persons in their employ;
 - May not be lent, hired or used by any other individual or organisation;
 - Duty paid if disposed of within five years of the date of importation;
 - Clearly marked with the name of the museum.

11. Festivals and Other Cultural Activities

Subject to the satisfaction of the Collector of Customs and with the written approval of the Director of Culture in the Ministry of Education, Youth, Sports and Culture, or his/her designated nominee, the importation of goods in support of any cultural activities undertaken in the Turks and Caicos Islands, including festivals, pageants, plays, literary, historical or similar events.

The relief does not extend to the importation of motor vehicles.

For purposes associated with Tourism

12. Taxis

Subject to the satisfaction of the Collector of Customs the importation of motor vehicles for use as taxis or other passenger carrying compliances subject to the following conditions:

- The importer must be a registered business licence holder for the operation of a taxi or other passenger carrying automobiles;
- The vehicle must be:
 - Registered with the Road Traffic Department in the Turks and Caicos as a taxi or passenger carrying vehicle;
 - Clearly marked as a taxi or passenger carrying vehicle with the name, address and telephone number of the user;
 - Used solely by the operator or his nominated employee and must not be lent, hired or used by any other individual or organisation;
 - Duty paid if disposed of within five years of the date of importation.

13. Sports Fishing

(1) The following goods imported by the holder of a valid business licence and sports fishing licence issued under the Fisheries Protection Regulations, 1989 as amended and intended solely for use in the commercial tourism industry:

- (a) Fishing nets and gear for fishing nets;
 - (b) Fishing lines of all types;
 - (c) Fish hooks;
 - (d) Seine twine and synthetic netting twine;
 - (e) Fish wire;
 - (f) Net preservative (other than linseed oil);
 - (g) Live fishing bait.
- (2) The following goods imported by the holder of a business licence, together with a valid sports fishing licence and commercial sports fishing boat licence, issued under the Fisheries Protection Regulations, 1989 as amended and intended for use solely in the commercial tourism industry –
- (a) Deck equipment, including line haulers, pot haulers, capstans, winches, trolling gurdies, hand-line reels, and rope-leads and fairleads used with such equipment;
 - (b) Life-saving equipment, including jackets, life buoys, buoyant apparatus, inflatable rubber dinghies and distress flares;
 - (c) Swivels;
 - (d) Sea-anchors, sails and sail canvas;
 - (e) Navigational equipment, including compasses, sextants, radio direction finders and station pointers;
 - (f) Any boat, specifically rigged, fitted or constructed for commercial sports fishing, and any equipment exclusively for such a boat, and any material for the construction or repair of such a boat.
- (3) The relief allowed in paragraph 2(f) above is subject to the following conditions. The vessel:
- Must be used solely and exclusively for sports fishing, as defined in the Fisheries Protection Regulations as amended;
 - Used solely by the operator or his designated employee and must not be lent, hired or used by any other individual or organisation;
 - Duty paid if disposed of within five years of the date of importation.
- (4) All imported goods for use in the commercial sports fishing industry – outlined in subparagraphs (1) and, (2) above, will be subject to the satisfaction of the Collector of Customs.

For purposes associated with Exports

14. Machinery for Exports

Importation of machinery and parts of machinery intended to be used in the manufacture or preparation of any product intended to be exported from the Islands – subject to the satisfaction of the Collector of Customs.

15. Containers and Packaging Materials

Subject to the satisfaction of the Collector of Customs, containers and coverings of any kind –

- (a) For the packaging or covering of any products for export;

(b) Used for the packaging or covering of any such produce and returned to the Islands empty;

(c) Which imported goods are normally packaged in or covered.

Provided that, in the case of standard 20 foot and 40 foot shipping containers and other similar commercial containers suitable for repetitive use, such containers are re-exported within two months of importation.

For purposes associated with Aviation

16. Aircraft and Aerodromes

The following goods which are intended for use in connection with aircraft used under a valid licence or permit granted under the Air Transport (Licensing of Air Services) Regulations 1953 (published as a supplement to the Jamaica Gazette of 17 July 1953) or any Regulation replacing those Regulations of 1953 or in connection with the use for civil aviation purposes of any airport to which the Airports Authority Ordinance, 2005 applies—

- (a) Accessories and instruments necessary for the navigation of aircraft;
- (b) Machinery and equipment necessary for the repair and maintenance of aircraft;
- (c) Equipment imported solely for use in any aircraft in flight operating between the Islands and any place outside the Islands or between places in the Islands;
- (d) Machinery, equipment, appliances and materials imported for the construction, maintenance or improvement of airports;
- (f) Lubricants and fuel imported and taken out of bond solely for use in aircraft.

For purposes associated with the Commercial Fishing Industry

17. Commercial Fishing

1. The following goods imported by the holder of a valid commercial fishing licence and intended solely for use in the commercial fishing industry as defined in the Fisheries Protection Regulations, 1989—

- (a) Fishing nets and gear for fishing nets;
- (b) Fishing lines of all types;
- (c) Fish hooks;
- (d) Seine twine and synthetic netting twine;
- (e) Fish wire;
- (f) Net preservative (other than linseed oil);
- (g) Live fishing bait

2. The following goods imported by the holder of a valid commercial fishing licence and a valid commercial fishing boat licence, issued under the Fisheries Protection Regulations 1989 and intended solely for use solely in the commercial fishing industry as defined in those Regulations—

- (a) Deck equipment, including line haulers, pot haulers, capstans, winches, trolling gurdies, hand-line reels, and rope-leads and fairleads used with such equipment;

- (b) Life-saving equipment, including jackets, life buoys, buoyant apparatus, inflatable rubber dinghies and distress flares;
 - (c) Swivels;
 - (d) Sea-anchors, sails and sail canvas;
 - (e) Navigational equipment, including compasses, sextants, radio direction finders and station pointers;
 - (f) Any boat, specifically rigged, fitted or constructed for commercial fishing, and any equipment exclusively for such a boat, and any material for the construction or repair of such a boat.
3. All vessels used in the commercial fishing industry must have the registered number prominently displayed on both sides of the vessel for identification purposes.
4. The relief allowed in paragraph 2(f) above is subject to the following conditions. The vessel:
 - Must be used solely and exclusively for commercial fishing, as defined in the Fisheries Protection Regulations as amended;
 - Used solely by the operator or his designated employee and must not be lent, hired or used by any other individual or organisation;
 - Duty paid if disposed of within five years of the date of importation.
5. All imported goods for use in the commercial sports fishing industry – outlined in subparagraphs (1) and, (2) above, will be subject to the satisfaction of the Collector of Customs.

For the purposes of Health, Education and Social Welfare

18. Health and Veterinary Practitioners

Subject to the satisfaction of the Collector of Customs and upon written request, drugs and medicines (including vaccines, serums, antibiotics and anti-toxins, etc.), appliances, instruments and other medical equipment imported by a health practitioner for the time being registered as such under Schedule 3 of the Health Practitioners Ordinance.

Provided the items are intended to be used, administered or supplied by him in the course of the practice of the profession in respect of which he is so registered or approved.

19. Disabled and Specially Challenged Persons

Goods for the relief or rehabilitation of disabled or specially challenged persons registered with the Department of Special Needs in the Ministry of Health as being permanently disabled bodily or mentally and provided that the goods are being imported specifically to contribute to the care and physical comfort of the disabled and specially challenged persons – subject to the satisfaction of the Collector of Customs.

20. Education

Subject to the satisfaction of the Collector of Customs and upon the written application of the Principal of the educational establishment or designated nominee, educational goods (other than any item of school uniform or any goods for resale), including textbooks, writing materials and school equipment - such as games and physical training equipment which are imported solely for use in an educational establishment in the Islands approved by the Ministry of Education.

The relief may extend to the importation of a passenger carrying motor vehicle but subject to the following conditions. The vehicle must be:

- Imported or the exclusive use of the school;
- Used solely for the carriage of students and their teachers;
- Duty paid if disposed of within five years of the date of importation; and
- Be clearly marked with the name of the educational establishment.

The vehicle must not be lent, hired or used by any other individual or organisation.

For the purposes of Foreign, Diplomatic or Consular Missions and Similar Organisations

21. H.E. Governor

Goods imported or taken out of bond by or on behalf of the Governor, either for official use or for the personal or household use of himself and members of his immediate family.

22. Diplomatic and similar organisations

Goods for the official use of any of the following persons and the personal and household effects (including one motor car) of any such person or of his spouse or any other person wholly or mainly maintained by him or in his custody, charge or care –

- (a) The head or any member of any foreign, diplomatic or consular mission of any country, on condition that he is not engaged in any other business or profession and that a similar privilege is accorded by such country to a corresponding British or TCI mission;
- (b) An official of the United Nations Organisation or of any of its associated agencies assigned to carry out any functions in the Islands in connection with any programme or project of the United Nations Organisation or of any of its associated agencies.

For the purposes of Churches and any other religious bodies registered with the Financial Services Commission as non-profit making Organisations

23. Churches

- (a) Subject to the satisfaction of the Collector of Customs, goods of a non-consumable nature imported solely for the construction, repair, use, furnishing or decoration of places of divine worship, including a motor vehicle for the exclusive use of the Pastor or Head of the religious body and a passenger carrying vehicle for the carriage of members of the congregation.

A vehicle imported for use by the Pastor or Head of the religious body is subject to the following conditions:

- A maximum import value (landed cost) of \$25,000 USD;
- Must be for his/her exclusive use or that of his/her immediate family;
- Duty paid if disposed of within five years of the date of importation.

A vehicle imported for the carriage of members of the congregation is subject to the following conditions:

- Minimum of twelve (12) seats;

- Used for the exclusive use of the congregation and may not be hired, lent or used by any other individual or organisation;
 - Clearly marked with the name of the religious organisation; and
 - Duty paid if disposed of within five years of the date of importation.
- (b) Alter bread and wine imported solely for the purposes of administering the Sacrament;
- (c) Vestments;
- (d) Other goods in support of specific charitable activities of the religious body (e.g. festivals, fairs, public events, etc.) – subject to the satisfaction of the Collector of Customs.

For the purposes of Technical Co-operation Officers and Expatriate Contract Officers

24. Technical Co-operation Officers and Expatriate Contract Officers

Personal and household goods (including one motor vehicle per household (but excluding boats, aircraft, foodstuffs, tobacco products, perfumes or other spirits, wines or beer) imported for use of an officer, who is either—

- (a) Employed by Her Majesty's Government and seconded to the Government of the Turks and Caicos islands for a period of residential service in the Islands; or
- (b) A person recruited by the Government of the Turks and Caicos islands under a contract of service for a period of residential service in the Islands:

Provided that—

- (i) Any such goods shall be imported within a period of six months from the date of the officer's first arrival in the Islands;
- (ii) The goods are, on importation, declared to the proper officer;
- (iii) The goods are intended solely for his/her personal use or the use of his/her spouse or any person wholly or mainly maintained by him/her or in his/her custody, charge or care;
- (iv) Only one motor vehicle may be imported solely for the personal use of the officer and his/her family during their stay in the Islands;
- (v) Where not exported, such goods shall not be sold, given, lent or otherwise disposed of in the Islands unless the Collector shall have first been notified thereof and the appropriate customs import duty shall have been paid thereon;

Provided that such goods may, subject to the Collector being notified, be disposed of to another person entitled to an exemption under this paragraph without duty thereon being paid, in which case such other person shall be bound by the conditions of this exemption as if he/she had originally imported the goods;

- (vi) The Collector may, in any case where he sees fit, require payment of a deposit or other security for the duty payable thereon until such time as the goods are exported from the Islands or the duty thereon is paid.

For the purposes of persons moving permanently to the islands and returning residents

25. Personal effects imported by persons moving permanently to the Islands, or returning to the Islands after a period of absence abroad.

Goods (excluding motor vehicles, boats, aircraft, foodstuffs, tobacco products, perfumes or other spirits, wines or beer) imported by a person moving to the Islands or a person returning to the Islands after a period of absence abroad – including students, whether or not carried with them or contained in their accompanied baggage, on condition that—

- (a) The goods are intended solely for his/her personal use or the personal use of his/her spouse or any other person wholly or mainly maintained by him or in his custody, charge or care;
- (b) The goods are, on importation, declared to the proper officer;
- (c) At the time of his/her entry, the person importing the goods intends to remain in the Islands for a period of not less than twelve months from the date of his/her entry;
- (d) In the case of a person returning to the Islands, that the person has lived for a period of at least 365 days outside the islands or in the case of a student has attended a course of study for a minimum of two years;
- (e) Save as the Collector may otherwise permit, the goods shall be imported within 6 months of the date of his/her entry to the Islands;
- (f) The goods have been both owned and used outside the Islands by the person importing them for periods together amounting to—
 - (i) In the case of clothing, footwear and household textile goods (except carpets and rugs) of any value not exceeding \$500, not less than three months;
 - (ii) In all other cases, not less than twelve months;

Provided that the person importing them has been outside the Islands throughout the relevant period of ownership referred to in sub-paragraph (i) or (ii);

- (g) The goods are not sold or otherwise disposed of within twelve months from the date on which they were imported.

In addition to the exemption afforded by sub-paragraph (1), goods other than tobacco products, perfumes or other spirits or wine purchased outside the Islands and contained in the accompanied baggage or carried by a person entering the Islands for the first time, on the conditions set out in subparagraphs (1)(a), (b), (c), (e) and (g).

Other Exemptions

26. Approved Sewage Treatment Systems

Subject to the satisfaction of the Collector of Customs, the importation of septic tanks and mechanical sewage treatment plants classified under tariff code 8421.240 and of a type approved by the Department of Environmental Health.

27. Promotional Materials and Samples

Subject to the satisfaction of the Collector of Customs, the importation of limited quantities of promotional materials and samples for free distribution to members of the public and not for resale.

The relief does not extend to items classified under Chapters 22 and 24 of the Tariff.

28. Customs Ordinance 1991, section 70

Any goods imported by any person or category of persons may be exempted from the payment of import duty – in full or in part – by the Minister of Finance under section 70 *et seq* of the Customs Ordinance – subject to the specific conditions appended thereto.

29. Other Legislative Exemptions

Any goods imported by any person or category of persons in relation to which a full or partial relief from the payment of duty is allowed by virtue of any enactment, other than the Customs Ordinance.

**CUSTOMS (DEFERMENT OF PAYMENT OF DUTY)
DIRECTION – SECTION 72**

(Legal Notice 32/1996)

Commencement

[1 April 1996]

Short title

1. This Direction may be cited as the Customs (Deferment of Payment of Duty) Direction.

Deferment of payment of duty

2. Any goods may, with the consent of the Collector, be imported into the Islands without payment of all or any part of the duty deferred subject to the following conditions—

- (a) that the importer or his agent are approved by the Collector as a person allowed to defer payment of duty;
- (b) that the goods are on importation declared to the proper officer for deferment of payment;
- (c) that security to cover the amount of duty deferred is given in the form numbered C4 that is annexed to this Direction;
- (d) that payment is made by the date specified by the Collector; and
- (e) that any other conditions the Collector may see fit to impose are complied with.

Offence

3. If any person fails to comply with any condition imposed by this Direction he commits an offence and is liable on conviction to a fine of \$5,000 or three times the value of the goods, whichever is greater, and the goods concerned in the offence shall be liable to forfeiture.



**Guarantee for Payment of Sums Due
to the Collector of Customs**

(Section 71 of the Customs Ordinance)

To: Collector of Customs, Customs Department, South Base, Grand Turk

Account Holder Number (To be completed by the applicant if approval number is held)

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The following sections are to be completed by the Guarantor

1. **Name and address of Guarantor**

Guarantor's stamp

--

--

Telephone number

--

Guarantor's reference

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2. In consideration of the Collector of Customs ("the Collector") allowing payment of duties, taxes, levies, charges, amounts and deposits in respect of the same to be deferred to prescribed payment days by

Name of applicant

Address of applicant

--

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Name of Guarantor

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("The Guarantor") agrees with the Collector as follows:—

- a) The Guarantor guarantees to pay the Collector IMMEDIATELY ON DEMAND each and every sum for which deferment is allowed during the continuance of this guarantee.
- b) Any time or other indulgence granted by the Collector to the applicant in connection with the payment of any amount or observance of any condition or any failure to collect payment of any deferred sum shall not in any way affect this guarantee.

3. The liability of the Guarantor shall be limited as follows:

- a) In any (period of time to be inserted by Customs Department) liability in respect of sums for which deferment is allowed shall not exceed the amount of:

Amount in words

Amount in figures

	U.S. Dollars	
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- b) The overall liability of the Guarantor shall not exceed twice the amount set out in subparagraph 3(a) above.

It is hereby stated that 'calendar month' means one of the twelve unequal divisions of a calendar year.

4. If not less than seven days written notice of termination of guarantee is given by the Guarantor to the Collector by delivery to the address provided above then all further liability shall cease as from the date of expiry of this notice or such earlier date within the period of such notice as the Collector may allow except for any liability arising hereunder before that date.

5. This guarantee shall commence on:

Day	Month	Year
		20

6. This section should only be completed if this guarantee is replacing earlier guarantee(s) and the total amount of the earlier guarantee(s) does not exceed the amount of this guarantee.

Such sums as were deferred during the continuance of the guarantee(s) scheduled below in the total amount of:

\$ (the earlier guarantee(s)) and which remain unpaid upon the

commencement of this guarantee shall be treated as sums for which deferment is allowed immediately after the commencement of this guarantee. The provisions limiting the guarantor's liability contained in paragraph 3(a) shall not apply to such sums.

Schedule of earlier guarantees

	Dated	Given by (Name of Guarantor)	In the amount of \$
1			
2			
3			
4			
Total amount of earlier guarantee(s)			

7. This section should only be completed if this guarantee is supplementing an existing guarantee.

This guarantee supplements the guarantee dated

Day	Month	Year
		20

and shall remain in force until the last day of

Month	Year
	20

unless seven days written notice of termination is given in accordance with paragraph 4.

8. This section to be completed by Guarantor in all cases.

Dated this day of 20

Name of Guarantor

For

Signature

Status of signatory

Form C4 (6/95)

**CUSTOMS (DUTY FREE SHOPS)
DIRECTION – SECTION 68**

(Legal Notice 31/1996 and 10/2007)

Commencement

[1 April 1996]

Short title

1. This Direction may be cited as the Customs (Duty Free Shops) Direction.

Interpretation

2. In this Direction—

“form” means one of a series of numbered forms specified in the Schedule or available from the proper officer;

“the principal Regulations” means the Customs (Duty Free Shops) Regulations.

Forms

3. (1) The warehouse register defined in regulation 2 of the principal Regulations shall be in Form No. C20 or in such other form as the Collector may permit.

- (2) The duty free retail certificate issued under regulation 3 of the principal Regulations shall be in Form No. C8.

- (3) The records required to be kept under regulations 3(4) and 6(2) of the principal Regulations shall be in Form No. C20 or in such other form as the Collector may permit.

- (4) The record referred to in regulations 3(4)(c), (d) and (e) and 6(3) of the principal Regulations shall be in Form No. C21 or in such other form as the Collector may permit.

- (5) The invoice referred to in regulation 6(6) of the principal Regulations shall be in Form No. C22 or in such other form as the Collector may permit.

- (6) The summary of sales referred to in regulation 6(7) of the principal Regulations shall be in Form No. C23 or in such other form as the Collector may permit.

SCHEDULE

(Section 2)

INDEX TO FORMS

<i>Form number and title</i>	<i>Section of Direction where mentioned</i>
C 8: Duty Free Shop Certificate	3(2)
C 22: Sales Invoice	3(5)
C 23: Sales Summary	3(6)



Turks and Caicos Islands Government
Customs Department
Duty Free Shop Certificate
Section 67, Customs Ordinance

Certificate Number:

Name of Operator:

Trading Name (if different):

Address of Operator:

Registered Address of Company:

Location of Store:

Location of Bonded Warehouse:

Class(es) or Type(s) of Goods:

I,, (Collector of Customs) am satisfied that the operator, whose details are shown above, has complied with the requirements of Regulation 3(2) of the Customs (Duty Free) Shops Regulations. This Certificate is issued on the condition that the operator continues to comply with those requirements and any other requirements or conditions which may be made under Section 67 of the Customs Ordinance.

Issued on this day of 20.....

Signed:

(Collector of Customs)

(Date Stamp or Seal)

Form C8(6/95)

Form C22

SALES INVOICE

Name and Address of Operator:				Invoice Number:	
.....					
.....					
Name of Purchaser:			Date:		
Flight Number:		Date:		Ticket Number:	
Destination:			Place of Sale:		
FOLIO	REF	QTY	DESCRIPTION	PRICE	OFFICIAL USE
TOTAL					

Form C23

SALES SUMMARY

Name and Address of Operator					
.....					
Place of Sale:					
Date:					
Sales Summary No:					
Invoice No.	Date	Amount	Invoice No.	Date	Amount
SUB-TOTAL			SUB-TOTAL		
GRAND TOTAL					
Signed: (For Operator)					
FOR OFFICIAL USE					
Total SalesRoyalty @ % =					
Signed(Officer) Official Receipt No:					

CUSTOMS (DUTY FREE SHOPS) REGULATIONS – SECTION 68

(Legal Notices 24/1996, 21/2014, 53/2015 and Ordinance 16 of 2011)

Commencement

[1 April 1996]

Short title

1. These Regulations may be cited as the Customs (Duty Free Shops) Regulations.

Interpretation

2. In these Regulations—

“certificate” means a duty free retail certificate issued under regulation 3;

“duty free goods” means goods subject to a duty of customs sold without payment of that duty at a duty free shop;

“duty free shop” means any premises approved by the Collector for the sale of goods intended for export or re-export on which any duty payable has not been paid;

“operator” means the person granted a certificate by the Collector to operate a duty free shop;

“purchaser” means any person buying duty free goods from an operator;

“royalty” means the charge payable under regulation 5;

“warehouse register” means a written record, in such form and containing such particulars as the Collector may direct, of all goods received at, stored in or delivered from a warehouse.

Duty free retail certificate

3. (1) No person shall sell duty free goods unless he holds a valid certificate issued by the Collector.

(2) The Collector may grant a certificate upon application by an operator if he is satisfied that the proposed operator—

(a) is either—

(i) the occupier of a warehouse in accordance with section 55 of the Ordinance; or

(ii) has entered into any agreement approved by the Collector with such an occupier for the safe storage of goods;

(b) is the occupier of a shop approved by the Collector for the safe storage of goods removed from the warehouse specified in paragraph (a) to meet the operator’s short term retail requirements;

(c) provides security in such sum and such manner as the Collector shall require; and

(d) has complied with all requirements as to licences and otherwise relating to the operation of a shop selling goods of a description which the operator seeks to offer for sale.

(3) A certificate granted in accordance with subregulation (2) shall contain—

(a) the name of the operator;

- (b) the trading name of the business;
- (c) the address and place of business of the operator and, if the operator is a limited company, the address of its registered office;
- (d) the address at which the duty free goods are to be offered for sale;
- (e) the address of the warehouse; and
- (f) the class or classes of goods to be offered for sale.

(4) Upon being granted a certificate by the Collector, an operator shall keep such records as the Collector may direct relating to—

- (a) goods received into the warehouse;
- (b) goods in the warehouse;
- (c) goods transferred from the warehouse to the duty free shop;
- (d) goods in the duty free shop; and
- (e) goods sold from the duty free shop to a purchaser.

(5) A certificate shall be deemed to be cancelled—

- (a) if subregulation (2) is not complied with;
- (b) if the whole or any part of the operator's business relating to the supply of duty free goods is assigned;
- (c) where the operator is a company, if there is any material change in the shareholders of the company, or if the company is wound up either voluntarily or compulsorily, or a receiver of its property is appointed.

(6) The Collector may revoke a certificate if the operator fails—

- (a) to keep records as required by the Collector under these Regulations;
- (b) to pay any sum due from him under these Regulations on the due date;
- (c) to deliver duty free goods to a purchaser; or
- (d) to comply with any other provision of these Regulations.

Duty not payable if regulations complied with

4. The import and export duties imposed by the Customs Tariff (General) Order shall not apply to goods if sold for export by an operator in accordance with these Regulations.

Royalty

5. An operator shall pay a royalty—

- (a) of 10% of the selling price of alcohol and tobacco goods sold by him within the limits of a customs airport or seaport; (*Amended by Ord. 16 of 2011*)
- (b) of 4.5% of the value of duty free goods on importation in relation to the following class or description of goods—

- (i) jewellery, including platinum, gold, silver, silver plated, gold plated, with or without gemstones or semi-precious stones, except jewellery bearing the labels of Michael Kors, Swarovski and Pandora, of a minimum value of \$100;
- (ii) cologne and perfumes of a minimum value of \$15;
- (iii) chinaware of a minimum value of \$40;
- (iv) watches of a minimum value of \$75;
- (v) sunglasses of a minimum value of \$75;
- (vi) writing instruments, except the ones bearing the label of Swarovski, of a minimum value of \$30; and
- (vii) leather items, except the ones bearing the label of Guess and Land, of a minimum value of \$50. (*Substituted by L. N. 21 of 2014 and amended by L. N. 53/2015*)

Accounting for duty free goods before export

6. (1) The importer of any goods which are to be offered for retail sale as duty free goods shall make an entry of those goods in such form and manner and containing such particulars as the Collector may direct, in accordance with the Customs (Entry Form) Direction.

(2) All imported goods which are to be offered for retail sale as duty free goods shall be placed by the operator in the warehouse specified in regulation 3(2)(a), and the warehouse records, as specified by the Collector, duly completed.

(3) Before removal of duty free goods from the warehouse to the duty free shop the operator shall present an entry or other transfer document in such form and manner as the Collector may direct, and upon the approval of the transfer by the Collector may transfer the goods from the warehouse to the duty free shop.

(4) The operator shall maintain a record of deliveries into and out of the duty free shop of duty free goods in such form and manner as the Collector may direct.

(5) Duty free goods shall only be removed from the duty free shop as follows—

- (a) after sale and delivery in accordance with these Regulations; or
- (b) after entry for home use and payment of duty in accordance with the Ordinance.

(6) Upon the sale of any duty free goods such as alcohol or tobacco for export the operator shall complete an invoice in such form and manner as the Collector may direct, and issue the original invoice to the purchaser upon production to the operator of such evidence of identity and intended departure as the Collector may require. (*Amended by L.N. 10/2007*)

(7) The operator shall supply a summary of sales and one copy of each invoice listed on the summary and the full amount of the royalty payable at such time and in such form and manner as the Collector may direct.

Sale, delivery and export of duty free goods

7. (1) After sale duty free goods shall be delivered to the purchaser by the operator in a sealed package or other container with two copies of the sales invoice attached—

- (a) in the case of alcohol or tobacco goods, at the port or airport of exit; or
- (b) in the case of any other class or description of goods, at the duty free shop,

save that alcohol and tobacco goods shall not be delivered at a duty free store to any purchaser who is normally resident in the Islands. (*Amended by L.N.10/2007*)

(2) The Collector may supervise and verify the export of any goods delivered in accordance with subregulation (1) and may retain one copy of the invoice.

(3) The Collector may verify the details of any goods exported as duty free goods and the royalty payable against the relevant sales summary and invoice and shall demand payment of import or export duty, as appropriate, in respect of any goods shown on the sales summary or invoice to have been sold, but which are not delivered in accordance with subregulation (1).

Stock reconciliations

8. (1) The Collector may carry out a reconciliation, at such intervals as he may determine, of the stock contained in the warehouse or duty free shop.

(2) An operator shall store stock in such manner as the Collector may require.

(3) In the event of any discrepancy between the records of goods received, goods sold and the stock remaining in the operator's warehouse or duty free shop, the operator shall forthwith become liable to pay the full import and export duty due.

Offence

9. Without prejudice to any other action that may be taken against him under the Ordinance or any other enactment relating to any assigned matter, any person who fails to comply with any requirement of these Regulations commits an offence and is liable on conviction to a fine of \$5,000 and the goods concerned in the offence shall be liable to forfeiture.

**CUSTOMS (ENDANGERED SPECIES) (IMPORTATION AND EXPORTATION
PROHIBITION) ORDER – SECTION 99**

(Legal Notice 28/1992)

Made under the Customs Ordinance 1970 and continued in force.

Commencement

[10 July 1992]

Short title

1. This Order may be cited as the Customs (Endangered Species) (Importation and Exportation Prohibition) Order.

Interpretation

2. (1) For the purposes of this Order an individual of the family Hominidae (man) is not an animal.

(2) In this Order a reference to a dead animal of any particular kind includes a reference to the body of an animal of that kind—

(a) which is frozen, dried or preserved by chemicals; or

(b) which, although not complete (whether because it has had the whole of its inside removed and has been stuffed, or for any other reason), is substantially complete and externally substantially resembles the complete body of an animal of the kind concerned.

(3) In this Order a reference to a dead plant of any particular kind includes a reference to a plant of that kind—

(a) which is frozen, dried or preserved by chemicals; or

(b) which, although for any reason not complete, is substantially complete and externally substantially resembles a complete dead plant of the kind concerned.

Prohibition of importation and exportation of certain animals and plants

3. The importation and the exportation of the following goods are prohibited, namely—

(a) a live or dead animal of any of the kinds to which Schedule 1 to this Order for the time being applies;

(b) a live or dead plant of any of the kinds to which Schedule 2 to this Order for the time being applies; and

(c) an item to which Schedule 3 to this Order for the time being applies.

SCHEDULE 1

(Paragraph 3 (a))

ANIMALS THE IMPORTATION AND EXPORTATION OF WHICH ARE PROHIBITED

MAMMALS

1. All kinds of mammal except the kinds specified in the first column below—

Excepted kind	Common name or names
	Marsupials
Macropus giganteus	Eastern grey kangaroo
Macropus fuliginosus	Western grey kangaroo
	Insectivores
Talpa europaea	Common European mole
	Rabbits
Oryctolagus cuniculus	European rabbit (otherwise known as domestic rabbit)
	Rodents
Castor canadensis	Canadian beaver
Rattus norvegicus	Common rat (otherwise known as laboratory rat)
Mus musculus	House mouse (otherwise known as laboratory mouse)
Any domestic form of Mesocricetus auratus	Domestic golden hamster
Any domestic form of Ondatra zibethicus	Domestic muskrat (otherwise known as musquash)
Any domestic form Cavia	Domestic guinea pig
Any domestic form Chinchilla laniger	Domestic chinchilla
	Carnivores
Canis familiaris	Domestic dog
Vulpes vulpes	Common fox and silver fox
Procyon lotor	North American raccoon
Procyon cancrivorus	Crab-eating raccoon
Mustela vison	North American mink
Mustela furo	Domestic ferret
Martes zibellina	Sable
Felis catus	Domestic cat
	Odd-toed ungulates

Equus caballus	Domestic horse
Equus asinus	Domestic donkey
Equus caballus asinus	Mule and Hinny
	Even-toed ungulates
Any domestic form of Sus scrofa	Domestic pig
Lama glama	Domestic llama
Lama pacos	Domestic alpaca
Any domestic form of Camelus bactrianus	Domestic bactrian camel
Camelus dromedarius	Arabian camel
Dama dama	European fallow deer
Cervus elaphus (except Cervus elaphus bactrianus, Cervus elaphus hanglu and Cervus elaphus barbarus)	Red deer (except Bactrian deer, the Kashmir stag and Barbary deer)
Any domestic form of Rangifer tarandus	Domestic reindeer
Capreolus capreolus	Roe deer
Any domestic form of Bubalus bubalis	Domestic water buffalo
Bos taurus	Domestic ox
Bos indicus	Domestic zebu
Bos frontails	Domestic gayal
Any domestic form of Bos grunniens	Domestic yak
Any domestic form of Capra hircus	Domestic goat
Ovis aries	Domestic sheep

BIRDS

2. All kinds of birds except the kinds specified in the first column below—

	Waterfowl
Any domestic form of <i>Anser anser</i>	Domestic goose
Any domestic form of <i>Anser cygnoides</i>	Chinese goose
<i>Cairina moschata</i>	Muscovy duck
Any domestic form of <i>Anas platyrhynchos</i>	Domestic duck
	Gamebirds
<i>Lophortyx californica</i>	California quail
<i>Excalfactoria chinensis</i>	Painted quail (otherwise known as blue-breasted quail)
<i>Bambusicola thoracica</i>	Bamboo partridge
<i>Gallus gallus</i>	Red jungle fowl and domestic fowl
<i>Rollulus rouloul</i>	Rouloul partridge
<i>Phasianus colchicus</i>	Common pheasant (otherwise known as ring-necked pheasant)
<i>Phasianus versicolor</i>	Green pheasant
<i>Pavo cristatus</i>	Indian peacock (otherwise known as blue peacock)
<i>Numida</i>	{
<i>Guttera</i>	{Spotted guineafowls
<i>Acryllium</i>	{
Any domestic form of <i>Meleagris gallopavo</i>	Turkey
	Cranes
<i>Grus antigone</i>	Sarus crane
<i>Balearica pavonina</i>	Crowned crane
	Rails
<i>Laterallus leucopyrrhus</i>	Red and white crake

	Pigeons and doves
Any domestic form of <i>Columbia livia</i>	Domestic pigeon
<i>Columba palumbus</i>	Wood pigeon
<i>Streptopelia orientalis</i>	Rufous turtle dove
<i>Streptopelia bitorquata</i>	Javanese turtle dove
<i>Streptopelia capicola</i>	Ring-necked dove (otherwise known as Cape dove)
<i>Streptopelia tranquebarica</i>	Red turtle dove
<i>Streptopelia chinensis</i>	Spotted dove
<i>Turtur chalcophilos</i>	Green-spotted wood dove
<i>Chalcophaps indica</i>	Green-winged dove
<i>Geopelia striata</i>	Barred dove
<i>Geopelia cuneata</i>	Diamond dove
<i>Ocyphaps lophotes</i>	Crested bronzewing
<i>Phaps chalcoptera</i>	Common bronzewing
<i>Phaps elegans</i>	Brush bronzewing
<i>Zenaida auriculata</i>	Eared dove
<i>Columbina Scardafella</i>	Small American ground doves
	Parrots
<i>Nymphicus hollandicus</i>	Cockatiel
<i>Melopsittacus undulatus</i>	Budgerigar
	Starlings
<i>Lamprotornis</i>	African glossy starlings
<i>Spreo superbus</i>	Superb starling
<i>Sturnus malabaricus</i>	Malabar starling
<i>Sturnus pagodarum</i>	Pagoda starling
<i>Sturnus contra</i>	Pied starling
<i>Sturnus burmannicus</i>	Jerdon's starling
<i>Acridotheres</i>	Typical mynahs
<i>Gracula religiosa</i>	Hill mynah

Garrulus lanceolatus	Corvids
Cyanocorax yncas	Lanceolated Jay
Urocissa erythrorhyncha	Green Jay
Cissa chinensis	Red-billed blue magpie
Dendrocitta vagabunda	Hunting cissa
	Rufous tree-pie
	Babblers
Garrulax albogularis	White-throated laughing-thrush
Garrulax leucolophus	White-crested laughing-thrush
Garrulax monileger	Lesser-necklaced laughing-thrush
Garrulax pectoralis	Greater-necklaced laughing-thrush
Garrulax rufogularis	Rufous-chinned laughing-thrush
Garrulax canorus	Hwamei laughing-thrush
Garrulax sannio	White-browed laughing-thrush
Garrulax erythrocephalus	Red-headed laughing-thrush
Leiothrix argenteauris	Silver-eared mesia
Leiothrix lutea	Pekin robin
Minla cyanouroptera	Blue-winged siva
Heterophasia capistrata	Black-headed sibia
Yuhina	Yuhinas
	Bulbuls
Pycnonotus	Typical bulbuls
	Leafbirds
Chloropsis aurifrons	Golden-fronted fruitsucker
Irena puella	Fairy bluebird
	Thrushes
Copsychus saularis	Asian magpie-robin
Copsychus malabaricus	Shama
Zoothera citrina	Orange-headed ground thrush
	Flycatchers
Niltava sundara	Rufous-bellied niltava

	White-eyes
Zosterops palpebrosa	Oriental white-eye
Zosterops senegalensis	Yellow white-eye
	Troupials
Icterus icterus	Troupial
	Finches
Any domestic form of Serinus canaria	Canary
Serinus atrogularis	Yellow-rumped seed-eater
Carduelis sinica	Chinese greenfinch
Carduelis spinoides	Himalayan greenfinch
Spinus magellanicus	Black-headed siskin
Coccothraustes personatus	Japanese grosbeak
Coccothraustes migraturis	Yellow-billed grosbeak
	Waxbills
Lagonosticta	Firefinches
Estrilda	Typical waxbills
Uraeginthus	Blue waxbills and violet-ears
Hypargos niveoguttatus	Peter's twinspace
Amandava	Avadavats
Ortygospiza atricollis	Quail finch
Erythrura prasina	Paintailed parrotfinch
Lonchura malabarica	Indian silverbill
Lonchura cantans	African silverbill
Lonchura griseicapilla	Pearl-headed silverbill
Lonchura cucullata	Bronze-winged mannikin
Lonchura bicolor	Pied mannikin
Lonchura fringilloides	Magpie mannikin
Lonchura striata	Striated munia and Bengalese finch
Lonchura punctulata	Spotted munia
Lonchura malacca	Black-headed munia
Lonchura maja	White-headed munia
Lonchura castaneothorax	Chestnut-breasted finch
Aidemosyne modesta	Cherry finch (otherwise known as plum-capped finch)
Amadina erythrocephala	Red-headed finch
Amadina fasciata	Cutthroat

<i>Padda oryzivora</i>	Java sparrow
<i>Emblema guttata</i>	Spotted-sided finch (otherwise known as diamond finch)
<i>Neochmia ruficauda</i>	Star finch
<i>Peophilia guttata</i>	Zebra finch
<i>Peophilia bichenovii</i>	Double-barred finch
<i>Peophilia personata</i>	Masked finch
<i>Peophilia aucticauda</i>	Long-tailed finch
<i>Chloebia gouldiae</i>	Gouldian finch
	Weavers
<i>Passer luteus</i>	Golden sparrow
<i>Petronia xanthocollis</i>	Yellow-throated sparrow
<i>Sporopipes squamifrons</i>	Scaly-crowned weaver
<i>Ploceus philippinus</i>	Baya weaver
<i>Ploceus intermedius</i>	Lesser masked weaver
<i>Quelea cardinalis</i>	Cardinal quelea
<i>Euplectes anomalus</i>	Bob-tailed wydah
<i>Euplectes diadematus</i>	Fire-fronted bishop
<i>Euplectes gierowii</i>	Black bishop
<i>Euplectes nigroventris</i>	Black-vented bishop
<i>Euplectes aureus</i>	Golden-backed bishop
<i>Euplectes capensis</i>	Yellow-rumped bishop
<i>Euplectes axillaris</i>	Fan-tailed wydah
<i>Euplectes hartlaubi</i>	Marsh wydah
<i>Euplectes albonotatus</i>	White-winged wydah
<i>Euplectes progne</i>	Long-tailed wydah
<i>Euplectes jacksoni</i>	Jackson's wydah
<i>Vidua paradisaea</i>	Paradise wydah

Buntings

Emberiza tahapisi	Cinnamon-breasted bunting
Emberiza elegans	Yellow-throated bunting
Emberiza flaviventris	African golden-breasted bunting
Emberiza bruniceps	Red-headed bunting
Melophus lathami	Crested bunting
Sicalis flaveola	Saffron finch
Tiaris	Grassquits
Paroria Cardinalis	Cardinals
Cyanerpes	Honeycreepers

REPTILES

3. All kinds of reptile except the kinds specified in the first column below—

Geckos

Hemidactylus brookii	Brook's gecko
Hemidactylus flaviviridis	
Hemidactylus frenatus	Bridled house gecko
Hemidactylus mabouia	Moreau's gecko
Lygodactylus picturatus	
Pachydactylus bibronii	Bibron's clawless gecko
Thecadactylus rapicauda	Turnip-tailed gecko (otherwise known as top-tailed gecko)

Agamids

Agama agama	Margouillat lizard (otherwise known as rainbow lizard)
Agama atricollis	Black-necked agama
Calotes cristatellus	Londok agama
Calotes versicolor	Harlequin lizard (otherwise known as blood-sucker lizard)
Leiolepis belliana	Bell's agama
Physignathus cocincinus	Giant water dragon

	Iguanids
Anolis carolinensis	Carolina anole (otherwise known as green anole)
Tropidurus torquatus	Taraguira lizard (otherwise known as Wied's ring-necked lizard)
	Teiids
Ameiva ameiva	Surinam lizard
	Lacertids
Acanthodactylus boskianus	Daudin's fringe-toed lizard
Acanthodactylus pardalis	Leopard fringe-toed lizard
	Cordylids
Gerrhosaurus flavigularis	Yellow-throated plated lizard
Gerrhosaurus major	
Gerrhosaurus nigrigularis	Black-throated plated lizard
Platysaurus gattatus	
	Skinks
Mabuya mabouya	Raddi's skink
Mabuya multifasciata	Many-banded skink
Mabuya striata	Common two-striped skink
Mabuya varia	Savanna variable skink
	Typical snakes
Boaedon fuliginosus	Common African house-snake
Coluber constrictor	American racer
Drymarchon corais	Indigo snake
Elaphe guttata	Corn snake
Elaphe obsoleta	American rat snake
Lampropeltis getulus	Common king snake
Natrix rhombifera	Rhomb snake
Natrix sipedon	North American water snake
Oxybelis aeneus	American vine snake
Oxybelis fulgidus	Green vine snake
Philothamnus semivariegatus	Variegated bush snake
Spalerosophis diadema	Clifford's snake
Thamnophis sauritus	Ribbon snake
Thamnophis sirtalis	Common garter snake

Terrapins

Chrysemys picta	Painted terrapin
Chrysemys scripta elegans (otherwise known as Pseudemys scripta elegans)	Red-eared terrapin

AMPHIBIANS

4. All kinds of amphibian except the kinds specified in the first column below—

Ambystomam maculatum	American spotted salamander
Ambystoma tigrinum	Tiger salamander

True toads

Atelopus ignescens	
Bufo marinus	Giant toad
Bufo melanostictus	Asian common toad
Bufo regularis	African square-marked toad

Narrow-mouthed frogs

Kaloula pulchra	Malayan bullfrog
	True frogs
Pyxicephalus delalandei (otherwise known as Rana delalandei)	Delaland's burrowing frog

Rana angolensis	Angola frog
Rana cancrivora	Mangrove frog
Rana catesbeiana	American bullfrog
Rana chalconota	

Rhacophorine tree frogs

Polypedates leucomystax (otherwise known as Rhacophorus leucomystax)	Malayan tree frog
	Sedge frogs
Hyperolius concolor	Hallowell's tree frog

Hyperolius nasutus	
Hyperolius picturatus	
Hyperolius pusillus	

Arrow-poison frogs

Dendrobates auratus
Dendrobates
histrionicus

Paradoxical frogs

Pseudis paradoxa

Paradoxical frog

Hylid tree frogs

Hyla boans

Giant tree frog

Hyla cinerea

American green tree frog

Hyla crepitans

Rattle-voiced tree frog

Hyla crucifer

Spring peeper frog

Hyla nasica

Hyla rubra

Daudin's tree frog

Hyla versicolor

Common grey tree frog

Phrynohyas venulosa

Warty tree frog

Smilisca baudini

Mexican tree frog

FISH

5. The kinds of fish specified in the first column below—

Sturgeons

Acipenser brevirostrum

Shortnose sturgeon

Acipenser fulvescens

Lake sturgeon

Acipenser oxyrinchus

Atlantic sturgeon

Acipenser sturio

Common sturgeon

Bonytongues

Arapaima gigas

Arapaima

Scleropages formosus

Asiatic bonytongue

Salmon

Coregonus alpenae

Longjaw cisco

Salmo chrysogaster

Mexican golden trout

Stenodus

Inconnu

leucichthys

Carp and suckers

Caecobarbus geertsi

Blind cave fish

Chasmistes cujus

Cui-ui

Plagopterus argentissimus

Woundfin

Probarbus jullieni

Ikan temoleh

Ptychocheilus lucius

Colorado squawfish

Rhodeus sericeus	Bitterling
	Toothcarp
Cynolebias	}
constanciae	}
Cynolebias	}
marmoratus	}
Cynolebias minimus	} Annual killfish
Cynolebias	}
opalescens	}
Cynolebias	}
splendens	}
Xiphophorus couchianus	Monterey platyfish
	Coelacanth
Latimeria chalumnae	Coelacanth
	Australian lungfish
Neoceratodus forsteri	Australian lungfish
	Catfish
Pangasianodon gigas	Giant catfish
Silurus glanis	Wels (otherwise known as European catfish)
	Perch
Ambloplites rupestris	Rock bass
Lepomis gibbosus	Pumpkin seed (otherwise known as sunfish)
Micropterus salmoides	Large-mouthed black bass (otherwise known as sand perch)
Stizostedion lucioperca	Zander
Stizostedion vitreum glaucum	Blue walleye
	Drumfish
Cynoscion macdonaldi	

INSECTS

6. The kind of insects specified in the first column below—

Butterflies

Ornithoptera	}
Trogonoptera	} Bird wing
Troides	} butterflies
Maculinea arion	Large blue
Parnassius apollo	Apollo butterfly

MOLLUSCS

7. The kinds of mollusc specified below—

Prohibited kind

Mytilus chorus	Marine mussels
----------------	----------------

Freshwater mussels

Conradilla caelata
Cyprogenia aberti
Dromus dromas

Epioblasma florentina curtisi (otherwise known as Dysnomia Florentina curtisi)

Epioblasma florentina florentina (otherwise known as Dysnomia florentina florentina)

Epioblasma sampsoni (otherwise known as Dysnomia sampsoni)

Epioblasma sulcata perobliqua (otherwise known as Dysonomia sulcata perobliqua)

Epioblasma torulosa gubernaculum (otherwise known as Dysnomia torulosa gubernaculum)

Epioblasma torulosa rangiana (otherwise known as Dysnomia torulosa rangiana)

Epioblasma torulosa torulosa (otherwise known as Dysnomia torulosa torulosa)

Epioblasma turgidula (otherwise known as Dysnomia turgidula)

Epioblasma walkeri (otherwise known as Dysnomia walkeri)

Fusconaia cuneolus

Fusconaia edgariana

Fusconaia subrotunda

Lampsilis brevicula

Lampsilis higginsii

Lampsilis orbiculata orbiculata

Lampsilis satura

Lampsilis virescens

Lexingtonia dolabelloides

Plethobasus cicatricosus

Plethobasus cooperianus

SCHEDULE 2*(Paragraph 3(b))***PLANTS THE IMPORTATION AND EXPORTATION
OF WHICH ARE RESTRICTED**

This Schedule applies to the kind of plant specified in the second column below—

Family	Kind
Apocynaceae	Pachypodium
Araceae	Alocasia sanderana Alocasia zebrina
Araliaceae	Panax quinquefolius
Araucariaceae	Araucaria araucana Ceropegia Frerea indica
Byblidaceae	Byblis
Cactaceae	Cactaceae
Caryocaraceae	Caryocar costaricense
Caryophyllaceae	Gymnocarpus przewalskii Melandrium mongolicus Silene mongolica Stellaria pulvinata
Cephalotaceae	Cephalotus follicularis
Chloanthaceae	Australian populations of all species
Compositae	Saussurea lappa
Cupressaceae	Fitzroya cupressoides Pilgerodendron uviferum
Cyatheaceae	Cyatheaceae
Cycadaceae	Cycadaceae
Dicksoniaceae	Dicksoniaceae
Didiereaceae	Didiereaceae
Dioscoreaceae	Dioscorea deltoidea
Euphorbiaceae	Any species of the genus Euphorbia which is a succulent
Fagaceae	Quercus copeyensis
Gentianaceae	Prepusa hookeriana
Gnetaceae	Gnetum montanum
Haemodoraceae	Anigozanthos Macropidia fuliginosa
Humiriaceae	Vantanea barbourii

Juglandaceae	Engelhardtia pterocarpa
Leguminosae	Ammopiptanthus mongolicum Cynometra hemitomophylla Platymiscium pleiostachyum Tachigalia versicolor Thermopsis mongolica
Liliaceae	Aloe
Magnoliaceae	Talauma hodgsonii
Melastomataceae	Lavoisiera itambana
Meliaceae	Guarea longipetiola Swietenia humilis
Moraceae	Batocarpus costaricensis
Myrtaceae	Verticordia
Nepenthaceae	Nepenthes rajah
Orchidaceae	Orchidaceae
Palmae	Areca ipot Chrysalidocarpus decipiens Chrysalidocarpus lutescens Neodypsis decaryi Phoenix hanceana var phillippinensis Zalacca clemensiana
Papaveraceae	Meconopsis regia
Pinaceae	Abies guatemalensis Abies nebrodensis
Podocarpaceae	Podocarpus costalis Podocarpus nerifolius Podocarpus parlatorei
Portulacaceae	Anacampseros
Primulaceae	Cyclamen
Proteaceae	Banksia Conospermum Dryandra formosa Dryandra polycephala Orothamnus zeyheri Protea odorata Xylomelum
Rubiaceae	Balmea stormae
Rutaceae	Boronia Crowea Geleznovia verrucosa
Sarraceniaceae	Darlingtonia californica Sarracenia alabamensis alabamensis Sarracenia jonesii Sarracenia oreophila

Saxifragaceae (Grossulariaceae)	Ribes sardoum
Solanaceae	Solanum sylvestre
Stangeriaceae	Basiloxylon excelsum
Tetracentraceae	Tetracentraceae
Thymelaeaceae	Pimelea physodes
Ulmaceae	Celtis aetnensis
Verbenaceae	Caryopteris mongolica
Welwitschiaceae	Welwitschiaceae
Zamiaceae	Zamiaceae
Zingiberaceae	Hedychium philippinense
Zygophyllaceae	Guaiacum sanctum

SCHEDULE 3

(Paragraph 3(c))

**ITEMS THE IMPORTATION AND EXPORTATION
OF WHICH ARE RESTRICTED**

This Schedule applies to the following items, namely—

1. The meat and offal of any animal of the order Cetacea (whales, porpoises and dolphins) and any flour or meal made from such meat and offal.
2. Whalebone (if unworked or simply prepared), and hair and waste of whalebone.
3. The fat and oil of any animal of the order Cetacea (whether or not refined or modified), and spermaceti wax and ambergris.
4. The extracts and juices of the meat of any animal of the order Cetacea.
5. (1) Leather treated with oil, whether or not refined or modified, of any member of the order Cetacea (hereinafter referred to as “cetacean oil”).
(2) Any furskin, or any part of furskin (including the head, tail or paw), treated with cetacean oil.
(3) Articles made wholly or partly from leather treated with cetacean oil, being articles of any of the following kinds, namely: saddlery and harness for animals; trunks, suit-cases and other similar articles for the use of travellers; handbags, briefcases, wallets, purses, toilet cases, tool cases, tobacco pouches, sheaths and other similar containers; articles of clothing; footwear, gaiters and other similar articles (including parts thereof).
(4) Anything made wholly or partly from furskin, treated with cetacean oil.
6. The whole or any part, or anything made wholly or partly from any tusk of any of the following animals, namely—
 - (a) any animal of the family Elephantidae (elephants);
 - (b) any animal of the family Suidae (pigs);
 - (c) any animal of the species *Monodon monoceros* (narwhal);
 - (d) any animal of the species *Odobenus rosmarus* (walrus);

and powder and waste of any tusk of any of the animals referred to in subparagraphs (a) to (d) of this paragraph.

7. The whole or any part of, or anything made wholly or partly therefrom, any tooth of any animal, and powder and waste of any tooth of any animal.
8. The whole or any part of the horns of any mammal to which Schedule 1 to this Order applies.
9. Any part of, anything made wholly or partly from, any animal of the family Rhinocerotidae.
10. The stuffed head or skull (together with the skin covering it), of any mammal or reptile to which Schedule 1 to this Order applies.
11. (1) Any furskin, skin or hide of a defined animal, if raw, tanned or dressed.
(2) Any piece or cutting (including the head, tail and any paw) of any furskin, skin or hide of a defined animal.

(3) Any tanned or dressed furskin of a defined animal or defined animals which is assembled in plates, rectangles, crosses, trapeziums or otherwise.

(4) Anything made wholly or partly of any furskin of a defined animal (except where the furskin is trimming only).

(5) In this paragraph, defined animal means—

- (a) any animal of the following families, namely—
Felidae (cats), except *Felis catus* (domestic cat)
Ursidae (bears);
- (b) Any animal of the following sub-families, namely—
Hemigalinae (civets and palm civets)
Lutrinae (otters)
Paradoxurinae (palm civets)
Viverrinae (linsangs, civets and genets);
- (c) any animal of the genus *Arctocephalus* (fur seals);
- (d) any animal of the following species, namely—
Canis lupus (wolf)
Colobus angolensis (Angolan colobus)
Colobus guereza (guereza)
Colobus polykomos (western black and white colobus, otherwise known as ursine colobus)
Crocota crocuta (spotted hyaena)
Cystopora cristata (headed seal)
Equus burchelli (Common or Burchell's zebra)
Equus grevyi (Grevy's zebra)
Equus zebra (mountain zebra)
Hyaena brunnea (brown hyaena)
Llama guanacoe (Guanaco)
Mungos mungo (banded mongoose)
Phoca (Pagophilus) groenlandica (harp seal)
Vicugna vicugna (vicuna).

12. (1) The whole or any part of any raw hide or skin (if fresh, salted, dried, pickled or limed and whether or not split) and the leather of any animal of the family Elephantidae (elephants) and sub-family Macropodinae (wallabies and kangaroos).

(2) Anything made wholly or partly from the hide, skin or leather of any animal of the family Elephantidae (elephants) and sub-family Macropodinae (wallabies and kangaroos).

13. The skin and scales of any animal of the family Manidae (pangolins).

14. (1) Hair, whether or not carded or combed, of any animal of the species *Vicugna vicugna* (vicuna).

(2) Yarn made wholly or partly of hair of any animal of the species *Vicugna vicugna* (vicuna).

(3) Fabric made wholly or partly of hair of any animal of the species *Vicugna vicugna* (vicuna) and any article made wholly or partly of any such fabric.

15. Musk derived from any animal of the genus *Moschus* (musk deer).

16. (1) The whole or any part of any raw hide or skin, (if fresh, salted, dried, pickled or limed and whether or not split) and the leather of any animal of the class Reptilia (reptiles).
- (2) Anything made wholly or partly of the hide, skin or leather of any animal of the class Reptilia.
17. (1) The whole or any part of the bony shell and its covering scales, if unworked, simply prepared or polished, of any animal of the order Testudinata (turtles, tortoises and terrapins).
- (2) Anything made wholly or partly from the bony shell, its covering scales and claws, of any member of the family Cheloniidae (sea turtles).
18. (1) The meat and cartilage, including callipee and callipash, of any animal of the family Cheloniidae.
- (2) Soup made from any animal of the family Cheloniidae.
19. Soup made from any animal of species *Chelydra serpentina* (common snapping turtle).
20. (1) The whole shell of any animal of the species *Papustyla pulcherrima*, otherwise known as *Papuina pulcherrima* (green tree snail).
- (2) The whole or any part of the skeleton of any animal of the order Antipatharia (black corals).
21. The casque (whether or not attached to the upper part of the bill) of any bird of the species *Rhinoplax vigil* (helmeted hornbill), or anything made wholly or partly therefrom.
22. (1) Plumage, that is to say, any feather or feathers, or any skin or any other part with any feathers on it, of any bird or birds, other than excepted plumage.
- (2) In subparagraph (1) above, excepted plumage means—
- (a) plumage which is that only of any bird of the following species, namely—
Chrysolophus pictus (golden pheasant)
Gallus gallus (red junglefowl and domestic fowl)
Phasianus colchicus (common pheasant, otherwise known as ring-necked pheasant)
Struthio camelus (ostrich);
- (b) plumage which is that only of a bird of any domestic form of the following species, namely—
Anas platyrhynchos (domestic duck)
Anser anser (domestic goose)
Anser cygnoides (Chinese goose)
Cairina moschata (Muscovy duck)
Columba livia (domestic pigeon)
Meleagris gallopavo (turkey)
Numida meleagris (Guineafowl);
- (c) plumage which consists only of the down feathers of any adult female bird of the species *Somateria mollissima* (eider duck);
- (d) plumage which consists only of the train feathers of any adult male bird of the species *Pavo cristatus* (Indian peacock);
- (e) plumage none of which falls outside paragraphs (a) to (d) above.
23. Anything made wholly or partly of plumage (within the meaning of paragraph 22 above and subject to the exception there stated).
24. Any egg, whether whole or blown, or any bird other than—

- (a) a bird of any of the following species, namely—
 Coturnix japonica (Japanese quail)
 Gallus gallus (red junglefowl and domestic fowl);
- (b) a bird of any domestic form of any of the following species, namely—
 Anas platyrhynchos (domestic duck)
 Anser anser (domestic goose)
 Anser cygnoides (Chinese goose)
 Cairina moschata (Muscovy duck)
 Meleagris gallopavo (turkey)
 Numida meleagris (Guineafowl).

25. The whole or any part of, or anything made wholly or partly from, the wings of any member of the following genera, namely—

Ornithoptera	}	Birdwing butterflies
Trogonoptera		
Troides		

26. The stem of any plant of any of the families Cyatheaceae and Dicksoniaceae (tree ferns).

27. The roots of any plant of the species *Panax quinquefolius*, *Saussurea lappa* and *Dioscorea deltoidea*.

28. The wood of *Araucaria araucana*, *Quercus copeyensis*, *Swietenia humilis*, *Basiloxylon excelsum* and *Guaiacum sanctum*.

Note: In this Schedule, any common name which appears in brackets after a scientific name is included by way of guidance only; in the event of any dispute or proceedings, only the scientific name concerned is to be taken into account.

CUSTOMS (ENTRY FORM) DIRECTION – SECTION 29

(Legal Notice 32/2010)

Commencement

[24 November 2010]

Short title

1. This Direction may be cited as the Customs (Entry Form) Direction.

Interpretation

2. In this Direction—

“customs procedure code” means a code utilized for the completion of an entry to a specific process or customs regime;

“single administrative document” means a multi-purpose customs entry used for the treatment of import and export consignments utilizing a specific customs procedure code;

“form” means one of a series of numbered forms specified in the Schedule.

Entry Forms

3. (1) The importer or exporter of any goods to which sections 29 and 42 of the Ordinance apply shall, in accordance with those sections, deliver to the Customs in electronic format, unless the Collector otherwise allows, an entry form known as the Single Administrative Document and numbered as SAD 1.

- (2) The proprietor of any goods to which section 63 of the Ordinance applies, shall in accordance with that section, deliver to the Customs in electronic format, unless the Collector otherwise allows, an entry in Form No. SAD 1.

- (3) The importer of any goods to which section 30 of the Ordinance applies shall, in accordance with that section, deliver to the Customs an entry in Form No. C7.

- (4) The importer of any unaccompanied goods imported by air or by sea for personal use to a value of four hundred dollars, being goods described in section 75(1)(d) of the Ordinance and being goods to which section 29 of the Ordinance applies, shall, in accordance with section 29, deliver to the Customs in electronic format, unless the Collector otherwise allows, an entry in Form No. SAD 2.

- (5) The importer of any unaccompanied personal effects, being goods described in section 75(1)(c) of the Ordinance, shall, in accordance with section 29 of the Ordinance, deliver to the Customs in electronic format, unless the Collector otherwise allows, an entry in Form No. SAD 2.

- (6) The importer of any goods to be used, or intended to be used for a commercial purpose, which are carried in the accompanied baggage of the importer and deemed to be ‘merchandise in baggage’ shall, in accordance with section 29 of the Ordinance, deliver to the Customs in electronic format, unless the Collector otherwise allows, an entry in Form No. SAD 2.

- (7) Where goods are imported or exported on behalf of an importer or exporter by a recognized express courier service, the agent of the express courier service shall, in accordance with sections 29 and 42

of the Ordinance, and on behalf of the importer and exporter, deliver to the Customs in electronic format, unless the Collector otherwise allows, an entry in Form No. SAD 2.

SCHEDULE

(Section 2)

INDEX TO FORMS

<i>Form number and title</i>	<i>Section of Direction where mentioned</i>
SAD 1: Customs Entry Form (Inwards/Outwards)	3(2), (2);
SAD 2: Simplified Single Administrative Document	3(4), (5), (6), (7)
C 7: Pre-Entry Delivery Form	3(3)

(Inserted by L.N. 32/2010)

**CUSTOMS (GOVERNMENT TRANSIT SHED AND QUEEN'S WAREHOUSE RENT)
REGULATIONS – SECTIONS 19 AND 66**

(Legal Notices 20/1996, 42/2016 and Ordinance 16 of 2011)

Commencement

[1 April 1996]

Short title

1. These Regulations may be cited as the Customs (Government Transit Shed and Queen's Warehouse Rent) Regulations.

Rent

2. The rent payable in respect of goods deposited in a Government transit shed or a Queen's Warehouse shall be specified in Parts I and II of the Schedule.

General provisions

3. (1) Goods transferred—

- (a) in a Government transit shed from one part to another or from one Government transit shed to another; or
- (b) in a Queen's Warehouse from one part to another or from one Queen's Warehouse to another,

shall be charged the rent prescribed in column 4 of Part I or column 3 of Part II of the Schedule, as the case may be, from the date of transfer.

(2) Any goods removed from a Government transit shed or Queen's Warehouse for shipment and returned later as being shortshipped shall be charged the rent prescribed in column 3 of Part I or column 2 of Part II of the Schedule, as the case may be, from the day after the date on which the goods were to have been shipped.

(3) Goods which are—

- (a) permitted by the Collector to be stored in the vicinity of a Government transit shed or Queen's Warehouse; or
- (b) constructively warehoused in any port, airport, customs area or other place approved by the Collector,

shall be liable for the rent specified in regulation 2.

Waiver of rent

4. The Minister may, with the approval of the Governor in Cabinet, waive the payment of rent in respect of goods deposited in a Government transit shed or a Queen's warehouse for a period as shall be specified by notice published in the Gazette, from time to time. *(Substituted by L. N. 42/2016)*

SCHEDULE*(Regulation 2)***Part I****GOVERNMENT TRANSIT SHED RENT**

<i>Description of goods</i>	<i>Rent for first 14 days</i>	<i>Rent for subsequent month or part thereof</i>	<i>Rent for second and subsequent months or part thereof</i>
1. Goods other than specified in items 2 or 3, for every item or package measuring:	Free.	Per cubic foot or part thereof:	Per cubic foot or part thereof:
(a) 1 cubic foot or less		(a) \$2.50	(a) \$5.00
(b) more than 1 cubic foot but not more than 6 cubic feet		(b) \$3.00	(b) \$6.00
(c) more than 6 cubic feet but not more than 12 cubic feet		(c) \$3.50	(c) \$10.00
(d) more than 12 cubic feet		(d) \$1.00	(d) \$2.50
2. Goods entered for transshipment, for every item or package measuring:	Free	Per cubic foot or part thereof:	Per cubic foot or part thereof:
(a) 6 cubic feet or less		(a) \$3.00	(a) \$6.00
(b) more than 6 cubic feet but not more than 12 cubic feet		(b) \$3.50	(b) \$10.00
(c) more than 12 cubic feet		(c) \$1.00	(c) \$2.50

3. Motor vehicles of all types	A. If for transshipment, payable as per column 3	\$6.00 per day	\$10.00 per day
	B. In other cases, free for first five days, then payable as per column 3		

Part II

QUEEN'S WAREHOUSE RENT

<i>Description of goods</i>	<i>Rent for first month or part thereof</i>	<i>Rent for second and subsequent months or part thereof</i>
1. For every item or package measuring:	Per cubic foot or part thereof:	Per cubic foot or part thereof:
(a) 1 cubic foot or less	(a) \$2.50	(a) \$5.00
(b) more than 1 cubic foot but not more than 6 cubic feet	(b) \$3.00	(b) \$6.00
(c) more than 6 cubic feet but not more than 12 cubic feet	(c) \$3.50	(c) \$10.00
(d) more than 12 cubic feet	(d) \$1.00	(d) \$2.50
2. Motor vehicles of all types	\$6.00 per day	\$10.00 per day.

(Substituted by L.N. 42/2016)

**CUSTOMS (IMPORTATION, EXPORTATION AND
CARRIAGE COASTWISE) (FORMS) DIRECTION – SECTION 99**

(Legal Notice 34/1996)

Commencement

[1 April 1996]

Short title

1. This Direction may be cited as the Customs (Restriction on Importation, Exportation and Carriage Coastwise) (Forms) Direction.

Interpretation

2. In this Direction—

“form” means one of a series of numbered forms specified in the Schedule;

“the Order” means the Customs (Importation, Exportation and Carriage Coastwise of Goods) (Restriction and Prohibition) Order.

Form of Application

3. Application for a licence to import or export required under the Order shall be made to the appropriate authority in Form No. C14.

Licence to import restricted goods

4. A licence to import required under the Order shall be issued by the appropriate authority in Form No. C12.

Licence to export restricted goods

5. A licence to export required under the Order shall be issued by the appropriate authority in Form No. C13.

SCHEDULE

(Section 2)

INDEX TO FORMS

<i>Form number and title</i>	<i>Paragraph of Direction where mentioned</i>
C 14: Application for an Import/Export Licence	3
C 12: Licence to Import	4
C 13: Licence to Export	5



Turks and Caicos Islands Government

Application Received Date:

Application for an Import/Export Licence

Section 98, Customs Ordinance

(Before you complete this form, be sure to read the notes overleaf. Complete all boxes and return the form to the appropriate issuing authority. You should allow at least twenty-one days for this application to be processed. If you have any difficulty in completing this form, consult the nearest office of the appropriate issuing authority. Please complete this form in type or ink using **BLOCK** letters.)

1. Applicant's Full Name		
2. Applicant's Address	3. Business Name and Address	4. Business Licence #
		5. Telephone #
6. Licence Required IMPORT/EXPORT*	7. Type of Licence Required	8. Date Licence Required
9. Goods to be covered by licence		10. State Countries with whom it is intended to trade under this licence
11. Reason Licence required		
12. If a Quota is to apply to this licence, state quota required		13. If a time limit is to apply, state required expiry date

Declaration:

I hereby apply for an Import/Export* licence based on the information provided above. I declare that the information given on this form is true to the best of my knowledge and belief, and I know of no reason why such a licence should not be issued to me. If a licence is granted, I undertake to abide by its terms, and understand that a breach of licensing requirements may constitute a breach of Customs law and other applicable laws, for which there are severe penalties.

Signed: (Applicant) Date: / /

* Delete as applicable

Form C14 (6/95)

Guidance Notes For Completing This Form

Please make sure you read these notes before you complete the form, as an incorrectly completed form may be rejected by the issuing authority.

- Box 1. – Enter here the full name of the applicant. This should usually be the importer who will be shown as such on the Customs Entry. DO NOT enter the name of the Declarant, unless he is also the importer.
- Box 2. – Enter the normal postal address of the named person in Box 1.
- Box 3. – If the Business Name or Address is different from Box 2 enter here.
- Box 4. – Complete if applicable.
- Box 5. – Complete using a normal daytime contact number, as the issuing authority may wish to contact you to clarify some matters.
- Box 6. – Delete either "IMPORT" or "EXPORT" depending on your requirement. Licences cannot be issued to cover both forms of traffic. Separate applications must be made.
- Box 7. – Enter: "OPEN" If the licence required is to be unconditional and without time limit
"CONDITIONAL" If the licence required is to have conditions attached to its issue.
"LIMITED" If the licence is to have a time limit attached.
"QUOTA" If the licence is to have a quota applied.
"SPECIFIC" If the licence is to apply for one importation only.

(More detail on the completion of this box can be obtained from your local Customs Office)
- Box 8. – Enter the date by which you require the licence. You should normally allow twenty-one days for this application to be processed.
- Box 9. – Enter a description of the goods to be covered by the licence, quoting tariff code numbers if possible. In certain cases, group terms will be acceptable (eg. "Controlled Drugs").
- Box 10. – Enter the names of the countries with whom you intend to trade using this licence.
- Box 11. – Enter the reason you require the licence, (eg. "Registered Medical Practitioner" licensable, or any other specific details of your need to import/export goods).
- Box 12. – Enter the quota you require to have issued. This does not guarantee that the requested quota will be issued.
- Box 13. – Enter the time limit you require. This does not guarantee that the requested time limit will be the one imposed.

COMPLETE AND SIGN THE DECLARATION, AND TAKE THIS FORM (IN DUPLICATE) TO THE APPROPRIATE ISSUING AUTHORITY.

FOR OFFICIAL USE ONLY



Turks and Caicos Islands Government
Licence to Import
(Section 98 of the Customs Ordinance)

1. Type of licence	2. Issuing Authority	3. Date of Issue
4. To whom issued	5. Address	
6. Business Licence # (if applicable)		7. Trade or Profession
8. Legislation under which issued		9. Expiry Date (if any)
10. Goods covered by this licence		
11. Conditions attached to licence		
12. (If quotas apply) Quota allowed under this licence (see over as well)		
<p>CERTIFICATE</p> <p>The importer shown above is entitled to import licenceable goods, strictly in accordance with the terms of this licence. The Turks and Caicos Islands Customs Department is requested to allow importation of such goods, to the extent that this licence permits, and subject to any other necessary Customs restrictions or other controls that may apply.</p>		
Signed: Title/Position/Rank:		
Date:/...../.....		

Form C12 (6/95)

Turks And Caicos Islands Government
LICENCE TO EXPORT
(Section 98 of the Customs Ordinance)

1. Type of licence	2. Issuing Authority	3. Date of Issue
4. To whom issued	5. Address	
6. Business Licence # (if applicable)		7. Trade or Profession
8. Legislation under which issued		9. Expiry Date (if any)
10. Goods covered by this licence		
11. Conditions attached to licence		
12. (If quotas apply) Quota allowed under this licence (see over as well)		
<p>Certificate</p> <p>The exporter shown above is entitled to export licenceable goods, strictly in accordance with the terms of this licence. The Turks and Caicos Islands Customs Department is requested to allow exportation of such goods, to the extent that this licence permits, and subject to any other necessary Customs restrictions or other controls that may apply.</p>		
Signed:..... Title/Position/Rank:		
Date:...../...../.....		

Form C13(6/95)

If quotas have been applied to this licence, or if it is for a specific exportation, the issued quota or licenced amount should be entered in Box 13. All exportations against this licence should be written off in Box 14, until it is exhausted. It should then be retained by the Customs Department, and the issuing authority must be informed.

13. Original Quota or licenced amount

14. Exportations against this licence				
Date	Entry #	Number and Description of Goods	Balance	Initials

**CUSTOMS (IMPORTATION, EXPORTATION AND CARRIAGE COASTWISE
OF GOODS) (RESTRICTION AND PROHIBITION) ORDER – SECTION 99**

(Legal Notices 9/1996, 25/1997, 32/1999, 39/2003, 43/2013 and 14/2014)

Commencement

[1 April 1996]

Short title

1. This Order may be cited as the Customs (Importation, Exportation and Carriage Coastwise of Goods) (Restriction and Prohibition) Order.

Restricted goods

2. The following goods are prohibited to be imported into or exported from the Islands, save as provided hereunder—

- (a) drugs specified in Parts I, II or III of Schedule 1 of the Control of Drugs Ordinance, unless a licence has been granted under section 4(2) of that Ordinance;
- (b) species of plants and other items specified in Schedules 2 and 3 of the Customs (Endangered Species)(Importation and Exportation Prohibition) Order, unless a licence has been granted under this Order;
- (c) the importation of any animal which is susceptible to rabies or any animal or bird which is susceptible to any communicable disease, unless a veterinary certificate is produced in accordance with section 28 of the Public and Environmental Health Ordinance;
- (d) the importation of firearms as defined in the Firearms Ordinance, unless a licence has been granted under section 8 of that Ordinance;
- (e) the importation of explosives as defined in the Explosives Ordinance, unless a licence has been granted under sections 3 or 4 of that Ordinance;
- (f) the importation of Hawaiian slings and spear guns as defined in the Fisheries Protection Regulations, unless a licence has been granted under this Order;
- (g) the importation into or exportation from the Islands of any goods specified in the Iraq and Kuwait (United Nations Sanctions) (Dependent Territories) Order, except in accordance with that Order;
- (h) the exportation from the Islands of any goods specified in the Angola (United Nations Sanctions) (Dependent Territories) Order, except in accordance with that Order;
- (i) the exportation from the Islands of any goods specified in the Libya (United Nations Sanctions) (Dependent Territories) Order, except in accordance with that Order;
- (j) the exportation from the Islands of any goods specified in the Former Yugoslavia (United Nations Sanctions) (Dependent Territories) Order except in accordance with that Order;

- (k) other goods the importation or exportation of which is prohibited by or under any enactment except by licence or other authority;
- (l) buses with more than thirty seats for passengers or buses whose doors for passengers are on the right hand side of the bus looking towards the driver.
(*Inserted by L.N. 32/1999*)

Licences under this Order

3. Application for any licence required under paragraph 2 of this Order shall be made in the form and manner directed by the Collector.

Prohibited goods

4. The following goods are prohibited to be imported into, exported from, or carried coastwise within, the Islands—

- (a) any false or counterfeit coin or notes purporting to be legal tender of any country or territory;
- (b) coin being silver of the Realm or any money purporting to be such that is not of the established standard in weight and fineness;
- (c) meat, vegetables or other food unfit for human consumption;
- (d) goods and any package of goods bearing any name or mark which states or implies that such goods were manufactured or produced in any country in which the same were not manufactured or produced;
- (e) all obscene publications suppressed under section 2 of the Suppression of the Obscene Publications Ordinance;
- (f) all writings which in the opinion of the Governor in his discretion tend towards sedition or breach of public order;
- (g) all plants, articles packed therewith or packages likely to be a means of introducing plant disease into the Islands prohibited under section 3 of the Plant Protection Ordinance;
- (h) species of animals and other items specified in Schedule 1 to the Customs (Endangered Species) (Importation and Exportation Prohibition) Order;
- (i) all restricted goods mentioned in paragraph 2 in respect of which the requisite licence has not been granted;
- (j) other goods the importation, exportation or carriage coastwise of which are prohibited by or under any other enactment;
- (k) the following breeds of dogs—
 - (i) Dogo Argentino
 - (ii) American Pit Bull Terrier
 - (iii) American Staffordshire Terrier
 - (iv) American Bull Dog

- (v) Japanese Tosa
- (vi) Canary Dog
- (vii) Perro de Presa Canario
- (viii) Fila Brasileiro.

(Inserted by L.N. 14/2014)

CUSTOMS (LETTERS AND POSTAL PACKETS) REGULATIONS
SECTION 35(2)

(Legal Notice 21/1996)

Commencement

[1 April 1996]

Short title

1. These Regulations may be cited as the Customs (Letters and Postal Packets) Regulations.

Modifications and exceptions

2. In their application to goods contained in letters or postal packets, the following provisions of the Customs Ordinance shall apply subject to the following modifications and exceptions—

- (a) in the application of section 3, the proviso to subsection (4) shall be omitted and subsection (4) shall apply with the modification that the time of exportation of goods shall be the time when they are posted (or redirected) in the Islands for transmission to a place outside it;
- (b) section 28 shall apply only in any case, or any class of cases, in which the Collector requires an entry to be made in accordance with that section;
- (c) section 30 shall apply only where the Collector has required entry to be made, and where he has so required, shall apply only to the extent, and with the modification, set out in regulation 3;
- (d) section 41 shall apply with the modification that for references in that section to “shipped for exportation” and “shipping” there shall be substituted references to “posted (or, as the context may require, posting) in the Islands for transmission to any place outside it” by virtue of any provision of the Customs Ordinance;
- (e) section 65 shall apply to any goods deposited in a Queen’s Warehouse under regulation 4 of these Regulations as it applies to goods so deposited under or by virtue of any provision of any enactment relating to customs;
- (f) in the application of section 68(1) shall not apply, and paragraph (d) of subsection (2) shall apply with the substitution, for the words “at the time of their importation”, of the words “at the time when, the letter or postal packet containing the goods having been presented to the proper officer or the Postmaster, the amount of duty appearing to be due is assessed by him”;
- (g) in the application of section 92 to goods for which no entry is made, the material time for their valuation shall be when, the letter or postal packet containing them having been presented to the proper officer or the Postmaster, the amount of duty appearing to be due is assessed by him;
- (h) section 116 shall apply to goods brought by post into the Islands, or posted in the Islands for transmission to any place outside it, if an entry or specification is required of such goods when they are imported or exported otherwise than by post;

- (i) paragraph 1(1) of Schedule 4 of the Ordinance shall, in the case of a thing brought by post into the Islands, apply with the substitution, for the words “to any person who to his knowledge was at the time of seizure the owner or one of the owners of, that thing”, of the words “to the person to whom the letter or postal packet containing the thing is addressed”, and paragraph 9(1) of the said Schedule shall not apply.

Postal Packets requiring entry

3. If goods are brought by post into the Islands, and the proper officer sends to the addressee of the parcel in which they are contained, or to any other person who is for the time being the importer of the goods, a notice requiring entry to be made of them or requiring a full and accurate account of them to be delivered to the proper officer but entry is not made or such account is not delivered within fourteen days of such notice or within such longer period as the Collector may allow, then the Postmaster shall deliver the goods to the proper officer who shall cause them to be deposited in the Queen’s Warehouse and section 31 of the Customs Ordinance shall apply to the goods as it applies to goods so deposited under the said section 31.

Payment of duties

4. (1) On delivering a postal packet or letter the Postmaster may demand payment of any duty or other sum due to the Collector in respect of it, and any sum so received shall be paid over to the Collector by the Postmaster.

(2) If payment is not made of any duty so demanded, then the Postmaster shall deliver the letter or postal packet to the proper officer who shall cause it to be deposited in the Queen’s Warehouse, and section 31 of the Customs Ordinance shall apply to the goods as it applies to goods so deposited under the said section 31.

Requirements

5. If the Collector requires any postal packet or letter to be delivered to him on the ground that any goods contained in it are liable to forfeiture under any enactments (including these Regulations) then the Postmaster shall deliver the postal parcel or letter packets to the proper officer authorised in writing by the Collector in that behalf.

Directions

6. The Collector may give such directions in relation to letters and postal packets as he thinks fit.

CUSTOMS (PLEASURE CRAFT) DIRECTION
SECTIONS 27 AND 84

(Legal Notice 27/1996)

Commencement

[1 April 1996]

Short title

1. This Direction may be cited as the Customs (Pleasure Craft) Direction.

Interpretation

2. In this Direction—

“arrival”, in relation to a pleasure craft, means the anchoring, berthing or mooring of the pleasure craft;

“form”, means one of a series of numbered forms available from the proper officer.

Flying of the signal flag “Q”

3. The master of a pleasure craft arriving in the Islands shall cause to be flown a yellow flag (the signal flag for “Q” in the International Code of Signals) at all times between the entry by the craft of the limits of a port and the making of a report in accordance with this Direction.

Movement of pleasure craft and removal or unloading of goods therefrom after arrival

4. No pleasure craft after arrival may anchor, move from its berth or unmoor, nor may any goods be removed or unloaded from the pleasure craft, without the authority of a proper officer.

Report of pleasure craft

5. The master of a pleasure craft arriving at a port shall—
 - (a) unless an officer earlier boards the craft, immediately upon arrival notify the arrival of that craft to the proper officer, either in person or by telephone; and
 - (b) deliver to the officer boarding the craft a report in Form No.C108 and a report of stores on board the craft on arrival in Form No.C125.

Departure of pleasure craft

6. Before departure the master of a pleasure craft shall, save as otherwise permitted by the Collector, deliver to the proper officer an application for clearance in Form No.C124.

Temporary importation of pleasure craft

7. A master of a pleasure craft may, with the consent of the Collector, import into the Islands without payment of duty any pleasure craft subject to the following conditions—

(a) the master shall comply with the foregoing sections of this Direction;

- (b) the pleasure craft shall remain in the possession of the master and shall not be, nor offered to be, lent, hired, pledged, given away, exchanged, sold or otherwise disposed of in the Islands;
- (c) after the expiry of one week in the Islands the master shall obtain a cruising permit from the Collector in Form No.C113 for such fee as the Minister may prescribe under section 27(4) of the Ordinance;
- (d) the master shall produce the cruising permit to the proper officer at every port in the Islands and elsewhere on demand;
- (e) the master shall re-export the pleasure craft from the Islands within three months of the date of importation and shall return the cruising permit to the Collector:

Provided that any period during which a pleasure craft is dry-docked within the Islands shall not be taken into account for the purposes of this paragraph;

- (f) without the prior consent of the Collector no pleasure craft shall be issued with more than two cruising permits in any period of twelve calendar months.

Penalty

8. If any person contravenes or fails to comply with any requirement of this Direction commits an offence and is liable on conviction to a fine of \$5,000, and any pleasure craft concerned in the offence and any goods thereon shall be liable to forfeiture.

CUSTOMS (PLEASURE CRAFT) (FEES) REGULATIONS –

SECTION 27

(Legal Notice 11/2007 and Ord. 16 of 2011)

Commencement

[16 March 2007]

Short title

1. These Regulations may be cited as the Customs (Pleasure Craft) (Fees) Regulations.

Fees

2. The fees payable by the master of a pleasure craft for cruising within the territorial seas of the Islands for a period not exceeding three months shall be \$300.00. *(Amended by Ord. 16 of 2011)*
-

CUSTOMS (RICE EXPORTATION LICENCE) ORDER – SECTION 99

(Legal Notice 7/2002)

Commencement

[8th February 2002]

Short title

1. This Order may be cited as the Customs (Rice Exportation Licence) Order.

Exportation of rice

2. Rice may be exported from the Islands under a licence.

Forms

3. The Collector of Customs may give directions as to the form, particulars and manner of any application or licence under section 98(1)(e) of the Customs Ordinance.
-

CUSTOMS (TEMPORARY IMPORTATION) DIRECTION – SECTION 84

(Legal Notice 33/1996)

Commencement

[1 April 1996]

Short title

1. This Direction may be cited as the Customs (Temporary Importation) Direction.

Temporary Importation

2. An importer may, with the consent of the Collector, import into the Islands, without payment of all or any part of the duty, any goods subject to the following conditions—

- (a) the goods are on importation declared to the proper officer for clearance;
 - (b) the goods shall remain in the possession of the importer and shall not be, or offered to be, lent, hired, pledged, given away, exchanged, sold or otherwise disposed of in the Islands;
 - (c) the goods shall be exported within seven days of the date of importation or such longer period as the Collector may permit and shall be declared to the proper officer on exportation;
 - (d) unless the Collector otherwise directs, the importer shall deposit with the Collector as security, by bond (in Form No. C15 annexed to this Direction) or otherwise, an amount not less than the amount of duty which would have been payable;
 - (e) the Collector may impose any further conditions in relation to the goods as he thinks fit.
-



Turks and Caicos Islands Government
Customs Department
(Section 84 of the Customs Ordinance)

BOND FOR THE TEMPORARY IMPORTATION OF GOODS FOR A COMMERCIAL PURPOSE

Customs Use Only
Bond #
Date:

Section 1. Please complete all boxes

Principal:	Amount of Bond (in figures): \$
Surety:	Expiry Date:

Section 2. Please complete all boxes

(Principal) And (Surety)

are hereby jointly and severally bound unto the Governor of the Turks and Caicos Islands acting in the name and on behalf of her most Excellent Majesty Elizabeth the Second by the Grace of God Queen of the United Kingdom of Great Britain and Northern Ireland and of the Turks and Caicos Islands and of all her other Territories in the sum of;

(Amount of bond in words)

Dated this [] day of [] in the year []

Section 3. Please complete all boxes

Whereas [(Principal)] has imported into the Turks and Caicos Islands by the [(Vessel/Aircraft)] from [] On [(date)] the goods specified in the Schedule to this agreement, being the pages attached numbered [] to [] each individually signed by a lawful representative of the Principal and whereon the full import duties of customs have not been paid; and whereas [(Principal)] is required to re-export the said goods on or before [(date for re-export)] or such further period of time as may be lawfully allowed, or otherwise to pay the Customs Department the full import duties of customs on the said goods or, where it is so lawfully allowed, the full import duties of customs in respect of so much of the said goods which shall have not been so re-exported.

Form C15(7/95)



Turks and Caicos Islands Government
Customs Department
(Section 84 of the Customs Ordinance)

STANDARD CONDITIONS FOR THE OPERATION OF A TEMPORARY IMPORTATION BOND, MADE BY
THE COLLECTOR OF CUSTOMS UNDER SECTION 83 OF THE CUSTOMS ORDINANCE

These conditions shall apply to any approval under Section 83 for the temporary importation of goods for commercial purposes without payment of import duty.

1. All goods to be entered to duty free temporary importation must be correctly declared and entered to Customs and the entry shall clearly show that the goods are for duty free temporary importation.
2. The Collector of Customs may refuse permission to allow duty free temporary importation of any goods at his discretion.
3. The importer of the goods shall allow any authorised officer access to the goods temporarily imported at any reasonable time for the purpose of examining or tallying the goods.
4. The importer shall provide such facilities as the Collector of Customs may require in order for the examination or tallying of any such goods.
5. If any goods are not re-exported within the time limit stated in the Bond, unless the Collector of Customs extends the time limit for re-exportation, they shall be entered to Home Use, and full import duties and other charges paid thereon, at the rates and values shown on the Schedules to the Bond presented at the time of importation.
6. The importer shall provide a Bond, with one or more sufficient sureties, to the satisfaction of the Collector of Customs.
7. If temporary duty free importation is allowed on condition that the goods will not be sold or will be re-exported or will be used by some particular person or will be used for a particular purpose or upon any other like condition, and if the conditions are not observed, the goods will be liable to forfeiture under Section 81 of the Customs Ordinance .

I / We accept the above stated conditions.

Signed:

For:

Date:

FOR OFFICIAL USE ONLY

Date document received by Customs:

Lodged with Bond # Expiry Date:

Signed
(Officer)

Form C15B(7/95)

**CUSTOMS (TIMES OF ATTENDANCE OF OFFICERS AND
OFFICERS' FEES) REGULATIONS – SECTION 8**

(Legal Notices 19/1996 and 9/2007 and Ord. 16 of 2011)

Commencement

[1 April 1996]

Short title

1. These Regulations may be cited as the Customs (Times of Attendance of Officers and Officers' Fees) Regulations.

Working days

2. The working days of officers shall be all days except Saturdays, Sundays and Public Holidays.

Hours of attendance

3. The working hours of officers for attendance on the public shall be as follows—

<i>Monday to Thursday</i>	<i>Friday</i>
8:00 a.m. – 12:30 p.m.	8:00 a.m. – 12:30 p.m.
2:00 p.m. – 4:30 p.m.	2:00 p.m. – 4:00 p.m.

Application for extra attendance

4. Applications for services of an officer outside the days and hours prescribed in regulation 3, shall be made in such form and manner as the Collector may require.

Customs (Times of Attendance of Officers and Officers' Fees) Regulations amended

5. The Fees and hours for extra hours services, outside the hours specified in regulation 3, for a customs officer, either at his office or elsewhere shall be as follows—

Weekdays	6:00 a.m. – 8:00 a.m.	\$10.00 per hour
Weekdays	12:30 p.m. – 2:00 p.m.	\$10.00 per hour
Monday – Thursday	4:30 p.m. – Midnight	\$10.00 per hour
Friday	4:00 p.m. – Midnight	\$10.00 per hour
Weekdays	Midnight – 6:00 a.m.	\$12.00 per hour
Saturdays, Sundays and Public Holidays		\$15.00 per hour

(Substituted by Ord. 16 of 2011)

Clearance fees

6. (1) The fees for entering or clearing a vessel or an aircraft other than a cruise ship shall be \$50.00. *(Amended by L.N. 9/2007 and Ord. 16 of 2011)*

(2) The fees for entering or clearing a cruise ship shall be \$500.00. *(Inserted by L.N. 9/2007 and Ord. 16 of 2011)*

Attendance fees at place or time other than normal

7. Where a customs officer is required to attend at any place at which he would not normally attend or to attend at a place at a time at which he would not normally attend at that place in the course of routine duties the fees stipulated in regulation 5 shall be payable in respect of his attendance notwithstanding that the attendance takes place during normal working hours.

Warehouse opening fees

8. (1) The fee for the opening of a warehouse shall be \$10.00 per hour or part thereof at any time.

(2) The fee for attendance of a customs officer stationed at a warehouse or at a transit shed on a permanent basis shall be \$5.00 per hour or part thereof during normal office hours. Attendance outside of the hours specified in regulation 3 shall be charged at the rates prescribed in regulation 5.