

# Customs Bill, 2014

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A  
**BILL**

ENTITLED

**CUSTOMS ACT, 2014**

**AN ACT** to provide for the imposition, collection and accounting of customs duty, tax and for related matters.

PASSED by Parliament and assented to by the President:

*Imposition of rate of duty and tax*

**Imposition of rate of duty and tax on goods**

1. (1) There is hereby imposed duties and taxes on prescribed goods
  - (a) imported into the country, or
  - (b) exported from the country,at the rate of duty and tax specified in the Harmonised Commodity Description and Coding System referred to in this Act as the Harmonised System.
- (2) The duties and taxes imposed in subsection (1)
  - (a) may include any other tax, duty or levy on goods prescribed under any other enactment; and
  - (b) are payable in accordance with the provisions of this Act.

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*Exemptions*

**Exempt duties and taxes**

2. (1) Duties and taxes are not chargeable on exempt goods specified in the Harmonized System.

(2) The persons, organizations and institutions specified in the respective Schedules attached to the Harmonised System are exempt from the payment of duty.

(3) A removal article is exempt from duty.

*Customs controls*

**Risk management**

3. (1) The Authority shall conduct customs controls including random checks.

(2) A customs control conducted under subsection (1) shall primarily be based on risk management with the objective of

(a) identifying and evaluating risks, and

(b) developing counter-measures on the basis of a risk management criteria developed and updated regularly from international, national and local level data.

(3) The Authority, in conjunction with cooperating foreign customs administrations, may carry out joint control and targeting activities based on risk management to increase effectiveness to ensure security in shipment and in combating transnational crime.

(4) Specific information regarding risk management including risk register, risk profile and other risk assessment data is confidential.

(5) The Authority may employ a consultant to assist in the development and implementation of risk management programmes as long as confidential information is protected from disclosure.

**Designation of customs-controlled area**

4. (1) The Commissioner-General may

(a) designate an area within and outside the customs territory as a customs-controlled area for the purposes of administering or enforcing the provisions of this Act; and

(b) by directive, prescribe measures that are necessary

(i) for the establishment of a customs-controlled area;



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- (ii) to protect the interests of the Government in the conduct, management, and operation of a customs-controlled area; and
- (iii) to provide for the withdrawal of and accounting for goods deposited in a customs-controlled area.

(2) An importer, owner or depositor of goods shall pay the expenses incurred in respect of goods under this section, as prescribed in Regulations.

(3) Where goods remain in a customs-controlled area for more than fourteen days after being

- (a) entered under another customs procedure,
- (b) entered for export, or
- (c) sold by public auction under this Act,

the goods are liable to forfeiture to the State unless the failure to move the goods is explained to the satisfaction of the Commissioner-General.

(4) The Commissioner-General may permit goods to be taken out of a customs-controlled area without payment of duty on conditions that the Commissioner-General may determine.

(5) The Commissioner-General may, in relation to a customs-controlled area, issue directives as to the processing that will be allowed by the Commissioner-General.

(6) A person shall not bring an action against the Authority or an officer of the Authority

- (a) for loss of goods or damage to goods or any of the content of the goods while in a customs-controlled area or in the course of being received into or delivered from the customs-controlled area; or
- (b) for a wrong or improper delivery or disposal of goods from a customs-controlled area.

(7) Subsection (6) does not apply where the loss, damage, wrong, or improper delivery or disposal occurs as a result of the wilful act or negligence of an officer of the Authority.

(8) A licensee of a customs-controlled area shall provide facilities including office facilities to enable the Authority perform its functions under this Act.

**Activities in customs-controlled area**

5. The following activities may be conducted in a customs-controlled area:

- (a) the loading, unloading, inspection, assessment and clearing of imported or exported goods;
- (b) the temporary storage of goods imported at a port of entry and not yet released by customs, including goods that are not yet declared in accordance with this Act, and goods that are seized and liable to forfeiture;
- (c) the embarkation, disembarkation or control of persons arriving in or departing from the country; and
- (d) storage of imported goods under bond.

**Release of goods**

6. (1) The Commissioner-General may release goods that are declared as soon as the goods have been examined or exempted from examination where

- (a) an offence has not been found to have been committed under this Act;
- (b) required documents have been acquired;
- (c) permits in relation to the procedure concerned have been acquired; or
- (d) duty has been paid or a guarantee for the payment has been provided.

(2) Where the declarant submits a provisional or incomplete declaration, the Commissioner-General may release the goods, if the Commissioner-General is satisfied that

- (a) the declarant will subsequently accomplish all clearance formalities; and
- (b) a guarantee to ensure payment of the duty has been provided.

(3) Where the Commissioner-General is satisfied that the goods are not subject to prohibitions or restrictions and the required security has been provided, the Commissioner-General may release the goods before the

- (a) results of laboratory examination requested for the purpose of classification or valuation are known; or
- (b) receipt of all technical documents or expert advice.

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**Post-clearance audit**

7. (1) The Authority may conduct a post-clearance audit after the release of goods.

(2) The Commissioner-General may

(a) select a person for post-clearance audit based on the risk profile of the person; and

(b) authorise a post-clearance audit to be conducted

(i) for compliance measurement purposes in an area that the Commissioner-General considers appropriate; or

(ii) on any other persons directly or indirectly involved in the transactions in question.

(3) The Authority may check the goods or the means of conveyance of the goods identified at the time of the post-clearance audit.

(4) The Authority shall provide advance written notice of the post-clearance audit, in the prescribed form.

(5) A person who is audited may meet with the auditors formally before the preparation of the final report and is entitled to receive a copy of the final report of the post-clearance audit in the prescribed form.

(6) Where the audit concludes that the person owes additional duty, the Commissioner-General shall issue that person with a notice of underpayment.

(7) Where the audit concludes that the person has paid duty in excess of the amount required, the Commissioner-General shall refund the excess amount paid.

**Authorised Economic Operators**

8. (1) The Commissioner-General shall register persons as Authorised Economic Operators.

(2) The procedure for the registration of persons under subsection (1) shall be in accordance with Regulations made under this Act.

**Record keeping**

9. (1) An owner, importer, consignee, exporter, entry filer or any other person required to keep records under this Act, shall maintain the records in their original form, which includes the electronic form, unless the Commissioner-General approves an alternative method of storage.

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(2) A person specified in subsection (1) shall produce the records for examination, inspection, and audit by the Authority where that person

- (a) imports goods into the customs territory of the country, files a drawback claim, files a refund claim, or transports or stores merchandise carried by a bonded carrier or held under bond in a bonded warehouse;
- (b) causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the country;
- (c) is an agent of a person described in paragraph (a) or (b), including a customs house agent ; or
- (d) is a person whose activity requires the filing of a declaration.

(3) Records to be maintained include

- (a) records required in connection with the importation or exportation of goods;
- (b) records required in connection with the transportation under bond or storage of goods imported into or exported from the country;
- (c) records required in connection with the collection or payment of duty;
- (d) records required in connection with the filing of a drawback claim;
- (e) records required in connection with the filing of a refund claim;
- (f) a certificate of origin required for a claim for preferential tariff treatment; and
- (g) any other records required in connection with the conduct of customs business.

(4) A person to whom this section applies shall comply with the requirements with respect to making the records available and answering questions.

(5) A person who is required to keep and render a record for examination, inspection, or audit by the Authority shall keep the record for six years from the date of the activity that required creation of that record.

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(6) Where a signature or record is to be notarized, acknowledged, verified, sealed, or made under oath, the requirement is satisfied if the electronic signature of that person is appended.

**Customs Laboratory**

**10.** (1) The Authority shall establish a Customs Laboratory in accordance with the requirements of the World Customs Organisation.

(2) The functions of the Customs Laboratory shall be prescribed by Regulations.

(3) A proper officer may, on the entry of goods, or at any time afterwards, draw samples of the goods for any purpose the Commissioner-General considers necessary.

(4) The proper officer

(a) shall take an inventory of the goods, and

(b) may retain the samples taken for the period that the officer requires the samples.

(5) The goods may be disposed of in accordance with directives of the Commissioner-General.

*Customs information*

**Provision of information**

**11.** (1) A person who is directly or indirectly involved in the accomplishment of customs formality or in customs controls, shall at the request of the Commissioner-General and within the time limit specified provide

(a) the requisite documents and information in an appropriate form, and

(b) any other assistance necessary for the completion of formalities or controls.

(2) A person who provides any information to the Authority is responsible for

(a) the accuracy and completeness of the information,

(b) the authenticity of the documents provided, and

(c) compliance with the requirements of the customs procedure concerned.

(3) Where information is provided by an agent of the person concerned, the agent is bound by the obligations set out in this section.

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(4) The Authority shall treat information received by the Authority in the course of performing its duties as confidential and the information is protected by the obligation of official secrecy.

(5) Except as otherwise provided by law, the Authority shall not disclose any information received by the Authority without the written permission of the person who provided the information.

(6) The Authority may communicate confidential information to a customs authority or other government authority of another country pursuant to an international agreement ensuring an adequate level of data protection.

(7) The Authority shall

(a) maintain regular dialogue with persons whose activities are covered by the customs laws and other authorities involved in international trade; and

(b) make the customs laws, general administrative rulings and application forms easily available, wherever practical without charging a fee, and on the website of the Authority.

**Customs ruling**

**12.** (1) The Commissioner-General may issue a written ruling applying the customs law to a particular set of facts submitted by an interested party.

(2) An interested party in this section includes

(a) a person, or authorized agent of a person, who has a demonstrable interest in the questions presented in the request, and

(b) an importer or exporter.

(3) The ruling may relate to the tariff classification, customs value, country of origin of the goods or to any other activity to which the customs law applies.

(4) An interested party may request for a customs ruling from the Commissioner-General.

(5) The request for a customs ruling shall be in writing and include

(a) a statement of all relevant facts,

(b) the names and addresses of interested parties,

(c) the name of the port where the goods are expected to arrive or depart, and

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- (d) a description of the transaction in sufficient detail to allow the application of the customs laws.
- (6) A request for a customs ruling in relation to tariff classification of goods shall include, in addition to the requirement in subsection (5),
  - (a) a complete description of the merchandise including
    - (i) the packing weight,
    - (ii) the chemical analysis,
    - (iii) the description of the goods,
    - (iv) the expiration date,
    - (v) the name and brand of the goods,
    - (vi) the physical description,
    - (vii) function of the goods,
    - (ix) composition of the goods, and
    - (x) characteristics of components;
  - (b) the commercial or technical designation of the goods; and
  - (c) where the goods consist of more than one material, the composition of the goods by weight, volume, and value of each component.
- (7) A request for a customs ruling in relation to valuation of goods for customs purposes shall include in addition to the requirement in subsection (5),
  - (a) the information required on an invoice;
  - (b) the terms of trade including Free On Board, Cost Insurance Freight; and
  - (c) a description of any relationship between the parties.
- (8) A customs ruling is binding on
  - (a) the Commissioner-General only, in respect of goods for which customs formalities are completed after the date on which the ruling takes effect; or
  - (b) the recipient of the ruling only with effect from the date on which the recipient receives, or is considered to have received, notification of the customs ruling.
- (9) A customs ruling is binding until the ruling is overturned by the Commissioner-General.

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- (10) A customs ruling shall not be issued where the request
- (a) concerns a current or completed customs transaction;
  - (b) presents questions or transactions that are hypothetical in nature; or
  - (c) presents a question that is pending before a court.
- (11) The customs ruling made by the Commissioner-General shall either
- (a) be published; or
  - (b) the interested party shall be notified in writing, not later than thirty days after the final ruling is made subject to the removal of confidential information in the ruling.
- (12) An interested party may request for
- (a) a review of the customs ruling by the Commissioner-General within thirty days of the publication or notification of the customs ruling; or
  - (b) a judicial review of the customs ruling made by the Commissioner-General within thirty days.
- (13) The Commissioner-General shall treat information submitted under this section as confidential, unless the parties agree otherwise.

**Objection**

- 13.** (1) A person may object to the following decisions by the Commissioner-General:
- (a) the assessment of duty, including underlying findings and determinations as to
    - (i) the customs value of the goods;
    - (ii) the tariff classification of the goods;
    - (iii) the country of origin of the goods;
    - (iv) the rate and amount of duty assessed; and
    - (v) the person liable to pay the amount charged or the amount of that person's liability;
  - (b) the exclusion of goods from the country as prohibited goods;
  - (c) the refusal to pay a claim for drawback;
  - (d) the refusal to refund or remit duty; or
  - (e) a customs ruling which is binding.



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(2) The following persons may submit an objection under subsection (1):

- (a) the importer or exporter of the goods in question;
- (b) a person whose liability to pay or right to receive a refund will be affected by the decision;
- (c) a person filing a claim for drawback or other refund; or
- (d) an authorised agent of a person specified in subparagraphs (a), (b) or (c).

(3) An objection shall include the following:

- (a) the name and address of the person filing the objection;
- (b) the number and date of the entry of the goods involved;
- (c) the date and nature of the decision being objected; and
- (d) a description of the merchandise.

(4) The procedure for filing an objection shall be in accordance with the law governing revenue administration in the country.

**Documents to be submitted**

**14.** (1) Subject to this Act and Regulations made under this Act, the Commissioner-General may prescribe forms required for the purposes of this Act.

(2) Where a person is required to submit a report, entry, declaration or other forms for the purposes of this Act, the Commissioner-General may require the person to submit as many copies as the Commissioner-General may consider necessary.

(3) The Commissioner-General may require documents to be submitted in duplicate, and may retain the duplicates.

(4) Where the documents are not submitted in duplicates, the Commissioner-General may retain the originals.

*Arrival and departure of conveyance*

**Meaning of master**

**15.** For the purpose of this Part, "master" means a person who is in charge of a conveyance or the agent of the master.

**Arrival of conveyance**

**16.** (1) A conveyance arriving in the country shall

- (a) come to a port, or any other place allowed by the Commissioner-General in special circumstances, without touching at any other place in the country;

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- (b) on arriving at that port or place, proceed quickly to the proper place of mooring or unloading as the nature of the port or place will admit, without touching at any other place; and
  - (c) in proceeding to the proper place shall bring to at the station appointed for the boarding of conveyances.
- (2) A conveyance after arriving at a proper place of mooring or unloading shall depart from the place of mooring or unloading, unless
  - (a) directed to another place of mooring or unloading by the proper officer;
  - (b) directed to another port by the proper officer or to a place allowed by the Commissioner-General in special circumstances ; or
  - (c) directed on a flight or voyage to a place outside the country in accordance with the provisions of this Act.
- (3) A person shall not bring to within the country a conveyance which has departed on a flight or voyage to a place outside the country except in accordance with the provisions of this Act.
- (4) The time when goods are imported is the time at which the goods are brought within the boundaries of the country.
- (5) Where a question arises on the arrival of a conveyance at a port or place in the country in respect of a charge or allowance for the conveyance, the time of arrival is the time at which the conveyance was first boarded at that port or place by any person in the employment of the Government.
- (6) The time when goods are exported is the time when the goods are put on board the exporting aircraft or ship.
- (7) Where the goods are prohibited to be exported, the time when the goods are exported is the actual time at which the aircraft or ship departed from its final position, anchorage or berth within the country.
- (8) Where the goods are exported overland or by inland waters the time of exportation is the time at which the goods pass across the boundaries of the country.
- (9) The master of a conveyance that contravenes a provision of this section shall incur a penalty of not less than one thousand penalty units and the conveyance shall be detained.

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(10) A person, whether a passenger or not, shall not disembark or go ashore from or go on board a conveyance that has arrived within the country, except

- (a) at times and by means and ways prescribed in Regulations made under this Act; or
- (b) as the Commissioner-General may allow.

**Report to be made on arrival of conveyance**

17. (1) The master or agent of a conveyance, whether laden or in ballast, shall within twenty-four hours after arrival from outside the country, make a report of the conveyance and the stores and cargo in the conveyance to the Commissioner-General in the prescribed manner.

(2) The report shall state separately

- (a) goods that are in transit,
- (b) goods intended for an inland port,
- (c) goods that are to be transferred to another conveyance for re-exportation, and
- (d) whether any goods are to remain on board for re-exportation in the same conveyance.

(3) The report shall give a particular account of goods remaining on board for exportation before the bulk is broken unless otherwise allowed by the Commissioner-General.

(4) Where under this Act, the master is required to respond to questions from the Commissioner-General or a proper officer, and the conveyance is within the country and has not left its final position, anchorage or berth preparatory to leaving the country, the Commissioner-General or the proper officer may require the master to report to the customs office to respond to the questions.

(5) Despite subsection (4), the master, with the consent of the Commissioner-General or the proper officer, may delegate a senior officer of the conveyance to report to the customs office for the purpose of responding to the questions, and in that case the reply of the senior officer shall be considered to be the reply of the person required to respond to the questions.

(6) Despite any provision of this Act, where a conveyance carrying cargo for delivery at more than one port or place in the country arrives from outside the country, the master shall report

- (a) on the content of the whole cargo at the first port or place, and

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(b) separately on the part of the cargo intended for the first port or place, and unloading the part of the cargo at the first port or place.

(7) The master may, after unloading the cargo, and on being authorised by the proper officer, proceed to subsequent ports or other places allowed by the Commissioner-General, and at each port or place the master shall make a report on the part of the cargo intended for that particular port or place.

(8) The master and all persons concerned in unloading the cargo are subject to the provisions of this Act.

(9) Where the Commissioner-General requires, the master of a conveyance shall deliver to the Commissioner-General at the time of making a report of arrival, the clearance of the conveyance, if any, from the port or ports from which the conveyance has arrived.

**Failure to make report**

- 18.** (1) Where the master of a conveyance
- (a) fails to make a report required under section 17,
  - (b) if any of the particulars contained in the report are false, or
  - (c) omits any particulars required in the report,

the master shall incur a penalty of not less than one thousand penalty units and all goods not duly reported are liable to forfeiture, unless the failure to report or omission is explained to the satisfaction of the Commissioner-General.

(2) Where the master of a conveyance fails to make a report in respect of a package

- (a) that is unloaded, removed and deposited in a customs-controlled area or other place approved by the Commissioner-General and entered and cleared from the package in accordance with this Act; or
- (b) where required, produce to the proper officer for deposit, the master shall pay the duty on the package, in addition to a penalty of three times the duty involved unless the master explains to the satisfaction of the Commissioner-General the failure to deal with the package.

(3) Subsection (1) does not apply to goods kept on board as stores or for re-exportation or with the permission of the Commissioner-General kept on board for direct transfer to another conveyance for use as stores or for re-exportation.

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**Duties of a master**

**19.** (1) The master shall, in relation to the conveyance, its cargo, stores, baggage, crew, passengers, and flight or voyage

(a) respond immediately to all questions asked by a proper officer, and

(b) produce all books and documents in the custody or control of the master that the proper officer may require.

(2) Before a person, unless permitted by the proper officer, disembarks, the master shall give to the officer who boards the conveyance on arrival at any port or place a list containing

(a) the names of each passenger on board, and

(b) the names of the master and each officer and member of the crew.

(3) Where the list of names is not correct or complete, the master shall incur a penalty of not less than two hundred penalty units, unless the inaccuracy or omission is explained to the satisfaction of the Commissioner-General.

**Breaking of bulk**

**20.** Where a conveyance enters the country and without the knowledge and consent of the Commissioner-General,

(a) the bulk is broken contrary to this Act;

(b) any alteration is made in the stowage of the cargo to facilitate the unloading of a part of the cargo before arrival at a proper place of unloading, or not being a steamship, or conveyance specially allowed to do so, before a report of the conveyance has been made; or

(c) goods are staved, destroyed or thrown overboard or any package opened,

the master shall incur a penalty of not less than five hundred penalty units unless the master gives an explanation to the satisfaction of the Commissioner-General.

**Mooring and unloading**

**21.** (1) The Commissioner-General may, subject to any other authority provided by law, direct at what particular part of a port or other place a conveyance shall moor or unload its cargo.

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(2) Except in accordance with the Regulations made under this Act or with the written permission of the Commissioner-General or subject to conditions that the Commissioner-General may in a particular case impose, a master shall not

- (a) unload a cargo from a conveyance arriving from outside the country, unless the Commissioner-General has authorised unloading of the cargo and the cargo manifest has been submitted;
- (b) unload a cargo from a conveyance arriving from outside the country, except at the times and days that are prescribed by Regulations or approved by the Commissioner-General;
- (c) transfer a cargo from a conveyance arriving from outside the country to another conveyance except between the times and days that are prescribed by Regulations or approved by the Commissioner-General; or
- (d) unload a cargo from a conveyance arriving from outside the country except at an approved place of unloading or sufferance wharf approved for the purpose.

(3) Where cargo is unloaded contrary to this section or to the terms and conditions contained in any written permission from the Commissioner-General, the cargo is liable to forfeiture to the State.

(4) A person shall not tranship or remove cargo, which has not been unloaded from an aircraft or ship arriving from outside the country into any other vessel before it is landed.

(5) A person shall take directly and without delay any cargo which has been unloaded from a conveyance and put into another conveyance to be landed, to an approved place of unloading or sufferance wharf approved for the purpose within the same port, and landed there without delay.

- (6) A person shall immediately convey cargo which
  - (a) is unloaded at an approved place of unloading or sufferance wharf approved for the purpose, and
  - (b) has been put into a vessel to be landed in accordance with this section

into the care of the proper officer in the customs-controlled area, and deposited in a transit shed or in a State warehouse as the proper officer may direct.

*Customs Bill, 2014*

(7) An importer shall deposit cargo which is considered unsuitable for storage in a transit shed or State warehouse as the officer may direct, at the risk and expense of the importer.

(8) Except in accordance with Regulations made under this Act or with the written permission of the Commissioner-General, and subject to any conditions that a proper officer may impose, a person shall not remove cargo

(a) from a part of a customs-controlled area, or

(b) from the transit shed or State warehouse into which it has been conveyed,

unless the cargo has first been duly reported and entered, and the proper officer has authorised the removal or delivery of the cargo.

(9) The proper officer may require the master of a conveyance from which cargo has been landed to remove it to a place of security selected by the proper officer.

(10) A master who fails to remove the conveyance when required to do so shall incur a penalty of not less than two hundred penalty units and the proper officer may have the cargo removed to another place of security at the expense of the master.

(11) An importer shall remove cargo entered to be warehoused in the manner and within the period that the proper officer shall direct to the warehouse for which it is entered, and delivered into the care of the officer in charge of the warehouse, if the importer has first entered into a bond for the warehousing of that cargo, as required.

(12) Any cargo which is removed, deposited or dealt with contrary to this section or the terms and conditions contained in a written permission given by the Commissioner-General, is liable to forfeiture.

**Liability of goods other than cargo subject to forfeiture**

**22.** (1) Goods other than cargo duly reported shall not be

(a) taken out of a conveyance arriving from outside the country;  
or

(b) delivered to a person aboard that conveyance other than goods for the consumption or use of the crew or passengers

except under conditions prescribed by Regulations or as the Commissioner-General may in a particular case direct.

*Customs Bill, 2014*

(2) For the purpose of this section "goods" includes baggage, stores and any other goods which may be taken on board a conveyance arriving from outside the country while the goods are within the country.

(3) Where the goods are taken out or delivered contrary to subsection (1), the goods are liable to forfeiture.

(4) Despite the provisions of this section, a proper officer may permit the delivery to an importer of bullion, currency notes or coin on submission of a pre-entry by the importer.

(5) Where the importer does not deliver to the proper officer a full and true account of the bullion, currency notes or coin which is imported, including their weight and value, within forty-eight hours after their removal from the importing conveyance, the importer shall incur a penalty of not less than one thousand penalty units.

**Penalties and charges**

**23.** (1) Where goods remain on board an importing conveyance beyond seven days after the arrival of the conveyance, or beyond a further time that the proper officer may allow, the proper officer shall detain the conveyance until the following expenses are paid:

- (a) expenses for guarding the goods beyond the seven days or further time, if any, allowed, and
- (b) expenses of removing the goods to a State warehouse, where the proper officer removes the goods.

(2) Where it is necessary for the protection of revenue to assign an officer to a derelict or other conveyance coming into the country under legal process, by stress of weather or for safety reasons, a charge of not more than twenty penalty units per day shall be made, so long as the officer is assigned.

(3) Where an officer boards a conveyance and finds goods on the conveyance, and after leaving the conveyance the officer or any other officer boards the conveyance and finds the goods have been unlawfully unloaded, the master shall incur a penalty of not less than three hundred and fifty penalty units.

(4) Where a master does not bring a conveyance that is liable to seizure or examination under this Act or fails to allow the conveyance to remain for the period that the boarding officer requires, the master shall incur a penalty of not less than three hundred and fifty penalty units.



**Aircraft and ship stores**

24. (1) A proper officer may, on request, permit the master of an aircraft or ship departing from a port in the country on a flight or voyage to a place outside the country, to take on board stores for the use of

- (a) the aircraft or ship, and
- (b) the master, crew and passengers,

on the terms and conditions that the Commissioner-General may determine.

(2) Subsection (1) does not apply to goods that are prohibited for export.

(3) Stores shall not be put on board for the use of an aircraft or ship nor shall articles taking on board an aircraft or ship be considered to be stores except the stores or articles which are put on board in accordance with this Act.

(4) Where an officer boards an aircraft or ship within the country after clearance and discovers that the stores remaining on board from the inward voyage is less than the quantity which should be on board, the master shall incur a penalty equal to the value of the deficiency in the stores after making allowance for what might have been consumed, having regard to the time during which the aircraft or ship has been within the country.

(5) Where an aircraft or ship, departs from the country on a flight or voyage to a place outside the country and returns to the country and an officer boards the aircraft or ship and discovers a deficiency in the store of the aircraft or ship which in the opinion of the officer, is in excess of the quantity which might have been consumed, having regard to

- (a) the time which has elapsed between the departure of the aircraft or ship; or
- (b) the discovery of the deficiency,

the master shall incur a penalty equal to the value of the deficiency in the stores.

(6) Goods carried as stores on an aircraft or a vessel arriving from a place outside the country and reported on arrival are exempt from duty, provided that the store

- (a) is not used before the departure of the ship or aircraft from its last port of departure in Ghana except the stores for the use of the passengers or crew, or for the service of the ship or aircraft; and
- (b) is not unshipped or unloaded.

*Customs Bill, 2014*

(7) The Commissioner-General may require the master of the ship or aircraft to take appropriate measures to prevent any unauthorised use of the stores including sealing of the stores, where necessary.

**Departure of conveyance**

**25.** (1) The master or agent of a conveyance in which goods are to be exported shall before the goods are taken on board, deliver to the proper officer at the port at which the conveyance has first arrived, an entry outwards of the conveyance, verified by the signature of the master or the agent, in the appropriate form.

(2) The entry shall contain

- (a) the particulars indicated in the entry or required by the proper officer; and
- (b) a declaration that imported goods have not been left on board the conveyance other than the goods and stores specified in the entry outwards.

(3) The master of the conveyance to which the above provision applies shall, if required, obtain from the proper officer a certificate of rummage in the form determined by the Commissioner-General.

(4) A person who, contrary to this section

- (a) exports or attempts to export warehoused goods, or goods liable to duties transferred from an importing conveyance, or goods entitled to drawback on exportation;
- (b) enters or attempts to enter any of the goods for exportation in a ship of less than one hundred tons burden; or
- (c) places any of the goods for exportation on board a ship of less than one hundred tons burden,

shall incur a penalty equal to the total value of the goods, and the goods are liable to forfeiture to the State.

**Goods on board a conveyance**

**26.** (1) A person shall not put goods on board a conveyance for exportation or use as stores, or into a vessel to be water-borne

- (a) except on the days and at the times prescribed;
- (b) except from an approved place of loading;
- (c) except with the authority of the proper officer;
- (d) before the goods are entered; or
- (e) before entry outwards of the exporting conveyance, if it is required by law to be entered outwards.

*Customs Bill, 2014*

- (2) Despite subsection (1), the Commissioner-General may
- (a) permit goods to be put on board an aircraft or ship on days, at times, from or at places, and under the conditions that the Commissioner-General may either generally or in a particular case direct; or
  - (b) direct what goods need not be entered by the exporter until after the departure of the ship, but the exporter shall enter the goods within twenty-four hours of the departure or further time as the Commissioner-General may allow.

(3) Where goods are permitted to be entered after being put on board, the Commissioner-General may require the exporter or the agent of the exporter to give security for the payment of export duty on the goods that may incur the duty.

(4) An exporter who contravenes subsection 2 (b) shall forfeit the security paid to the Commissioner-General.

(5) Despite subsection (3), the Commissioner-General may, refuse entry or delivery or prevent shipment of any further importation or exportation of goods where the exporter refuses to make the entry specified under subsection (2).

**Goods for export or use as stores**

27. (1) A person shall not put on board an exporting ship goods that have been put into a vessel to be water-borne to a ship for exportation or use as stores, outside the limits of a port.

(2) A proper officer may, on reasonable suspicion, open and examine goods put on board a conveyance or brought to any place in the country to be put on board a conveyance for exportation or for use as stores.

(3) Goods that have been put into a vessel to be water-borne to a ship for exportation or use as stores shall be taken directly and without delay to the ship in which the goods are to be exported or used as stores, and put on board immediately.

(4) Every vessel in which goods are water-borne to a ship shall be a licensed ship unless the Commissioner-General otherwise allows.

(5) A person shall not unload goods put on board a conveyance for exportation, or for use as stores, in any part of the country without the written permission of the proper officer and in accordance with the conditions that the Commissioner-General may impose.

*Customs Bill, 2014*

(6) Where a person puts or attempts to put goods on board a conveyance or unloads or attempts to unload, or deals with goods, in any way contrary to subsection (5), the goods are liable to forfeiture to the State.

(7) The proper officer may permit a person

- (a) to load baggage for delivery to passengers, officers or crew; or
- (b) to take on board a conveyance goods for sale

on conditions that the proper officer may direct.

**Goods liable to forfeiture**

**28.** Goods are liable to forfeiture to the State, where the goods

- (a) are not part of the cargo or stores of a conveyance that is about to proceed to a place outside the country;
- (b) remain on board a conveyance from a previous voyage from a place outside the country; or
- (c) are goods that are placed or attempted to be placed on board a conveyance contrary to section 27.

**Loading and exportation of bonded goods**

**29.** (1) An exporter shall not enter goods for use as stores, for export or transfer unless the exporter gives the appropriate security that the Commissioner-General may require to ensure that

- (a) the goods will be put on board the conveyance and used as stores or exported to and unloaded at the place for which they are entered within the time that the Commissioner-General considers reasonable; or
- (b) the goods are accounted for to the satisfaction of the Commissioner-General.

(2) Where goods for which a bond is required

- (a) are put on board a conveyance, or
- (b) are brought to a customs-controlled area to be put on board a conveyance,

and on examination by the proper officer, the goods are found not to tally with the entered particulars, the exporter shall incur a penalty equal to the total value of the goods and the goods shall be forfeited to the State.

*Customs Bill, 2014*

(3) Where goods entered as stores or for transit, after being entered and put on board a conveyance, are not used as stores or are not duly exported to and unloaded at the declared destination, the goods are liable to forfeiture to the State, if the goods are

(a) unloaded in the country without the permission of the Commissioner-General, or

(b) not accounted for to the satisfaction of the Commissioner-General, and

the master of the conveyance shall incur a penalty equal to one hundred percent of the value of the goods.

(4) Where bonded goods are not duly put on board a conveyance for which they have been entered for export or use as stores, the person who entered the goods shall

(a) attend to the proper officer within twenty-four hours of the time of clearance of the conveyance and notify the officer of the short-loading of the goods; or

(b) at a time that the Commissioner-General may allow.

(5) A person who fails to comply with subsection (4) is liable to have the goods forfeited to the State.

(6) Where goods that have been removed from a bonded warehouse for export or use as stores are not duly put on board the conveyance for which they have been entered and are not re-warehoused or re-entered for exportation or use as stores in some other conveyance within the period of twenty-four hours, the goods are liable to forfeiture to the State.

(7) Where goods for which a bond requirement has been waived are entered for export and the goods are not put on board the conveyance for which they are entered, the exporter shall notify the proper officer within twenty-four hours after the departure of the conveyance, or such further time as the Commissioner-General may allow.

(8) An exporter who contravenes subsection (7) shall incur a penalty of not less than two hundred penalty units.

(9) Goods that are stored in a customs-controlled area with the permission of the proper officer prior to shipment are stored at the risk and expense of the exporter and are subject to rent and other charges that may be prescribed.

**Entry outward and clearance**

**30.** (1) The master of a conveyance or an authorised agent shall, immediately before the departure of the conveyance from a port or place in the country, deliver to the proper officer the content of the conveyance in the appropriate form.

(2) The master of a conveyance shall

(a) make and sign the declaration in the presence of the proper officer, and

(b) respond to all questions that the proper officer may ask concerning the conveyance, the cargo, stores, baggage, officers, crew, passengers, and the flight or voyage.

(3) Where

(a) the master fails to deliver the content of the conveyance, or

(b) any of the particulars contained in the declaration are false, or

(c) any required particulars are omitted from the declaration; and

the failure or omission is not explained to the satisfaction of the Commissioner-General, the master or authorised agent shall incur a penalty of not less than one thousand penalty units.

(4) A conveyance shall not leave a port or place in the country for a place outside the country until the master or an authorised agent has satisfied the proper officer that the provisions of this Act have been complied with, and unless the officer decides to withhold clearance in accordance with any other provision or law, the officer shall deliver to the master or authorised agent a clearance in the appropriate form, which shall authorise the departure of the conveyance.

(5) Where a conveyance departs from a port or place in the country to a place outside the country without a clearance given under this section, the master or authorised agent shall incur a penalty of not less than one hundred penalty units and the Authority shall blacklist the conveyance.

(6) A proper officer may go on board a conveyance within the country and demand from the master, the clearance in relation to the conveyance, and where the master does not produce the clearance, the master shall incur a penalty of not less than two thousand penalty units and the Authority shall detain the conveyance until clearance is obtained.

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(7) Where there are goods or stores on board a conveyance that are not contained in the declaration, the goods shall be forfeited to the State and the master shall incur a penalty of three times the duties payable.

(8) Where a proper officer, boards a conveyance within the country after clearance and discovers that goods

(a) that were loaded on board in the country as stores or for exportation, or

(b) that at the time of clearance remained on board from the inward voyage are no longer on board,

the master shall pay the duty on the goods and, in addition, pay a penalty of one hundred percent of the duty, unless the goods have been unloaded in the country with the permission of the proper officer.

(9) Where a conveyance departing from the country

(a) does not stop at the proper boarding station for setting down officers, or for any other purpose required by this Act, or

(b) departs with an officer on board without the consent of the officer,

the master shall incur a penalty of not less than one thousand penalty units and in addition is subject to prosecution and punishment under any other relevant enactment.

*Coasting trade*

**Coasting aircraft or ship**

**31.** (1) For the purpose of this section, trade by air or by sea, from one part of the country to another part of the country is coasting trade, and an aircraft or ship used in that manner is considered to be a coasting aircraft or coasting ship.

(2) The loading, unloading and movement of goods under this section is subject to Regulations made under this Act and to conditions that the Commissioner-General may impose.

(3) Where goods are loaded, unloaded, conveyed or dealt with contrary to the Regulations or conditions that the Commissioner-General may impose the goods are liable to forfeiture and the master of the aircraft or ship shall incur a penalty equal to the value of the goods.

**Permission required for coasting**

**32.** (1) An aircraft or a ship shall not engage in coasting trade without the written permission of the Commissioner-General.

(2) An aircraft or ship that contravenes subsection (1) shall incur a penalty of eight hundred and fifty penalty units and the Commissioner-General may detain the aircraft or ship.

**Ships engaged in coasting trade to display name**

**33.** (1) A ship that is used for coasting trade shall have the name of the ship painted on each bow in letters of not less than six inches high and of proportionate width in

(a) white on a dark background; or

(b) black on a light background.

(2) A master, owner or agent of a ship who contravenes subsection (1) shall incur a penalty of eight hundred and fifty penalty units and the Commissioner-General may detain the ship.

(3) A person in charge of a coasting aircraft or ship shall not carry goods in the coasting aircraft or ship except goods that are loaded on the coasting aircraft or ship to be carried coastwise at a port or place in the country.

**Deviation from flight or voyage**

**34.** (1) A master of a coasting ship or aircraft who

(a) deviates from a flight or voyage unless the master is forced to deviate due to unavoidable circumstances, or

(b) takes on board wreck or other goods or unloaded goods in the course of a flight or voyage from one part of the country to another,

shall incur a penalty of eight hundred and fifty penalty units, if the master does not proceed directly to the nearest port in the country and make a report in writing of the incident to the proper officer, and deliver the goods taken on board into the care of the proper officer.

(2) The Commissioner-General may detain a conveyance where the master of the ship or aircraft contravenes subsection (1).

**Publication in the Gazette**

**35.** The Commissioner-General may by notice in the *Gazette* or a national daily newspaper specify the times for loading and unloading of goods in coasting trade.



**Restrictions on dealing with coastwise cargo**

**36.** (1) The master of the aircraft, ship or vessel who without the written permission of the Commissioner-General,

- (a) unloads goods from an aircraft or ship arriving coastwise,
- (c) unloads goods from a vessel into which the goods have been put to be landed; or
- (b) puts goods on board a vessel to be water-borne,

outside the specified days and times shall incur a penalty of eight hundred and fifty penalty units and the goods shall be liable to forfeiture to the State.

(2) The Commissioner-General may detain an aircraft, ship or vessel used in the contravention of subsection (1).

**Prohibited and restricted goods**

**37.** (1) A person who attempts to or knowingly

- (a) puts on board a coasting aircraft or ship goods that are prohibited to be carried coastwise or goods whose carriage coastwise is restricted;
- (b) puts off or puts into a conveyance to be put on board a coasting aircraft or ship, goods that are prohibited to be carried coastwise or goods whose carriage coastwise is restricted;
- (c) brings to a place in the country for carriage coastwise goods that are prohibited to be carried coastwise or goods whose carriage coastwise is restricted; or
- (d) carries coastwise goods which are prohibited to be carried coastwise or goods whose carriage coastwise is restricted,

shall incur a penalty of not less than eight hundred and fifty penalty units and where the goods are prohibited the goods shall be forfeited to the State; but where the goods are restricted the goods shall be liable to forfeiture to the State.

(2) The Commissioner-General may detain the aircraft or ship used in contravention of subsection (1).

**Carriage of passengers**

**38.** A person who carries passengers, officers and crew of a ship or aircraft coastwise shall comply with the provisions of this Act and any Regulations made under this Act.

**Master to deliver account on cargo before departure**

**39.** (1) A master of a coasting aircraft or ship shall deliver to the proper officer in the appropriate form an account of cargo and stores taken on board the ship or aircraft before departing from a port or place in the country.

(2) The original accounts dated and signed by the proper officer, shall be the clearance for the aircraft or ship for the voyage and the transire for the goods, if any, specified on it.

- (3) Where the master, agent or owner
- (a) fails to deliver the account, or
  - (b) falsifies the accounts,

the master, agent or owner shall incur a penalty equal to twice the value of the goods and the Commissioner-General may detain the aircraft or ship.

**Master to deliver transire on arrival**

**40.** (1) A master shall, immediately after the arrival of a coasting aircraft or ship at the port or place of unloading and before the goods are unloaded, produce the transire to the proper officer.

(2) A master who unloads goods on board the coasting aircraft or ship contrary to subsection (1) incurs a penalty equal to the value of the goods and the Commissioner-General may detain the aircraft or ship.

**Forfeiture of goods unlawfully loaded or unloaded**

**41.** Where goods are loaded on board an aircraft or ship in a port or place within the country and carried coastwise contrary to this Act or, having been carried coastwise, are unloaded in a port or place contrary to this Act, the goods shall be forfeited to the State.

**Commissioner-General may vary procedure**

**42.** (1) Despite anything to the contrary, the Commissioner-General may permit the loading, unloading, entry or clearance of a coasting aircraft or ship and goods under conditions that the Commissioner-General may determine.

(2) The Commissioner-General may permit the master or owner of an aircraft or ship that is bringing goods coastwise to an approved port to enter the goods outwards for exportation without first unloading them.

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(3) The Commissioner-General may when necessary and subject to any Regulations made under this Act or terms and conditions determined by the Commissioner-General allow

- (a) the entry outwards of a ship, and
- (b) permit the loading of goods for export in the ship or aircraft for carriage coastwise before the goods imported in the ship or aircraft are unloaded

if there is a complete separation of the goods being loaded for export or carriage coastwise from the goods being imported and from any cargo remaining on board.

(4) A person shall post a bond on goods that are carried by ship or aircraft in coastwise trade.

*Licensing*

**Customs house agent**

**43.** (1) A company or partnership shall not engage in the business of customs house agent unless that company or partnership has been granted a licence by the Commissioner-General.

(2) The Commissioner-General shall not grant a licence to a company or partnership to operate as a customs house agent unless

- (a) in the case of a company,
  - (i) the company is authorised by the regulations of the company to carry on the business of a customs house agent, and
  - (ii) at least one officer of the company holds a certificate of proficiency in customs house agency; or
- (b) in the case of a partnership
  - (i) the partnership is by virtue of its partnership agreement authorised to transact business as a customs house agent, and
  - (ii) at least one partner of the partnership holds a certificate of proficiency in the business of customs house agency.

(3) The Commissioner-General may grant a licence under this section to a statutory body, state institution, or other institution to transact business as a customs house agent.

*Customs Bill, 2014*

(4) A person who is granted a licence to carry on business as a customs house agent shall pay the prescribed fees.

(5) A customs house agent licence is valid for one year and may be renewed on payment of the prescribed fees.

(6) The Commissioner-General may suspend or revoke the licence of a customs house agent where the licensee breaches

- (a) the conditions specified in the licence; or
- (b) the provisions of this Act.

**Agent to produce authority**

44. (1) Where a person applies, on behalf of another person, to the Commissioner-General to transact business in relation to customs or any other matter under this Act, the Commissioner-General may require the applicant to produce a written authority from the person on whose behalf the application is made.

(2) The Commissioner-General may refuse an application where a person fails to produce the document required under subsection (1).

(3) A document required to be signed by any person under this section is deemed to be signed if the document is signed by a person authorised on behalf of the person required to sign it unless the Commissioner-General refuses to accept the document.

(4) Where a document or declaration is required, under this section, to be signed in the presence of the Commissioner-General or a particular officer, the document is valid as if

- (a) the document has been signed in the presence of the Commissioner-General; or
- (b) the officer in whose presence the document is required to be signed

where the document is signed in the presence of a witness whose signature is known to and is approved by the Commissioner-General or the officer who receives the document.

**Bonded carrier**

45. (1) A person shall not engage in the business of carrying bonded goods unless that person has

- (a) applied to the Commissioner-General for a licence; and

*Customs Bill, 2014*

(b) been issued with a licence by the Commissioner-General in accordance with this Act and the Regulations made under this Act.

(2) A person who applies for a bonded carrier licence shall post a bond and pay the prescribed fees.

(3) The Commissioner-General may license the following persons as bonded carriers in the country:

(a) a common carrier of goods owning or operating a railroad, steamship, or other transportation line for the transport of goods in the country;

(b) a contract carrier authorised by the Government of Ghana to carry goods; or

(c) a freight forwarder authorized by the Government of Ghana to carry goods.

(4) A bonded carrier licence is valid for one year and may be renewed on the payment of the prescribed fees.

(5) The holder of a bonded carrier licence shall keep all records required to be kept.

**Licensing and operation of customs-controlled area**

**46.** (1) Despite section 10, a person in charge of the following areas may apply to the Commissioner-General for a licence to operate the area as a customs-controlled area:

(a) an area for the processing of a conveyance arriving in or departing from Ghana or the loading or unloading of goods onto or from a conveyance;

(b) an area for the temporary storage of goods imported at a port of entry and not yet released by the Authority, including goods not yet declared and any goods seized as liable to forfeiture;

(c) an area used for the embarkation, disembarkation, or processing of persons arriving in or departing from the country; or

(d) an area used as a customs bonded warehouse.

(2) The Commissioner-General shall determine the process of application for licensing a customs-controlled area.

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(3) A person who applies for a licence for a customs-controlled area shall post a bond and pay the prescribed fee.

(4) The Commissioner-General shall not issue a licence to a person in charge of an area under this section where the Commissioner-General finds that

- (a) it is not in the public interest, or
- (b) it is impracticable or unnecessary that the area in question should be licensed as a customs-controlled area.

(5) The Commissioner-General may suspend or revoke a license in respect of a customs controlled area where the licensee

- (a) breaches a condition specified in the licence; or
- (b) contravenes a provision of this Act.

(6) The holder of a licence for a customs-controlled area may surrender the license at any time by giving thirty days notice in writing to the Commissioner-General.

(7) Where a license is revoked or surrendered, any applicable duty shall become due and payable unless the Commissioner-General permits the goods

- (a) to be removed to another customs-controlled area; or
- (b) to be placed under a customs procedure.

(8) The licensee of a customs-controlled area shall store goods subject to the control of the Authority.

(9) Where goods are placed in a customs-controlled area by the Commissioner-General, a person in charge of the customs-controlled area shall charge fees for the reception or storage of the goods.

(10) An officer of the Authority shall not

- (a) own, in whole or in part, a place used as a customs-controlled area; or
- (b) enter into a contract or agreement for the lease or use of a place with a view to its subsequent use as a customs-controlled area.

(11) The licensee of a customs-controlled area shall keep records and submit reports that will enable the Authority supervise the customs-controlled area and in particular records with regard to the identification of goods placed in the area, the customs status and movement of the goods.

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(12) The provisions of this Act in relation to the importation and exportation of warehoused goods, so far as they are applicable, apply to goods

- (a) liable to customs duty that are transferred from an importing aircraft or ship to an exporting aircraft or ship, or
- (b) exported on drawback.

(13) Goods remaining in a customs-controlled area are liable to rent and other charges.

**Warehouse**

**47.** (1) A person shall not use a building or place as a private bonded warehouse unless

- (a) the building or place has been duly licensed by the Commissioner-General,
- (b) the keeper of the warehouse deposits the required bond, and
- (c) the keeper of the warehouse pays the prescribed fees.

(2) The licence shall be in an approved form and issued by the Commissioner-General.

(3) The Commissioner-General may at any time revoke a licence issued under this Act and a licensee shall not recover part of the licence fee paid unless the Commissioner-General considers that it is unreasonable or may impose hardship.

(4) Where the licence of a bonded warehouse is revoked, that person shall

- (a) pay the duty on all the goods warehoused;
- (b) export the goods warehoused; or
- (c) remove the goods to another bonded warehouse within three months or any other time as the Commissioner-General may direct.

(5) A proper officer shall take goods not duly exported or removed in accordance with this section to a state warehouse and the goods may be sold or otherwise dealt with.

(6) A written notice of revocation addressed to the keeper of the warehouse or the private bonded warehouse and posted at the warehouse is deemed to be notice to all persons interested in the goods.

*Customs Bill, 2014*

*Entry of goods*

**Time of entry**

- 48.** (1) The time of entry in relation to goods
- (a) imported,
  - (b) warehoused,
  - (c) put on board an aircraft or ship as stores, or
  - (d) exported,

is the date when the prescribed declaration is filed and accepted by the proper officer and any duty due has been paid or security for any duty due has been deposited.

(2) Where the entry is filed electronically, the time of entry in relation to goods imported, warehoused, put on board an aircraft or ship as stores, or exported, is the date on which the electronic filing is validated.

- (3) The time of entry for goods
- (a) imported into the country by post is the time of delivery to the addressee; and
  - (b) exported from the country by post is the time of posting of the goods.

(4) The time of entry for goods imported overland or by inland waters is the time of actual payment of duty on the goods.

(5) The goods prohibited to be imported are provided for in the Schedules attached to the Harmonized System.

**Declaration**

- 49.** (1) A person who intends to declare goods to be placed under a customs procedure in accordance with this Act shall file a declaration
- (a) in the prescribed form; and
  - (b) within seven working days from the date of final discharge of the goods.

(2) The Commissioner-General may extend the period referred to in subsection (1).

(3) Except as otherwise provided, the declarant shall choose the customs procedure under which the declarant wishes to place the goods.

(4) Where a customs house agent acts on behalf of a person, the agent shall indicate in the declaration, the person on whose behalf the declaration is made and the agent shall be taken as the declarant.

(5) A person shall make available to the Authority all supporting documents required at the time a declaration is lodged, unless at the request of the declarant, the Commissioner-General allows the documents to be submitted at a later time.



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- (6) The declaration shall include the following:
- (a) a genuine commercial invoice indicating
    - (i) the name and address of the buyer and seller;
    - (ii) the date and terms of sale;
    - (iii) the quantity, weight or volume of shipment;
    - (iv) type of packaging;
    - (v) a complete description of goods;
    - (vi) the unit value and total value;
    - (vii) terms of trade, Cost Insurance Freight, Free On Board; and
    - (viii) shipping and insurance charges;
  - (b) a bill of lading;
  - (c) a classification and valuation report issued by the appropriate authority;
  - (d) a certificate of origin, where applicable; and
  - (e) an import permit, where applicable.

(7) A commercial or transport document setting out all of the particulars required under this section may serve as the declaration for transit.

**Pre-entry**

**50.** (1) For the purpose of this section, pre-entry refers to the filing of a declaration and the payment of the duties prior to the arrival of goods.

(2) The provisions of this Act in relation to the entry of goods apply to pre-entry of goods with the necessary modifications.

(3) With the approval of the Commissioner-General, and subject to conditions and restrictions that the Commissioner-General may impose, goods may be entered under this section prior to importation.

**Missing or incomplete documents**

**51.** (1) The Commissioner-General may allow provisional declaration, delivery or shipment of goods subject to

- (a) the payment of a deposit specified by the Commissioner-General, and
- (b) terms and conditions that the Commissioner-General may determine pending the production of proper documents and declarations.

(2) In the case of a provisional declaration, the declarant shall furnish the Commissioner-General with a supplementary declaration to perfect the entry within ninety-six hours.

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(3) A person shall forfeit a deposit made in accordance with subsection (1), where that person does not produce the documents or declarations required by the Commissioner- General within fourteen days of the time of deposit, or a further period as the Commissioner-General may allow.

(4) Despite subsection (3), the Commissioner-General may refuse entry or delivery or prevent shipment of any further importation or exportation of goods, where a person neglects or refuses to produce the relevant documents and declarations.

**Uncleared goods**

**52.** Where goods imported in any aircraft or ship are not entered within seven days after being unloaded or within a further period as the proper officer may in special circumstances allow, the proper officer may deposit the goods in a State warehouse or may direct the agent of the aircraft or ship to deposit the goods immediately in a specified State warehouse.

**State warehouse**

**53.** (1) Where goods imported are not delivered from a customs-controlled area

(a) within seven days after final discharge, or

(b) within a further period as the Commissioner-General may in special circumstances allow,

a proper officer may deposit the goods in a State warehouse for a period of not more than fourteen days.

(2) Goods deposited in a State warehouse shall attract rent and other charges as prescribed.

(3) Where goods deposited or required to be deposited in a State warehouse are

(a) of a perishable nature, the proper officer may, immediately, sell the goods by public auction; or

(b) not of a perishable nature, the proper officer may sell the goods by public auction in accordance with prescribed directives.

(4) A proper officer may cause goods that are required to be removed under this Act to a State warehouse to be opened and the owner of the goods shall open the goods for examination at the expense of the owner.

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(5) Where under this Act, goods are required to be deposited in a State warehouse and for any reason, the proper officer decides that it is undesirable or inconvenient to deposit the goods in a State warehouse the goods shall

- (a) be deemed to be deposited in a State warehouse, and
- (b) attract the appropriate charges.

**Entry of goods by owner of ship or aircraft**

**54.** (1) Where the owner of goods imported into the country fails to declare the goods, or having declared the goods, fails to enter them or take delivery of the goods within the time provided for in this Act, the owner of the aircraft or ship or master of the ship or aircraft may make entry of the goods

- (a) if a time for delivery of the goods is expressed in the bill of lading, at any time after the time expressed; and
- (b) if a time for delivery of the goods is not expressed in the bill of lading, at any time after the expiration of twenty-one days.

(2) Despite subsection (1), if at any time before the goods are landed the owner is ready and offers to land or take delivery of the goods, the Commissioner-General shall allow the owner to land or take delivery of the goods and the entry of the owner shall in this case be preferred to an entry which may have been made by the owner of the aircraft or ship or the master or the agent of the aircraft or ship.

(3) The period of time specified in this section shall be computed from the time at which the aircraft or ship and goods have been released from any quarantine to which they may have been subjected.

*Importation of motor vehicle*

**Motor vehicle tax**

**55.** (1) A person who imports a motor vehicle into the country under this Act or any other enactment shall pay

- (a) import duty; and
- (b) any other imposts prescribed by law.

(2) Subsection (1) does not apply where the motor vehicle is exempted under this Act.

**Duties of motor vehicle licensing authority**

**56.** (1) A vehicle licensing authority established under an enactment shall not register a motor vehicle unless the applicant produces to the vehicle licensing authority the customs entry and other related customs documents.

(2) The Commissioner-General shall issue a Certificate of Payment of Duties and any other document as specified by the Commissioner-General to a person who purchases a motor vehicle at an auction sale under this Act, for the purpose of registration of that motor vehicle.

(3) The vehicle licensing authority shall, within ten days after the end of each month, submit a statement to the Commissioner-General setting out

- (a) the number of motor vehicles that the licensing authority registered during that month,
- (b) the registration number of each motor vehicle,
- (c) engine and chassis number,
- (d) the name and address of the owner of the motor vehicle, and
- (e) the customs entry number and date.

(4) The Commissioner-General shall station a customs officer at the premises of the vehicle licensing authority to authenticate customs documents for vehicle registration.

**Age of motor vehicle**

**57.** (1) For the purpose of this Act, the age of a motor vehicle is calculated from the year in which the motor vehicle was manufactured.

(2) The penalty imposed for over aged vehicles shall be as prescribed by Regulations, in addition to any duty due.

**Prohibited motor vehicle**

**58.** (1) A person shall not import a right-hand steering motor vehicle into the country unless authorised by the Minister.

(2) Subject to the provisions of this Act, the Commissioner-General shall seize a prohibited motor vehicle imported into the country and the motor vehicle shall be forfeited to the State.

**Forfeiture of overstayed motor vehicles**

**59.** (1) A person who imports a motor vehicle into the country and does not enter the motor vehicle within sixty days after importation shall forfeit the motor vehicle to the State.

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(2) The Commissioner-General shall dispose of a motor vehicle which is forfeited to the State or sell the motor vehicle on an "as is" basis.

(3) The price at which a forfeited motor vehicle is disposed of, whether by auction sale, allocation, or any other method includes the duty and penalty payable on the motor vehicle but excludes any over-stayed penalty.

**Valuation of used motor vehicle**

**60.** (1) Despite the provisions of any other enactment, this section applies in determining for customs purposes the value of a used motor vehicle imported under this Act.

(2) The value of a used motor vehicle is the price of the motor vehicle as assessed in accordance with this section together with freight, insurance commission and any other costs, charges and expenses incidental to the delivery of the motor vehicle at the port or place at which the vehicle first entered the country.

(3) Where the age of a used motor vehicle

- (a) does not exceed six months, the price is deemed to be the first purchase price;
- (b) exceeds six months but does not exceed one and half years, the price is deemed to be eighty-five per cent of the first purchase price;
- (c) exceeds one and half years but does not exceed two and half years, the price is deemed to be seventy per cent of the first purchase price;
- (d) exceeds two and half years but does not exceed five years, the price is deemed to be sixty per cent of the first purchase price; or
- (e) exceeds five years, the price is deemed to be fifty per cent of the first purchase price.

(4) Where a person disputes the age of a used motor vehicle assessed by the Commissioner-General in accordance with the provisions of this section,

- (a) the onus of proof is on that person to prove the age of the vehicle assessed, and
- (b) unless the contrary is proved to the satisfaction of the Commissioner-General, the assessment of the Commissioner-General shall prevail.

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(5) For the purpose of converting the first purchase price of a motor vehicle in Ghana currency, the prevailing rate of exchange as quoted by the Bank of Ghana at the time the vehicle is entered for delivery into the country shall be used.

(6) In this section, unless the context otherwise requires, "first purchase price" means the price at which the type of motor vehicle in question is usually sold for use when new, by a dealer of that motor vehicle in the country of manufacture of the vehicle concerned, excluding any tax, or impost charged in relation to the vehicle in accordance with the laws of that country.

**Local dealer to furnish details of the manufacturer**

**61.** (1) A local dealer in motor vehicle the importation of which is permitted under this Act shall furnish the Commissioner-General with the following information:

- (a) year of manufacture of the motor vehicle;
- (b) the make or model of the motor vehicle;
- (c) the name and address of the manufacturer of the motor vehicle; and
- (d) the home delivery value of the motor vehicle.

(2) A local dealer who fails or refuses to furnish the Commissioner-General with the information required under subsection (1) commits an offence and is liable on summary conviction to a fine of not more than two hundred penalty units or to a term of imprisonment of not more than twelve months or to both, and to an additional fine of ten penalty units for every week during which the offence continues.

*Express and postal shipment*

**Application to customs laws**

**62.** (1) The provisions of the Postal and Courier Services Regulatory Commission Act, 2003 (Act 649) apply to postal and express shipment under this Act with the necessary modification.

(2) A contravention of Regulations made in respect of postal and express shipment is deemed to be a contravention of this Act.

**Procedure for express shipment**

- 63.** (1) The Commissioner-General shall
- (a) provide for a separate and expedited procedure for express shipment;
  - (b) provide adequate facilities for the processing of express shipment;

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- (c) permit an express shipment to be processed at the facility of the shipping service under appropriate customs controls;
- (d) maintain a high degree of control over express shipments by use of risk management, internal security, tracking technology, and other appropriate control measures; and
- (e) allow submission through electronic means of a single manifest covering all goods contained in a shipment transported by an express shipment service.

(2) A person transporting an express shipment shall submit every information necessary for the release of the express shipment electronically to the Authority prior to the arrival of the express shipment.

(3) The Commissioner-General shall put in place systems and measures to ensure expedited clearance of an express shipment.

(4) Where a person provides a satisfactory guarantee to cover the potential liability for duty of an express shipment, the Commissioner-General shall release the express shipment for home use or to another customs procedure on submission of provisional declaration or pending the submission of the relevant documents.

(5) The penalty applicable in respect of provisional declaration under section 51 applies to this section with the necessary modification.

**Procedure for postal shipment**

**64.** (1) The Authority and a Postal Service shall sign a Memorandum of Understanding to specify the respective responsibilities regarding the customs treatment of postal items.

(2) Where imported postal items are not delivered or are refused by the addressee, the Commissioner-General shall repay or remit the duty paid in respect of the goods on request.

(3) Subsection (2) applies where the goods are re-exported, destroyed or abandoned without any expense to the Customs Division of the Authority.

**Detention and examination of express and postal shipment**

**65.** (1) A proper officer may detain an incoming or outgoing express or postal shipment that the proper officer reasonably suspect to contain a printed matter, document, or any other thing or matter, the importation or exportation of which is prohibited or restricted by law.

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(2) The proper officer may open and examine the express or postal shipment

- (a) in the presence of the person to whom the express or postal shipment is addressed or the agent of that person; or
- (b) in the absence of the person to whom the express or postal shipment is addressed where that person fails to respond to a written notice from the proper officer requiring the attendance of that person after twenty-one days of the proper officer forwarding the notice to the person.

*Classification, valuation and country of origin*

**Classification of customs tariffs**

**66.** (1) Except as otherwise expressly specified in this Act or in any other enactment, the customs tariff, taxes and rates to be imposed under this Act and statistical nomenclatures shall be in conformity with the "Harmonized Commodity Description and Coding System" also known as the Harmonised System.

(2) For the purpose of this section, "Harmonized Commodity Description and Coding System" is the "Harmonized System", approved by the Customs Co-operation Council on 14th June, 1983, and duly revised by the World Customs Organisation.

**Customs valuation**

**67.** (1) For customs purposes, "customs value" is the transaction value or the price actually paid or payable for goods imported into this country, except in cases where provision is specifically made for another method of determining customs value.

(2) The price actually paid or payable is the total payment made or to be made by

- (a) the buyer to the seller, or
- (b) the buyer to a third party for the benefit of the seller for the imported goods

and includes all payments made or to be made as a condition of sale of the imported goods.

(3) The customs value shall be adjusted to include the following:

- (a) the cost of transport for importing the goods into the country;



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- (b) charges for loading, unloading and handling associated with the transport for importing the goods into the country; and
- (c) the rate of insurance calculated as provided by the relevant enactment, where the importer fails to declare the insurance paid.

(4) In determining the customs value, any additions made to the price paid or payable shall be added for the following, where they are incurred by the buyer but are not already included in the price actually paid or payable in respect of the goods:

- (a) the cost of packing whether for labour or materials;
- (b) commissions and brokerage except the buying commission;
- (c) the cost of containers which are treated as being one for customs purposes with the goods in question;
- (d) the value, apportioned as appropriate, of the following goods and services where they are supplied directly or indirectly by the buyer free of charge or at a reduced cost for use in connection with the production or sale for export to this country of the goods imported
  - (i) materials, components and parts incorporated in the goods that are imported;
  - (ii) tools, dies, and moulds;
  - (iii) materials consumed in the production of the goods that are imported; and
  - (iv) engineering, development, artwork, design work, and plans and sketches undertaken outside the country that are necessary for the production of the goods that are imported;
- (e) royalties and license fees that the buyer shall pay as a condition of sale of the goods; and
- (f) proceeds of a subsequent resale, disposal, or use of the goods that are imported goods and accrue directly or indirectly to the seller.

(5) The following are excluded from the price, where the person shows that the goods are separate from the price paid or payable:

- (a) charges for the transport of goods after the arrival of the goods in the country;

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- (b) charges for construction, erection, assembly, maintenance, or technical assistance, undertaken after importation; and
- (c) duty payable in the country in connection with the goods that are imported.

(6) The price shall be used as the transaction value only if there are no restrictions placed on the use of the goods other than the following:

- (a) restrictions imposed or required by law or by the public authorities in the country;
- (b) limitations in respect of the geographical area in which the goods may be resold; or
- (c) restrictions that do not substantially affect the customs value of the goods.

(7) The price may not be subject to conditions or considerations for which a value cannot be determined.

(8) Where there is a subsequent resale, disposal or use of goods part of the proceeds of the subsequent resale, disposal, or use of the goods shall not accrue directly or indirectly to the seller, unless an appropriate adjustment can be made.

(9) Where the buyer and seller are related, the importer shall prove that the relationship did not influence the price, or that the price closely approximates one of the following:

- (a) the transaction value in sales between unrelated buyers and sellers of identical or similar goods for exported into the country; or
- (b) the deductive or computed value of identical or similar goods,

and the values used for comparison relate to goods imported into the country at or about the same time as the goods being appraised.

(10) In applying the comparison values to related party sales, the following shall be taken into consideration:

- (a) whether the sale occurred at or about the same time; and
- (b) differences between the cost incurred in sales in which the seller and the buyer are not related and sales in which the seller and the buyer are related.

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(11) For the purposes of this section persons are deemed to be related only if:

- (a) they are officers or directors of one another's business;
- (b) they are legally recognised partners in business;
- (c) they are employer and employee;
- (d) any person who directly or indirectly owns, controls or holds five percent or more of the outstanding voting stock or shares or both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.

**Where customs value cannot be determined**

**68.** (1) Where the customs value of imported goods cannot be determined on the basis of transaction value, the customs value shall be determined by proceeding sequentially through the following secondary methods of valuation:

- (a) the transaction value of identical goods sold for export to this country and exported within three months of the date of export of the goods being valued
- (b) the transaction value of similar goods sold for export to this country and exported within three months of the date of export of the goods being valued;
- (c) the deductive value which is the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the country in the greatest aggregate quantity to persons not related to the seller at or about the date of importation and reduced by the following deductions:
  - (i) commissions;
  - (ii) additions for profit and general expenses;
  - (iii) costs of international transportation and insurance;
  - (iv) costs of transportation and insurance from the port of arrival in the country to the place of delivery; and
  - (v) duties payable on importation; or

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- (d)* the computed value, or the sum of
  - (i)* the cost or value of materials and manufacture or other processing employed in the production of the goods for import;
  - (ii)* an amount for profit and general expenses equal to the amount that is usually reflected in sales of goods of the same class or kind made by a producer in the country of exportation for export to this country;
  - (iii)* assists and cost of packing; or
- (e)* by reversing the order of application of paragraphs *(c)* and *(d)* on the request of the declarant.

(2) Where the customs value cannot be determined on the basis of transaction value or any of the secondary methods of valuation, the customs value shall be determined on the basis of a value derived from the transaction value or one of the secondary values specified in subsection (1) and, adjust the customs value using reasonable means consistent with the principles and general provisions of Article VII of the General Agreement on Tariffs and Trade.

(3) The customs value shall not be determined on the basis of any of the following:

- (a)* the selling price of goods produced in this country;
- (b)* a system that provides for the appraisalment at the higher of two alternative values;
- (c)* the price of goods on the domestic market of the country of exportation;
- (d)* the cost of production, other than a computed value for identical or similar goods;
- (e)* the price for export to a country other than this country;
- (f)* minimum customs value; or
- (g)* arbitrary or fictitious values.

### **Rate of exchange**

**69.** Where the conversion of currency is necessary for the determination of the customs value, the Commissioner-General shall use the current rate of exchange determined by the Bank of Ghana.

### **Country of origin**

**70.** (1) Preferential rules of origin are the rules used to determine the origin of goods for purposes of applying preferential tariff or preferential non-tariff measures.

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(2) Non-preferential rules of origin are the rules used to determine the origin of goods for all other purposes including the country-of-origin marking and for statistical purposes.

(3) Goods wholly obtained in a single country or territory or wholly produced from domestic materials in the country or territory shall be regarded as having their origin in that country or territory.

(4) Goods that are produced in more than one country or territory shall be deemed to originate in the country or territory where the goods underwent their last substantial transformation.

(5) Where a person indicates an origin of goods in a declaration, the Commissioner-General may require that person to prove the origin of the goods.

(6) A person shall provide an invoice declaration of origin or where applicable, a Certificate of Origin to the proper officer on request by the proper officer.

(7) In the case of goods benefiting from preferential measures contained in Agreements that the Republic has concluded with another country, the Commissioner-General shall apply the preferential rules of origin applicable to those goods that are specified in the preferential Agreement.

(8) For goods that are subject to the Economic Community of West African States Preferential Agreement

(a) the goods shall be considered as originating from Member States where

(i) the goods have been wholly produced in Member States; or

(ii) the goods contain raw materials that were not wholly obtained from Member States, if the materials have undergone operations and processes that confer community origin; and

(b) where the goods consists of materials wholly produced or sufficiently transformed in one or several Member States the goods shall be considered as goods originating from the Member States in which the last processing or transformation took place as specified in the Economic Community of West African States Protocol.

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*Assessment of duties*

**Liability for duty**

- 71.** (1) A person incurs a customs liability for duty when
- (a) imported goods that are subject to duties are entered for consumption by that person and the declaration is accepted;
  - (b) imported goods are unlawfully introduced into the country by that person;
  - (c) imported goods are unlawfully removed from a customs-controlled area or a free zone to another part of the country;
  - (d) that person fails to comply with conditions that govern the use of a customs procedure under which the goods have been placed; or
  - (e) goods imported in a free zone or customs-controlled area are used, consumed or lost other than as permitted under this Act .

(2) The following persons are responsible for the payment of duty incurred in subsection (1):

- (a) an importer or an agent of the importer who imports goods specified in paragraph (a) of subsection (1);
- (b) a person who imports or who aids in the introduction of goods specified in paragraph (b) of subsection (1);
- (c) a person who acquired or unlawfully held goods specified in paragraph (b) of subsection (1);
- (d) a person who unlawfully removes or who aids in the removal of goods specified in paragraph (c) of subsection (1);
- (d) a person who is required to fulfil the obligations arising from the use of the procedure under which the goods specified in paragraph (d) of subsection (1) are placed; or
- (e) a person who consumes, loses or uses goods specified in paragraph (e) of subsection (1).

**Calculation of duty**

**72.** (1) The Commissioner-General may accept the amount of duty payable as determined by the declarant.

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(2) A person shall determine the amount of duty on the basis of the rules for calculation of duty applicable at the time the customs liability was incurred.

(3) Where costs for storage or usual forms of handling have been incurred within the country in respect of goods placed under a customs procedure, a person shall not take into account the costs or the increase in value for the calculation of the amount of duty.

(4) Unless otherwise specifically provided, a package or covering is considered to be a separate article where the package or covering in which the goods are imported or exported, is in the opinion of the Commissioner-General,

- (a) not the usual or proper package or covering for the goods; or
- (b) is designed for a separate use.

(5) A person shall take into account the customs value, quantity, nature, and origin of goods imported in the calculation of duty.

(6) Where a person incurs a customs liability for goods that are removed from a free zone, the person shall determine the amount of duty on the basis of the duty in force for goods of that class or description at the time the liability is incurred.

**Payment of duty**

**73.** (1) A person shall pay duty in cash or by any other means permitted under the laws of Ghana.

(2) A person responsible for the payment of duty under this Act may designate a third party to make payment on behalf of that person.

(3) The Commissioner-General may defer the payment of duty payable, where a person provides a bank guarantee and that person is not liable to any accrued penalty.

(4) The Commissioner-General shall not impose a duty on any person responsible for the payment of duty under this Act after the expiration of a period of six years from the date on which the liability was incurred except as provided in any law governing revenue administration in the country.

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- (5) The Commissioner-General shall consider a customs liability on importation or exportation extinguished where
- (a) the amount due under this Act is paid;
  - (b) the declaration that gave rise to the liability is invalidated;
  - (c) the goods liable to duty are abandoned to the Government or destroyed under the supervision of the Authority;
  - (d) the goods liable to duty are destroyed or lost through no fault of the person liable to pay the duty;
  - (e) the Commissioner-General is satisfied that the goods have not been used or consumed in Ghana and that the goods have been exported from the country; or
  - (f) the goods are released for home use free of duty, or at a reduced rate of duty by virtue of their end-use and have been properly used or have been exported with the permission of the Commissioner-General.
- (6) The following constitute evidence of payment of duties with the appropriate bill of entry number endorsed on the receipt:
- (a) a customs computer generated receipt;
  - (b) a bank generated receipt; or
  - (c) an import official receipt.

*General customs procedures*

**Home use**

- 74.** (1) Imported goods intended to be put on the market or intended for private use or consumption within the country shall be placed under the customs procedure for home use.
- (2) Goods placed under customs procedure for home use shall be released subject to the following:
- (a) payment of the duty due, where applicable;
  - (b) payment of other appropriate charges or fees;
  - (c) compliance with any prohibitions or restrictions; and
  - (d) completion of any other formalities required.
- (3) A person may dispose of goods released for home use without any restriction by the Commissioner-General.
- (4) Where goods are processed for home use, the Commissioner-General may allow the importer to place the goods under another customs procedure if the importer satisfies all the requirements of that other procedure.



**Temporary admission**

**75.** (1) A person who imports goods into the country with the intention of re-exporting the goods may use the goods in the country, with total relief from duty where

- (a) the goods are not intended to undergo any change, except normal depreciation due to the use that the goods are put;
- (b) it is possible to ensure that the goods can be identified, and
- (c) the person deposits a guarantee with the Commissioner-General to ensure the duty is paid, unless otherwise provided for in this Act.

(2) The Commissioner-General may on an application, transfer the obligations under this procedure to another person, if the conditions specified under subsection (1) are met.

(3) A person discharges the temporary admission procedure where the person re-exports the goods or places the goods under another customs procedure.

(4) A person shall discharge the temporary admission procedure within ninety days from the date of entry.

(5) Where the authorised use cannot be achieved within the period referred to in subsection (4), the Commissioner-General may, at the request of a person or an authorised transferee and before the expiry of the period referred to in sub-section (4), extend the period for a reasonable duration.

(6) The Commissioner-General shall not grant an extension of time specified in subsection (5) for a period of not more than six months.

(7) Unless exempted from this requirement under any other law, the person to whom the extension is granted under subsection (5) shall deposit

- (a) the amount of duty due; or
- (b) security for the duty.

(8) The Commissioner-General may suspend the duty on the goods where the goods imported are intended to be used in the country in manufacturing, processing or repair and subsequently exported.

**Inward processing**

**76.** (1) The Commissioner-General may use the inward-processing procedure in cases other than repair and destruction only where the goods placed under the procedure can be identified in the processed products.

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(2) A person may identify the goods placed under the in-ward processing procedure

- (a) through the submission of the details of the inputs and manufacturing process used; or
- (b) by establishment of the identity of the goods during the processing operation by processing the goods under customs control.

(3) A person who carries on an activity that involves the storage, working or processing of goods placed under the inward processing procedure or the processed products, shall keep records in a form approved by the Commissioner-General.

(4) A person discharges the inward processing procedure where one of the following occurs:

- (a) the goods placed under the inward processing procedure or the processed products, are placed under another customs procedure;
- (b) the goods placed under the inward processing procedure have been exported from Ghana in the same condition as imported;
- (c) the processed goods have been exported;
- (d) the goods placed under the inward processing procedure or the processed products have been destroyed with no waste remaining to the satisfaction of the Commissioner-General; or
- (e) the goods placed under the inward processing procedure or the processed products have been abandoned.

(5) A person shall discharge the inward-processing procedure within a period of twelve months from the date of entry.

(6) Despite subsection (5), the Commissioner-General may extend the period for the discharge of the inward processing procedure on request of the holder of the authorisation for a period of not more than twelve months.

**Re-importation in same state**

**77.** (1) Whenever goods are exported and re-imported into the country in the same state as the goods were when exported, and are declared for home use, the goods shall be exempted from duty on re-importation if the Commissioner-General is satisfied that the goods exported were domestic goods or, if the imported goods were, prior to exportation

- (a) not subject to duties; or

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- (b)* duties due were paid; and
- (c)* either no drawback of duties were paid on exportation or all drawback paid on the exportation has been refunded.

(2) The period within which the goods are to be re-imported is twelve months from the date of exportation.

(3) The time specified under subsection (2) for re-importation may be extended by the Commissioner-General on application by the importer for a period of not more than twelve months.

(4) Re-importation in the same state shall be allowed even if only a part of the goods are re-imported.

(5) Where justifiable, re-importation of goods in the same state shall be allowed even if the goods are re-imported by a person other than the person who exported them.

(6) Re-importation in the same state may be allowed where the goods have been used or damaged or have deteriorated whilst the goods were outside the country.

(7) Re-importation in the same state shall not be refused on the grounds that, while the goods were abroad, the goods had undergone operations necessary for the preservation or maintenance of the goods provided, however, that the value of the goods at the time of exportation has not been enhanced by the operations.

**Re-importation after outward processing**

**78.** (1) Where goods entered for home use in the country are temporarily exported for the purposes of manufacturing, processing or repair outside the country and in the opinion of the Commissioner-General

- (a)* the form or character of the goods has been substantially changed by the processing, duty will be charged on the full value of the goods on re-importation;
- (b)* the form or character of the goods has not been substantially changed by the processing, duty will be charged only on the amount by which the value of the goods was increased by the processing; or
- (c)* the goods are repaired abroad free of charge under warranty, no duty will be charged.

(2) The outward processing procedure may be used only where the goods exported under the procedure can be identified in the re-imported goods.

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(3) A person shall declare at the time of export whether the outward processing procedure shall be used.

(4) The outward processing procedure may be discharged by declaring the goods outright for export.

(5) The period within which the outward processing procedure is to be discharged is twelve months and may be extended by request of the holder of the authorisation for a period of not more than twelve months.

**Private bonded warehouses**

**79.** (1) The Minister may by notice in the *Gazette* or national newspapers of wide circulation declare the kind of goods that may be warehoused upon first importation without payment of duty.

(2) Where goods are to be warehoused, the goods shall be deposited in the packages in which the goods were imported.

(3) A person shall not alter

(a) the goods or the packages;

(b) the packaging of the goods; or

(c) the marks or numbers of the goods

after the goods have been deposited except with the authorisation of the proper officer.

(4) An importer, owner or a person who deposits goods under this section shall pay any expenses incurred in respect of the goods.

(5) A person who deposits goods in a private bonded warehouse or a customs-controlled area is subject to Regulations made under this Act.

(6) A person in charge of a private bonded warehouse shall provide office accommodation and other facilities that the proper officer may require

(a) to examine and take-stock of the goods, and

(b) to audit the goods.

(7) The Commissioner-General may give directives on the kind of processing allowed in a private bonded warehouse.

(8) A person shall not manufacture goods in a private bonded warehouse except in accordance with conditions prescribed by Regulations.

**Records to be kept in bonded warehouse**

**80.** (1) A warehouse keeper shall keep at the warehouse books, records, and documents in relation to the goods in bonded warehouse in the form and manner approved by the Commissioner-General.

(2) The warehouse keeper shall make available the books, records, and documents for inspection at all times by a proper officer and allow the proper officer to take an abstract from the books, records or documents.

(3) The Commissioner-General may revoke a licence granted in respect of a private bonded warehouse where the warehouse keeper fails to

- (a) keep the books, records, and documents in the manner approved by the Commissioner-General; or
- (b) produce the books, records and documents when required by a proper officer.

**Goods not duly removed**

**81.** (1) Where goods are not duly exported or removed in accordance with this Act, the proper officer shall take the goods to a State warehouse and the goods may either be sold or dealt with in accordance with the directives of the Commissioner-General.

(2) A person in charge of a private bonded warehouse who fails to produce to the proper officer, at the request of the proper officer, the goods deposited in the private bonded warehouse, or that have not been duly entered and delivered from the warehouse incurs a penalty of three times the duty payable on the goods not so produced, in addition to the duty due.

(3) Where the goods remain in a private bonded warehouse for more than fourteen days after being

- (a) entered under another customs procedure,
- (b) entered for export, or
- (c) sold by public auction under this Act,

the goods are liable to forfeiture to the State unless the failure to move the goods is explained to the satisfaction of the Commissioner-General.

**Unlawful access**

**82.** (1) A person who, without proper authority, opens a private bonded warehouse to gain access to the goods in the warehouse shall incur a penalty of not less than five hundred penalty units.

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(2) Subsection (1) does not apply where the private bonded warehouse is opened in the presence of the proper officer acting in the performance of duties of the proper officer.

(3) A person who

(a) enters a private bonded warehouse without the permission of a proper officer; or

(b) refuses to leave a private bonded warehouse when requested to do so by a proper officer,

incurs a penalty of not less than two hundred penalty units.

**Unauthorised removal of goods**

83. (1) Where goods entered to be warehoused are

(a) not duly warehoused;

(b) concealed or removed from the private bonded warehouse for the purpose of illegal mixing; or

(d) dealt with in any other unauthorised manner, the goods are liable to forfeiture.

(2) Where the goods in subsection (1) are not available to be forfeited, the Commissioner-General shall impose a penalty of not more than three times the duty payable on the person who contravened subsection (1).

(3) Where goods required to be previously entered are taken out of a private bonded warehouse without being duly entered, except as permitted under this Act,

(a) the warehouse keeper, or

(b) the person who deposited the goods

shall immediately pay the duty on the goods and in addition a penalty of not more than three times the duty payable on the goods.

(4) A person who aids, assists or is concerned with the taking out of goods from a private bonded warehouse before the goods are duly entered, commits an offence and is liable on summary conviction to a fine of not more than three times the duties on the goods in addition to a term of imprisonment of not more than five years.

(5) Goods are liable for forfeiture if

(a) the goods are removed from a part of a warehouse where the goods were deposited in the absence of the proper officer or without the consent of the proper officer;

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- (b) the goods are taken from a warehouse for exportation, for use as stores for an aircraft or ship, or are removed or put on board an aircraft or ship, without the authority or under the care of a proper officer or as directed by the proper officer; or
- (c) the goods are not removed in a manner by a person within a time by roads or ways as the proper officer shall permit or direct.

(6) If the goods are illegally removed or carried away prior to being put on board the exporting or removing aircraft, ship or carriage, or from any other exporting or removing aircraft, ship or carriage, in or on which the goods have been put, the bond given in respect of the goods shall be

- (a) forfeited, and
- (b) the appropriate penalty imposed,

although the time prescribed in the bond for putting the goods on board the exporting aircraft or ship or re-warehousing the goods at the place of destination has not expired and all the goods shall be liable to forfeiture.

**Destruction and stealing of goods**

**84.** (1) A person who destroys or steals goods that are warehoused commits an offence and is liable on summary conviction to a fine equal to the value of the goods and duty due on the goods in addition to a term of imprisonment of not more than ten years.

(2) The Authority is not liable to any legal action in respect of the goods that are destroyed or stolen.

**Removal from one warehouse to another**

**85.** The removal of goods in a warehouse to another warehouse is subject to Regulations made under this Act and conditions that the Commissioner-General may direct.

**Delivery in special circumstances**

**86.** The Commissioner-General may permit a person to take goods out of a private bonded warehouse without the payment of duty subject to such conditions and restrictions that the Commissioner-General may determine and with security by bond for the return or payment of duties due on the goods.

**Stowing of goods**

**87.** (1) A proper officer may direct in what different parts or divisions of a warehouse or customs-controlled area and in what manner goods are to be deposited.

(2) A person in charge of a warehouse or a person who deposits goods contrary to the direction given in subsection (1) incurs a penalty of not less than five penalty units in respect of each package deposited and to a further penalty of one penalty unit for each day during which a package remains deposited contrary to the directions.

(3) Where the occupier of a private warehouse neglects to stow the goods deposited to make way for easy access to every package, that person incurs a penalty of not less than five penalty units and a further penalty of one penalty unit for each day during which the neglect continues.

**Entry of warehoused goods**

**88.** (1) A person shall enter goods that are warehoused and deliver the goods for use within the country or as stores for an aircraft or ship or for exportation,

- (a) in the case of perishable goods, within three months after the day on which the goods were warehoused;
- (b) in the case of general goods, within twelve months after the day on which the goods were warehoused; and
- (c) in the case of raw materials, within two years after the day on which the goods were warehoused.

(2) Despite subsection (1), the Commissioner-General may approve a longer period for a person to enter goods that are warehoused and to deliver the goods for use within the country or as stores for an aircraft or ship or for exportation.

**Re-exportation of commercial goods**

**89.** A person shall pay to the Commissioner-General a processing fee of one percent of the Cost Insurance Freight value of the goods in respect of commercial goods that are re-exported from a bonded warehouse.

**Delivery of stores**

**90.** (1) The Commissioner-General may permit warehoused goods to be delivered as stores for a ship of not less than one hundred tonnes burden or an aircraft, in accordance with section 24.



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(2) Where the goods taken from a warehouse for use as stores are

- (a) not put on board the aircraft or ship for which the goods are entered,
- (b) not accounted for to the satisfaction of the Commissioner-General, or
- (c) dealt with contrary to the provisions of this Act,

the goods are liable to forfeiture to the State and in addition the master or agent of the aircraft or ship shall pay a penalty of not more than three times the duties evaded.

**Duty to be paid**

**91.** A person shall pay duty on warehoused goods that are entered for use within the country based on

- (a) the Cost, Insurance and Freight value in convertible currency,
- (b) the rate of duty, and
- (c) the rate of exchange at the time of re-warehousing.

**Re-warehousing**

**92.** (1) A person who owns goods that are warehoused goods may apply to the Commissioner-General to re-warehouse the goods.

(2) The Commissioner-General may grant permission for the goods to be re-warehoused for a period of not more than twelve months.

(3) Where the Commissioner-General approves an application for goods to be re-warehoused the proper officer shall,

- (a) examine the goods and the duties due on any deficiency or difference between the quantity ascertained on importation and the quantity found to exist on examination, together with the necessary expenses attendant on it, and any charges incurred in respect of the goods shall, subject to such allowances as are by law permitted in respect of them be paid to the Commissioner-General at the rates for the time being in force; and
- (b) the quantity of goods found shall be re-warehoused in the name of the owner of the goods in the same manner as when the goods were first imported.

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(4) Where the owner of the goods with the concurrence of the warehouse keeper, wishes to re-warehouse the goods according to the account taken at the time of importation, without re-examination, the examination may be dispensed with if the proper officer is satisfied that the goods are still in the warehouse, and that there is no reason to suspect any undue deficiency but the warehouse keeper shall be liable to pay the duty on any deficiency not allowed by law which may be discovered in the goods at the time of the delivery of the goods, or any earlier time.

### **Auctioned goods**

**93.** (1) Goods may be auctioned under the direction of the Commissioner-General.

(2) The price at which goods are sold at an auction sale is subject to the payment of customs duty.

(3) The value of duty for the goods auctioned is

(a) the price realised at the sale; or

(b) the value estimated by the proper officer,

whichever is the greater.

(4) The Auction Sales Act, 1989 (PNDCL 230) does not apply to sales under this Act where the sale is conducted by a proper officer.

### **Free zone**

94. The provisions of the Free Zones Act, 1995 (Act 504) apply to a free zone in this Act.

### **Transit**

**95.** (1) A person may, under the transit procedure, move goods imported into the country from one port of entry to another port within the country

(a) under a bond or by a bonded carrier or by both without the payment of duty;

(b) in accordance with the Customs Convention on the International Transport of Goods under Cover of TIR Carnets provided that the movement began or is to end outside Ghana or is between two points in Ghana through the territory of a country or territory outside Ghana;

(c) in accordance with the Customs Convention on the ATA Carnet for the Temporary Admission of Goods and the Convention on Temporary Admission;

(d) under the postal system, in accordance with the acts of the Universal Postal Union, where the goods are carried by or for holder of the rights and obligations under the acts; or

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- (e) under the Economic Community of West African States agreed procedures including the Economic Community of West African States Inter-State Road Transit Scheme.
- (2) A person who declares goods and places the goods under the transit procedure is responsible for
  - (a) the presentation of the goods intact at the customs office of destination within the prescribed time period;
  - (b) the observance of customs laws in relation to the procedure; and
  - (c) the provision of a guarantee to ensure payment of any duty that is owed in relation to the goods.
- (3) A carrier or recipient of goods who accepts goods knowing that the goods are moving under the transit procedure is responsible for presentation of the goods intact at the customs office of destination within the time period prescribed by the Commissioner-General.
- (4) A person who transports goods in transit shall ensure that the goods are transported in a sealed vehicle or container and the sealed vehicle and container shall be monitored electronically by the Commissioner-General.
- (5) A person who unlawfully removes or tampers with the electronic device installed for monitoring goods incurs a penalty of not more than eight hundred penalty units.
- (6) A person shall not transport goods under customs escort, unless the Commissioner-General considers it necessary to do so.
- (7) A proper officer may inspect goods in transit and where necessary, impose the prescribed penalty.
- (8) A transit procedure is discharged where the goods are delivered to the destination within the prescribed time without having undergone any change or use and with all seals intact.
- (9) A person shall transfer goods to a State warehouse, where the goods are not exported or otherwise declared for a customs procedure within the prescribed time.
- (10) A person shall not carry goods in transit, where the goods are prohibited under the Economic Community of West African States Protocol or by an International Convention.
- (11) The Commissioner-General may prescribe the appropriate route which may be used for particular goods in transit.

**Transshipment**

**96.** (1) A person may transfer goods that are imported from an importing conveyance to an exporting conveyance within the same port of entry without the payment of duty.

(2) A person who declares goods and who places the goods under the transshipment procedure is responsible for

- (a) the unloading of the goods and securing the goods in a customs-controlled area approved for that purpose;
- (b) compliance with any measures required to ensure the identification of the goods;
- (c) the loading of the goods on the exporting conveyance within the prescribed time; and
- (d) the observance of any other provisions in this Act in relation to the transshipment procedure.

(3) Where the circumstances require, the Commissioner-General may accept an advance cargo declaration submitted in respect of goods that are transhipped as a declaration for transshipment.

(4) A person may lodge, with the Commissioner-General, a declaration to place goods under the transshipment procedure prior to the arrival of the goods in the country where the goods have been pre-entered.

(5) A person may move goods that are transhipped from one customs-controlled area to another customs-controlled area at the same port of entry where the goods were offloaded with the prior authorisation of the Commissioner-General.

(6) A person shall submit a transshipment entry to the proper officer for the transshipment of goods.

(7) A person shall deposit the security required under this Act before the goods are transhipped.

(8) A proper officer may inspect goods destined for transshipment and impose the appropriate penalty where necessary.

(9) Where a person loads goods on board the conveyance that will export the goods from the country, that person discharges the duty of transshipment and the transshipment procedure ends.

**Exports**

**97.** (1) For purposes of this section exports occur where goods are placed on board an aircraft or ship for consignment to a place outside the country.

(2) In the case of overland exportation, exports occur where the declaration is passed for that purpose and the goods cross the boundaries of the country.

(3) Goods to be exported are subject to customs supervision and may be subject to customs controls, as prescribed by Regulations.

(4) The prohibitions and restrictions on export are as provided in the relevant Schedules attached to the Harmonised System.

(5) The value of goods that are exported are

(a) the cost to the purchaser abroad including freight,

(b) the charges incurred for transport up to the port or place of exportation,

(c) harbour dues and loading charges, and

(d) all other costs, profits, charges and expenses and duties, accruing up to the point

where the goods are deposited on board the exporting conveyance at the place of departure from the country.

(6) Export duty on goods exported from the country is as provided in the relevant Schedule attached to the Harmonised System.

(7) A person who stores goods in a customs-controlled area with the permission of the proper officer prior to shipment stores the goods at the risk and expense of the exporter and is subject to the payment of rent and other charges that are prescribed.

*Folded woven goods*

**Prohibited sale**

**98.** A person shall not

(a) sell folded woven goods, or

(b) make folded woven goods the subject of a contract of sale

unless the folded woven goods are folded and marked in accordance with section 99.

**Prohibited imports**

**99.** (1) A person shall not import folded woven goods into the country unless the goods are

- (a) folded in folds of not less than one metre or thirty nine inches in length;
- (b) each piece is marked with the number of metres and inches; and
- (c) each piece of fabric is stamped with a mark.

(2) Words, figures, marks, or abbreviation of the words metres which according to common usage or the customs of the trade are commonly taken to indicate the measure of folded woven goods may be used in marking the folded woven goods.

(3) No piece shall be made upon a folded woven goods so as to show more folds than the full number of metres it actually contains and any portion of a metre over the number of metres is not to be shown as a fold.

(4) Subsection (1) does not apply

- (a) where the goods are meant for transshipment to another country; or
- (b) where the goods are in transit; or
- (c) to the following goods:
  - (i) indian baft;
  - (ii) cashmere;
  - (iii) serges;
  - (iv) alpaca;
  - (v) silesia;
  - (vi) fents;
  - (vii) abourettes;
  - (viii) gold and silver cloths;
  - (ix) tinsel woven cloths;
  - (x) damask;
  - (xi) flannels;
  - (xii) silk and silk velvet;
  - (xiii) tweed;
  - (xiv) handkerchief cloth, broad cloth; and
  - (xv) worsted cloth.

**Penalty for breach of sections 98 and 99**

**100.** (1) A person who contravenes a provision of section 98 or 99 commits an offence and is liable on summary conviction to a penalty of not more than three times the duty payable on the goods.

(2) In addition to subsection (1), the goods in respect of which the offence is committed is liable to forfeiture to the State.

(3) A penalty provided in subsection (1) and (2) does not apply to a person who imports or holds folded woven goods,

- (a) where the folded woven goods are
  - (i) shorter than indicated by the mark upon them by not more than 10.26 centimetres in a piece marked 9.144 metres;
  - (ii) under, 12.70 centimetres in a piece marked above 9.144 metres and up to 21.03 metres;
  - (iii) 17.78 centimetres in a piece marked above 21.03 metres and up to 32.92 metres;
  - (iv) 22.86 centimetres in a piece marked above 32.92 metres and up to 42.98 metres; or
  - (v) 47.72 centimetres in a piece marked above 42.98 metres; or
- (b) where the content of a piece is properly marked as total length but the final fold only is less than one metre or thirty-nine inches.

**Power to demand invoices and inspect packages**

**101.** (1) A proper officer may request an importer of a package supposed to contain folded woven goods

- (a) to produce the original invoices, bills of lading, or other documents showing the nature of the goods contained in the package, and the place and date of shipment of the goods; and
- (b) to open the package and produce the goods for inspection.

(2) Subsection (1) does not apply to goods specified in section 99(4).

(3) The proper officer may detain the package until the importer complies with this section.

**Warranty by vendor**

**102.** On the sale or contract for the sale of any goods to which the provisions of section 98 to 101 apply, the vendor is considered to warrant, within the limits provided by section 100 that the material bears on its face the true and correct number of metres or centimetres actually contained in the folded woven goods on which the number appears.

**Application of section 98 to 101**

**103.** Section 98 to 101 does not

- (a) exempt a person from a suit or other proceedings which may be brought against that person; or
- (b) affect any provision of the Trade Marks Act, 2004 (Act 664), except so far as that Act relates to trade descriptions, as to the measure only of folded woven goods within the scope and meaning of section 98 to 101.

*Refund, abatement, drawback and removal article*

**Refund and remission**

**104.** (1) The Commissioner-General may allow a refund where goods were imported in pursuance of a contract of sale and duty was paid but the description, quality, state or condition of the goods at the time of release from customs custody was not in accordance with the contract, and the person who imported the goods

- (a) returns the goods to the supplier, with the approval of the Commissioner-General, or
- (b) abandons the goods in accordance with laid down procedure or destroys the goods under customs control,

and the goods have not been subjected to use after release from customs custody other than to an extent necessary to discover that the goods were not in accordance with the contract.

(2) The Commissioner-General shall allow a refund where the goods are shipped without the consent of the consignee and duty has been paid, provided that the goods are not shipped, and are returned to the consignor, abandoned to the Authority or destroyed under the supervision of the Authority.

(3) The Commissioner-General shall refund a duty within ninety days where the Commissioner-General ascertains that the duty that was assessed or paid in relation to the goods imported was in excess of the duty which should have been paid under the law.



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(4) The Commissioner-General shall refund a charge other than a duty where the Commissioner-General determines that the charge were erroneously or excessively assessed or collected.

(5) The Commissioner-General shall refund money that has been paid as a penalty, where the Commissioner-General determines that the penalty

- (a) did not accrue;
- (b) accrued in an amount less than the amount paid; or
- (c) is mitigated to an amount less than the amount paid.

(6) The Commissioner-General shall refund money that has been paid for duties prior to the forfeiture of goods that are forfeited under this Act.

(7) The Commissioner-General may remit or refund the duty due or paid on goods, where

- (a) the goods are lost or destroyed by accident on board a conveyance in a Customs-controlled area or warehouse;
- (b) in the process of removing the goods, loading the goods into or delivering the goods from, a Customs-controlled area or warehouse; or
- (c) the Commissioner-General is satisfied that the goods have not been and will not be consumed by any person in the country.

(8) The Commissioner-General shall direct goods that are abandoned by the owner as not worth the duty while in the charge of a proper officer to be destroyed or disposed of at the expense of the owner.

(9) The Commissioner-General shall refund the duty payable or paid by a person on goods pre-entered under this Act, where

- (a) the Commissioner-General is satisfied that the goods will not be imported into the country because the goods are lost, destroyed or for any other reason; or
- (b) the goods are not imported into the country within twelve months after the goods have been pre-entered.

(10) A person shall make a claim for refund within ninety days of the date of release of the goods from customs custody.

(11) Where the Commissioner-General

- (a) short-levies or refunds a duty in error ; or
- (b) establishes that a person owes duty or tax arrears

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that person shall within thirty days of a written request by the Commissioner-General refund the money or pay the duty or tax arrears owed.

(12) A person who is dissatisfied with a request in subsection (11) may appeal against the request within fifteen days.

(13) Where the Commissioner-General does not receive an appeal within the relevant period and the period expires, the Commissioner-General shall take adequate measures to ensure that the person does not transact any business with the Authority and that person pays the duty in arrears.

**Abatement of duty**

**105.** (1) The Commissioner-General shall not allow a claim for abatement of duty on goods that are imported into the country on account of damage, unless

- (a) the claim is made on the first examination of the goods; or
- (b) the person proves to the satisfaction of the Commissioner-General that the damage was sustained before the goods were delivered out of customs control.

(2) The Commissioner-General shall assess the damage sustained by goods and may allow abatement of the duty in proportion to the damage.

(3) The Commissioner-General shall not allow a claim for abatement of duty on account of damage in respect of tobacco, cigar, cigarette, beer, wine or spirit.

(4) A person shall pay the same duty on goods that are derelict, jetsam, flotsam, lagan or wreck brought or coming into the country as similar goods that are imported into the country, unless the person shows to the satisfaction of the Commissioner-General that the goods are damaged.

(5) The Commissioner-General shall not allow a claim for abatement of duty on account of damage of any other imported goods unless the person proves to the satisfaction of the Commissioner-General that the carrier or insurer of the goods has made an allowance to the importer in respect of the damage.

(6) An abatement that is allowed under subsection (5) shall not exceed the proportion of the duty as the amount of the allowance made bears to the value of the goods undamaged, calculated in accordance with the Regulations.

**Drawback**

**106.** (1) For purposes of this section, drawback is a refund of all or part of duties in relation to goods that are exported or used in a manner or for a prescribed purpose.

(2) The Commissioner-General may pay a drawback of duty with respect to

- (a) goods that are imported and subsequently exported in the same condition when the goods were imported; or
- (b) imported goods that are used for the manufacture of goods in the country and are subsequently exported.

(3) Goods are deemed to be exported for drawback purposes where the goods are

- (a) placed in an area that is a free zone or a duty free shop;
- (b) exported;
- (c) designated as stores in accordance with this Act and supplied for use on board a ship or aircraft outside the customs territory;
- (d) used for equipment, repair or construction of a ship or an aircraft prescribed by Regulations; or
- (e) used or designated for use in any other manner that the Commissioner-General may determine.

(4) A person shall apply for drawback within twelve months of the date of exportation of the imported goods in question and in the prescribed form.

(5) The Commissioner-General shall grant a drawback where the person who applies for drawback provides the documentary evidence in support of the application as prescribed by Regulations.

(6) Where a person proves to the satisfaction of the Commissioner-General that goods after having been placed on board a conveyance for exportation have been destroyed by accident on board, the Commissioner-General shall pay the drawback payable on the goods in the same manner as if the goods had been actually exported.

(7) The Commissioner-General shall pay a claim for a drawback within twelve months after the Commissioner-General verifies the claim.

**Removal articles**

**107.** (1) Removal articles other than a motor vehicle, a spare part or building material that are brought into the country by a citizen who was previously resident outside the country or a member of the household of that person are exempt from duty.

(2) A person who claims exemption in respect of a removal article shall submit an application in writing to the Commissioner-General or an officer authorised by the Commission-General, before or after that person arrives in the country.

(3) The application shall be accompanied with a list of all removal articles in respect of which the person claims exemption.

(4) The Commissioner-General shall exempt a person from the payment of duty in respect of a removal article where the person proves to the satisfaction of the Commissioner-General that

(a) the removal article is intended for the personal use of that person or a member of the household of that person and are not imported in commercial quantities; and

(b) the person has lived outside the country for a continuous period of at least twelve months immediately prior to the return of the person to the country.

(5) A person who is above the age of eighteen years and entitled to exemption from duty under subsection (4) is entitled to import into the country

(a) an amount of not more than two litres of potable spirits, perfumed spirits, mineral water, soft drink or wine; and

(b) tobacco goods including cigars, cheroots, cigarettes, snuff or tobacco of not more than five kilogramme in weight or one carton of twenty packets.

*Security*

**Forms of security**

**108.** A person may provide security, in one of the following forms, to ensure the payment of duty and the discharge of any other obligations arising under the customs laws:

(a) a cash deposit or its equivalent;

(b) a bond given by a reputable bank, financial institution or insurance guarantor; or

(c) an undertaking by an authorised economic operator.

**Surety**

**109.** (1) A surety under a bond or other security taken for the purposes of this Act is jointly and severally liable with the principal on the bond.

(2) The Commissioner-General may require a person to execute a new bond or any other form of security required by this Act, where the person who is under the bond or security or a surety

- (a) dies;
- (b) becomes bankrupt or enters into an arrangement or composition with or for the benefit of the creditors of that person;
- (c) departs from the country without leaving sufficient property to satisfy the whole amount for which that person is bound; or
- (d) for any other reason is, in the opinion of the Commissioner-General, unable or likely to be able to satisfy the bond or other security if called upon.

**Release and cancellation of guarantee**

**110.** (1) The Commissioner-General shall release a guarantee where the customs liability or liability for the other charges is extinguished or can no longer arise.

(2) Where the customs liability or liability for other charges is extinguished in part, or may arise only in respect of part of the amount which has been secured, the Commissioner-General shall release the corresponding part of the guarantee on the request of the person concerned.

(3) Where the amount involved does not justify the action specified in subsection (2), the Commissioner-General shall not release the security.

(4) Where a person breaches a condition of a bond, the Commissioner-General may authorise the cancellation of the bond or of a charge that is made against the bond where the person

- (a) pays a lesser amount or penalty; or
- (b) fulfils other conditions that the Commissioner-General may consider to be sufficient.

**Validity of bond**

111. A bond or other security taken for the purposes of this Act
- (a) shall be taken on behalf of the Authority;
  - (b) is valid even if the bond or security is given by a person under twenty-one years of age; or
  - (c) may be cancelled by order of the Commissioner-General.

*Powers, privileges and immunities of an officer*

**Officer to have powers of police**

112. For the purpose of administration of this Act, an officer of the Authority has the same powers, authorities and privileges as given by law to a police officer.

**Power to search persons**

113. (1) An officer may search a person, where that officer reasonably suspects that that person is in possession of or has uncustomed, restricted or prohibited goods on his or her person.

(2) Where a person is asked by an officer whether that person is in possession of or has on his or her person goods specified under subsection (1) and the person refuses to answer or denies having the goods, and the officer subsequently discovers the goods in the possession of that person, the goods are liable to forfeiture to the State.

(3) Where an officer on searching a person discovers goods which the officer suspects to be un-customed, restricted or prohibited, the officer may

- (a) seize the goods, and
- (b) arrest that person.

(4) A person arrested under subsection (3) may be prosecuted.

(5) A person who fails to satisfy the court that the goods in the possession of that person are customed, not restricted or prohibited or that the duty on the goods has been paid or the goods are secured as required by law, that person shall incur a penalty of not more than three times the amount of duty payable on the goods.

**Restriction on search of persons**

114. (1) Before a search is conducted on a person, that person may request to be taken as soon as possible to the Commissioner-General or any other senior officer who shall

- (a) direct that the person be searched, or
- (b) discharge the person,

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where the Commissioner-General or the senior officer believes that there is no reasonable cause for the search.

(2) A female shall not be searched unless the search is done by a female officer.

(3) A qualified medical practitioner shall carry out an intrusive search.

(4) An officer is not liable to prosecution or to any legal action on account of a search conducted in good faith and in accordance with the provisions of this Act.

**Power of arrest of a person and detention of goods**

**115.** (1) Where an officer reasonably believes that a provision of this Act has been contravened, the officer may detain goods and conveyance involved pending the completion of investigations.

(2) Where an officer considers it necessary in the circumstances, the officer may arrest and detain a person whom the officer reasonably suspects to be committing, or to have committed, or to have aided in the commission of an offence under this Act.

(3) Where a person who is liable to arrest under this Act escapes from an officer who attempts to arrest that person, any officer may afterwards arrest and detain that person at any place and time in the country.

(4) An officer shall not detain a person under this Act for more than forty-eight hours.

**Power to patrol freely**

**116.** (1) An officer, when on duty, may patrol and pass freely along and over any part of the country.

(2) An officer in charge of a conveyance that is used to prevent smuggling or to protect revenue may take the conveyance to a place that the officer thinks most convenient for that purpose and keep the conveyance there for the time that the officer considers necessary.

(2) An officer is not liable to prosecution or legal action for doing so.

**Power to search premises**

**117.** (1) The Commissioner-General may issue a warrant authorising an officer to enter and search premises, by day or by night, and to seize and take away any of the goods, where the Commissioner-General is satisfied that there is reasonable cause to suspect that un-customed, pro-

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hibited or restricted goods or goods on which duties have not been paid or secured by certificates or otherwise as required by law are harboured, kept or concealed in the premises.

(2) An officer who is authorised may arrest and detain any person in whose possession and under whose control the goods are found and prosecute that person in a court of competent jurisdiction.

(3) Where there is resistance, the officer may break open any door by force and remove any impediment or obstruction to the entry, search or seizure in execution of the order.

**Power to stop conveyance**

**118.** (1) An officer may on reasonable suspicion stop and examine a conveyance to ascertain whether any un-customed, prohibited or restricted goods or goods on which the duties have not been paid or secured by certificate or otherwise as required by law are contained in the conveyance.

(2) Where an officer does not find any goods, the officer is not on account of the stoppage and examination liable to prosecution, action or suit.

(3) Where a person in charge of a conveyance refuses to stop or allow the examination when required by an officer, that person shall incur a penalty of not less than two hundred penalty units or on conviction to a term of imprisonment not exceeding one year or both.

(4) Where an officer finds goods which the officer reasonably considers ought to be accompanied by a required document, and the person in charge of the conveyance does not produce the certificate on demand, the officer may seize the conveyance and its contents and may arrest and detain any person found in or accompanying the conveyance at the time of the stoppage and prosecute that person.

(5) Where the person fails to satisfy the court that the goods were lawfully in the custody or possession of that person for removal that person shall incur a penalty of not more than three times the duty payable on the goods and that person shall forfeit the goods.

**Power to board conveyance**

**119.** (1) An officer on duty may board a conveyance within the country and stay on board for a period that the officer considers necessary.



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(2) The officer shall have access to every part of the conveyance and the officer may

- (a) search the conveyance;
- (b) demand for books or other documents which ought to be on board or require that all or any of the books or other documents be brought for inspection;
- (c) examine all goods on board as well as goods that are being loaded or unloaded;
- (d) secure a part of the conveyance by means that the officer considers necessary;
- (e) require any goods to be unloaded and removed for examination or for the security of the goods, or to unload and remove them at the expense of the master; or
- (f) lock up, seal, mark or secure any goods on board by any means that the officer considers necessary.

(3) Where an officer acting in the course of duty, finds that access to a place or to a box or chest is obstructed, or the key of a place, box or chest which is locked is withheld, the officer may open the place, box or chest in any manner.

(4) Where an officer finds goods concealed on board the conveyance, the person in charge of the conveyance shall forfeit the goods.

(5) The master of a conveyance shall incur a penalty of not less than one thousand penalty units, where

- (a) a lock, mark or seal is placed on goods or stores on board a conveyance, or on a place or package in which the goods or stores are opened, altered or broken before due delivery of the goods or stores within the country without authorisation of the proper officer;
- (b) any of the goods or stores are secretly conveyed away;
- (c) the goods, stores, pieces or packages which have been secured by the officer are opened within Ghana without the authority of the proper officer; or
- (d) the goods are not unloaded and removed for examination or for the security of the goods as required by the officer.

(6) The master of a conveyance shall respond to a question that the officer may ask in relation to the conveyance and the cargo, stores, baggage, officers, crew, passengers and the flight or voyage of the conveyance.

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(7) A master of a conveyance shall incur a penalty of not less than one hundred penalty units and may have the conveyance detained, where that person

- (a) refuses or without reasonable cause fails to produce books or other documents in relation to the conveyance on demand;
- (b) fails to bring the book or document to the officer when required;
- (c) fails to respond to a question put to that person by the officer.

(8) The master of a ship on which an officer is required to be stationed shall provide suitable accommodation and sufficient meals under the deck for the period that the officer remains on board.

(9) The master of a ship may, with the approval of the Commissioner-General and subject to conditions that the Commissioner General may impose, pay an amount equivalent to twenty penalty units for each day that the officer remains stationed on the ship instead of providing sufficient meals in accordance with subsection (8).

(10) Where the master of a ship on which an officer is stationed neglects or refuses to provide the officer with suitable accommodation and sufficient meals under the deck or pay the relevant amount specified under subsection (9), the master shall incur a penalty of a sum not less than one thousand penalty units.

**Power to seize abandoned conveyance**

**120.** An officer may seize a conveyance which is abandoned within the country and the content forfeited to the State unless the person who owns the conveyance claims the conveyance within thirty days of the date of seizure, and satisfies the Commissioner-General that the requirements of this Act have been complied with.

*Offences and penalties*

**Penalties**

**121.** (1) A person who contravenes a provision of this Act for which a specific punishment or penalty is not provided, commits an offence and is liable on summary conviction to a fine of not more than two thousand five hundred penalty units or to a term of imprisonment of not more than five years, or to both.

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- (2) Where a person
- (a) imports or is concerned in importing any prohibited or restricted goods contrary to the prohibition or restriction, whether the goods are unloaded or not;
  - (b) unloads or is concerned in unloading any prohibited goods or any restricted goods imported contrary to the prohibition or restriction;
  - (c) exports or is concerned in exporting any prohibited or restricted goods contrary to the prohibition or restriction;
  - (d) with the intent to defraud the Republic of duty, harbours, keeps or conceals or permits, suffers, causes or procures to be harboured, kept or concealed any prohibited, restricted, or uncustomed goods;
  - (e) with intent to defraud the Republic of any duty, acquires possession of or is in any way concerned in the carrying, removing, depositing or concealing of prohibited, restricted, or uncustomed goods; or
  - (f) is in any way concerned in fraudulent evasion or attempted evasion of customs duties or taxes under the provisions of this Act, or any other enactment,

that person commits an offence and is liable on summary conviction to a fine of not more than three times the duty or tax evaded or to a term of imprisonment of not less than five years and not more than ten years and in addition all goods in respect of which the offence was committed is liable to forfeiture to the State.

(3) A person who commits any of the acts referred to in subsection (2) shall, whether or not that person is prosecuted, incur a penalty of not more than triple the duty or tax evaded and all goods in respect of which the offence was committed is liable to forfeiture to the State.

(4) The Commissioner-General shall not demand a penalty under subsection (2), where a fine imposed under subsection (3) is equal to or exceeds three times the duty on the goods in respect of which the offence was committed.

(5) Where a contravention of this Act has occurred in respect of which the conveyance is liable to forfeiture, the Commissioner-General may, impose an administrative penalty of not more than eight hundred and fifty penalty units and if the person does not pay the penalty imposed immediately, the Commissioner-General shall resort to court proceedings to retrieve the penalty.

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(6) Despite a provision in this Act for the recovery of specified penalties or goods, the Commissioner-General may

- (a) sue for some lesser penalty or forfeiture, or both;
- (b) consent to judgment for some penalty or forfeiture, or both, less than that actually sued for; or
- (c) mitigate or remit a penalty or restore goods seized under this Act at any time before the commencement of proceedings in a court against a person for a contravention of this Act or for the forfeiture of goods.

(7) Where under this Act a civil penalty, forfeiture, fees or charges are jointly and severally incurred by a number of persons, the Commissioner-General may proceed against those persons jointly by one writ of summons or severally by separate writs of summons.

(8) A person who releases confidential risk management information without the authority of the Commissioner-General commits an offence and is liable on summary conviction to a fine of two hundred penalty units or to a term of imprisonment of five years or to both.

(9) The penalty in subsection (6) does not apply to a customs officer carrying out the duty of the officer under this Act.

(10) A customs officer who releases a risk register, risk profile, and other risk assessment data to a person without the authority of the Commissioner-General is subject to disciplinary action.

(11) A penalty equivalent to fifty penalty units per day shall be imposed for refusal to cooperate with a customs audit and after thirty days, continued refusal to cooperate may result in the suspension of the right to import and export goods and conduct any other business with the Authority.

(12) If goods required to be previously entered are taken out of a customs-controlled area without being duly entered except as permitted by this Act, the person who deposited the goods shall immediately pay the duties on the goods and shall pay a penalty of not more than three times the duty payable.

(13) If the depositor of goods in a customs-controlled area fails to produce to an officer on request goods that have not been duly entered and delivered from the customs-controlled area, that person shall incur a penalty of three times the duty payable on the goods not so produced and in addition pay the duties due.

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(14) A person who, without proper authority, opens a transit shed or, except in the presence of the proper officer acting in the execution of duty, gains access to the goods in the transit shed, shall incur a penalty not less than five hundred penalty units.

(15) A person who enters a part of a customs-controlled area when forbidden by an officer, or refuses to leave a part of a customs-controlled area when requested to do so by an officer, shall incur a penalty not less than two hundred penalty units.

(16) A person who aids or assists in taking goods from a customs-controlled area before they have been duly entered commits an offence and is liable on conviction to a term of imprisonment of not more than five years, in addition to paying a penalty of not more than three times the duties on the goods.

(17) A person who destroys or steals goods deposited in a customs-controlled area commits an offence and is liable on summary conviction to a term of imprisonment of not more than ten years, and shall pay a fine equal to the value of the goods in addition to the duty due on the goods.

(18) The Authority is not liable to any legal action in respect of the goods described in this section.

(19) A person who files a fraudulent drawback claim shall incur a penalty of fifty percent of the amount claimed and shall be prosecuted by the Commissioner-General.

(20) Where goods ordinarily liable to duty at a given rate are allowed by law to be entered or delivered at a lower rate of duty or free of duty for use for some special purpose or because the goods are the property of or intended for use by a particular person or functionary, the goods shall be forfeited to the State if

- (a) the required conditions are not observed; or
- (b) being goods entered or delivered because they are the property of or intended for use by some particular person or functionary, the goods are sold or transferred to another person.

(21) Where goods are forfeited, the importer or person obtaining delivery of the goods and any person who is knowingly concerned in their use contrary to the conditions of the entry at a lower or zero rate shall incur a penalty equal to one hundred percent of the duty payable on the goods.

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(22) An importer or person to whom the goods have been delivered shall produce the goods on demand to an officer or account for the goods to the satisfaction of the Commissioner-General, and if the importer fails to produce or account for the goods, the importer or that person shall incur a penalty equal to the value of the goods in addition to the duty payable.

**Falsification, alteration and forgery**

**122.** (1) A person who

- (a) counterfeits, falsifies or wilfully uses a counterfeited or falsified certificate or document required by this Act or under the directions of the Commissioner-General in the transaction of any business or matter relating to customs;
- (b) alters a document or instrument relating to customs after it has been officially issued, or counterfeits the seal, signature, initials or other mark of or used by any officer for the verification of any document or instrument or for the security of goods or any other purpose in the conduct of business relating to custom, or any tax payable under this Act;
- (c) on any document or instrument required for the purposes of this Act counterfeits or imitates the seal, signature, initials or other mark of or made use of by any other person whatsoever, whether with or without the consent of that person;
- (d) makes or signs any declaration, certificate or instrument which is false in any material particular in relation to any motor vehicle imported under this Act;
- (e) forges or causes to be forged any document relating to customs or any motor vehicle imported under this Act; or
- (f) furnishes or causes to be furnished any information relating to any matter under this Act which the person knows to be false,

commits an offence and is liable on summary conviction to a fine of not less than two thousand five hundred penalty units and any goods in respect of which the act was committed is liable to forfeiture to the State.

(2) Where the full amount of duties payable under subsection (1) is not paid

- (a) the person in contravention shall incur a penalty of not more than three times the amount not paid in addition to forfeiture of the goods where applicable; and

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- (b) the person is liable on summary conviction to a fine of not less than two times the value of goods in question or to a term of imprisonment of not more than five years or to both.

**Seizure and forfeiture**

**123.** (1) A conveyance used in the importation, attempted importation, landing, removal, movement, exportation or attempted exportation of un-customed, forfeited, prohibited or restricted goods is liable to forfeiture to the State.

(2) Where goods liable to forfeiture is seized, the officer who seized the goods shall give written notice of seizure to the owner,

- (a) by delivering the notice to the owner personally;
- (b) by a letter addressed to the owner and sent by post to or delivered at the usual or last known address of the owner;
- (c) in the case of a body corporate, at its registered or principal office; or
- (d) by publication in the *Gazette* or national newspaper where the person to whom the notice is to be sent has no address in the country, or the address is unknown.

(3) Where goods are seized in accordance with this Act or any other enactment, the Commissioner-General may direct the goods to be immediately marked in a manner that the Commissioner-General thinks fit.

(4) The mark shall in every case be readily identifiable, and where circumstances permit, it shall be indelible.

(5) A person who, without lawful excuse proof of which shall lie on the person, is in possession of seized goods is liable to prosecution and the goods are liable to forfeiture to the State.

(6) Unless a person claiming that goods seized and liable to forfeiture gives written notice of a claim to the Commissioner-General within thirty days, the goods in question shall be considered forfeited.

(7) Where a person gives notice of a claim within the thirty days, the Commissioner-General shall determine the merits of the claim and decide accordingly.

(8) Where the claimant is dissatisfied with the decision of the Commissioner-General, the claimant may appeal for a review within thirty days of the notice of the decision.

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(9) Where the claimant is further dissatisfied with the decision of the Commissioner-General, the claimant may appeal to a court of competent jurisdiction for a determination of the matter.

(10) Where the court finds that the goods were at the time of seizure liable to forfeiture, the court shall order the goods to be forfeited.

(11) Where animals, perishable or unwholesome goods have been seized, the Commissioner-General may direct that they be sold immediately by public auction or disposed of in a manner that the Commissioner-General may direct and the proceeds retained.

(12) Where goods are forfeited or becomes liable to forfeiture under this Act, a person who is knowingly concerned in the act or omission that renders the goods forfeited or liable to forfeiture shall incur the penalty provided by law in respect of the act or omission or, where no penalty is provided, shall incur a penalty in a sum equal to twice the duty payable on the goods seized or forfeited.

**Claims for seized goods**

**124.** (1) An owner or the authorised agent of an owner may make a claim for the restoration of goods seized under this Act.

(2) The owner or authorised agent shall state the place of residence and occupation.

(3) A claimant of goods seized under this Act, shall produce the original copy of the notice of seizure to the Commissioner-General at the time of making the claim.

(4) Where the claimant cannot produce the original copy of the notice of seizure issued to the claimant at the time of seizure, the claimant shall make a statutory declaration that the goods seized belonged to the claimant at the time of seizure.

(5) If the claimant resides outside the country, the agent by whom the claim or appearance is entered shall state on oath that the agent has full authority from the claimant to make or enter the claim, and that to the best of knowledge and belief of the agent, the goods seized were at the time of seizure the bona fide property of the claimant.

(6) Where the claimant fails to prove ownership of the goods seized, the goods are liable to forfeiture as if a claim or appearance had not been made.



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(7) Where the goods seized is owned by more than five owners, not more than two of the owners may make a claim or enter appearance on behalf of themselves and their co-owners, or to make the oath.

(8) Where the goods seized is at the time of seizure the property of a limited company registered under the Companies Act, 1963 (Act 179), a director or the secretary of the company may make the claim and enter appearance.

**Disposal of goods suspected to be un-customed**

**125.** (1) Where goods suspected to be un-customed are seized, the person authorised by law to effect the seizure shall deliver the goods immediately into the custody of the Commissioner-General, unless the Commissioner-General directs otherwise.

(2) Goods, other than goods of a perishable nature that are delivered into the custody of the Commissioner-General shall be deposited in a State warehouse.

(3) Where the goods are of a perishable nature, the proper officer may immediately sell the goods by public auction.

(4) Where the goods are not of a perishable nature, the Commissioner-General may sell the goods by public auction after fourteen days' notice published in the *Gazette* or national newspapers, and the proceeds of the sale shall be disposed of in accordance with any law governing revenue administration in the country.

(5) Where the importer or owner of the goods is charged with an offence in respect of the goods

(a) the proceeds of the sale of the goods shall be retained to await the outcome of the case; and

(b) if the importer or owner is convicted of an offence in respect of those goods, any part of the proceeds of the sale of the goods which would otherwise have been payable to the importer or owner is considered to be forfeited to the State and shall be paid into the Consolidated Fund.

**Prohibitions**

**126.** (1) The Commissioner-General may provide that the conveyance of specified goods on a specified road or across a specified river or in a specified direction on or across the specified road and rivers shall be deemed to be an attempt at importation or exportation of un-customed goods and an attempted evasion of the duty payable on those goods.

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(2) The inclusion of a place under the designation of a road is conclusive evidence that the place is a road.

(3) The Minister may, by Legislative Instrument, make Regulations to prohibit the construction of any road and the making of any metro track which leads to any point within a specified distance of any specified part of the boundary of the country.

(4) A person who contravenes an instrument made under this section commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than ten years or to both.

**Offences against an officer**

**127.** (1) A person who shoots at a conveyance in the service of the Authority commits an offence and is liable on conviction to a term of imprisonment of not more than twenty years.

(2) A person who shoots at, maims, wounds or causes harm by any means to an officer acting in the execution of the duty of the officer commits an offence and is liable on conviction to a term of imprisonment of not more than twenty years.

(3) A person who is or has been engaged in the commission of an offence under this Act and who is armed with a firearm or other offensive weapon commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than ten years or to both.

(4) A person who is armed with a firearm or other offensive weapon and who is found with goods liable to forfeiture under this Act commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than ten years or to both.

**Obstruction of an officer**

**128.** (1) A person who staves, breaks or destroys goods to prevent their seizure by an officer or other person authorised to seize the goods or tries to prevent the goods from being secured after the goods have been seized commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than ten years or to both.

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(2) A person who improperly receives goods seized by an officer or other person authorised to seize the goods commits an offence and is liable on summary conviction to a fine of not more than two thousand five hundred penalty units or to a term of imprisonment not more than five years or to both.

(3) A person who rescues a person arrested for an offence committed under this Act commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than ten years or to both.

(4) A person who prevents the arrest of another person sought for an offence committed under this Act commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or to a term of imprisonment of not more than ten years or to both.

(5) A person who obstructs an officer in the execution of duty under this Act commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or to a term of imprisonment of not more than two years or to both.

(6) A person who, with intent to frustrate an officer in the execution of the duty of the officer,

(a) warns, or attempts to warn, or

(b) causes to be warned

a person engaged in a contravention or attempted contravention of a provision of this Act, whether that person is within distance to take advantage of the warning or not, commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or to a term of imprisonment of not more than two years or to both.

(7) In pursuance of subsection (6), a person may prevent a warning being given and may go on land for that purpose without being liable to prosecution, action or suit for so doing.

**Interfering with customs gear or goods found at sea**

**129.** (1) A person who cuts away, casts adrift, removes, alters, defaces, sinks or destroys or in any other way damages or conceals an aircraft, ship, vehicle, buoy, anchor, chain, rope, entry gates into the country or a customs area, or exit gates from the country or any customs area or mark in the charge of or used by any person for the prevention of smuggling, or in or for the use of customs, commits an offence and is liable on summary conviction to a fine of not less than the Cedi equivalent of two thousand United States Dollars as well as the full costs of the repairs.

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(2) A person who, other than an officer, interferes with or takes up un-customed goods or any goods whose importation or exportation is prohibited or restricted, being in packages found floating upon or sunk into the sea commits an offence and is liable on summary conviction to a fine of fifty per cent of the value of the goods and the goods are liable to forfeiture to the State.

(3) Where by reason of the offence specified in subsection (1) or (2), the full amount of a fine payable is not paid, that person is liable on conviction to a term of imprisonment of not more than two years.

### **Impersonation of an officer**

**130.** (1) A person who impersonates an officer commits an offence and is liable on summary conviction to a fine of five hundred penalty units or to a term of imprisonment of not more than five years or to both.

(2) A person who without lawful authority possesses or uses a uniform, accessory or gear of a customs officer or an equipment, flags or gear of the Authority commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or to a term of imprisonment of not more than two years or to both.

### **Assembling to run goods**

**131.** Where two or more persons assemble for the purpose of running goods contrary to a provision of this Act, or who having so assembled, evade a provision of this Act, each person commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or to a term of imprisonment of not more than two years or to both.

### **Ship forfeited for offence during chase**

**132.** Where a ship within the country does not bring to on the proper signal made by any vessel or boat in the service of the Republic and it is chased, and any person on board the ship, whether during the chase or before the ship brings to or is brought to, throws overboard any part of the ship's content or staves or destroys any part of the goods to prevent seizure, the ship is liable to forfeiture to the State.

### **Vehicle forfeited for offence during chase**

**133.** Where a vehicle within the country does not respond to the proper signal made by an officer and the vehicle is chased by an officer and any person on board whether during the chase or before the vehicle stops,

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throws out any part of the content of the vehicle or staves or destroys any part of the goods to prevent seizure, the vehicle is liable to forfeiture to the State.

**Sale of smuggled goods**

**134.** (1) Where a person offers for sale un-customed goods, the goods shall be forfeited to the State.

(2) Where a person offers prohibited goods for sale, the goods shall be forfeited to the State and in addition the person is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both.

**Concealment of goods**

**135.** (1) Where a person,

- (a) imports or exports,
- (b) attempts to import or export, or
- (c) causes to be imported or exported

goods concealed in any way, or packed in a package, whether there are other goods in the package or not, in a manner calculated to deceive an officer of the Authority or any package containing goods not corresponding with its entry, the package and the goods in the package are liable to forfeiture to the State and that person shall incur a penalty of not more than three times the duty or tax payable on the goods contained in the package.

(2) Where a person conceals un-customed, prohibited or restricted goods intended for importation or attempted importation, landing, removal, transportation, exportation or attempted exportation in a conveyance, on which is constructed a false compartment or structure or which has a secret or disguised place, the goods are liable to forfeiture to the State and the person who owns the goods shall incur a penalty of not more than three times the duty payable on the goods.

(3) Despite subsection (2), the master or owner of the conveyance may be prosecuted.

(4) Where a conveyance is found or discovered to have been within or over the country

- (a) with a secret or disguised place adapted for concealing goods or any device adapted for smuggling goods,
- (b) with goods imported or intended for export contrary to this Act on board or in a manner attached to it, or which is conveying or has conveyed the goods in any manner,

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- (c) any part of the contents of which has been thrown overboard to prevent seizure, or
- (d) on board which goods have been staved or destroyed to prevent seizure,

every person who is knowingly concerned in or privy to the illegal act or thing proved to have been committed, shall incur a penalty equal to two hundred per cent of the value of the goods and the goods are liable to forfeiture to the State or where the goods are not available, the master shall pay a penalty of not less than two hundred penalty units.

**Bribes**

**136.** (1) A person who

- (a) gives, offers, or agrees to give or procure to be given, a bribe, gratuity, recompense or reward to an officer,
- (b) gives, offers, or agrees to give an unauthorised fee or reward to an officer, or
- (c) induces or attempts to induce an officer to connive

to evade a provision of this Act or otherwise to neglect the duty of that officer, commits an offence and is liable on summary conviction to a fine of not more than two hundred per cent of the total loss that would have been occasioned by the offence or to a fine of not more than two thousand five hundred penalty units whichever is higher or to a term of imprisonment of not more than five years or to both.

(2) An officer who

- (a) demands or takes a bribe, gratuity, recompense or reward for the neglect or non-performance of the duty of the officer;
- (b) demands or takes an unauthorised fee or reward, whether pecuniary or otherwise, directly or indirectly, on account of anything in relation to the office or employment of the officer;
- (c) delivers up or agrees to deliver up or not to seize anything liable to forfeiture; or
- (d) commits an offence under this Act or conspires or connives with any person for the purpose of committing an offence under this Act,

shall, on proof to the satisfaction of the Commissioner-General, be dismissed from office.

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(3) An officer who does any of the acts specified in subsection (2) commits an offence and is liable on summary conviction to a penalty of not more than two thousand five hundred penalty units or to a term of imprisonment of not more than five years or to both.

**Civil proceedings**

**137.** (1) The Commissioner-General may sue for, determine, enforce or recover by civil proceedings in a court of competent jurisdiction a duty, tax, penalty, levy, fee, charge, interest, rent, expense, seizure, forfeiture and any other sums of money payable under this Act or under any other enactment.

(2) Except as otherwise provided in this Act, the High Court Civil Procedure Rules 2004 (C.I. 47) apply to civil proceedings under this Act.

(3) A person shall not plead the fact that a duty has been secured by bond or otherwise in response to or in stay of proceedings under this Act.

(4) Proceedings to recover any amount incurred under this Act does not relieve a person from liability to criminal proceedings where a contravention of this Act is also a criminal offence under any other law.

**Liability of officer**

**138.** (1) Where the court determines that there was no probable cause for a seizure or act of an officer, the officer who made the seizure or performed the act is not liable to any action, suit or prosecution on account of the seizure or act.

(2) Where a verdict is given that there was no probable cause for a seizure or act of an officer, the plaintiff may recover the things seized or the value of the things seized.

**Procedure in small value cases**

**139.** Where a person is brought before a lower court for an offence under this Act in respect of which the customs value of goods liable to forfeiture does not exceed the equivalent of two hundred penalty units, the court, at the request of the Commissioner-General, may hear and determine the matter summarily and without a writ of summons or other formal process.

**Criminal proceedings**

**140.** Where a provision of this Act is enforceable by the criminal laws, the provision is enforceable by the criminal procedure of Ghana.

**Service of summons**

**141.** A summons issued by a court under this Act to bring a person before a court as a defendant or witness shall be considered to be served where an officer of the court, proper officer or other duly authorised person delivers the summons to

- (a) the party summoned personally;
- (b) to the solicitor of the party; or
- (c) the last known place of abode or business in the country of the party.

**Civil proceedings to have priority**

**142.** (1) A court shall give precedence to civil proceedings instituted under this Act including appeal proceedings in respect of the right to priority of hearing by the court.

(2) Subsection (1) does not apply to civil proceedings which is part-heard.

**Construction of provisions and procedures**

**143.** (1) Except as otherwise provided, the provisions or procedures under this Act shall be independent of and additional to and not in substitution for any provision or procedure in any other enactment.

(2) The provisions of this Act in respect of civil procedure are additional to and not to derogate from the ordinary civil procedure of Ghana.

(3) A person shall not be punished more than once for the same act or omission.

**Prosecution by an officer**

**144.** A lawyer in the employment of the Authority may prosecute and conduct a prosecution or other proceedings, whether criminal or civil, in respect of an offence or a penalty committed under this Act subject to section 56 of the Criminal and other Offences (Procedure) Act, 1960 (Act 30).

**Burden of proof**

**145.** (1) In proceedings under this Act, the following proofs shall lie on the person who asserts the fact:

- (a) that concerns the place from which goods have been brought;



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- (b) that the proper duty has been paid on the goods;
- (c) that the goods have been lawfully made, imported, removed, delivered or exported, or lawfully put into or out of a conveyance or lawfully transferred from one conveyance to another; or
- (d) that goods have been illegally seized or detained.

(2) The following averments by the Commissioner-General shall be deemed sufficient unless the party on the other side proves to the contrary:

- (a) that the Commissioner-General has directed or requested that proceedings under this Act shall be instituted or that any particular penalty should be sued for or recovered;
- (b) that goods thrown overboard, staved or destroyed were dealt with in that manner to prevent seizure;
- (c) that a person is an officer;
- (d) that a person was employed for the prevention of smuggling; or
- (e) that the offence was committed within the limits of any particular port or in or over the country.

(3) Where in proceedings under this Act, a person alleges that the Commissioner-General dealt with prohibited or restricted goods for the purpose of importation or exportation contrary to the prohibition or restriction, the burden of proof that the goods were not dealt with for that purpose shall be on that person.

(4) In proceedings under this Act, it is not necessary to prove guilty knowledge unless otherwise expressly required and, where required, the burden of disproving the guilty knowledge shall be on the opposing party.

**Evidence of officer**

**146.** Where in proceedings under this Act, a question arises as to whether a person is an officer, the evidence of the officer in so far as it relates to the employment of the officer in the Authority shall be corroborated.

**Proof of order**

**147.** Where in proceedings under this Act, it is necessary to produce proof of an order or letter of authority issued by the Minister or Commissioner-General, or any person in the employment of the Authority, the court shall admit the order or letter of authority or any letter or instructions and taken it as prima facie evidence of the order or letter of authority, if the document purports to be signed by the person or appears to have been officially printed or issued.

**Certificate of forfeiture**

**148.** A person may prove forfeiture of goods by a court under this Act in a court by the production of a Certificate of Forfeiture signed by the Registrar of the court.

*Miscellaneous provisions*

**Regulations**

**149.** The Minister may, on the recommendations of the Board, by legislative instrument make Regulations

- (a) to prescribe the conduct of audit of systems of a trader;
- (b) to prescribe the documents and records to be produced for a post-clearance audit;
- (c) for the conduct of a post-clearance audit of systems of a trader;
- (d) to prescribe a system for the registration of authorised economic operators;
- (e) to prescribe the general requirements to obtain a license to conduct customs business;
- (f) to prescribe the responsibilities of the Authority in relation to postal and express shipment;
- (g) to prescribe the customs procedures in a free zone;
- (h) for the implementation of drawback provision;
- (i) to provide for the exemption of goods or classes of goods not specified under this Act;
- (j) to prescribe fees to be paid under this Act;
- (k) to prescribe for the increase or reduction in the allowance for shrinkages; and
- (l) to give full effect to the provisions of this Act.

**Interpretation**

150. In this Act, unless the context otherwise requires,
- “agent” means a person performing customs business on behalf of another person;
  - “aircraft” means an apparatus, whether or not mechanically propelled, which is used for the transport by air of human beings or goods;
  - “approved” means approved by the Commissioner-General or the proper officer;
  - “approved place of unloading” and “approved place of loading” includes a quay, jetty, wharf or a part of an airport, designated by the Minister by notice in the *Gazette* to be a place where coastwise or imported goods or goods about to be carried coastwise or exported may be unloaded or loaded;
  - “arrival” means the point in time when a conveyance crosses the borders into the country;
  - “Authorised Economic Operator” means an internationally certified person whose role in the international supply chain is secure and is in compliance with customs controls and other procedures;
  - “Authority” means the Ghana Revenue Authority established under the Ghana Revenue Authority Act, 2009 (Act 791);
  - “Board” means the governing body of the Ghana Revenue Authority;
  - “boarding station” means a station or place appointed by the Minister by notice in the *Gazette* to be a station or place for conveyances arriving at or departing from a port or place to bring to for the boarding or setting down of officers;
  - “bonded carrier” means a carrier licensed in accordance with this Act to transport bonded goods within the country;
  - “burden” means net registered tonnage or tonnage calculated in the manner prescribed by law for ascertaining net registered tonnage;
  - “buying commission” means a fee paid by an importer to the agent of the importer for the service of representing the importer in the purchase of the goods being valued;
  - “cargo” means goods other than stores or passenger or crew baggage;

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“Commissioner-General” means the person appointed under section 13 of the Ghana Revenue Authority Act, 2009 (Act 791);

“container” means an article of transport equipment

(a) of a permanent character and strong enough to be suitable for repeated use;

(b) specially designed to facilitate the carriage of goods by one or more modes of transport without intermediate reloading;

(c) fitted with a device that permits ready handling, particularly its transfer from one mode of transport to another; and

(d) designed as to be easy to fill and empty;

“conveyance” means a ship, aircraft or vehicle;

“customs house agent” means a person who is granted a license to operate as a customs house agent;

“customs business” means an activity that has to do with the importation or exportation of goods;

“customs-controlled area” means a place in the country, designated by the Commissioner-General, where the Authority has control over goods, persons or conveyances;

“customs value of imported goods” means the value of goods, determined in accordance with this Act;

“declarant” means a person who makes a declaration for customs purposes, and who is the owner of the goods, the importer or exporter, or the agent;

“declaration” means a statutory form filed or to be filed with respect to imported or exported goods at the time of entry or export;

“duty” means customs duty, excise duty, tax or other charges collectible on imported or exported goods;

“electronic declaration” means a declaration made electronically to the Commissioner-General, whether personally or on behalf of any person as agent or broker, of the particulars of a consignment of goods imported or exported or any other declaration authorised by the Commissioner-General in connection with the import or export of goods under this Act;

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- “electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means;
- “signature” means the electronic method of authentication prescribed by the Commissioner-General;
- “entered,” in relation to goods imported, warehoused, put on board an aircraft or ship as stores, or exported, means that the prescribed declaration has been filed and accepted by the proper officer for electronic filing, the filing has been electronically validated and any duties due have been paid or security for any duties due has been deposited;
- “export” means the act of taking out or causing to be taken out any goods from the country;
- “exporter” includes a person
- (a) who exports goods from the country;
  - (b) who transfers goods from an importing conveyance to an exporting conveyance;
  - (c) who supplies goods for use as stores for aircraft or ship
  - (d) acting on behalf of a person specified in paragraph (a) (b) or (c); or
  - (e) who for customs purposes signs a document relating to goods exported or intended for exportation, or supplied or intended for supply as aircraft or ship stores;
- “export value” means the cost to the purchaser abroad including freight, charges incurred for transport up to the port or place of exportation, harbour dues and loading charges, and all other costs, profits, charges and expenses and duties, accruing up to the point where the goods are deposited on board the exporting vessel, aircraft or vehicle at the place of departure from Ghana;
- “express shipment” means the international shipment of small packages of goods or correspondence by air or a combination of air and surface transport on an expedited basis;
- “false statement” means a statement made with respect to goods subject to customs control that is false or misleading in a material respect or a material omission from a required statement or document with respect to goods subject to customs control;

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- “final discharge” means the unloading of all goods destined for the country;
- “Free Zone” means a place designated as a free zone under the Free Zones Act, 1995(Act 504);
- “goods” includes an article, conveyance, currency, merchandise, livestock and produce of the soil;
- “goods of the same class or kind” means goods, which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;
- “Harmonised Commodity Description and Coding System” means the nomenclature comprising the headings, sub-headings and their related numerical codes, the section, chapter and sub-heading notes and the general rules for the interpretation of the Harmonised System contained in the text of the International Convention on the Harmonised Commodity Description and Coding System approved by the Customs Co-operation Council on 14th June, 1983 and the relevant Schedules attached to it;
- “identical goods” means goods, which are the same in all respects, including physical characteristics, quality, and reputation, but disregarding minor differences in appearance;
- “import” means to bring or cause goods to be brought into the country;
- “importer” includes the owner or the person for the time being possessed of or beneficially interested in goods at and from the time of their importation until they are duly delivered out of the charge of the proper officer, and also any person who signs any document relating to imported goods required by this Act to be signed by an importer;
- “information” includes data, text, images, sounds, codes, computer programs, software and databases;
- “manufacture” means to make, produce, or cause to be made or produced goods;
- “Minister” means the Minister responsible for Finance;
- “motor vehicle” means a mechanically propelled vehicle for use on a road other than a cycle, motor cycle, side-car or other similar vehicle;
- “name” includes the registered mark of an aircraft or ship;
- “officer” means a person employed by the Ghana Revenue Authority;

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- “over age” in relation to imported motor vehicles means the age determined by law as over a certain age;
- “over Ghana” means above the area contained within the imaginary lines bounding Ghana and if any person, goods or things descend or fall, or are dropped or thrown, from any aircraft within such area, such person, goods or things shall be deemed to have descended or fallen, or to have been dropped or thrown from an aircraft over Ghana;
- “owner of goods” means a person who is for the time being entitled either as owner or agent for the owner to the possession of the goods and, in relation to a means of conveyance, includes the charterer, operator or hirer;
- “package” means a parcel, container, bundle, box, cask or other receptacle;
- “port” means a place, whether on the coast or elsewhere, designated by the Minister by notice published in the *Gazette*, subject to any conditions or limitations specified in such notice, to be a port for the purposes of this Act; and a customs aerodrome, whether within a port or not, shall be deemed to be a port for aircraft;
- “postal shipment” means shipment of a postal article as defined in the Postal and Courier Services Regulatory Commission Act, 2003 (Act 649);
- “pre-entry” means the entry of goods prior to their importation into Ghana;
- “private bonded warehouse” means a building or place appointed by the Commissioner-General and licensed to be a place where goods to be warehoused are secured;
- “produced” means grown, manufactured or mined;
- “prohibited goods” means goods whose importation or exportation is prohibited by law;
- “proper officer” means an officer whose right or duty it is to exact the performance of or to perform the act referred to;
- “raw material” means goods from which other goods are capable of being manufactured and any residue from any process of manufacture;
- “record” means any information kept in the ordinary course of business that pertains to any customs activity, in the nature of a statement, declaration, document, data, book, paper, correspondence, accounts, and financial accounting data;

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- “regulations” means the Regulations made under this Act;
- “removal article” means movable personal belongings or effects, domestic appliances, household provisions normally kept in stock, collectors’ pieces, pet animals and any tools of trade other than agricultural, commercial or industrial plant necessary for the exercise of the calling, trade or profession of any person referred to in this Act, but does not include arms, ammunition, motor vehicles, spare parts and building materials;
- “restricted goods” means goods whose importation or exportation is restricted by law;
- “selling commission” means fees paid to the agent of seller for services performed in connection with selling imported goods;
- “ship” means floating craft of every description, but does not include aircraft;
- “similar goods” means goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable;
- “State warehouse” means a place approved by the Commissioner-General for the deposit of un-customed, un-entered, un-examined, abandoned or seized goods for the security of the goods or the payment of duties that may be due;
- “sufferance wharf ” means a place other than an approved place of loading or unloading at which the Commissioner-General in his or her discretion, and under such conditions and in such manner as he or she may direct, either generally, or in a particular case, allows goods to be loaded or unloaded;
- “tariff ” means the Tariff Schedule of Ghana;
- “time of entry,” in relation to goods imported, warehoused, put on board an aircraft or ship as stores, or exported, means the date when the prescribed declaration has been filed and accepted by the proper officer for electronic filing, the time of electronic validation of the filing and any duties due have been paid or security for any duties due has been deposited;



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- “time of export” means the time when goods within Ghana are placed on board a conveyance for consignment to a place outside Ghana and the international voyage to that place commences; except that, for goods prohibited to be exported, the time of export shall be the actual time at which the conveyance departed from its final position within Ghana or the time at which goods exported overland or by inland waters pass across the boundaries of Ghana.
- “time of import” means the time of arrival of a conveyance within the limits of Ghana from outside Ghana with the intent to unlade merchandise;
- “transit shed” means a building in a Customs-controlled area, designated by the Commissioner- General by notice in writing, for the deposit of un-entered un-declared goods;
- “uncustomed goods” means goods liable to duty on which the full duties due have not been paid and goods, whether liable to duty or not, that are imported or exported or in any way dealt with contrary to the provisions of this Act in relation to customs;
- “vehicle” means a conveyance for the transport by land of goods or persons;
- “warehouse keeper” means the person licensed to operate a private bonded warehouse; and
- “wine and beer” for purpose of customs duties means
- (a) liquor not containing more than 24.5 per cent of pure alcohol by volume shall be considered as wine; and no liquor containing more than ten per cent of pure alcohol by volume is considered as ale, beer, cider, perry or stout;
  - (b) liquor containing more than 24.5 per cent of pure alcohol by volume, all liquor, other than wine, containing more than ten per cent of pure alcohol by volume, and liquor other than wine, ale, beer, cider, perry or stout containing more than one per cent of pure alcohol by volume is considered as spirits.

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**Repeal and savings provisions**

**151.** (1) The following enactments are repealed:

- (a) Customs Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330);
- (b) Customs, Excise and Preventive Service (Management) (Amendment) Act, 1996 (Act 511);
- (c) Customs and Excise (Duties and other Taxes) Act, 1996 (Act 512)
- (d) Customs, Excise and Preventive Service (Management) (Amendment) Act, 1998 (Act 552);
- (e) Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 614);
- (f) Customs, Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 634);
- (g) Customs, Excise and Preventive Service (Management) (Amendment) Act, 2003 (Act 636);
- (h) Customs, Excise and Preventive Service (Management) (Amendment) Act, 2008 (Act 758); and
- (i) Customs House Agents (Licensing) Act, 1978 (S.M.C.D. 188)

(2) Despite the repeal of the enactments specified in subsection (1), every statutory instrument and all notices, orders and rules made under those enactments and in force immediately before the commencement of this Act shall, until altered, revoked or modified under this Act, continue in force as if made under the corresponding provisions of this Act.

**Transitional provisions**

**152.** A port, warehouse, transit shed, sufferance wharves or boarding station or any other place designated by the Commissioner-General for

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the loading, unloading and storage of goods approved immediately before the commencement of this Act shall continue to be approved, and all duly appointed wharves shall be deemed to be approved places of loading and unloading until their appointment is revoked or varied under this Act.

Date of *Gazette* notification: 12th February, 2014.



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### MEMORANDUM

The object of this Bill is to revise and consolidate existing provisions in relation to the imposition of customs duties and to provide for related matters.

With the coming into force of the Ghana Revenue Authority Act, 2009 (Act 791) which integrated the three main revenue collecting agencies as Divisions of the Authority, it has become necessary to harmonize and consolidate the administrative provisions in the existing tax laws into one legislation to be known as the Revenue Administration Bill and to reorganize and streamline the other residual operational and charging provisions into other separate legislation. Thus this Bill seeks to provide a separate legislation in respect of customs matters.

Currently, the provisions on customs operations are scattered in the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L.330), Customs Excise and Preventive Service (Management) (Amendment) Act, 2002 (Act 634) and the Customs House Agents (Licensing) Act, 1978 (S.M.C.D. 188) among others. The enactment of this Bill will make the law more user-friendly and reduce the obstacles to compliance. This will invariably facilitate the implementation and optimisation of revenue collection.

*Clause 1* of the Bill provides for the imposition of duties and taxes on goods that are imported into the country or exported from the country. Exemptions from the imposition of customs duties and taxes are provided for in *clause 2*. Amongst others, a removal article is exempt from duty.

*Clause 3 to 10* provides for customs controls. Under *clause 3*, the Authority is mandated to conduct customs controls including random checks based primarily on risk management. These checks can be carried out by the Authority in conjunction with cooperating foreign customs administrations and any information obtained regarding risk management is to be treated as confidential by the Authority.

*Clause 4* provides for the designation of customs-controlled areas by the Commissioner-General. Activities to be conducted in a customs-controlled area are provided for in *clause 5*. The activities include the loading, unloading, inspection, assessment and clearing of imported or

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exported goods, the embarkation, disembarkation or control of persons arriving in or departing from the country and the storage of imported goods under bond.

Conditions for the release of goods by the Commissioner-General are provided for in *clause 6*. These situations include instances where the goods have been examined or exempted from examination and the declarant has acquired the necessary documents or the duty in respect of the goods have been paid.

*Clause 7* provides for post-clearance audit by the Ghana Revenue Authority. The Ghana Revenue Authority may conduct a post-clearance audit after the release of goods and after giving notice to the person on whom a post-clearance audit is to be conducted.

*Clause 8* provides for the registration of Authorised Economic Operators. The procedure for the registration of Authorised Economic Operators is to be done in accordance with Regulations.

*Clause 9* places an obligation on an owner, importer, consignee, exporter, entry filer or any other person required to keep records under the Act to keep the records in its original form, which includes the electronic form, unless the Commissioner-General approves an alternative method of storage. The records are to be kept by the person for a period of six years from the date of the activity that required creation of that record.

Provision for the Ghana Revenue Authority to establish a Customs Laboratory in accordance with the requirements of the World Customs Organisation is in *clause 10*. The functions of the Customs Laboratory are to be prescribed by Regulations.

*Clause 11 to 14* makes provision for customs information. A person who is directly or indirectly involved in the accomplishment of customs formality or in customs controls, is required at the request of the Commissioner-General to provide the requisite documents and information to the Commissioner-General and that person is responsible for the accuracy and completeness of the information and the authenticity of the documents provided.

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Under *clause 12*, the Commissioner-General may issue a written ruling applying the customs law to a particular set of facts submitted by an interested party. A customs ruling may be in respect of tariff classification, customs value or country of origin of goods and is binding on the Commissioner-General as well as recipient of the ruling. However a person may object to a decision of the Commissioner-General and the grounds for objection as well as the procedure for raising an objection are spelt out in *clause 13*.

*Clause 15 to 30* provides for the arrival and departure of conveyance. A conveyance is defined as a ship, aircraft or vehicle and a master of a conveyance is defined as a person who is in charge of a conveyance or the agent of the master, *clause 15*.

Arrival of a conveyance is dealt with in *clause 16*. It provides that where a conveyance arrives in the country, it shall touch at a port or any other place specified by the Commissioner-General for purposes of mooring or unloading.

The master or an agent of a conveyance, is required to within twenty-four hours after arrival from outside the country, make a report of the conveyance and the stores and cargo in the conveyance to the Commissioner-General, *clause 17*. The penalty for failure to make a report of the arrival of a conveyance is spelt out in *clause 18*.

*Clause 19* stipulates the duties of a master, in relation to a conveyance, its cargo, stores, baggage, crew and passengers. These include the requirement to produce all books and documents in the custody or control of the master, breaking of bulk and the consequences of breaking the bulk without the knowledge and consent of the Commissioner-General, *clause 20*

Under *clause 21*, the Commissioner-General may direct at what particular part of a port or other place that a conveyance must moor or unload its cargo and a master who fails to comply with a directive of the Commissioner-General is liable to have the cargo forfeited to the State.

*Clause 22* deals with liability of goods other than cargo that is subject to forfeiture. It stipulates that goods other than cargo must not be taken out of a conveyance arriving from outside the country or delivered to a

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person aboard the conveyance unless the goods are for the consumption or use of the crew or passengers and the penalties and charges for a breach are spelt out in *clause 23*.

Provision is made under *clause 24* for matters as regards stores of an aircraft or a ship. The *clause* gives discretion to a proper officer to permit the master of an aircraft or ship departing from a port in the country on a flight or voyage to a place outside the country, to take on board the conveyance stores for the use of the aircraft or ship and for the use of the master, crew and passengers. The Commissioner-General may require a master of a conveyance of stores to take appropriate steps to prevent unauthorised use of stores including sealing of the stores where necessary.

*Clause 25* deals with the departure of a conveyance from the country. A master or an agent of a conveyance which is leaving the country is required to deliver to the proper officer an entry outwards of the conveyance which must specify among other matters that goods left on board the conveyance are only goods required for use as stores and where necessary the master of the conveyance must obtain a certificate of rummage from the proper officer.

*Clause 26* prohibits a person from putting goods on board a conveyance for exportation or use as stores, or into a vessel to be water-borne except under specified conditions whilst *clause 27* deals with goods for export or use as stores. It prohibits a person from putting on board an exporting ship, goods that have been put into a vessel to be water-borne to another ship for exportation or for use as stores, outside the limits of a port. It also authorises a proper officer on reasonable suspicion to open and examine all goods put on board a conveyance or brought to any place in the country to be put on board a conveyance for exportation or for use as stores.

Under *clause 28 and 29* an exporter is required to give security that the Commissioner-General may require before entering goods on board a conveyance for use as stores or for export or transfer. A master of a conveyance or an authorised agent is also required to immediately before the departure of a conveyance from a port or any other place in the country, deliver to the proper officer the content of the conveyance, and master or authorised agent who fails to comply with this provision is liable to pay a penalty equivalent to fifty penalty units, *clause 30*.



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*Clause 31 to 42* deals with coasting trade. Coasting, in *clause 31*, is described as trade by air or by sea, from one part of the country to another part of the country. Under this *clause*, the Commissioner-General is given the discretion to impose conditions for the loading, unloading and movement of goods involved in coasting.

An aircraft or ship is required to obtain permission from the Commissioner-General before engaging in coasting, *clause 32* and *clause 33* mandates a master, owner or an agent of a ship that is engaged in coast trading to display the name of the ship on the ship.

*Clause 34* spells out the penalty to be incurred by a master of a coasting ship or aircraft for the deviation of a ship or aircraft from the approved flight or voyage. The Commissioner-General is required to publish in the *Gazette* or the national daily newspaper the specific times for loading and unloading of goods for purposes of coast trading, *clause 35*.

Restrictions on dealing with goods by the master of an aircraft or ship without the written permission of the Commissioner-General is dealt with in *clause 36*, whilst *clause 37* provides for the appropriate penalty in dealing in prohibited or restricted goods in coasting trade. This includes forfeiture of the goods to the State or the detention of the conveyance by the Commissioner-General.

*Clause 38* specifies requirements for the carriage of passengers, *clause 39* places an obligation on the master of a coasting aircraft or ship to deliver to the proper officer an account on cargo before departure whilst *clause 40* mandates a master of a conveyance to produce a transire to the proper officer immediately after the arrival of a coasting aircraft or ship at the port or place of unloading and before the goods are unloaded. The penalty for unlawfully loading or unloading goods on board an aircraft or ship in a port or place within the country is provided for in *clause 41* and the Commissioner-General may vary the procedure for the loading or unloading of goods or entry or clearance of goods for a coasting aircraft or ship, *clause 42*.

*Clause 43 to 47* is on licensing for customs house agents and bonded carriers. A company or partnership is not to engage in business as a customs house agent unless that company or partnership is granted a

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licence by the Commissioner-General to do so. The conditions for the grant and revocation of a licence are spelt out under *clause 43*.

A person who desires to carry on the business of carrying bonded goods or to operate an area as a customs-controlled area is required to obtain a licence from the Commissioner-General, *clause 45* and *46* whilst the requirements for the operation of a private bonded warehouse are catered for in *clause 47*. A person is not to use any building as a private bonded warehouse unless the building is licensed by the Commissioner-General for that purpose.

*Clause 48 to 54* deals with entry of goods into the country. The time for entry of goods is the date when the declaration of the goods is filed and accepted by the proper officer, *clause 48*. Provisions in relation to filing of a declaration, pre-entry of goods, uncleared goods and missing or incomplete documents are all dealt with in *clause 49 to 54*. The filing of a declaration in respect of goods under a customs procedure is to be made within seven working days from the date of final discharge of the goods. A person may however opt for pre-entry in which case a declaration must be filed and duties paid prior to the arrival of the goods.

The Commissioner-General may allow a person to file a provisional declaration, delivery or shipment of goods pending the production of the proper documents and declarations and where goods are not properly cleared within seven days or within a further period that the Commissioner-General may allow in special circumstances, the goods may be deposited in a State warehouse. An owner of a ship or aircraft may also make a declaration in respect of goods imported into the country.

*Clause 55 to 61* provides for the importation of motor vehicles. A person who imports a motor vehicle into the country is required to pay import duty and any other taxes prescribed by law. This *clause* does not apply to a motor vehicle which is exempted under the Bill. The vehicle licensing authority is not to register a vehicle unless the applicant submits the relevant customs documents on the vehicle and the Commissioner-General is mandated to station a customs officer at the premises of a vehicle licensing authority to authenticate customs documents submitted by applicants, *clause 56*

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For purposes of calculation of duties, the age of a motor vehicle is the year in which the motor vehicle was manufactured, *clause 57* whilst *clause 58* specifically prohibits the importation of a right-hand steering motor vehicle into the country unless the Minister authorises the importation. Furthermore the Commissioner-General may seize a prohibited motor vehicle imported into the country. The conditions under which a person may forfeit a motor vehicle to the State are provided for in *clause 59*. Forfeited motor vehicles are to be disposed of by the Commissioner-General or sold on an "as is" basis.

*Clause 60* to *61* provides for the valuation of used vehicles and the obligation of a local dealer to furnish the Commissioner-General with the details of the manufacturer of a motor vehicle that is imported into the country. A local dealer who fails to furnish the Commissioner-General with the required information commits an offence and is liable on summary conviction to a fine of not more than two hundred penalty units or to a term of imprisonment of not more than twelve months in addition to a fine of twelve penalty units for each week that the offence continues.

Express and postal shipment is dealt with in *clause 62 to 65*. This group of *clauses* specifies the procedure for the Commissioner-General to deal with express and postal shipment. The Commissioner-General is required to put in place systems and measures to ensure expedited clearance of an express shipment. The Ghana Revenue Authority and a Postal Service are on the other hand required to sign a Memorandum of Understanding specifying their respective responsibilities in relation to the customs treatment of postal items whilst *clause 65* provides for circumstances under which an officer of the Ghana Revenue Authority may detain and examine express and postal shipment.

*Clause 66 to 70* deals with classification, valuation and country of origin of goods. *Clause 66* specifies that the Harmonized Commodity Description and Coding System which is also known as the Harmonised System approved by the Customs Co-operation Council on 14th June, 1983, and duly revised by the World Customs Organisation is to be used for classification of customs tariffs. The modalities for valuation of goods

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for customs purposes is provided for in *clause 67*, *clause 68* provides for the procedure to be used in situations where the customs value of goods cannot be determined and the rate of exchange for the determination of the customs value by the Commissioner-General is the Bank of Ghana exchange rate, *clause 69*. The country of origin of goods for customs purposes is specified in *clause 70*.

*Clause 71 to 73* provides for assessment of customs duty. Persons who are liable to pay customs duty under *clause 71* are those who import goods that attract duties which are entered for consumption by that person and the declaration is accepted. The procedure for the calculation of duty is provided for in *clause 72* whilst *clause 73* provides for the modalities for the payment of customs duty.

*Clause 74 to 97* is on general customs procedures. It provides that imported goods intended to be put on the market or intended for private use or consumption within the country are to be placed under the customs procedure for home use, *clause 74*. The temporary admission procedure as provided for in *clause 75* is to be adopted by a person who imports goods into the country with the intention of re-exporting the goods and the inward processing procedure is to be adopted by the Commissioner-General in cases other than matters relating to the repair of goods or destruction of good, *clause 76*. Other customs procedure provided for under the Bill are re-importation in same state and re-importation after outward processing, *clause 77* and *78*.

*Clause 79* provides for private bonded warehouses. The *clause* authorises the Minister to publish in the *Gazette* or national newspapers of wide circulation the kind of goods that may be warehoused upon first importation without payment of duty. It also stipulates the manner in which goods are to be kept in a warehouse.

*Clause 80* places an obligation on a warehouse keeper to keep records which are to be made available for inspection at all times by a proper officer. The penalty for failure to keep records is also specified in this *clause*.

Under *clause 81* goods that are not duly removed from a private bonded warehouse may either be sold or dealt with in accordance with

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the directives of the Commissioner-General. The penalty for a person who unlawfully removes goods from a private bonded warehouse without authorization is dealt with in *clause 82* and *83*. Destruction and stealing of goods are dealt with in *clause 84*, *clause 85* deals with the conditions under which a person may remove goods from one warehouse to another warehouse whilst the power of the Commissioner-General to determine the conditions under which a person may be permitted to take goods out of a private bonded warehouse without the payment of duty is provided for under *clause 86*.

Stowing of goods is provided for in *clause 87*. A proper officer is required to provide appropriate directions for the storage of goods in a warehouse or customs-controlled area. Provisions on entry of warehoused goods, re-exportation of commercial goods, delivery of stores and re-warehousing of goods are all provided for under *clause 88* to *92*. *Clause 93* makes provision for goods to be auctioned and states that the Auction Sales Act, 1989 (P.N.D.C.L. 230) is not applicable to goods auctioned by a proper officer. The provisions of the Free Zones Act, 1995 (Act 504) are to apply to a free zone for customs purposes, *clause 94*.

Goods in transit are provided for in *clause 95*. It specifies the procedure for transit of goods from one part of the country to another part of the country and a transit procedure is discharged when the goods are delivered to the prescribed destination with all the seals on the goods intact. *Clause 96* deals with transshipment of goods and mandates a person involved in the transshipment of goods to provide security before the goods are transhipped whilst *clause 97* provides for exports of goods subject to the relevant Schedule to the Harmonised System.

Provisions on folded woven goods are dealt with in *clause 98* to *103*. *Clause 98* and *99* prohibits the sale or importation of folded woven goods unless the folded woven goods are folded in folds of not less than one metre or nine inches in length and each piece is marked with the number of metres and inches and stamped. An exception is however created for specified goods, or in cases where the folded woven goods are in transit or meant for transshipment. The penalty for a contravention of this provision is a fine of not more than three times the duty payable on the good, *clause 100*.

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*Clause 101* gives a discretionary power to a proper officer to demand invoices from an importer and inspect packages which contain folded woven goods. On the other hand a vendor is required in *clause 102*, to give a warranty in respect of any folded woven goods sold or which is the subject of a contract of sale.

*Clause 104 to 107* provides for refund, abatement of duty, drawback and removal articles. The Commissioner-General may allow a refund or remit a duty paid where the goods are lost or destroyed by accident on board a conveyance in a customs-controlled area or in a warehouse among other matters. The claim for a refund must be made within ninety days of the date of release of the goods from customs custody, *clause 104*.

Circumstances for the abatement of duty on goods imported into the country by the Commissioner-General are provided for in *clause 105*. *Clause 106* deals with drawback, which is a refund of all or part of duties in relation to goods that are exported or used in a specified manner. The Commissioner-General is required to pay a claim for drawback within twelve months after the Commissioner-General has verified the claim.

*Clause 107* deals with removal articles. A removal article is exempt from duty. This exemption however does not apply to a motor vehicle, a spare part or building material that is brought into the country by a citizen who was previously resident outside the country or a member of the household of that person.

*Clause 108 to 111* stipulates the forms of security that a person may provide to ensure the payment of duty and the discharge of any other obligation. These include cash deposit, a bond given by a reputable bank, financial institution or insurance guarantor, or an undertaking by an authorised economic operator. A surety to a bond is jointly and severally liable with the principal on the bond. The Commissioner-General shall release or cancel a guarantee where the customs liability is extinguished. A bond taken for customs purposes is valid even if the bond or security is given by a person under twenty-one years of age.

*Clause 112 to 120* provides for the powers, privileges and immunities of an officer of the Customs Division of the Ghana Revenue Authority.

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These powers, privileges and immunities are the same as powers and privileges given by law to a police officer, *clause 112*. Other powers of an officer are the power to search a person if that officer reasonably suspects that that person is in possession of uncustomed, restricted or prohibited goods, power to patrol freely, power to stop or board a conveyance and power to seize an abandoned conveyance, *clause 114 to 120*.

Offences and penalties are provided for in *clause 121 to 148*. *Clause 121* provides for a general penalty for a person who contravenes a provision for which a specific punishment or penalty is not provided. Other offences provided under the Bill are falsification, alteration and forgery of documents, *clause 122*.

The procedure for the seizure and forfeiture of a conveyance or goods is provided for in *clause 123*. An owner of a conveyance or goods may appeal against a seizure or forfeiture of a conveyance or goods and where there is a claim for the restoration of goods seized, the claim must be made in the name of the owner or the authorised agent of the owner, *clause 124*. Where a claimant fails to prove ownership of goods seized, the goods are to be forfeited to the State as if a claim had not been made.

Disposal of goods suspected to be uncustomed is dealt with in *clause 125*. The *clause* mandates a person authorised by law to seize uncustomed goods to deliver the seized goods immediately to the Commissioner-General and specifies the procedure for the disposal of uncustomed goods that are perishable or non-perishable. Prohibitions on the conveyance of specified goods are in *clause 126*.

*Clause 127* provides for various offences against an officer which attract a fine or a term of imprisonment. These offences include shooting at a conveyance in the service of the Authority or shooting at, maiming, wounding or causing harm by any means to an officer acting in the execution of the duties of the officer, obstruction of an officer, interfering with customs gear or goods found at sea as well as impersonation of an officer of the Authority are all provided for in *clause 128 to 131* of the Bill. *Clause 132* provides for conditions for the forfeiture of a ship for an offence during a chase with *clause 133* providing for the circumstance under which a vehicle used in the commission of an offence is liable to forfeiture.

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*Clause 134* makes it an offence for a person to offer for sale uncustomed goods. The goods are to be forfeited to the State and any person involved in the contravention is liable on summary conviction to a fine of two hundred penalty units or to a term of imprisonment of not more than two years or to both the fine and the imprisonment. Likewise the concealment of goods and bribing an officer are offence under *clause 135* and *136*.

Under *clause 137* an officer of the Authority may institute civil proceedings for the determination of a matter or recovery of money payable to the Authority, *clause 138* provides for the liability of an officer in the course of the performance of the duties of the officer whilst *clause 139* permits the Commissioner-General to determine cases in situations in which the customs value of goods liable to forfeiture does not exceed the equivalent of two hundred penalty units.

*Clause 140* deals with criminal proceedings. Other matters relevant in court proceedings provided for under the Bill include the service of summons, the power of an officer to conduct prosecutions, the burden of proof in court proceedings, and the evidence of an officer, in so far as it relates, to the employment of the officer for purposes of corroboration in court proceedings, *clause 141* to *148*.

The final group of clauses, *clause 149* to *152* is on miscellaneous provisions. The enabling power of the Minister to make Regulations is provided for under *clause 149*, *clause 150* deals with the interpretation of words used in the Bill and *clause 151* and *152* provides for repeals, savings and transitional provisions.

HON. SETH E. TERKPER  
*Minister responsible for Finance*

Date: 3rd February 2014.