

CHAPTER 66

CUSTOMS

1962-18

This Act came into operation on 1st July, 1963.

Amended by:

<i>1962-39</i>	<i>1975-60</i>	<i>1985-12</i>
<i>1963-5</i>	<i>1977-37</i>	<i>1986-13</i>
<i>1965-55</i>	<i>1978-17</i>	<i>1992-6</i>
<i>1966-5</i>	<i>1967/168</i>	<i>1992-17</i>
<i>1966-14</i>	<i>1980-50</i>	<i>1995-16</i>
<i>1973-22</i>	<i>1981-18</i>	<i>1998-6</i>
<i>1973-32</i>	<i>1982-24</i>	<i>1999-3</i>
<i>1973-44</i>	<i>1984-25</i>	<i>2007-2</i>
<i>1974-49</i>	<i>1984-31</i>	<i>2007-14</i>
<i>1975-27</i>	<i>1984-44</i>	

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1978	1995	2007
1985	1997	
1987	1998	

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

Notes:

Act 1981-18 has not been proclaimed.

Guide to symbols in historical notes:

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument

CHAPTER 66

CUSTOMS 1962-18

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**BARBADOS****CUSTOMS
1962-18**

An Act relating to Customs.

[Commencement: 1st July, 1963]

**PART I
PRELIMINARY****Short title**

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

Interpretation

- 2.(1) For the purposes of this Act, the expression

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

“agent” in relation to the master of a ship or the commander of an aircraft or the owner of a ship or aircraft where the owner thereof is not resident or represented in Barbados includes any person who notifies the Comptroller

in writing that he intends to act as agent and is accepted by the Comptroller as such and who or on whose behalf any person authorised by such first-mentioned person signs any document required or permitted by the customs laws to be signed by an agent and in relation to the master of a ship or the commander of an aircraft where the owner thereof is resident or is represented in Barbados means the owner or such representative;

“aircraft” includes all balloons (whether captive or free), kites, gliders, airships and flying machines;

“approved wharf” has the meaning assigned by section 14;

“assessed declaration” means a declaration which has been accepted by a proper officer and contains his signature;

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

“boarding station” means a boarding station for the time being appointed under section 13;

“claimant”, in relation to proceedings for the condemnation of anything as being forfeited, means a person claiming that the thing is not liable to forfeiture;

“coasting ship” has the meaning assigned by section 181;

“commander”, in relation to an aircraft, includes any person having or taking the charge or command of the aircraft;

“Comptroller” means the Comptroller of Customs;

“container” includes any bundle or package and any box, cask or other receptacle whatsoever;

“customs airport” has the meaning assigned by section 15;

“customs area” has the meaning assigned by section 18;

“customs laws” includes this Act and any other enactment for the time being in force relating to customs;

“Customs Tariff” means the Customs Tariff of Barbados as in force under section 25;*

**[The Customs Tariff was originally contained in the First Schedule to Act 1962-18. That Schedule was replaced, and the current Customs Tariff is contained in the Customs Tariff (Amendment) (No. 5) Order, 2004, S.I. 2004/161, as amended.]*

“document” includes

- (a) anything on which there is writing;
- (b) a map, plan, drawing or photograph;
- (c) any written information relating directly or indirectly to goods which are imported, exported or are in transit;
- (d) any written declaration required by the Comptroller; and
- (e) any information recorded or stored by means of any tape recorder, computer or other device, and any material subsequently derived from the information so recorded or stored,

and also includes a part of a document as so defined and a copy, reproduction or duplicate of a document or part thereof:

[2007-2]

“domestic space” means the countries listed in the *Second Schedule*;

[2007-2]

“drawback” means a refund of all or part of any duty of customs or excise authorised by any enactment in respect of goods exported or used in any particular manner;

“drawback goods” means goods in the case of which a claim for drawback has been or is to be made;

“dutiable goods” means goods of a class or description subject to any duty, whether or not those goods are in fact chargeable with that duty and whether or not that duty has been paid thereon;

“duty” includes any tax or surtax of customs or excise authorised by any enactment;

“enactment” includes this Act or any part thereof and any other Act or part thereof relating to customs or excise and any statutory instrument or resolution of Parliament made under the authority of any law relating to customs or excise;

“entered”, in relation to goods imported, warehoused, put on board a ship or aircraft as stores or exported, means the acceptance and signature by the proper officer of an entry, specification or shipping bill, and declaration signed by the importer or exporter on the prescribed form in the prescribed manner, together with the payment to the proper officer by the importer or exporter of all rents and charges due to the Crown in respect of the goods, and, in the case of dutiable goods (except on the entry for warehousing of imported goods), the payment by the importer or exporter to the proper officer of the full duties thereon, or else, where permitted, the deposit of a sum of money or giving of security for the duties as provided by law, or, in the case of goods for which security by bond is required on the exportation, putting on board a ship or aircraft as stores or removal of such goods, the giving of such security;

[1973-22]

“examination station” has the meaning assigned by section 16;

“export” means to take or cause to be taken out of the Island;

“exporter” includes any person by whom any goods (including goods transferred from an importing ship or aircraft) are exported from the Island or supplied for use as ship’s or aircraft’s stores and also the owner, or any person acting on his behalf, and any person who for customs purposes signs any document relating to goods exported or intended for supply as ship’s or aircraft’s stores as aforesaid;

“goods” includes stores and baggage;

“Government”, in relation to any customs area, transit shed or warehouse, means a customs area, transit shed, or warehouse vested in or occupied by or on behalf of the Crown;

“harbour” has the meaning assigned by section 2 of the *Barbados Harbours Act*, Cap. 286;

“import” means to bring or cause to be brought within the Island;

“importer” includes the owner or any other person for the time being possessed of or beneficially interested in any goods at and from the time of the importation thereof until the same are duly delivered out of customs charge, and also any person who signs any document relating to any imported goods required by the customs laws to be signed by an importer;

“Island” includes the waters of the Island;

“land” and “landing”, in relation to aircraft, include alighting on water;

“List of Prohibited and Restricted Exports” means the list of goods, the exportation of which is prohibited or restricted under this Act, as set out in the Third Schedule to the Customs Act, 1962,* as amended;

**[These Schedules, originally contained in the Customs Act, 1962, 1962-18, are not reprinted in these Laws. See section 89.]*

“List of Prohibited or Restricted Imports” means the list of goods, the importation of which is prohibited or restricted under this Act, as set out in the Second Schedule to the Customs Act, 1962,* as amended;

**[These Schedules, originally contained in the Customs Act, 1962, 1962-18, are not reprinted in these Laws. See section 89.]*

“management” means the person or persons from time to time appointed to perform the duties of Port Manager, his deputies or assistants;

“master”, in relation to a ship, includes any person having or taking the charge or command of the ship;

“night” means the period between the hours of six o’clock at night and five o’clock in the morning;

“obscuration” means the difference caused by matter in solution between the actual strength of spirits and the apparent strength as indicated by Sykes’ hydrometer;

“occupier”, in relation to any bonded premises, means the person who has given security to the Crown in respect of those premises;

“offence against the customs laws” includes any act of any person contrary to the customs laws or any failure of any person to perform an act required by the customs laws to be performed by him;

“officer” means the Comptroller and any person in the public service who is employed, whether on a whole-time or part-time basis, in the Customs and Excise Department;

[1967/168]

“over the Island” means above the areas contained within the imaginary lines bounding the waters of the Island;

“owner”, in relation to goods, includes any person who is for the time being entitled, either as owner or agent for the owner, to the possession of the goods;

“passengers’ baggage” includes commercial travellers’ samples, but otherwise does not include any articles intended for sale or exchange or any articles other than the personal or household effects of the passenger and his family, and any small articles imported by the passenger as gifts and duly declared as such;

“port” means a port appointed by the Minister under section 13;

“Port Manager” has the meaning assigned by section 2 of the *Barbados Harbours Act*, Cap. 286;

“postal packet” includes any letter, postcard, newspaper, book, document, pamphlet, pattern or sample packet, parcel or package or other article whatsoever transmissible by post;

- “private” in relation to any customs area, transit shed or warehouse means any customs area, transit shed or warehouse other than a Government customs area, transit shed or warehouse;
- “proof”, in relation to the strength of spirits, means proof strength as ascertained by Sykes’ hydrometer;
- “proof spirits” means spirits in which the volume of the ethyl alcohol contained therein when made up to the volume of the spirits with distilled water has a weight equal to that of twelve-thirteenths of a volume of distilled water equal to the volume of the spirits, the volume of each liquid being computed as at fifty-one degrees Fahrenheit;
- “proper” in relation to an officer means the officer whose right or duty it may be to exact the performance of, or to perform, the act referred to;
- “proprietor”, in relation to any goods, includes any owner, importer, exporter, shipper or other person for the time being possessed of or beneficially interested in those goods;
- “Queen’s warehouse” means any place provided by the Crown for the deposit of unentered, unexamined, detained or seized goods or such other goods as are required by the customs laws to be deposited therein for the security thereof or of the duty due thereon;
- “ship” and “vessel” include any boat or other vessel whatsoever;
- “shipment” includes loading into an aircraft and “shipped” and cognate expressions shall be construed accordingly;
- “steamship” means a ship of at least one hundred tons burden propelled by mechanical power;
- “stores” means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting;
- “transit goods” means imported goods entered on importation for transit or transshipment;

“transit or transhipment”, in relation to the entry of goods, means transit through the Island or transhipment with a view to the re-exportation of the goods in question;

“transit shed” has the meaning assigned by section 17;

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

“vehicle” has the meaning assigned by the *Road Traffic Act, Cap. 295*;

“warehouse”, except in the expression “Queen’s warehouse”, means a place of security approved by the Comptroller under section 18; and “warehoused” and cognate expressions shall be construed accordingly;

“warehouse-keeper” means the owner or occupier of a private warehouse;

“waters of the Island” means any waters within a space contained within an imaginary line drawn parallel to the shores of the Island and distant three nautical miles therefrom.

(2) For the purposes of any enactment for the time being in force whereunder a duty of customs is chargeable on goods that are liquors—

- (a) no liquor containing more than forty-two per cent of proof spirit shall be deemed wine, and no liquor containing more than twenty per cent of proof spirit shall be deemed beer, ale, stout or porter; and all liquors (with the exception of medicinal spirits admitted as such by the Comptroller) containing more than forty-two per cent of proof spirit and all liquors (other than wine) containing more than twenty per cent of proof spirit shall be deemed spirits;
- (b) any obscuration shall be determined and allowed for in ascertaining the strength of any spirit; and

- (c) the certificate of the Comptroller or the Government Analyst as to the proof strength of any spirits shall be *prima facie* evidence of the strength thereof.

PART II

ADMINISTRATION AND CUSTOMS TARIFF

General Administrative Provisions

General duties of Comptroller and officers

3.(1) The Comptroller shall be responsible for the general management and administration of the Customs and Excise Department, for collecting the revenue of customs and for the performance of all such other duties as may by any enactment or direction of the Governor-General be imposed upon him, and the officers of the department, other than the Comptroller, shall perform such duties respectively as may from time to time be assigned to them by the Comptroller.

(2) All sums collected under the customs laws, other than the prescribed fees payable on the exportation of such marine fuels as may be prescribed, shall, as soon as practicable, be paid by the Comptroller to the Accountant-General to be paid by him into the Consolidated Fund and the Comptroller shall cause to be laid before Parliament monthly statements of customs receipts.

(3) Such fees as may be prescribed on the exportation of such marine fuels as may be prescribed shall be paid by the Comptroller, as soon as practicable, into the Harbour Fund for which provision is made under the *Barbados Harbours Act*, Cap. 286.

Exercise of powers and performance of duties

4.(1) Any act or thing required or authorised by or under any enactment to be done by, with, to or before the Comptroller may be done by, with, to or before him or by, with, to or before any other person authorised generally or specially in that behalf in writing by the Comptroller and when any act is required by any

enactment to be done in any particular place it shall be deemed to be done in such place if done in any other place authorised by the Comptroller for the purpose.

(2) Any person, whether an officer or not, authorised by the Comptroller (whether previously or subsequently expressed) to perform any act or duty to be performed by, with, to or before an officer, shall be deemed to be the proper officer by, with, to or before whom that act or duty is to be performed, and any person so deemed to be the proper officer shall have the powers of an officer in relation to that act or duty.

(3) The Comptroller is hereby empowered to authorise the performance of or to assign any function which by virtue of the customs laws is required to be authorised or assigned by the Comptroller.

Police powers of officers and assistance to be rendered by police, etc.

5. For the purpose of carrying out the customs laws all officers shall have the same powers, authorities and privileges as are given by law to members of the Police Force and it shall be the duty of every member of the Police Force and of every Island constable to assist in the enforcement of the law relating to any assigned matter.

Privileges of Comptroller, etc.

6. Neither the Comptroller nor any officer nor person authorised by the Comptroller to discharge any duty relating to customs shall be compelled to serve on any jury whatsoever or on the appraisalment of any property.

Office hours

7. The days on which and the hours between which offices of customs are to be open or officers are to be available for the performance of particular duties shall be such as may be prescribed.

Request to extend hours beyond regular working hours

8. Every request by any person for the services of the officers of customs outside of such regular working hours as may be prescribed shall be made in writing on the prescribed form to the proper officer at the place where such temporary extension is desired and such proper officer may, subject to the provisions of any regulations relating thereto and upon payment of the fee prescribed therefor, grant such request.

Unlawful assumption of character of officer, etc.

9. Any person who, for the purpose of obtaining admission to any house or other place, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority or for any other unlawful purpose, falsely assumes the name, designation or character of the Comptroller or of an officer or of a person authorised by the Comptroller shall, in addition to any other punishment to which he may have rendered himself liable, be liable to a penalty of five hundred dollars or to imprisonment for a term of six months or to both such fine and imprisonment and may be detained.

Failure to surrender written authority

10. Any person, to whom any written authority has been issued by the Comptroller, who is required by the Comptroller to deliver up or account for that authority and fails to comply within such period as may be specified in the requirement shall be liable to a penalty of one hundred dollars, and if the failure continues after he is convicted therefor he shall be guilty of a further offence and be liable to a penalty of twenty-five dollars for every day on which the failure has so continued.

Bribery and collusion

11.(1) If the Comptroller, any officer or any person authorised by the Comptroller to discharge any duty relating to an assigned matter—

- (a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive; or
- (b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal, or connive at any act or thing whereby the Crown is or may be defrauded or which is otherwise unlawful, being an act or thing relating to an assigned matter,

he shall be guilty of an offence under this section.

(2) Any person who—

- (a) directly or indirectly gives to the Comptroller, any officer or any person authorised by the Comptroller to discharge any duty relating to an assigned matter, any payment or other reward; or
- (b) proposes or enters into any agreement with the Comptroller, any officer or person authorised as aforesaid,

in order to induce him to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Crown is or may be defrauded or which is unlawful, being an act or thing relating to an assigned matter, or otherwise to take any course contrary to his duty, shall be guilty of an offence under this section.

(3) Any person committing an offence under this section shall be liable, on conviction on indictment, to a fine of two thousand five hundred dollars or to imprisonment for a term of three years or to both such fine and imprisonment and may be detained.

Obstruction of officers, etc.

12.(1) Any person who—

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

or who attempts to do any of the aforementioned things, shall be liable, on conviction by a court of summary jurisdiction, to a fine of five hundred dollars or to imprisonment for a term of three months or to both such fine and imprisonment.

(2) Any person committing an offence under this section and any person aiding or abetting the commission of such an offence may be detained.

Ports, Customs Airports, Etc.

Appointment of ports and boarding stations

13.(1) The Minister may by notice published in the *Official Gazette*—

- (a) appoint and, if he considers it necessary, name as a port for the purposes of customs the whole or any part or parts of any harbour of the Island specified in the notice;

(b) revoke or vary any notice published under this subsection.

(2) The Minister may in any port from time to time appoint boarding stations for the purpose of the boarding of or disembarkation from ships by officers.

Approved wharves

14.(1) The Comptroller may, in such manner as he may think fit, approve in any port or within any harbour not appointed as a port, for such periods and subject to such conditions and restrictions as he may think fit, places for the loading or unloading of goods or of any class or description of goods or for the embarkation and disembarkation of passengers, and any place so approved is in this Act referred to as an “ approved wharf ”.

(2) The Comptroller may, in such manner as he may think fit, at any time for reasonable cause revoke or vary the terms of any approval given under this section.

(3) Any person contravening or failing to comply with any condition or restriction imposed by the Comptroller under this section shall be liable to a penalty of five hundred dollars.

Customs airport

15. For the purposes of this Act, the expression “customs airport” means an aerodrome for the time being designated as a place for the landing or departure of aircraft for the purpose of enactments relating to customs by an order in force under the Colonial Air Navigation Order, 1961,* as amended, made by the Governor-General.

**[This Order, S.I. 1961 No. 2316 (of the United Kingdom) has been amended by S.I.'s 1962 No. 2597, 1963 No. 1966 and 1965 No. 588 of the United Kingdom.]*

Approval of examination stations at customs airport

16.(1) The Comptroller may, in such manner as he may think fit, approve in any customs airport, for such periods and subject to such conditions and restrictions as he thinks fit, a part of, or a place at, that airport for the loading and

unloading of goods and for the embarkation and disembarkation of passengers, and any such part or place so approved is in this Act referred to as an “examination station”.

(2) The Comptroller may, in such manner as he may think fit, at any time for reasonable cause revoke or vary the terms of any approval given under this section.

(3) Any person contravening or failing to comply with any condition or restriction imposed by the Comptroller under this section shall be liable to a penalty of five hundred dollars.

Approval of transit sheds at customs areas

17.(1) The Comptroller may, in such manner as he may think fit, approve in any customs area, for such periods and subject to such conditions and restrictions as he thinks fit, places for the deposit of goods imported or to be exported, and any place so approved is in this Act referred to as a transit shed.

(2) The Comptroller may, in such manner as he may think fit, at any time revoke or vary the terms of any approval given under this section.

(3) Any person contravening or failing to comply with any condition or restriction imposed by the Comptroller under this section shall be liable to a penalty of \$500.

Approval of warehouses and customs areas

18.(1) The Comptroller may, in such manner as he may think fit, approve for such periods and subject to such conditions as he thinks fit

- (a) any place within Barbados as a customs area;
- (b) places of security for the deposit, keeping and security
 - (i) subject to such restrictions as he sees fit to impose, of any goods chargeable with duties of customs;

- (ii) subject to such conditions and restrictions as aforesaid, of goods for exportation or for use as stores;

and any place of security so approved is in this Act referred to as a warehouse.

(2) If, after the approval of a private warehouse, the owner or occupier thereof makes, without the previous consent of the Comptroller, any alteration therein or addition thereto, he shall be liable to a penalty of \$1 000.

(3) The Comptroller may at any time for reasonable cause revoke or vary the terms of any approval given by him under this section.

(4) Any person contravening or failing to comply with any condition imposed by the Comptroller under this section shall be liable to a penalty of \$500.

Fee payable in respect of a private warehouse

18A.(1) Subject to subsection (2), where a place of security is approved as a private warehouse under section 18 the owner or occupier of the private warehouse shall pay to the Comptroller

- (a) where the dutiable value of goods in the private warehouse does not exceed \$200 000, a fee of \$3 000 within 7 days of the approval, and, for each succeeding year during which the approval continues, a further fee of \$3 000, payable in the month of January of each year;
- (b) where the dutiable value of goods in the private warehouse exceeds \$200 000, a fee of \$6 000 within 7 days of the approval, and, for each succeeding year during which the approval continues, a further fee of \$6 000, payable in the month of January of each year.

[This subsection has effect from 1st July, 1995.]

(2) The fee payable under subsection (1) shall, in the case where approval is given under section 18 on a date subsequent to 31st January in any year, be reduced by deducting therefrom one-twelfth of such fee for each month which has expired prior to the date of such approval in any such year.

[1986-13]

(3) Where any owner or occupier fails or refuses to comply with subsection (1) the Comptroller shall revoke the approval.

(4) Where after 2nd September, 1998

(a) a place of security is approved as a private warehouse under section 18 for the warehousing of raw materials; and

(b) the owner or occupier of that private warehouse is a manufacturer who is registered as such with the Customs Department,

that owner or occupier shall not, for a period of 5 years, be required to pay the annual warehouse fee to the Comptroller of Customs.

[1999-3]

(5) The waiver granted under subsection (4) shall cease with effect from the 3rd day of September, 2003.

[1999-3]

[1974-49; 1995-16]

Processing fee

18B.(1) A processing fee in the sum of \$10 or such other sum as the Minister may by order specify shall be charged and paid into the Consolidated Fund on every entry submitted in respect of goods imported or cleared out of a warehouse where those goods are intended for domestic consumption.

(2) Where goods are imported or cleared out of a warehouse and those goods are for the use of

(a) a diplomatic mission, consulate or international organisation; or

(b) a member of the family of a diplomatic or consular officer who forms part of the household of that person,

such mission, consulate, organisation or member, as the case may be, shall be exempt from the payment of the processing fee referred to in subsection (1).

[2007-14]

*Customs Tariff***Import duties of customs**

19. There shall be raised, levied, collected and paid to the Crown, for the use of Barbados, upon all goods imported into Barbados or taken out of bond for consumption in Barbados, the several rates of duties of customs, if any, set opposite to each item respectively in the column of the tariff applicable to the items in Part I of the Customs Tariff,* subject to such conditions as may be prescribed.

**[See definition contained in section 2 and note thereto.]*

[1966-14; 1975-60]

Exemptions from import duties of customs

20. The articles enumerated in Part II of the Customs Tariff may be imported without payment of customs duties, subject to such conditions as may be prescribed.

[1966-14; 1975-60]

Power of Parliament by resolution to amend Parts I and II of the Customs Tariff

21.(1) It shall be lawful for Parliament from time to time by resolution to impose in addition to or in substitution for any duties of customs set out in Part I of the Customs Tariff such duties of customs as it may think fit upon any goods whatsoever which may be imported into Barbados and to revoke, reduce, increase or alter any such duties so imposed.

(2) It shall be lawful for Parliament from time to time by resolution to provide for the importation of any goods whether or not the same are included in Part II of the Customs Tariff, without payment of customs duties.

[1975-60]

(3) A resolution passed by Parliament under subsection (1) or (2) shall upon its taking effect have the same effect as if it were an Act amending this Act.

[1975-60]

Export duties of Customs

22. There may be raised, levied, collected and paid to the Crown, for the use of Barbados, such export duties of customs as may be levied in the manner provided by section 23 or 25 upon all goods exported from Barbados.

Power of Parliament to impose export duties of customs

23. It shall be lawful for Parliament from time to time by resolution to impose duties of customs upon any goods exported from Barbados and to revoke, reduce, increase or alter any such duties and to provide for the exportation of any goods without payment of duty thereon.

General provisions applying to resolutions of Parliament

24. Any resolution passed by Parliament under section 21 or 23 may, in addition to the matters set forth in those sections, specify terms or conditions subject to which any article to which the resolution relates may be imported, or, as the case may be, exported, free of customs duties or at the rate of customs duties expressed in the resolution, and different terms and conditions may be so specified in relation to the same article when imported or, as the case may be, exported for different purposes.

Power of Minister in relation to import and export duties of customs

25.(1) Notwithstanding anything contained in section 21 relating to the power of Parliament to amend Parts I and II of the Customs Tariff, or in section 23, the Minister may by order published in the *Official Gazette*

- (a) amend Part I of the Customs Tariff by revoking, reducing or increasing in respect of any article specified therein any duties of customs set out

opposite thereto or by inserting therein any article not specified therein and such duties of customs in respect thereof as he thinks fit;

- (b) amend Part II of the Customs Tariff by making such additions thereto or deletions therefrom as he thinks fit;
- (c) revoke, reduce or increase any export duties of customs;
- (d) impose export duties of customs on articles not specified by a resolution of Parliament as subject to export duties;
- (e) exempt from export duties of customs any article not specified by a resolution of Parliament as being so exempt,

and from the date of publication of such order, the order shall be of full force and effect.

(2) Any order made under subsection (1) may, in addition to the matters set forth in the paragraphs of that subsection, specify terms or conditions subject to which any article to which the order relates may be imported, or, as the case may be, exported, free of customs duties or at the rates of customs duties expressed, in the order, and different terms and conditions may be specified in relation to the same article when imported, or, as the case may be, exported, for different purposes.

(3) If at any time after the date of publication of any order made under subsection (1) and prior to the expiration of the period provided by subsection (6) in which such order may be annulled, or in the event of such order being annulled during that period in the manner provided by that subsection, then, if at any time after the date first mentioned and prior to such order being so annulled

- (a) any person in compliance with the terms or conditions, if any, specified in such order has entered any goods in respect of which the customs duty is revoked by such order, he shall deposit with the proper officer a sum equal to the duty payable immediately prior to the date of publication of the order;

- (b) any person in compliance with the terms or conditions, if any, specified in such order has entered any goods in respect of which the customs duty is reduced by such order, he shall pay to the proper officer the reduced duty and in addition shall deposit with the said officer the difference between the duty payable immediately prior to the date of publication of the order and the duty payable immediately after that date.
- (4) So much of the customs duties as is paid in consequence of an amendment made by an order made under subsection (1) as may be in excess of the customs duties immediately after payable in the event of such order being annulled in the manner provided by subsection (6) shall be repaid to the person who paid the same, and any customs duties so paid shall, if no customs duties are immediately after payable upon such order being so annulled, be repaid to the person who paid the same.
- (5) Any sum deposited in consequence of an amendment made by an order made under subsection (1) as together with the customs duties, if any, paid shall be equal to the customs duties immediately after payable in the event of such order being annulled in the manner provided by subsection (6), shall be brought to account by the proper officer as duties of customs, and any sum so deposited as together with the customs duties, if any, paid shall be equal to the customs duties payable immediately prior to the date of publication of such order shall, after the expiration of the period provided by subsection (6) in which such order may be annulled be returned to the person who deposited the same in the event of the order not being annulled during that period.
- (6) Every order made under subsection (1) shall be laid before both Houses as soon as may be, and if within the period of 40 days beginning with the day on which any such order is so laid before it either House resolves that the order be annulled, it shall thenceforth be void.

[1975-60]

26. *[Repealed by 1975-60.]*

PART III

IMPORTATION AND EXPORTATION

*General Provisions Relating to Ships and Aircraft***Movement of ships into and out of Barbados****27.** If any ship

- (a) arriving in Barbados from a place outside Barbados does not come to some port therein or such other place as may be allowed by the Port Manager with the prior agreement of the Comptroller without touching at any other place in Barbados unless for some cause which the master of such ship shall explain to the satisfaction of the Comptroller;
- (b) on arriving at any port or such place from a place outside Barbados does not come as quickly up to the proper place of mooring or anchorage as the nature of the port or place will admit without touching at any other place;
- (c) in proceeding to such proper place does not bring to at such boarding station as may be appointed in the port;
- (d) which has arrived in Barbados from a place outside Barbados, after mooring or anchoring in a harbour, departs except
 - (i) directly to some other place of mooring or anchorage in that harbour approved by the management;
 - (ii) with the authority of the management directly to some other port or place in Barbados allowed by the Port Manager with the prior agreement of the Comptroller; or
 - (iii) directly on any voyage to a place outside Barbados in accordance with the customs laws; or

- (e) which has arrived in Barbados from a place outside Barbados after departing as aforesaid on any voyage to a place outside Barbados, brings to within Barbados unless
- (i) in accordance with the customs laws; or
 - (ii) so allowed by the Port Manager with the prior agreement of the Comptroller; or
 - (iii) for some cause which the master of such ship shall explain to the satisfaction of the Comptroller,

then in every such case, the master of such ship shall be liable to a penalty of five hundred dollars.

Movement of aircraft into and out of the Island

28.(1) Save as permitted by the Comptroller, the commander of an aircraft entering the Island from a place outside the Island shall not cause or permit the aircraft to land—

- (a) for the first time after its arrival in the Island; or
- (b) at any time while it is carrying passengers or goods brought in that aircraft from a place outside the Island and not yet cleared,

at any place other than a customs airport, and any person importing or concerned in importing any goods in any aircraft shall not bring the goods into the Island at any place other than a customs airport.

(2) Save as permitted by the Comptroller, no person shall depart on a flight to a place or area outside the Island from a place in the Island other than a customs airport and the commander of any aircraft engaged in a flight from a customs airport or other place within the Island to a place outside the Island shall not cause or permit it to land at any place in the Island other than a customs airport specified in the application for clearance for that flight.

(3) Subsections (1) and (2) shall not apply in relation to any aircraft flying to or from any place or area outside the Island from or to any place therein which

is required under any enactment relating to air navigation or is compelled by accident, stress of weather or other unavoidable cause to land at a place other than a customs airport, but the commander of any such aircraft—

- (a) shall immediately report the landing to an officer or member of the Police Force and shall on demand produce to him the journey log-book belonging to the aircraft;
- (b) shall not without the consent of an officer permit any goods carried in the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the aircraft; and
- (c) shall comply with any directions given by an officer with respect to any such goods,

and no passenger or member of the crew shall, without the consent of an officer or member of the Police Force, leave the immediate vicinity of the aircraft.

(4) Nothing in subsection (3) shall prohibit the departure of crew or passengers from the vicinity of, or the removal of goods from, an aircraft where that departure or removal is necessary for reasons of health, safety or the preservation of lives or property.

(5) Any person contravening or failing to comply with any provisions of this section shall be liable to a penalty of two hundred and fifty dollars.

Officers' powers of boarding

29.(1) At any time while a ship is within the limits of a port, or an aircraft is at a customs airport, any officer or other person duly assigned by the Comptroller for that purpose may board the ship or aircraft and remain therein and rummage and search any part thereof.

(2) The Comptroller may station officers in any ship at any time while it is within the limits of a port, and the master of any ship who neglects or refuses to provide reasonable accommodation for any officer stationed therein or means of safe access to and egress from the ship in accordance with the requirements of any such officer shall be liable to a penalty of one hundred dollars.

Officers' powers of access, etc.

30.(1) Without prejudice to section 29, the proper officer shall have free access to every part of any ship or aircraft at a port or customs airport and may—

- (a) cause any goods to be marked before they are unloaded from that ship or aircraft;
- (b) lock up, seal, mark or otherwise secure any goods carried in the ship or aircraft or any place, box or chest in which they are carried;
- (c) break open any such place, box or chest which is locked and of which the keys are withheld;
- (d) examine and take account of any goods before they are unloaded;
- (e) require any goods to be unloaded and removed for examination or for the security thereof;
- (f) examine and take account of any goods in the course of being unloaded or removed,

and such officer shall not be liable to any prosecution or action at law for so doing.

(2) Any goods found concealed on board the ship or aircraft shall be liable to forfeiture.

(3) Where the proper officer requires that any goods be unloaded or removed for examination or for the security thereof from any ship or aircraft he may further require that the same be unloaded or removed at the expense of the master of the ship or, as the case may be, commander of the aircraft or at the expense of the owner of the goods or agent of either such master or commander.

Penalty for interfering with seal, etc., or failing to unload goods if required**31.** Where

- (a) any officer acting under section 29 or 30 places any lock, mark or seal upon any goods on board a ship or aircraft or upon any place or package in which the same may be, and such lock, mark or seal is wilfully opened, altered or broken before due delivery of such goods, or within Barbados except with the authority of the proper officer; or
- (b) any such goods are secretly conveyed away; or
- (c) any goods, place or package after having been secured by the officer are opened within Barbados, except with the authority of the proper officer; or
- (d) any officer requires any goods to be unloaded and removed for examination or for the security thereof and such goods are not unloaded and removed forthwith as required by the officer;

then, in every such case the master of such ship or, as the case may be, the commander of such aircraft shall be liable to a penalty of \$500.

Goods unlawfully discharged

32. Where any officer acting under section 29 or 30 boards any ship or aircraft and finds any goods thereon, and after leaving such ship or aircraft such officer, or any other officer boards that ship or aircraft, and such or any part of such goods are no longer on board, and the master of such ship or, as the case may be, the commander of such aircraft is unable to give a due account of the lawful discharging of the same, such master or commander, as the case may be, shall be liable to a penalty of \$500 or 3 times the value of such goods, whichever is the greater.

Seizure and detention of ships and aircraft

33.(1) Any officer may seize any ship or aircraft found abandoned within Barbados and such ship or aircraft shall be liable to forfeiture.

(2) Whenever any goods remain on board any importing ship or aircraft beyond the period of 14 days after the arrival of such ship or aircraft, or beyond such further period as the proper officer may allow, such ship or aircraft may be detained by the proper officer until all expenses of watching or guarding such goods beyond such 14 days, or such further time, if any, allowed as aforesaid and of removing the goods or any of them to the Queen's warehouse, in case the officer shall so remove them, be paid; and a like charge may be made in respect of any derelict or other ship or aircraft coming, driven, or brought into Barbados under legal process, by stress of weather, or for safety, when it is necessary to station any officer in charge, either on board thereof or otherwise, for the protection of the revenue so long as the officer so remains.

*Report Prior to Arrival***Duty of master of ship or commander of aircraft**

34.(1) This section shall apply to a ship or aircraft that is expected to arrive in Barbados.

(2) The master of every ship and the commander of every aircraft or the agent of the master or commander of the ship or aircraft, as the case may be (whether the ship or aircraft is laden or not), shall, at such time as is provided in subsection (4), make a report to the proper officer at the intended port of arrival in Barbados in an electronic format approved by the Comptroller or in the form approved by the Comptroller.

- (3) The report referred to in subsection (2) shall consist of data in respect of
- (a) the ship or aircraft mentioned in that subsection and each passenger on board, including every member of the crew on board the ship or aircraft, in accordance with Part I of the *First Schedule*; and
 - (b) the cargo on board the ship or aircraft in accordance with Part II of the *First Schedule*.
- (4) Where a ship or aircraft is expected to arrive in Barbados, the data referred to in subsection (3) shall be provided, in the case of
- (a) a commercial aircraft, no later than 15 minutes after departure from the last port of call;
 - (b) a private aircraft, no later than 30 minutes prior to the departure from the last port of call;
 - (c) a ship arriving from outside the domestic space, no later than 24 hours prior to arrival; and
 - (d) a ship arriving from a destination within the domestic space, no later than one hour prior to arrival.
- (5) Every report made under subsection (2) shall show separately any goods which are
- (a) in transit; or
 - (b) to be transferred to another ship or aircraft for re-exportation,
- and shall state whether there are any goods which are to remain on board for exportation in the same ship or aircraft; and the report shall give an account of all goods remaining on board for exportation.
- (6) The master of any ship or the commander of any aircraft to which subsection (2) applies or the agent of such master or commander may, where specially allowed by the Comptroller, make the report as required by this section after arrival in Barbados and after bulk is broken.

[2007-2]

Waiver

- 34A.**(1) The Minister may by order
- (a) waive any of the requirements of subsection (2) or (3) of section 34;
 - (b) modify any of the data referred to in the *First Schedule*; or
 - (c) waive or modify any of the requirements of subsection (4) of section 34 with regard to the time required for the submission of data.
- (2) An order made under subsection (1) is subject to negative resolution.

[2007-2]

Penalty

34B. Where the master of a ship or the commander of an aircraft or the agent of the master or commander intentionally or recklessly

- (a) fails to make the due report as required by subsection (2) of section 34; or
- (b) transmits incomplete or false data,

the master, commander or agent is liable to pay to the Comptroller a penalty of \$200 000.

[2007-2]

Seizure and detention

34C.(1) Where a master of a ship or a commander of an aircraft or the agent of the master or commander fails to comply with the provisions of subsection (2) of section 34, the Comptroller may seize and detain the ship or aircraft to which the non-compliance relates.

(2) Notwithstanding subsection (1), in the case of a commercial ship or aircraft, the ship or aircraft shall be released on the lodgement of a bond in the

sum of \$1 000 000 or 3 times the value of the ship or aircraft, whichever is greater.

(3) Where pursuant to subsection (1) a ship or aircraft is seized or detained by the Comptroller, the Harbour Master or the Director of Civil Aviation shall not grant clearance to the ship or aircraft to depart until so authorised by the Comptroller.

[2007-2]

Release of bond

34D. The Comptroller shall release the bond lodged under subsection (2) of section 34C

- (a) upon receipt of the data referred to in subsection (2) of section 34 and on payment of the penalty imposed under section 34B; or
- (b) in accordance with an order of the High Court.

[2007-2]

Denial of clearance

34E. Where the ship or aircraft referred to in subsection (2) of section 34 is not a commercial ship or aircraft, the proper officer may refuse to grant clearance to the ship or aircraft to leave port until

- (a) the penalty imposed under section 34B has been paid; and
- (b) the report referred to in subsection (2) of section 34 has been received.

[2007-2]

Questions to be answered

35.(1) The master of a ship, the commander of an aircraft to which section 34 applies, or the agent of the master or commander shall

- (a) answer immediately all questions relating to
 - (i) the ship or aircraft;
 - (ii) the goods and passengers conveyed in the ship or aircraft; or
 - (iii) the crew and voyage or flight

that are put to the master, commander or agent by the proper officer; and

- (b) produce all such books and documents in his custody or control relating to the ship or aircraft as the proper officer may require.

(2) Where the master, commander or agent fails to comply with the provisions of subsection (1), the Comptroller may

- (a) exercise the powers of seizure and detention as provided in subsection (1) of section 34C;
- (b) impose a bond in the same manner as is specified in subsection (2) of section 34C; and
- (c) impose the penalty specified in section 34B.

[2007-2]

Master to deliver previous clearance

36. The master of a ship or commander of an aircraft to which section 34 applies or the agent of such master or commander shall, if required, deliver to the proper officer at the time of making report as required by that section the clearance of such ship or aircraft, if any, from the place from which such ship or aircraft has arrived, and if he, without reasonable excuse, fails to do so he shall be liable to a penalty of \$100.

*Entry and Unloading***Entry of goods on importation**

37.(1) Subject to subsection (2), the importer of any goods shall deliver to the proper officer an entry thereof in such form and manner as may be prescribed and containing such particulars as may be prescribed.

(2) Subsection (1) shall not apply to

- (a) fresh fish taken by fishermen of Barbados and brought by them in their ships; or
- (b) passengers' baggage.

(3) The proper officer may refuse to accept any entry of any goods if he is not satisfied that those goods will be imported within three days of the time of the delivery of the entry.

(4) If, in the case of any goods which are not dutiable goods, any such entry as aforesaid is inaccurate in any particular, the importer shall, within fourteen clear days of the delivery of the entry or such longer period as the Comptroller may in any case allow, deliver to the proper officer a full and accurate account of the goods; and if such an account is so delivered and the Comptroller is satisfied that the inaccuracy was inadvertent and immaterial except for statistical purposes, then notwithstanding anything in this Act or in any statutory instrument the goods shall not be liable to forfeiture, or the importer to any penalty, by reason only of the inaccuracy of the entry.

Entry on sight

38. Where the importer of any goods is not able to furnish full particulars of such goods for want of any document or information concerning them (other than documents or information relating to the origin of such goods required by any provision of the customs laws) and makes and subscribes a declaration in the prescribed form to that effect before the proper officer, the proper officer shall thereupon permit the importer to examine in his presence and thereafter enter on

sight such goods by entry in such form and manner and containing such particulars as may be prescribed notwithstanding that there is not satisfactory documentary evidence regarding the same and may allow delivery of such goods for home consumption if satisfied that the description of the goods for tariff and statistical purposes is correct and also, in the case of goods liable to duty *ad valorem*, that the value declared in the entry is approximately correct, and in the case of goods liable to duty according to the weight, measurement or strength thereof that the weight, measurement or strength declared on the entry is correct.

Entry on sight to be provisional: disposal of deposit

39.(1) In the case of goods liable to duty *ad valorem* the entry made in accordance with section 38 shall be deemed provisional.

(2) Where the officer has allowed delivery of the goods for home consumption, the amount estimated as the duty for the purpose of making such provisional entry, together with such sum as the proper officer may require, not being less than one-half of the estimated duty, shall be held on deposit and shall be brought to account as duty unless the importer, within three months of the date of the making of such entry of the goods or within such further period as the proper officer may in any special circumstances allow, produces to the proper officer satisfactory evidence of the value and makes final entry of such goods, in which case so much of the sum deposited as is necessary shall be brought to account as duty and the balance returned to the person who deposited the same, and if the sum deposited is insufficient to pay the duty, the importer shall forthwith pay to the proper officer the balance of such sum.

Goods not entered after declaration

40. Where the importer, having made a declaration in accordance with section 38, fails to make entry as therein provided, or where the proper officer is not satisfied as therein provided (in which case any entry which shall have been so made shall be *ipso facto* void), the proper officer shall cause the goods referred to in such entry to be deposited in a Queen's warehouse and dealt with as provided in section 176.

Power to waive production of documents

41. Notwithstanding anything hereinbefore contained, where the Comptroller is satisfied, whether before or after the deposit in the Queen's warehouse or other warehouse of any goods liable to duty *ad valorem*, that it is impossible for the importer to obtain satisfactory documentary evidence of the value of such goods, or where in any case the documentary evidence relating to such goods, though not complete, is in the opinion of the Comptroller sufficient to enable a reliable estimate of the value to be made, the Comptroller may permit such goods to be entered according to a value which two officers to be appointed by the Comptroller for the purpose are satisfied is, as nearly as may be estimated and not less than, the correct value of such goods.

Deposit in certain cases

42.(1) Where the Comptroller permits any goods to be entered in the absence of any document under section 41, it shall be lawful for him to require the person entering the goods to deposit with him such additional sum as he shall require, not exceeding one-half of the duty paid upon such goods.

(2) Any sum so deposited shall be brought to account by the proper officer as duties of customs unless the person who has entered the goods produces the required document within three months of the date on which the goods were so entered or unless he explains his failure to the satisfaction of the Comptroller.

Delivery of bullion, currency notes and coins

43. Notwithstanding anything hereinafter contained, the proper officer may permit the delivery to the importer of any bullion, currency notes or coin, without entry thereof, but any such importer who fails within forty-eight hours after the same is removed from the importing ship or aircraft to deliver to the proper officer a full and true account thereof including its weight and value shall be liable to a penalty of one hundred dollars.

Removal of uncleared goods to Queen's warehouse

44.(1) Where in the case of any imported goods—

- (a) the goods have not been entered and removed, by the expiration of the relevant period, from the customs area in which they were deposited on landing; or
- (b) at the expiration of fourteen days from the relevant date, an entry having been made of the goods, they have not been unloaded from the importing ship or aircraft; or
- (c) being goods imported by sea and not being in large quantity, they are at any time after the arrival of the importing ship at the port at which they are to be unloaded the only goods remaining to be unloaded from that ship at that port,

the proper officer may, in respect of—

- (i) goods not unloaded, cause those goods to be deposited in a customs area and if the same are not entered and removed therefrom, in the case of goods imported by air, seven, and in the case of goods imported by ship, ten, clear days from the date the same were so deposited, he may cause the goods to be removed to a Queen's warehouse; and
- (ii) goods not entered and removed by the expiration of the relevant period, cause those goods to be deposited in a Queen's warehouse.

(2) Where any small package or consignment of goods is imported, the proper officer may at any time after the relevant date cause that package or consignment to be deposited in a Queen's warehouse to await being entered.

(3) Without prejudice to section 176, where any goods deposited in a Queen's warehouse by the proper officer under this section are not cleared by the importer thereof—

- (a) in the case of goods which are in the opinion of the Comptroller of a perishable nature, forthwith; or

- (b) in any other case, within one month after they have been so deposited or such longer time as the Comptroller may in any case allow,

the Comptroller may sell them.

- (4) For the purposes of this section—

- (a) the expression “the relevant period” means a period of, in the case of goods imported by air, seven, in the case of goods imported by ship, ten, clear days from the relevant date:

Provided that in the case of transshipment and overlanded goods the relevant period shall be fifty-one clear days from the relevant date;

- (b) the expression “the relevant date” means the date when report was made of the importing ship or aircraft or of the goods under section 34, or, where no such report was made, the date when it should properly have been made:

Provided that where any restriction is placed upon the unloading of goods from any ship or aircraft by virtue of any enactment relating to the prevention of epidemic and infectious diseases, then, in relation to that ship or aircraft the expression “the relevant date” means the date of the removal of that restriction.

Goods may be entered by ship-owners, etc.

45. Where the importer of any goods imported in any ship (not being a steamship) into the Island fails to make entry thereof or, having made entry, fails to land the same or to take delivery thereof by the times severally hereinafter mentioned, such goods may be entered by the shipowner or master or the agent of either at the times, and subject to the conditions following, that is to say—

- (a) if a time for the delivery of the goods is expressed in the charter-party, bill of lading or agreement, then at any time after the time so expressed; and

- (b) if no time for delivery of the goods is expressed in the charter party, bill of lading or agreement, then at any time after the expiration of seventy-two hours, exclusive of Sundays or public holidays, after the report of the ship:

Provided that if at any time before the goods are landed or unshipped, the importer of the goods is ready and offers to land or take delivery of the same, he shall be allowed to do so, and his entry shall, in such case, be preferred to any entry which may have been made by the shipowner or master, or the agent of either.

Failure to comply with provisions as to entry

46. Without prejudice to any liability under any other provisions of this Act, any person making entry of goods on their importation who fails to comply with any of the requirements of this Part in connection with that entry shall be liable to a penalty of one hundred dollars and the goods in question shall be liable to forfeiture.

Restrictions as to persons disembarking from or going aboard ships and aircraft

47.(1) Until customs formalities have been completed, no person, other than a berthing master, customs officer, immigration officer, health officer or a person authorised generally or specially by the proper officer, may leave any ship which has arrived in the Island from a place outside the Island and persons going aboard any such ship after the International “ I ” flag has been lowered or disembarking from or going aboard any aircraft which has arrived in the Island from a place outside the Island shall do so at such times, and by such means and ways, as may be prescribed or otherwise as the Comptroller may allow.

(2) Any person, other than the persons exempted from subsection (1), who contravenes or fails to comply with that subsection shall, on conviction by a court of summary jurisdiction, be liable to a fine of five hundred dollars or to imprisonment for three months or to both such fine and imprisonment.

Unloading, entry, removal and delivery of cargo

48.(1) Save in accordance with the provisions of any enactment or with the permission of the proper officer—

- (a) no goods shall be unloaded from any ship or aircraft arriving from any place outside the Island unless authority for unloading the same has been given by the proper officer, nor from any ship, other than a steamship, unless such goods first have been entered;
- (b) no goods shall be unloaded or removed from any ship or aircraft arriving from any place outside the Island otherwise than on the days prescribed on which and between the hours prescribed at which officers of customs are to be available for the performance of duties, or shall be transferred from any such ship or aircraft into any vessel at such time as will cause such goods to be afloat in such vessel on the said days, or on other days except between the said hours;
- (c) no goods, after having been unloaded from any ship or aircraft from any place outside the Island into any vessel to be landed, shall be transhipped or removed into any other vessel previously to their being landed and the vessel into which any goods after being unloaded from a ship shall be put shall, unless otherwise permitted by the proper officer, be a small craft licensed for the carriage of goods under the regulations made under the *Barbados Harbours Act*, Cap. 286; and any goods which have been unloaded from any ship or aircraft and put into any vessel to be landed shall be taken directly and without delay to an approved wharf approved for the purpose, there to be landed forthwith:

Provided that, in the case of goods to be landed by lighter which in the opinion of the proper officer cannot be landed forthwith, he may place one or more watchmen aboard such lighter to have charge of such goods and the expenses of guarding and watching such goods outside of the regular working hours of the customs shall be paid by the agent of the ship from which the goods were discharged;

- (d) goods (being goods other than those unloaded into a vessel to be landed in accordance with paragraph (c)) shall not be unloaded from any ship or aircraft arriving from any place outside the Island except at an approved wharf or, as the case may be, examination station approved for the purpose, and all goods whether or not the same have been put into a vessel to be landed in accordance with paragraph (c) shall immediately upon being unloaded or landed be conveyed in the care of the proper officer into the place within the customs area approved by the Comptroller for the deposit of goods or to a Queen's warehouse if the proper officer so requires:

Provided that such goods as the management may deem to be unsuited for storage in a transit shed in a port and such goods as the officer in charge of a transit shed in a customs airport may deem to be unsuited for storage in such transit shed shall be deposited in such place within the customs area of the port or customs airport, as the case may be, as the management or, as the case may be, the proper officer may direct at the risk and expense of the importer;

- (e) no goods shall be removed from any part of the customs area or place of landing or from the transit shed or Queen's warehouse into which the same have been conveyed unless such goods first have been entered, and authority for the removal or delivery of the same has been given by the proper officer;
- (f) goods entered to be warehoused shall be removed by the importer, by such ways, in such manner and within such time as the proper officer directs, to the warehouse for which the same are entered and delivered into the care of the person in charge of the warehouse:

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

Provided further that the proper officer may refuse to accept an entry of any goods if he is not satisfied that such goods will be imported within three days of the time of the making of such entry.

(2) Subsection (1) shall not apply to any stores of a ship or aircraft or to passengers' baggage or to any other goods not reported on arrival.

(3) Notwithstanding any of the provisions of paragraph (e) of subsection (1), where goods have been imported by aircraft and deposited in a transit shed situate within a customs airport, the proper officer may permit any such goods, before they are entered, to be removed from such transit shed by the commander of the aircraft in which the goods were imported or by the agent of such commander to another transit shed situate elsewhere than at a customs airport under such terms and conditions as the Comptroller may from time to time direct.

Unloading and delivery of goods other than cargo

49. No stores or passengers' baggage or any other goods not reported on arrival shall be taken out of any ship or aircraft arriving from any place outside the Island or be delivered to any person aboard such ship or aircraft other than for the consumption or use of the ship, aircraft, crew or passengers thereof, except under such conditions (which conditions may vary the procedure as to reporting the ship or aircraft as required by this Act) as may be prescribed or as directed by the Comptroller in any particular case.

Forfeiture and penalties in respect of goods unlawfully unloaded and goods the importation of which is prohibited or restricted

50.(1) Where any goods—

- (a) are unloaded, removed or dealt with contrary to section 48 or 49 or to the terms and conditions in any permission of the Comptroller; or
- (b) the importation of which is for the time being prohibited or restricted by or under any enactment, are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect thereto under any enactment;

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

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

- (a) reported as intended for exportation in the same ship or aircraft; or
- (b) entered for transit or transshipment; or
- (c) entered to be warehoused for exportation or for use as stores,

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

(3) Any person who unloads, removes or deals with or attempts to unload, remove or deal with any goods contrary to section 48 or 49 shall be liable to a penalty of \$500 or 3 times the value of such goods whichever is the greater.

(4) Any person who imports, unloads or brings into Barbados or is concerned in importing, unloading, or bringing into Barbados any prohibited goods or any goods the importation of which is restricted contrary to such restriction with intent to evade any such prohibition or restriction or attempts to perform or is concerned in the performance of any of the aforesaid acts with such intent as aforesaid shall be liable to a penalty of \$500 or 3 times the value of such goods whichever is the greater or to imprisonment for one year or to both, and may be detained.

Penalty for wrongly breaking bulk, etc.

51.(1) Where

- (a) any alteration is made in the stowage of the goods on board any ship or aircraft which has arrived in Barbados from a place outside Barbados, so as to facilitate the unloading of any part of such goods before such ship or aircraft has arrived at the place at which the unloading of such goods is to take place or, not being a steamship or ship or aircraft specially allowed so to do, before report of such ship or aircraft has been made in accordance with section 34; or

- (b) at any time after arrival as aforesaid any such goods are staved, destroyed or thrown overboard or any such goods are opened without the knowledge and consent of the proper officer,

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then, in every such case, the master of such ship or, as the case may be, the commander of such aircraft or the agent of such master or commander shall be liable to a penalty of \$500 unless cause be shown to the satisfaction of the Comptroller.

- (2) For the purposes of subsection (1), the expression “goods” does not include any stores of a ship or aircraft or any passengers’ baggage.

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Penalty for not accounting for goods reported

52. Where any goods reported in accordance with this Act (except where remaining on board for re-exportation or, with the permission of the Comptroller, for direct transfer to another ship or aircraft for use as stores or for re-exportation) are not unloaded, removed and deposited either in a place within a customs area approved by the Comptroller for the deposit of goods or such other place as may be so approved by the Comptroller or are not produced at any time before removal from the place of deposit for delivery to the consignee or for warehousing or deposit in a Queen’s warehouse or for exportation when required by the proper officer then, subject to section 53, the master of such ship or, as the case may be, the commander of such aircraft or the agent of such master or commander shall pay the duty thereon unless, subject as aforesaid, he explains the failure to unload, remove and deposit such goods to the satisfaction of the Comptroller or unless, subject as aforesaid, he explains to the satisfaction of the Comptroller his failure to produce such goods when so requested.

Effect of section 52 where master or commander, etc., lawfully parts with the possession of goods

53. Where the master of a ship or, as the case may be, the commander of an aircraft or the agent of such master or commander delivers any goods to which section 52 relates into the custody or possession of any other person, the onus placed by that section on such master, commander or agent to satisfy the Comptroller or pay the duty on such goods as is in that section provided shall devolve on the person into whose custody or possession the goods were delivered as aforesaid unless such delivery was unlawful.

*Exportation and Loading***Entry outwards**

54. The form of entry for any goods which are to be shipped for exportation or as stores for use on a voyage or flight to an eventual destination outside the Island shall be such as may be prescribed, containing such particulars as may be prescribed and shall be delivered by the exporter to the proper officer in such manner as may be prescribed:

Provided that an entry need not be made for passengers' baggage.

Additional provisions as to entry outwards

55.(1) No person shall export or enter for exportation any warehoused goods or goods liable to duties of customs transferred from an importing ship or aircraft or goods entitled to drawback on exportation (not being wines, spirits, tobacco, cigars, cigarillos or cigarettes) in any ship of less burden than five tons nor shall any person export or enter for exportation any wines, spirits, tobacco, cigars, cigarillos or cigarettes in any ship of less burden than twenty tons.

(2) Any person who exports or enters for exportation any goods to which subsection (1) applies contrary to subsection (1) shall be liable to a penalty of two hundred and fifty dollars and if any goods which, by virtue of subsection (1),

are required to be placed for exportation on board any ship of five tons burden or over, or, as the case may be, of twenty tons burden or over are placed on board any ship of less burden than five tons or, as the case may be, twenty tons, such goods shall be liable to forfeiture.

Master and commander may be required to sign for goods

56. The master of an exporting ship and the commander of an exporting aircraft shall, if required by the proper officer, give on the relative shipping bill or other appropriate document an acknowledgement of the receipt on board of the goods referred to therein and any such master or commander who refuses to do so shall be liable to a penalty of twenty-five dollars.

Certain ships to be entered outwards

57. The master of every ship, other than a steamship, in which any goods are to be exported, or his agent, shall, before any goods are taken on board, deliver to the proper officer at the port at which such ship has first arrived an entry outwards of such ship, verified by his signature, in the prescribed form and containing the prescribed particulars, and in such entry outwards the master or his agent shall declare that no goods or stores to be imported into the Island, other than such goods and stores as shall be specified in such entry outwards, are left on board such ship.

Rummage certificate

58.(1) The master of every ship to which section 57 applies shall, if required, obtain from the proper officer a certificate of rummage in the prescribed form.

(2) Where such a master desires to obtain such certificate before all the goods of the ship to be imported into the Island have been discharged, he shall remove and stow any such goods remaining on board such ship in such manner as such officer shall direct in order to enable him to rummage the ship, and after the ship has been rummaged, shall stow any such goods remaining on board separately and keep them separated to the satisfaction of the proper officer from any goods that may subsequently be put into such ship.

Penalty for breach of sections 57 and 58

59.(1) Where any goods are taken on board any ship to which section 57 applies before an entry outwards as required by that section has been delivered to the proper officer, the master of such ship or his agent shall be liable to a penalty of one hundred dollars and where any such entry outwards is made with fraudulent intent, any person concerned therein with knowledge of that intent shall be liable to a penalty of five hundred dollars or to three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding one year or to both, and may be detained.

(2) Where after obtaining a certificate of rummage as provided for in section 58 the master of a ship to which that section applies fails to remove or stow any goods on board such ship in such manner as the proper officer may direct he shall be liable to a penalty of twenty-five dollars for each day during which such failure continues.

Loading licence

60. After report on arrival has been made in respect of any ship, then, before such ship departs from the port or place at which such report was made to load goods at any other port or place in the Island, the master of such ship or his agent shall, in respect of each port or place at which he desires to load goods, obtain from the proper officer a loading licence in duplicate in such form and containing such particulars as the Comptroller may determine and signed by such officer, and before leaving the port or place in respect of which such licence is issued the master of such ship or his agent shall enter on both copies of the licence particulars of the goods loaded showing the number of packages loaded and the quantity and description of the goods and shall after signing the licence deliver the same to the proper officer.

Procedure after loading under loading licence

61. Where a licence is issued under section 60, the master of the ship shall proceed direct to the port or place to which such licence relates without touching

at any other place in the Island and on completion of the loading at such port or place shall, unless the Comptroller otherwise directs, proceed with his ship forthwith to the port at which the licence was issued without touching at any other place in the Island and shall there comply with all the provisions of the customs laws as nearly as may be as if the goods loaded at the port or place to which the licence relates had been loaded at the port at which the licence was issued.

Penalty for breach of sections 60 and 61

62. Where any goods are taken on board any ship contrary to section 60 or where any of the requirements of sections 60 or 61 are not observed, the master of such ship or his agent shall be liable to a penalty of five hundred dollars unless such contravention is explained to the satisfaction of the Comptroller.

Limitation as to effect of sections 57 to 61

63. Nothing contained in sections 57 to 61 shall be deemed to authorise the loading of goods except from an approved wharf unless specially allowed by the Comptroller under section 65.

General provisions as to loading and exportation of goods

64.(1) Save as provided by section 65, no goods shall be put on board any ship or aircraft for exportation or use as stores, or be put into any vessel to be water-borne, or be water-borne to be put on board any ship or aircraft for exportation or use as stores from any port, place or customs airport in the Island except on the days prescribed on which or between the hours prescribed at which officers of customs are to be available for the performance of duties, or from any place not being an approved wharf or examination station approved for the purpose, or without the authority of the proper officer, or before due entry outwards of the exporting ship, if the same is by law required to be entered outwards, or before such goods are duly entered, and no goods, having been put into any vessel to be water-borne to any ship or aircraft for exportation or use as stores, shall be put on board the exporting ship or aircraft outside the limits of

the port or, as the case may be, the customs airport within which such ship or aircraft shall be.

(2) It shall be lawful for any officer to open and examine all goods put on board any ship or aircraft or brought to any place in the Island to be put on board a ship or aircraft for exportation or for use as stores.

(3) Notwithstanding the foregoing provisions of this section, this section in so far as it requires that goods shall be entered before being put on board any ship or aircraft shall not apply to passengers' baggage.

Comptroller may relax conditions of shipment

65.(1) The Comptroller may permit any goods to be put on board any ship or aircraft on such days, at such times, from or at such places, and under such conditions as he may either generally or in any particular case direct, and in like manner the Comptroller may direct what goods (other than passengers' baggage) need not be entered by the exporter until after the departure of the ship or aircraft by which the goods are exported, but any such goods must be entered within forty-eight hours of the clearance of such ship or aircraft or within such further time as the Comptroller may allow.

(2) Where any goods are permitted to be entered after the departure of the ship or aircraft by which they are exported the Comptroller shall in such case require the exporter or his agent to give security for the payment of any export duties of customs on any goods liable thereto upon such conditions as the Comptroller may think fit and if the goods are not entered within the time provided by subsection (1) the exporter shall for every such offence be liable to a penalty of five hundred dollars.

Vessels loading goods into ship to proceed direct and may be required to be licensed

66. Any goods which have been put into any vessel to be water-borne to any ship or aircraft for exportation or use as stores shall be taken directly and without delay to the ship or aircraft in which the same are to be exported or used

as stores and put on board forthwith; and every vessel in which the same are water-borne as aforesaid to any ship or aircraft shall, unless otherwise permitted by the proper officer, be a small craft licensed for the carriage of goods under the regulations made under the *Barbados Harbours Act*, Cap. 286.

Permission required to discharge goods loaded

67. No goods having been put on board any ship or aircraft in accordance with section 77 or for exportation or use as stores shall, save as provided by any enactment, be discharged in any part of the Island without the written permission of the proper officer and except in accordance with such conditions as the Comptroller shall impose.

Penalty for breach of sections 64 to 67

68. Any person who puts or attempts to put any goods on board any ship or aircraft or discharges or attempts to discharge or deal with any goods in any way contrary to sections 64 to 67 shall be liable to a penalty of five hundred dollars or three times the value of such goods whichever is the greater, and all such goods shall be liable to forfeiture.

Penalty for attempting to ship prohibited or restricted goods

69. Any person who puts on board any ship or aircraft, or puts off or puts into any vessel to be water-borne to any ship or aircraft for exportation or use as stores, or brings to any port or customs airport or any other place in the Island for exportation or use as stores, or exports any goods prohibited to be exported or any goods the exportation of which is restricted contrary to such restriction with intent to evade any such prohibition or restriction, or attempts to perform or is concerned in the performance of any of the aforesaid acts, with intent as aforesaid, shall (except as otherwise provided in section 55) be liable to a penalty of five hundred dollars, or three times the value of such goods, whichever is the greater, or to imprisonment for a term of one year or to both, and may be detained.

Bond to be given in certain cases

70. Before—

- (a) any warehoused goods or goods entitled to any drawback on being put on board a ship or aircraft for use as stores or for exportation; or
- (b) goods exportable only under particular conditions or restrictions; or
- (c) goods liable to duties of customs intended for transfer from an importing to an exporting ship or aircraft

are permitted to be entered for use as stores or for exportation or for transfer as aforesaid, the exporter shall give such security by bond as the proper officer may require that such goods shall be duly put on board the ship or aircraft for which the same are entered and shall be used as stores (if so entered) or else exported to and discharged at the place for which they are entered within such time as the proper officer may deem reasonable, or be otherwise accounted for to the satisfaction of the Comptroller.

Offences relating to bonded goods

71. Where any goods for which bond is required under section 70, or any goods liable to export duties of customs are put on board any ship or aircraft or brought to any port or customs airport or any other place to be put on board a ship or aircraft and on examination by the proper officer are found not to agree with the entered particulars thereof or, being goods on which drawback is being claimed or allowed, are found to be goods not entitled to drawback, all such goods shall be liable to forfeiture; and the exporter of such goods shall in every such case be liable to a penalty of five hundred dollars or three times the value of such goods, whichever is the greater.

Penalty for not exporting bonded goods

72. Where any goods for which bond is required under section 70, after being entered and put on board a ship or aircraft, are used otherwise than as stores

(if so entered) or are not duly exported to and discharged at the declared destination (such goods not having been discharged in the Island in accordance with section 67) or otherwise accounted for to the satisfaction of the Comptroller, the same shall be liable to forfeiture; and the master of the ship or, as the case may be, the commander of the aircraft in which such goods have been put, shall on conviction be liable to a penalty of five hundred dollars or three times the value of such goods, whichever is the greater.

Penalty for short-loading of bonded goods

73.(1) Where any goods which have been entered and for which a bond is required under section 70 have not been duly shipped before the clearance of the ship or aircraft for which they were entered, the goods shall be liable to forfeiture unless notice of the failure to ship or export is given by the exporter or his agent to the proper officer immediately after that clearance has been given or within such further period as the Comptroller may allow.

(2) Subject to subsection (3), where any goods which have been entered and for which a bond is required under section 70 but which have not been shipped or exported as aforesaid have not, at the expiration of twenty-four hours after the clearance of the ship or aircraft as aforesaid or after such further period as the Comptroller may allow, been either re-warehoused, again entered for exportation or for use as stores or otherwise accounted for to the satisfaction of the Comptroller, the person by whom the entry was made shall be liable to a penalty of twenty-five dollars.

(3) Subsection (2) shall not apply where, before the expiration of the said period of twenty-four hours or such further period as the Comptroller may allow, the goods have been seized by virtue of subsection (1).

Exporter to notify short-loading of non-bonded goods

74. Where any exporter who has entered any goods, not being goods for which bond is required under section 70, for exportation in any ship or aircraft fails, in case such goods or any of them are not duly put on board the ship or aircraft for which the same are entered, to attend before the proper officer within

twenty-four hours after the clearance of such ship or aircraft or within such further period as the Comptroller may allow and to notify such officer of the short-loading of such goods, he shall be liable to a penalty of twenty-five dollars.

Comptroller may allow shipment of stores

75.(1) Notwithstanding anything to the contrary in the customs laws, the Comptroller may, subject to section 172 and any regulations, upon due request being made, permit the master of any ship or the commander of any aircraft departing from any port or customs airport upon a voyage or flight to an eventual destination outside the Island to take on board stores (not being goods prohibited to be exported) for use on such voyage or flight, upon payment of any export duty leviable thereon and upon such other terms and conditions as the Comptroller may direct, and in such quantities as the Comptroller in his discretion deems reasonable; and every such request shall be made on the prescribed form and contain such particulars as may be prescribed and shall be signed by the master or his agent or, as the case may be, the commander or his agent.

(2) Notwithstanding anything to the contrary in the customs laws, no stores shall be put on board any ship or aircraft to which subsection (1) applies, except such as are or have been put on board such ship or aircraft in accordance with subsection (1) and any article put on board such ship or aircraft, otherwise than in accordance with subsection (1), shall not be deemed to be stores.

Drawback and transshipment goods

76. The provisions of the customs laws with reference to the exportation of warehoused goods, so far as they are applicable, shall be deemed to apply to and include goods liable to duties of customs transferred from an importing to an exporting ship or aircraft and goods exported on drawback.

Loading of goods other than cargo or stores

77.(1) Notwithstanding anything to the contrary in the customs laws, it shall be lawful for the proper officer, subject to the provisions of any regulations, to permit the loading of passengers' baggage, and also, subject as aforesaid and to

any regulations made under the *Barbados Harbours Act*, Cap. 286, to permit any person to take on board any ship or aircraft any goods for sale or delivery to the passengers, officers or crew thereof, or for such other purposes as the proper officer allows, under such conditions as he may either generally or in any particular case direct.

(2) Where any goods, other than the *bona fide* baggage of passengers or the stores of any ship or aircraft, are taken on board any ship or aircraft, which is about to proceed to any place outside Barbados, or which has any goods remaining on board thereof from a voyage or flight from a place outside Barbados, or where any attempt is made to put any such goods on board any such ship or aircraft without the permission of or contrary to any conditions directed as aforesaid by the proper officer or otherwise contrary to the customs laws, the same shall be liable to forfeiture.

Clearance Outwards

Master to deliver content

78.(1) This section shall apply to a ship or aircraft that has left or is expected to leave Barbados.

(2) The master of every ship and the commander of every aircraft or the agent of the master or commander of the ship or aircraft, as the case may be, whether the ship or aircraft is laden or not, shall, at such time as is provided in subsection (4), deliver a content to the proper officer at the intended port of departure in Barbados, in an electronic format approved by the Comptroller or in the form approved by the Comptroller.

(3) The content referred to in subsection (2) shall consist of data in respect of

- (a) the ship or aircraft mentioned in that subsection and each passenger on board including every member of the crew on board the ship or aircraft, in accordance with Part I of the *First Schedule*; and

(b) the cargo on board the ship or aircraft in accordance with Part II of the *First Schedule*.

(4) Where a ship or aircraft has left or is expected to leave Barbados, the data referred to in subsection (3) shall be provided no later than 15 minutes after departure from Barbados.

(5) The Comptroller may generally or in any particular case require the master or commander or the agent of either of them to furnish a list of the crew and each passenger on board to the proper officer at least one hour before the scheduled time of departure.

[2007-2]

Waiver

78A.(1) The Minister may by order

- (a) waive any of the requirements of subsection (2) or (3) of section 78;
- (b) modify any of the data referred to in the *First Schedule*; or
- (c) waive or modify the requirement of subsection (4) of section 78 with regard to the time required for the submission of data.

(2) An order made under subsection (1) is subject to negative resolution.

[2007-2]

Penalty for contravention of section 78

79. Where the master of ship or the commander of an aircraft or the agent of the master or commander intentionally or recklessly

- (a) fails to make the due content as required by subsection (2) of section 78; or
- (b) transmits incomplete or false data,

the master, commander or agent is liable to pay to the Comptroller a penalty of \$200 000.

[2007-2]

Clearance of aircraft and ships

80. No ship or aircraft shall depart from any port, customs airport or other place in Barbados to any place outside Barbados, either direct or via another port, customs airport or other place in Barbados, until the master or his agent or, as the case may be, the commander or his agent has satisfied the proper officer that all the provisions of the customs laws have been fulfilled, whereupon, unless the proper officer has decided to withhold clearance in accordance with any other provision of law, such officer shall deliver to the master or his agent or, as the case may be, the commander or his agent, a clearance in the prescribed form, and such clearance shall be the authority for the departure of such ship or aircraft as aforesaid.

Seizure and detention

81.(1) Where a master of a ship or a commander of an aircraft or the agent of the master or commander fails to comply with the provisions of subsection (2) of section 78, the Comptroller may seize and detain the ship or aircraft to which the non-compliance relates.

(2) Notwithstanding subsection (1), in the case of a commercial ship or aircraft, the ship or aircraft shall be released on the lodgement of a bond in the sum of \$1 000 000 or 3 times the value of the ship or aircraft whichever is greater.

(3) Where pursuant to subsection (1) a ship or aircraft is seized or detained by the Comptroller, the Harbour Master or the Director of Civil Aviation shall not grant clearance to the ship or aircraft to depart until so authorised by the Comptroller.

[2007-2]

Comptroller may give special directions as to clearance in particular cases

82. Notwithstanding sections 78 and 80, or any other provisions of the customs laws relating to the departure and clearance of ships and aircraft, it shall be lawful for the Comptroller by directions addressed to the proper officer to permit any particular ship or aircraft to be cleared in any manner specified in such directions, and where any ship or aircraft departs contrary to the provisions of any such directions of which the master of such ship or the commander of such aircraft or the agent of either of them has been informed by the Comptroller in writing, such master, commander or agent shall be liable to pay to the Comptroller a penalty of \$200 000.

[2007-2]

Clearance in ballast

83.(1) Where any ship is departing in ballast from Barbados to any place outside Barbados, not having any goods on board except stores duly shipped as such, nor any goods reported inwards for exportation in such ship, the proper officer shall, on the application of the master or his agent, clear such ship in ballast; and the master of such ship or his agent shall comply with the customs laws as if such ship was not departing in ballast as aforesaid, except that the word “nil” shall be written on the prescribed form or zero inserted in the appropriate electronic data element.

(2) For the purposes of subsection (1), ships having only passengers with their *bona fide* baggage on board, in addition to stores as aforesaid, shall be deemed to be in ballast.

[2007-2]

Questions to be answered

84.(1) The master of a ship, or the commander of an aircraft, to which section 78 applies, or the agent of the master or commander, shall

- (a) answer immediately all questions relating to
 - (i) the ship or aircraft;
 - (ii) the goods and passengers conveyed in the ship or aircraft; or
 - (iii) the crew and voyage or flight

that are put to the master, commander or agent by the proper officer on board the ship or aircraft; and

- (b) produce all such books and documents in his custody or control relating to the ship or aircraft as the proper officer may require.

(2) Where the master, commander or agent fails to comply with the provisions of subsection (1), the Comptroller may

- (a) exercise the powers of seizure and detention as provided in subsection (1) of section 81;
- (b) impose a bond in the same manner as is specified in subsection (2) of section 81; and
- (c) impose the penalty as specified in section 79.

[2007-2]

Goods not contained in account forfeited

85. Where after boarding any ship or aircraft in pursuance of section 84 an officer finds on board such ship or aircraft any goods or stores not contained in the content or account required to be signed as the clearance of such ship or aircraft, such goods or stores shall be liable to forfeiture and the master of such

ship or the commander of such aircraft shall be liable to a penalty of \$500 or 3 times the value of such goods, whichever is the greater.

Penalty for failure to produce goods

86. Where any officer, having boarded any ship or aircraft in pursuance of section 84, discovers that any goods which were loaded in Barbados on board thereof as stores or for exportation or which at the time of clearance remained on board from the inward voyage are no longer on board such ship or aircraft (unless the same have been discharged in Barbados, with the permission of the proper officer, as provided in section 67 or, being stores remaining on board from the inward voyage, are in the opinion of the officer less than should be on board after making due allowance for what might reasonably have been consumed having regard to the period during which such ship or aircraft has been within Barbados), the master of such ship or the commander of such aircraft shall be liable to a penalty of \$100 for every container of such goods not on board, or 3 times the value of such goods, whichever is the greater.

Deficiency in stores, etc.

87. Where any ship or aircraft, having departed from Barbados on a voyage or flight to a place outside Barbados and having returned within Barbados, is boarded by an officer, and such officer discovers any deficiency in the stores of such ship or aircraft which in his opinion is in excess of the quantity which might fairly have been consumed, having regard to the period which has elapsed between the departure of such ship or aircraft and the discovery of the deficiency, the master of such ship or, as the case may be, the commander of such aircraft shall pay the duties on such deficiency at the rate chargeable on similar goods imported, and in addition shall be liable to a penalty of \$100.

Ship not bringing to at boarding station and ship or aircraft carrying away officers

88.(1) Where any ship departing from Barbados does not bring to at the proper boarding station for setting down officers or for any other purpose required

by the customs laws, or where any ship or aircraft departs from any place in Barbados carrying on board without his consent any officer or other public officer, the master of the ship or commander of the aircraft shall be liable to a penalty of \$500 unless he explains the same to the satisfaction of the Comptroller.

(2) Without prejudice to the liability of any person under subsection (1), the amount of any expense incurred by the Crown by reason of the carrying away of any public officer may be recovered in a magistrate's court as a civil debt from that person or from the owner of the ship or aircraft concerned.

[1967/168]

Prohibited and Restricted Goods

Goods prohibited or restricted to be imported or exported

89.(1) The goods, the particulars of which are set out in Part I of the List of Prohibited and Restricted Imports* are prohibited to be imported into Barbados and the goods, the particulars of which are set out in Part II of that List are restricted to be imported into Barbados save as thereby excepted.

**[This list, contained in the Second Schedule to the Customs Act, 1962, 1962—18, as amended, will be published in the Revised Statutory Instruments.]*

(2) The goods, the particulars of which are set out in Part I of the List of Prohibited and Restricted Exports* are prohibited to be exported from Barbados and the goods, the particulars of which are set out in Part II of that List are restricted to be exported from Barbados save as thereby excepted.

**[This list, contained in the Third Schedule to the Customs Act, 1962, 1961—18, as amended, will be published in the Revised Statutory Instruments.]*

Power of the Minister to prohibit or restrict the importation or exportation of goods

90.(1) The Minister may from time to time by order published in the *Official Gazette* amend the List of Prohibited and Restricted Imports and the List of

Prohibited and Restricted Exports by inserting therein or by deleting therefrom such goods as he thinks fit and any order made under this subsection

- (a) prohibiting or restricting the importation or exportation of any goods may prohibit or restrict the importation or, as the case may be, the exportation of the goods specified in the order
 - (i) until the revocation of the order or during such period as may be specified in the order; or
 - (ii) from any particular place named in the order; and
 - (b) restricting the importation or exportation of any goods may restrict the importation or, as the case may be, the exportation of any goods specified in the order unless such conditions as may be specified in the order are complied with.
- (2) Every order made under subsection (1) shall be subject to negative resolution.

Savings as to goods in transit, in transshipment and stores

91. Goods imported in transit or in transshipment or as the stores of any ship or aircraft shall not be deemed to be goods prohibited or restricted to be imported or exported unless such goods are expressly prohibited or restricted to be imported in transit or in transshipment or as ship's or aircraft's stores by any enactment prohibiting or restricting the importation or exportation of goods:

Provided that any goods imported as aforesaid shall be duly re-exported within such time as the Comptroller shall allow.

Prohibitions and restrictions to importation and exportation elsewhere provided

92. Sections 89 and 90 and any order made thereunder shall be additional to any other enactment prohibiting or restricting the importation or exportation of any goods.

Penalty for harbouring, concealing, having possession of prohibited or restricted goods

93.(1) A person who

- (a) harbours, keeps or conceals or permits or suffers or causes or procures to be harboured, kept or concealed any prohibited or restricted goods; or
- (b) is in any way concerned in the carrying, removing, depositing, concealing of or in any manner dealing with any prohibited or restricted goods

[1984-44]

with intent to evade any prohibition of or restriction applicable to such goods shall for each offence be liable to a penalty of \$100 000 or three times the value of the goods whichever is the greater or to imprisonment for a term of 2 years or to both and may be detained.

(2) A person who acquires possession of or is found in possession of prohibited or restricted goods is guilty of an offence and is liable to a fine of \$100 000 or to imprisonment for a term of 2 years or to both unless he proves to the satisfaction of the court that he was issued with a valid licence in respect of

- (a) the prohibited goods that were capable of being acquired by a licence issued by the Minister under the *Miscellaneous Controls Act*, Cap. 329; or
- (b) the restricted goods;

or has reasonable cause to believe that a valid licence had been issued in respect of the goods referred to in paragraph (a) or (b).

(3) All prohibited or restricted goods in respect of which an offence under subsection (1) or (2) is committed, are liable to forfeiture.

*Importation and Exportation by Post***Application of customs laws to importation and exportation by post**

94. Subject to any exceptions and modifications made by regulations made under section 95, the customs laws shall apply to postal packets in like manner, so far as is consistent with the tenor thereof, as they apply to any other goods; and persons may be punished for offences against the customs laws, and goods may be examined, seized and forfeited, and the officers examining and seizing them shall be protected, and legal proceedings, in relation to the matters aforesaid, may be taken accordingly under the customs laws.

Power to modify by regulations the application of the customs laws to postal packets, etc.

95.(1) The Minister may make regulations

- (a) for the purpose of modifying or excepting the application of any of the customs laws to postal packets;
- (b) for the purpose of securing in the case of such packets the observance of the customs laws;
- (c) for enabling the officers of the Post Office to perform, for the purpose of the customs laws and otherwise, all or any of the duties of the importer and exporter;
- (d) for carrying into effect any arrangement with the government or postal administration of any other country with reference to such packets;
- (e) for prescribing penalties for any contravention of the customs laws or of the regulations made under this section.

(2) The Minister may, by regulations made under subsection (1), prescribe what descriptions of postal packets may or may not contain goods or other articles of any description whatsoever and the conditions under which they may contain such goods or articles.

(3) The Postmaster-General shall have the same right of recovering any sum paid in pursuance of the customs laws or otherwise under the regulations in respect of any postal packet as he would have if the sum so paid were a rate of postage.

(4) A contravention of the regulations shall be deemed to be a contravention of the customs laws and shall involve accordingly the like punishment of persons guilty thereof and the like liability to forfeiture of goods.

Goods contained in postal packet contrary to law

96.(1) Any officer of the Post Office may detain any incoming postal packet which he suspects of containing any letter, printed matter, document or any other thing whatsoever, the conveyance of which by post or the importation of which is prohibited or restricted by law, and deliver such packet to the proper officer, who may open and examine the packet in the presence of the person to whom the packet is addressed or of his accredited representative, or in the absence of such person, if, after notice in writing from the officer requiring the attendance of such person left at or forwarded by post to the address on the packet, if any, he or his accredited representative fails to attend.

(2) Where the proper officer finds any goods in such postal packet, or any letter, printed matter, document or any other thing conveyed by post or imported contrary to any lawful prohibition or restriction, he may detain the packet and deal with it and its contents as goods imported contrary to the customs laws; but if he finds no such goods, letter, printed matter, document or other thing, he shall deliver the packet either to the person to whom it is addressed, or to his accredited representative, upon his paying the postage, or other sum, if any, chargeable thereon, or, if he is absent, forward the packet by post to the person to whom it is to be delivered.

Saving

97. Sections 94 to 96 and any regulations made thereunder shall be in addition to and not in derogation of the *Post Office Act, Cap. 27A*.

*Transit Trade***Goods in transit**

98.(1) The provisions of the customs laws with reference to the importation, prohibition, entry, examination, landing, warehousing and the exportation and clearance of goods so far as they are applicable, and subject to any regulations made under this Act regarding goods in transit, shall be deemed to apply to goods declared in transit to a destination beyond Barbados.

(2) Regulations made under this Act regarding goods in transit may prescribe the licensing procedure in relation to the import or export of those goods, and may designate the licensing authority from whom licences are to be obtained.

[1984-25]

(3) The Licensing Authority referred to under subsection (2) may, by instrument in writing, delegate to such public officer as the authority determines the power to issue licences in respect of goods in transit.

[1985-12]

*General***Time of importation, exportation, etc.**

99.(1) This section shall have effect for the purposes of this Act and of any other enactment relating to customs.

(2) The time of importation of any goods shall be deemed to be

- (a) where the goods are brought by sea, the time when the ship carrying them comes within the limits of the harbour at which the goods are discharged;
- (b) where the goods are brought by air, the time when the aircraft carrying them lands in Barbados or the time when the goods are unloaded in Barbados, whichever is the earlier.

(3) The time of exportation of any goods from Barbados, whether the same are exported by sea or air, shall be deemed to be the time when the goods are shipped for exportation: but in the case of goods of a class or description with respect to the exportation of which any prohibition or restriction is for the time being in force under any enactment, the time of exportation shall be deemed to be the time when the exporting ship or aircraft departs from the last port or customs airport at which it is cleared before departing for a destination outside Barbados.

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

Penalty for evading customs laws regarding importation and exportation of goods

100. Every person who is in any way concerned in any fraudulent evasion or attempt at evasion of the laws and restrictions of the customs relating to the importation, unloading, delivery, removal, loading and exportation of goods shall for each such offence be liable to a penalty of \$500 or 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 1 year or to both, and may be detained and all goods in respect of which any such offence is committed shall be liable to forfeiture.

Forfeiture of goods in respect of which false entries etc. have been made

100A. Notwithstanding the generality of section 100 or any other provisions of this Act, all goods in respect of which any entry, invoice, declaration, answer, statement or representation that is false or wilfully misleading in any particular has been delivered, made or produced are liable to be forfeited.

[1984-44]

Penalty in relation to concealed goods, etc.

101. Where any person imports or exports, or causes to be imported or exported or attempts to import or export, any goods

- (a) concealed in a container holding goods of a different description; or
- (b) concealed or packed in any container (whether there be any other goods in such container or not) in a manner calculated to deceive the officers of customs; or
- (c) in any container containing goods not corresponding with the entry there of,

such container and the goods therein shall be liable to forfeiture and such person shall be liable to a penalty of \$500 or 3 times the value of the goods contained in such container, whichever is the greater, and may be detained.

Power of the Comptroller to purchase goods in certain cases

102.(1) Notwithstanding anything in section 101, if upon the examination of any imported or exported goods which are chargeable with duty upon the value thereof, it appears to the Comptroller that the value of such goods as declared by the importer or, as the case may be, the exporter, and according to which duty has been or is sought to be paid, is not the true value thereof, it shall be lawful for the Comptroller to detain the same, in which case he shall give notice in writing to the importer or, as the case may be, the exporter of the detention of such goods and of the value thereof as estimated by him, either by delivering such notice personally or transmitting the same by post to such importer or, as the case may be, exporter addressed to him at his place of abode or business.

(2) The Comptroller shall, within 15 days after the detention of any goods detained under subsection (1), determine either that the goods are or may be correctly entered according to the value declared by the importer or, as the case may be, the exporter and permit the same to be delivered or to retain the same for the public use of Barbados, in which latter case he shall cause the value at

which the goods were declared by the importer or, as the case may be, the exporter together with an addition of 5 per cent and the duties already paid to be paid to the importer or, as the case may be, the exporter in full satisfaction for such goods; or the Comptroller, on application for that purpose by the importer or, as the case may be, the exporter, may permit the applicant to enter the goods according to such value and on such terms as the Comptroller may determine.

(3) Such goods, if retained, shall be disposed of for the benefit of the Island and if the proceeds arising therefrom, in case of sale exceed the sum paid to the importer or, as the case may be, the exporter under subsection (1), and all charges incurred by the Comptroller, such surplus shall be disposed of as the Minister may determine.

Discretionary power of Comptroller in special circumstances

103. Notwithstanding anything in the customs laws, the Comptroller may permit the entry, unloading, removal and loading of goods, and the report and clearance of ships and aircraft in such form and manner as he may direct to meet the exigencies of any case to which the customs laws may not be conveniently applicable.

PART IV

DUTIES AND DRAWBACKS

Duties

Payment of duties on imported and exported goods and penalties for evasion of duties

104.(1) Save as permitted by or under this Act or any other enactment relating to customs, no imported goods shall be delivered or removed on importation and no goods for exportation shall be delivered or removed on exportation until the importer or, as the case may be, the exporter has paid to the proper officer any duty chargeable thereon.

(2) Any person who unships or lands or ships or puts aboard from any port or other place or unloads from or loads into any aircraft in the Island or removes from their place of importation or exportation or from any approved wharf, examination station, transit shed or customs area any goods chargeable with a duty which has not been paid or assists or is otherwise concerned in such unshipping, or landing, shipping or putting aboard, unloading or loading or removal, and who does so with intent to defraud the Crown of any such duty, shall be liable to a penalty of five hundred dollars or three times the value of the goods, whichever is the greater, or to imprisonment for one year, or to both, and may be detained, and all goods in respect of which such offence is committed shall be liable to forfeiture.

(3) Every person who—

- (a) harbours, keeps or conceals or permits or suffers or causes or procures to be haboured, kept or concealed any goods with intent to defraud the Crown of any duties; or
- (b) acquires possession of, or is in any way concerned in carrying, removing, depositing, concealing or in any manner dealing with, any goods with intent to defraud the Crown of any duties; or
- (c) is in any way concerned in any fraudulent evasion or attempt at evasion of any import or export duties of customs,

shall for each such offence be liable to a penalty of five hundred dollars or three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding one year or to both, and may be detained and all goods in respect of which such offence shall be committed shall be liable to forfeiture.

Duty on goods

105.(1) Save in cases where special provisions are made to the contrary, the duties of customs and the rates thereof chargeable on all goods which may be imported or exported shall—

- (a) if entry is made thereof, except where the entry, or, in the case of entry made under section 38, the final entry, is for warehousing, be those in force with respect to such goods at the time when the goods are entered for use within the Island or for exportation;
- (b) if entry, or, in the case of goods in respect of which an entry is made under section 38, the final entry, is made thereof for warehousing, be ascertained as provided in section 173;
- (c) if no entry is made thereof, be those in force with respect to such goods at the time of their sale or other disposal.

(2) Notwithstanding subsection (1), in the case of passengers' baggage or of goods imported into the Island by post, for which no entry is required, the duties of customs and the rates thereof chargeable thereon shall be those in force at the time of delivery of such baggage or goods to the passenger or addressee, as the case may be, and, in the case of goods exported from the Island by post the duties of customs and the rates thereof chargeable thereon shall be those in force at the time of posting.

Duty on goods re-imported

106.(1) Subject to subsections (2) and (3), where any goods, whether made or produced within the Island or not, being of a class or description liable to any import duty of customs, are re-imported into and entered for use within the Island after exportation therefrom, and it is shown to the satisfaction of the Comptroller that any duty of customs or excise chargeable in respect of the goods prior to their exportation was duly paid, either prior to exportation or at any subsequent

time, and either that no drawback of any such duty was allowed on exportation, or that any drawback so allowed has been repaid to the Comptroller, then—

- (a) if it is further shown as aforesaid that the goods have not been subjected to any process abroad, or having been so subjected (but without change of their form or character) are goods not liable at the time of reimportation to duty *ad valorem*, the goods shall be exempt from any further duty when the same are entered for use within the Island after re-importation, unless the rate of duty of excise or customs, as the case may be, chargeable on goods of the same class or description at the time when the same are entered for use within the Island after re-importation shall exceed the rate paid on the said goods as a duty of excise or on first importation and entry, as the case may be, in which case such goods shall be chargeable with duty according to the difference between the amount of duty previously paid and duty calculated at the rate in force at the date when such goods are entered for use within the Island after reimportation;
 - (b) if the goods at the time when the same are entered for use within the Island after re-importation are of a class or description liable to an import duty *ad valorem*, and it is further shown as aforesaid that the goods have been subjected to a process of repair, renovation, or improvement abroad, but that their form or character has not been changed, such goods shall, subject to subsection (2), be chargeable with duty as if the amount of the increase in the value of the goods attributable to the process were the whole value thereof, and, where any sum has been contracted to be paid for the execution of the process, that sum shall be *prima facie* evidence of that amount, but without prejudice to the powers of the Comptroller under the customs laws as to ascertainment of the value of the goods for the purpose of assessing duty thereon *ad valorem*.
- (2) Where the rate of duty of excise or customs, as the case may be, chargeable on goods of the same class or description at the time when the same are entered for use within the Island after re-importation exceeds the rate paid on the said

goods as a duty of excise or on first importation and entry, as the case may be, then, in such case, in addition to the *ad valorem* import duty chargeable under paragraph (b) of subsection (1) according to the amount of the increase in the value of the goods attributable to the process, such goods shall be chargeable with additional excise or customs duty calculated in the manner set out in paragraph (a) of subsection (1) as if such goods had not been subjected to any process of repair, renovation or improvement abroad.

(3) Subsections (1) and (2) shall be conditional on the person exporting goods for subsequent re-importation giving notice in writing and producing such goods for identification at the port or place of exportation to the proper officer, or, in the case of exportation by post, to the proper postal authority, before the exportation of such goods, unless the Comptroller in his discretion waives this condition in any case in which in his opinion it may seem unreasonable or impose hardship.

Derelict, etc., goods liable to full duty unless damaged

107. All goods derelict, jetsam, flotsam and wreck brought or coming into the Island, and all droits of admiralty sold in the Island, shall at all times be subject to the same duty as goods of the like kind on importation into the Island are subject, unless it is shown to the satisfaction of the Comptroller that such goods are damaged.

Obligation to pay duty and duties short-levied or erroneously refunded

108.(1) Where by entry, bond, removal of goods or otherwise any obligation has been incurred by any person for the payment of duties of customs, such obligation shall be deemed to be an obligation on that person to pay all duties of customs which may become legally payable or which are made payable or recoverable under the customs laws and to pay the said duties of customs as the same become payable.

(2) Where any duty of customs has been short-levied or erroneously refunded, the person who should have paid the amount short-levied or to whom the refund

has erroneously been made shall pay the amount erroneously refunded, on demand being made by the Comptroller.

Set-off or deduction

108A. Where a person is indebted to the Crown, the Comptroller may require the retention by way of deduction or set-off of such amount as may be or may become payable to that person by the Crown.

[1998-6]

Goods used contrary to purpose for which imported

109.(1) Save as provided by any enactment, where any goods which are ordinarily liable to duty at a given rate are allowed by law to be, and are in fact, entered at a lower rate of duty, or free of duty, on any special conditions, or for use for some special purpose, or because they are the property of or are intended for use by some particular person or body, and where such conditions are not observed, or the goods are at any time within 3 years of the time of importation thereof used for any other than the specified purpose or, being goods entered as aforesaid because they are the property of or intended for use by some particular person or body, are sold or transferred to any other person or body, the full duty or any balance thereof upon such goods shall become payable forthwith and if not paid the goods shall be liable to forfeiture.

(2) Subsection (1) shall not apply to any goods imported or purchased out of bond by any government department and sold or transferred by order or with the approval of the Minister.

(3) The importer and any other person concerned in making use of or disposing of any goods to which subsection (1) applies contrary to the conditions or purpose for which such goods were allowed to be entered, shall, where such goods are liable to forfeiture, each be liable to a penalty of \$500 or 3 times the value of the goods, whichever is the greater.

(4) Without limiting or affecting subsection (1), where goods that are imported for use by a person of a particular status, are ordinarily liable to duty at a given rate and are allowed by law to be, and are in fact, entered at a lower rate duty, or free of duty, then if before the expiration of 3 years of the time of importation of the goods

- (i) that person loses that status; or
- (ii) in the case of a motor vehicle, the Comptroller of Customs is satisfied that the vehicle is damaged beyond repair,

the full duty or any balance thereof on the goods or motor vehicle, as the case may be, is payable forthwith and if not paid the goods or motor vehicle are liable to forfeiture.

[1982-24]

(5) Notwithstanding subsection (1) or (4) the Minister may remit in whole or in part any duty payable under those subsections and in that event the goods are not liable to forfeiture.

Penalty for not producing goods

110. The importer of any goods falling within section 109 shall on demand produce them to any officer or otherwise account for them to the satisfaction of the Comptroller at any time within the period of 3 years of the time of importation of the goods, and if he fails to produce such goods, or otherwise to account for the same as aforesaid, he shall be liable to a penalty of \$500 or 3 times the value of such goods, whichever is the greater.

Goods imported for temporary use or purpose

111.(1) The proper officer may give permission to any person to import any goods without payment of duty thereon, upon being satisfied that such goods are so imported for a temporary use or purpose only.

(2) Such permission shall, save as provided by any other enactment, be subject to sections 112 and 113 and the following conditions, that is to say:

- (a) that such goods shall be exported within 3 months of the date of such permission; and
- (b) that the person to whom such permission is given shall deposit in the hands of the proper officer the amount of the duty on such goods, or else give security therefor, at the election of the proper officer.

Disposal of deposit

112. Where any goods imported under section 111 are not exported within 3 months of the date of the said permission, the deposit in the hands of the proper officer shall be brought to account by the proper officer as duties of customs, or, if security has been given as aforesaid, then the importer shall pay to the proper officer the full duties on such goods. If such goods are exported as aforesaid, such deposit shall be refunded, or the security cancelled:

Provided that the proper officer may, in his discretion and on provision of additional security where he so requires, allow any additional period where he is satisfied that the goods are the *bona fide* property or *bona fide* in the use of any person on a temporary visit to Barbados.

Certain goods may be excepted from section 111

113. The Minister may by notice in the *Official Gazette* declare that any goods named by him shall not be imported under section 111 and may also in like manner declare that any goods which are permitted to be imported under that section shall be subject to such proportion of the duty thereon as he shall specify in such notice.

Goods entered for transshipment or in transit exempt from duty

114. Goods entered for transshipment or in transit through Barbados in accordance with any regulations in that behalf made under the customs laws shall be exempt from the payment of import or export duties.

Goods to be warehoused without payment of duty

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

Goods entered for exportation or use as stores exempt from duty

116. Subject to the observance by the exporter of all the provisions of the customs laws and the conditions of any bond, no import duty shall be charged in respect of

- (a) any goods entered under bond for exportation or use as stores, and subsequently proved to the satisfaction of the Comptroller to have been duly exported to and landed at some place outside Barbados, or exported as stores, as the case may be; or
- (b) any goods remaining on board an importing ship or aircraft for re-exportation or use as stores on the importing ship or aircraft,

unless the Comptroller has reasonable grounds to suppose that any deficiency in any such goods, or any part thereof, has arisen from illegal abstraction, in which case duty shall be paid on such deficiency by the owner of such goods.

Determination of value of goods liable to customs duty *ad valorem*

117.(1) For the purposes of any enactment under which a duty of customs is chargeable on goods by reference to their value, the value of those goods for the purpose of assessing duty *ad valorem* shall be determined

- (a) in the case of imported goods, in accordance with the *Fourth Schedule*; and
- (b) in the case of exported goods, in the prescribed manner.

(2) In converting the value of any goods from foreign currency to dollars current in Barbados, the rate of exchange shall be the selling rate for sight drafts

as last notified in the *Official Gazette* by the Comptroller before the time when goods are entered for use in Barbados.

[1992-6]

Value of articles sold by auction

118. When the duty on any goods sold at any customs sale shall be chargeable *ad valorem*, the value for duty for such goods shall be the price realised at the sale or the value appraised by the proper officer, whichever is the greater.

119. [Repealed by 1992-6.]

120. [Repealed by 1992-6.]

Duty chargeable on reputed quantity

121. Where any goods subject to the payment of specific duty are imported in any container intended for sale, or of a kind usually sold with the goods when the same are sold retail, and marked or labelled, or commonly sold, as containing or commonly reputed to contain, a specific quantity of such goods, then such container shall for customs duty purposes be deemed to contain not less than such specific quantity.

Duty calculated on gross weight in certain cases

122. Where any goods subject to the payment of duty according to the weight thereof are imported in any container intended for sale, or of a kind usually sold with the goods when the same are sold retail, and such container is not marked or labelled, or is not in the opinion of the Comptroller commonly sold as containing or commonly reputed to contain a specific quantity of such goods, and the importer is not able to satisfy the Comptroller as to the correct net weight, the duty thereon shall be calculated according to the gross weight of such container and its contents.

Minister may fix standard contents for containers containing liquids

123. It shall be lawful for the Minister by notice published in the *Official Gazette* to specify, in gallons or fractions of a gallon, standard capacities for containers containing goods liable to duties according to the liquid measurement thereof, in all cases where, in his absolute discretion he considers that such containers being of sizes, within limits to be specified in the notice, are reputed to be, or are sold as containers of standard sizes, whether or not any statement of the actual contents is contained on any label or other attachment to or part of such container, and thereupon all containers having capacities within the limits specified in any such notice shall be deemed to contain the standard capacity specified in the notice in each case.

Damage to be assessed by Comptroller

124. Subject to sections 125 to 127, the damage sustained by any goods shall be assessed by the Comptroller, who shall allow abatement of the duty in proportion to such damage.

Abatement of duty

125. No claim for any abatement of duty in respect of any goods imported into Barbados shall be allowed on account of damage, unless such claim is made on the first examination thereof and before the delivery of the goods out of the control of the customs.

No abatement on certain goods

126. No claim for abatement of duty on account of damage shall be allowed in respect of tobacco, cigars, cigarillos, cigarettes, wine or spirits.

Qualification as to abatement

127.(1) No claim for abatement of duty on account of damage shall be allowed in respect of imported goods (not being goods derelict, jetsam, flotsam or wreck brought or coming into Barbados or droits of Admiralty sold in Barbados) except

on proof to the satisfaction of the Comptroller that the carrier or insurer of the goods has made an allowance to the importer in respect of the damage.

(2) In any case the abatement shall not exceed such proportion of the duty as the amount of the allowance made bears to the value of the goods undamaged, calculated in accordance with section 117.

Contract prices of imported goods may be adjusted to meet change in duty

128.(1) Where any new import duty of customs is imposed, or where any import duty of customs is increased, and any goods in respect of which the duty is payable are delivered on or after the day on which the new or increased duty takes effect in pursuance of a contract made before that day, the seller of the goods may, in the absence of agreement to the contrary, recover, as an addition to the contract price, a sum equal to any amount paid by him in respect of the goods on account of the new duty or increase of duty, as the case may be.

(2) Where any import duty of customs is repealed or decreased, and any goods affected by the duty are delivered on or after the day on which the duty ceases or the decrease in the duty takes effect, in pursuance of a contract made before the day, the purchaser of the goods in the absence of agreement to the contrary may, if the seller of the goods has had, in respect of those goods, the benefit of the repeal or decrease of the duty, deduct from the contract price a sum equal to the amount of the duty or decrease of duty, as the case may be.

(3) Where any addition to or reduction from the contract price may be made under this section on account of any new, increased, repealed or reduced duty, such sum as may be agreed upon, or in default of agreement, determined by the Comptroller as representing, in the case of a new or increased duty, any new expenses incurred, and, in the case of a repealed or reduced duty, any expenses saved, may be included in the addition to or deduction from the contract price and may be recovered or deducted accordingly.

Remission or refund of customs duty

129.(1) Subject to subsection (2), the Minister may, upon application by an importer or exporter, remit or refund, in whole or in part, any duty of customs payable or paid on goods that are imported or exported.

(2) The Minister may impose conditions relating to the use and disposal of imported goods in respect of which a remission or refund is granted.

(3) A person who fails to comply with a condition imposed in respect of imported goods is liable to pay the duty owing on those goods.

(4) Anything done prior to the 9th day of October, 1980 in the purported exercise of the powers conferred under this section shall, for all purposes, be deemed to have been lawfully and validly done.

(5) All persons by whom the acts or things referred to in subsection (1) were done are discharged and indemnified against the Crown and other persons from legal proceedings of any nature in respect of or consequent upon the performance of any act or thing.

[1980-50]

Delegation of certain functions

129A.(1) The Minister may, in writing under his hand, delegate to the Director of Finance and Planning, Ministry of Finance, such of the powers conferred on the Minister by section 129 as he thinks fit.

(2) The Minister may exercise a power notwithstanding that he has delegated its exercise or performance under this section.

[1978-17]

Remission of duty on goods lost or destroyed, and abandonment of goods for non-payment of duties

130.(1) Where any goods are lost or destroyed by unavoidable accident before the same are delivered out of the care of any officer, either on board a ship or aircraft, or in removing, loading, unloading, or receiving into a customs area or warehouse, or in the customs area or warehouse, or in course of delivery therefrom, the Comptroller, if satisfied that such goods have not been and will not be consumed in Barbados, may remit or return the duties due or paid thereon.

(2) The owner of any goods in the charge of an officer may abandon any whole containers of such goods for the duties without being liable to any duty thereon, and any containers so abandoned may be destroyed or otherwise disposed of as the Comptroller shall direct at the cost and charges of such owner.

Refund of duties overpaid

131.(1) Where

- (a) the amount paid by a person as duties of customs exceeds the amount payable, in accordance with this Act, by that person; and
- (b) that person applies in writing to the Comptroller within 2 years of the date of the overpayment for a refund of the excess,

the Comptroller shall repay the excess to that person.

(2) Repayments under subsection (1) shall be a charge on the Consolidated Fund.

[1975-27]

Determination of disputes as to customs duties

132.(1) Where, before the delivery of any imported goods or goods for exportation from customs charge, any dispute arises as to whether any or what duty of customs is payable on those goods, the importer, consignee or exporter,

as the case may be, or his agent, shall pay the amount demanded by the proper officer, but may, not later than 3 months after the date of the payment

- (a) where the dispute is in relation to the value of the goods or as to the classification of the goods for tariff purposes in cases of doubtful classification under section 119, require the question to be referred to the arbitration of a referee appointed by the Minister whose decision shall be final and conclusive; or
- (b) in any case, apply to the High Court for a declaration as to the amount of duty, if any, payable on the goods.

(2) Where on any such reference or application the referee or court determines that a lesser or no amount was properly payable in respect of duties on the goods, the amount overpaid shall be repaid by the Comptroller and the sum so repaid shall be accepted by the importer, consignee or exporter, as the case may be, or his agents in satisfaction of all claims in respect of the importation, or, as the case may be, exportation, of the goods in question, and the duty payable thereon and of all damages and expenses incidental to the dispute other than the costs of the proceedings.

(3) The procedure on any reference to a referee under this section shall be such as may be determined by the referee, and such referee shall have the powers conferred on a magistrate to require and compel the attendance of witnesses and the production of books, papers and other documents and to award costs in accordance with the scale of costs laid down in the *Magistrates (Civil Procedure) Rules, 1958*.

(4) In making any appointment of a referee for the purposes of this section, the Minister shall not appoint any official of any Government department, other than a magistrate, and shall determine the remuneration, if any, to be paid to any referee other than a magistrate appointed as such, for his services.

*Drawbacks***Minister may direct granting of drawbacks**

133.(1) It shall be lawful for the Minister from time to time by regulations to direct on what goods a drawback of the whole or any part of the duties paid on importation thereof may be granted, the conditions under which such drawbacks shall be allowed and the person or classes of persons to whom such drawbacks shall be allowed.

(2) Notwithstanding anything in subsection (1), all drawbacks payable by virtue of any subsidiary legislation made under any Act repealed by this Act*, other than by virtue of a notice published under subsection (2) of section 105 of the *Trade Act, 1910*, shall be paid or allowed under this Act until the same are cancelled by a direction of the Minister given under this section.

**[The Acts repealed were the Customs Establishment Act, 1905, 1905-8; the Trade Act, 1910, 1910-4; and the Customs Tariff Act, 1921, 1921-3. See Customs Act, 1962, 1962-18, section 262 (not reprinted) which also saved existing subsidiary legislation made under those enactments.]*

Declaration by owners of goods exported on drawback

134. Subject to any regulations, the owner of any goods on which drawback is claimed shall make and subscribe a declaration on the debenture prepared by the proper officer that the conditions under which drawback is allowed have been fulfilled, and, in the case of goods exported or put on board a ship or aircraft for use as stores, that such goods have been actually exported or put on board for use as stores, as the case may be, and have not been returned and are not intended to be returned to Barbados and that such owner at the time of entry of such goods was and continues to be entitled to the drawback thereon.

Evidence of landing or disposal of drawback goods

135. The Comptroller may require the owner to produce satisfactory evidence of the landing or disposal of any goods before certifying any debenture.

Payment of drawbacks

136.(1) Subject to section 137, every sum of money due to a person upon any debenture shall be paid by the Comptroller to that person on the presentation of that debenture to the Comptroller.

(2) Payments of drawbacks under subsection (1) shall be a charge on the Consolidated Fund.

[1975-27]

Time limit for debenture payment

137. No sum of money due on any debenture for drawback shall be paid after the expiration of 2 years from the date of entry of any goods for drawback or from the date of the performance of the conditions on which drawback is allowed, as the case may require or, in the case of goods exported or put on board a ship or aircraft for use as stores, from the date of putting the same on board the exporting or using ship or aircraft unless the Minister authorises the payment of such sum.

Drawback on goods lost

138. Where it is proved to the satisfaction of the Comptroller that any goods after being duly put on board a ship or aircraft for exportation or use as stores have, either before or after exportation, been destroyed by accident on board such ship or aircraft, any drawback or allowance payable on the goods shall be payable in the same manner as if the goods had been actually exported or used as stores.

Drawback on goods abandoned

139. Where it is proved to the satisfaction of the Comptroller that any goods after being duly put on board a ship or aircraft for exportation or use as stores have been materially damaged on board such ship or aircraft, any drawback or allowance payable in respect of the goods shall, if they are with the consent of

the Comptroller discharged in the Island and abandoned to the Crown, be payable as if the goods had been actually exported or used as stores.

Modification of declaration

140. The Comptroller may modify the form of declaration referred to in section 134 in such manner as he may think necessary for adapting it to sections 138 and 139.

PART V

WAREHOUSED GOODS AND GOODS IN TRANSIT SHEDS, CUSTOMS AREAS AND QUEEN'S WAREHOUSE

Warehousing

141.(1) The Minister may from time to time by notice in the *Official Gazette* declare what kind of goods shall not be warehoused and what kind of goods shall or may be warehoused in a Government or private warehouse and any goods while in a Queen's warehouse or in any warehouse, and all goods whatsoever while in any customs area or transit shed shall be subject to such regulations as may be prescribed, and, in the case of goods warehoused in a Queen's warehouse or in a Government warehouse or while in a Government customs area or in a Government transit shed, other than a warehouse, customs area or transit shed vested in the Crown and used by the Port Department in the performance of its services as a warehouseman, to the payment by the owner of such goods, at the prescribed times, of such rent and other charges as the Minister shall from time to time direct by notice in the *Official Gazette*.

(2) Where at any time any rent or other charges are not paid to the proper officer when due and payable on any goods in a Government warehouse, Government customs area or Government transit shed, such goods may, without prejudice to any other lawful method of recovery, be sold or otherwise dealt with, and any proceeds applied, as if they were goods which might be sold or otherwise dealt with under sections 169 and 170.

Crown not liable for loss in warehouses or customs areas

142.(1) No compensation shall be payable by the Crown to an importer, owner or consignee of any goods deposited in a Government warehouse, in a Government customs area or in a Government transit shed, save when loss or damage occurs as the direct result of the wilful act or negligence of an officer or other person employed by the Crown or in the public service:

Provided that this subsection shall not apply to goods delivered to or in the possession of or accepted by the Port Department.

(2) No action shall be brought against the Crown or against any person employed by the Crown or in the public service for loss or damage sustained by goods while in any private warehouse, private transit shed or private customs area for any wrong or improper delivery of goods therefrom.

(3) For the purposes of subsection (1), the expressions “delivered to”, “the possession of” and “accepted by” in relation to the Port Department shall have the meanings assigned by section 2 of the *Barbados Harbours Act*, Cap. 286.

[1967/168]

Private warehouses and transit sheds

143. No building or place may be used as a private warehouse or, save with the written permission of the Comptroller, as a private customs area or private transit shed until a bond, in such sum as may from time to time in each case be required by the Comptroller, is given by the warehouse-keeper or by the owner or occupier of the private customs area or private transit shed, as the case may be, with one or more sufficient sureties, conditioned on due payment of all duties and the due observance of the provisions of the customs law.

Warehouse-keeper, etc., to provide facilities

144. The owner or occupier of any private warehouse, private customs area or private transit shed shall provide such office, sanitary and lavatory

accommodation and weights, scales, measures and other facilities for examining and taking an account of goods and for securing the same as the Comptroller may require.

Repacking: sampling of goods by owner

145. The Comptroller may direct what goods may be skipped in a customs area, transit shed or warehouse, or bulked, sorted, lotted, packed and repacked there, and the manner thereof, and direct in what manner and subject to what conditions the owner of any goods may take samples thereof:

Provided that, no goods may in any such building or place be packed into containers of a size in which the same are prohibited to be imported or exported, unless provision therefor is made by law.

Goods in warehouses, etc., not to be opened, etc., except in the presence of an officer

146.(1) No person, other than an officer in the execution of his duty, shall open, rack, repack, sort, lot, bulk, skip or unpack any goods whatsoever in a customs area or in a transit shed or warehouse except in the presence of or with the knowledge and consent of an officer of customs acting in the execution of his duty.

(2) Any person, not being an officer acting in the execution of his duty, who clandestinely or deliberately opens, racks, repacks, sorts, lots, bulks, skips, or unpacks any goods whatsoever in a customs area or in a transit shed or any warehouse, except in the presence of and with the express permission of an officer, shall for every such offence be liable to a penalty of five hundred dollars.

Effect of revocation of approval of a warehouse, etc.

147.(1) On the revocation of the approval of any warehouse, transit shed or customs area, the duties on all goods warehoused or deposited therein shall be

paid or the goods shall be exported or removed to a warehouse within such time as the Comptroller may direct.

(2) Notice in writing of such revocation left at the warehouse, transit shed or customs area shall be deemed to be notice to all persons interested in the goods.

Disposal of goods on revocation

148. Where any goods are not duly exported or removed in conformity with section 147, such goods shall be taken to a Queen's warehouse by the proper officer and may be sold, or otherwise dealt with, and any proceeds applied as if the goods were goods which might be sold or otherwise dealt with under section 176.

Entry of goods for warehousing

149.(1) Upon the presentation of an entry for goods to be warehoused, the proper officer shall, subject to any other direction of the Comptroller, take a particular account of such goods and shall enter in a book prepared for that purpose the name of the importing ship or aircraft and of the person in whose name such goods are entered, the number of containers, the mark and number of each container, the description of the goods and the name of the warehouse in which the same are deposited.

(2) When the account and entry aforesaid have been completed, the warehouse-keeper, in the case of goods to be warehoused in a private warehouse, or the officer in charge of a Government warehouse, in the case of goods to be warehoused, shall acknowledge in writing at the foot of the account the receipt of the goods into the warehouse, and such goods shall from that time be considered goods duly warehoused.

Goods to be warehoused in containers in which imported, and may be required to be marked

150.(1) All goods warehoused shall be deposited in the packages in which they are imported, except such goods as are permitted to be dealt with as provided in section 145 in which case they shall be deposited in the containers in which they are contained when the account thereof is taken by the proper officer on the completion of the operation.

(2) The importer or owner of the goods shall mark such particulars on the containers containing such goods or any of them and in such manner as the Comptroller may direct.

Penalty for interfering with storage of goods in a private warehouse, etc.

151. Where in the case of goods warehoused in a private warehouse or deposited in a private transit shed or private customs area any alterations are afterwards made in the goods or containers so warehoused or deposited or in the packing thereof in such warehouse, transit shed or customs area or in the marks or numbers of such containers, without the presence and sanction of the proper officer or where the same are removed from any such warehouse, transit shed or customs area in which they were warehoused or deposited without the knowledge of the proper officer, except for delivery after they have been duly entered and under the authority of the proper officer, such goods shall be liable to forfeiture.

Stowage of goods in warehouse or customs area

152. All goods deposited in any warehouse, transit shed or customs area shall be arranged, stowed and maintained to the satisfaction of the Comptroller in such manner that easy access can be had to every package or parcel thereof and the Comptroller may give such directions as to the arrangement, stowage or maintenance of any goods as he thinks fit.

Warehouse-keeper neglecting to arrange, stow and maintain goods

153. Where goods are not arranged, stowed and maintained in a private warehouse, private transit shed or private customs area to the satisfaction of the Comptroller, the occupier of the private warehouse, private transit shed or private customs area shall, on receipt of a written notice from the Comptroller, comply with any directions given under section 152 within a period of 7 days (Sundays and public holidays excluded) and any occupier who fails to comply therewith shall in respect of every container not so arranged, stowed or maintained be liable to a penalty of \$25, together with a further penalty of \$5 for each day during which any such container is not so arranged, stowed or maintained.

Goods to be produced to officer

154.(1) Where the occupier of any private warehouse, private transit shed or private customs area does not produce to any officer on his request any goods deposited in such warehouse, transit shed or customs area, which have not been duly entered or delivered therefrom, the proper officer shall send to the occupier a written notice requiring him within a period of 7 days (Sundays and public holidays excluded) to produce such goods to the officer, or to account to the satisfaction of the officer for the goods.

(2) An occupier to whom subsection (1) applies who fails within the period specified in that subsection to produce any goods referred to in that subsection to the officer or to account for them to his satisfaction shall for every such failure be liable to a penalty of \$500 in respect of every container not so produced or accounted for.

[This amendment has effect from 25th April, 1995.]

[1995-16]

(3) Notwithstanding anything in this section, the occupier shall, in every case, forthwith pay the duties (in addition to any penalty) due upon every container not produced or accounted for.

Penalty for not warehousing, etc.

155. Where any goods entered to be warehoused are not duly warehoused by the importer in pursuance of such entry, or where any goods whatsoever, being goods duly warehoused in a private warehouse or deposited in a private transit shed or in a private customs area, are in any way concealed in the warehouse, transit shed or customs area, or abstracted from any container or transferred from one container to another, or otherwise, for the purpose of illegal mixing, or concealment, they shall be liable to forfeiture.

Penalty of duties where goods are unlawfully removed and penalty for embezzling warehoused goods

156.(1) Where any goods required to be previously entered are, except as permitted by the customs laws, taken out of any private warehouse, private transit shed or private customs area, the warehouse-keeper or the occupier of the transit shed or customs area shall forthwith pay the duties upon such goods.

(2) Any person who

- (a) unlawfully takes out any goods from any warehouse, transit shed or customs area or aids or assists or is concerned therein; or
- (b) steals, embezzles or in any way unlawfully misappropriates or converts any goods duly warehoused or deposited in a transit shed or customs area, or unlawfully destroys any such goods,

shall be guilty of an offence and shall be liable, upon conviction on indictment, to imprisonment for a term of two years, and where any such person is an officer and has been prosecuted to conviction no duty shall be payable for or in respect of such goods, and any damage sustained by reason of such theft, embezzlement, misappropriation, conversion or destruction shall, with the consent of the Minister, be made good to the importer, consignee or owner.

Penalty for illegally entering, etc., warehouses, etc.

157. Any person, other than an officer acting in the execution of his duty, who when not authorised by a warehouse-keeper, occupier or an officer enters any warehouse, transit shed or part of a customs area when forbidden by the warehouse-keeper or occupier or officer to do so or refuses to leave any warehouse or any part of a customs area when so requested by the warehouse-keeper or occupier or officer shall be liable to a penalty of fifty dollars and may be detained.

Proper officer may do reasonable acts to goods in Government warehouses, etc.

158. The proper officer shall have power, at the expense of the owner of goods warehoused in a Government warehouse or deposited in a Government transit shed or Government customs area, to do all such reasonable acts as may by him respectively be deemed necessary for the proper custody and preservation of such goods, and shall have a lien on the said good for expenses so incurred; but no such acts shall be done until the expiration of twenty-four hours after the owner of such goods has been notified that such acts are required, unless the proper officer in his discretion decides that immediate action is necessary for the proper custody or preservation of the goods as aforesaid.

Importer or owner to pay cost of action taken under section 158

159. The importer or owner of any goods warehoused in a Government warehouse, Government transit shed or Government customs area shall pay any expenses incurred in respect thereof under section 158 at such times and in such manner as the Comptroller either generally or in any particular case directs; and where any such expenses are not paid in accordance herewith, such goods may be sold or otherwise dealt with, and any proceeds applied, as if they were goods which might be sold or otherwise dealt with under section 169.

Removal of warehoused goods for home consumption, exportation or use as stores

160.(1) Before any goods are removed from a warehouse for home consumption or for exportation or use as stores, the proprietor of the goods shall deliver to the proper officer an entry thereof in such form and manner and containing such particulars as may be prescribed.

(2) Save as permitted by or under the customs laws, no goods shall be removed from a warehouse until any duty chargeable thereon has been paid.

Removal of warehoused goods to another warehouse

161. The removal of warehoused goods from a warehouse to any other warehouse shall be subject to such regulations as may be prescribed and to such other conditions as the Comptroller may direct.

Procedure on delivery where goods are removed from one Government warehouse to another

162.(1) On the delivery of any goods for removal from a Government warehouse to another Government warehouse, an account containing the particulars thereof shall be transmitted by the proper officer of the port or place of removal to the proper officer of the port or place of destination, and the person requiring the removal thereof shall enter into a bond, with such security as the Comptroller shall require, in a sum equal at least to the duty chargeable on such goods, for the due arrival and re-warehousing thereof at the port or place of destination within such time as the proper officer may direct.

(2) Such bond shall not be discharged unless such goods are produced to the proper officer and duly re-warehoused at the port or place of destination within the time directed by the proper officer as aforesaid, or unless the full duties of customs are paid thereon as provided in section 164 or unless such goods are otherwise accounted for to the satisfaction of the Comptroller or until the full duties due upon any deficiency of such goods not so accounted for are paid.

Goods removed subject to warehouse regulations

163. Upon the arrival at the port or place of destination of any goods removed from one warehouse to another, the goods shall be warehoused in the same manner, and under and subject to the same laws, rules and regulations, so far as the same are or can be made applicable, as on the warehousing of goods on the first importation thereof except that further entry of the goods shall not be required.

Goods removed may be entered for use in the Island or for exportation

164. Where, upon the arrival at the port or place of destination of any goods removed from one Government warehouse for warehousing in another Government warehouse, the parties are desirous forthwith to export the same or to pay duty thereon for use within the Island, without actually lodging the same in the warehouse, the officer at such port or place may permit the goods to be entered and delivered for home use, or to be entered and loaded for exportation, as if such goods had been actually lodged in such warehouse.

Removal in certain cases to be subject to certain conditions

165.(1) Where any goods taken from a warehouse for removal to another warehouse or for exportation or use as stores are removed or put on board a ship or aircraft except with the authority or under the care of the proper officer and in accordance with any regulations and in such manner, by such persons and vehicles and within such time, and by such roads or ways, as such officer shall permit or direct, such goods shall be liable to forfeiture.

(2) Where any such goods are illegally removed or carried away prior to being put on board the exporting ship or aircraft or from any exporting ship or aircraft in or on which the same have been put or from any vehicle by which the same are to be or are being removed, the bond given in respect thereof may forthwith be put in suit for the penalty thereof, although the time prescribed in such bond for putting the goods on board the exporting ship or aircraft, or re-warehousing

such goods at the place of destination, has not expired; and all such goods shall be liable to forfeiture.

Comptroller may remove goods warehoused in a Government warehouse

166. Notwithstanding anything hereinbefore contained, the Comptroller may, if in his discretion he decides that such action is advisable, remove goods from one Government warehouse to another in any manner he may deem reasonable and any costs incurred in carrying out any such removal shall, notwithstanding anything contained in the *Financial Administration and Audit Act*, Cap. 5, be paid by the Accountant-General out of the Consolidated Fund on the order of the Comptroller.

Warehoused goods to be cleared within two years

167. Subject to section 168, all warehoused goods shall be entered and delivered either for use within the Island or as stores or for exportation not later than two years after the day of first entry for the warehousing thereof.

Power of the Comptroller to extend period during which goods may be warehoused

168. If the Comptroller sees fit so to do, he may, in respect of any warehoused goods not entered and delivered either for use within the Island or as stores or for exportation within two years of the day of first entry for the warehousing thereof, grant further time for any such goods to remain warehoused in which event such goods shall be entered and delivered as aforesaid not later than the expiration of the further time so granted.

Disposal of goods warehoused for longer than the permitted time

169.(1) Where any warehoused goods are not duly entered and delivered for use within the Island or as stores or for exportation within two years of the day of first entry for the warehousing thereof or within such further time as may be granted by the Comptroller, the same shall be advertised by the Comptroller in

the *Official Gazette* and, in the case of goods warehoused in a private warehouse, removed to a Queen's warehouse and one month after such advertisement shall, with all convenient speed, be sold by public auction.

(2) The proceeds of such sale shall be applied first in payment of the duties, then in payment of any warehouse rents, charges and expenses of the same due and payable to the Crown, including any expenses of removal to a Queen's warehouse, then in discharge of any lien for freight and other charges, and the surplus, if any, shall be paid to the owner of such goods on his application for the same within one year from the time of sale, but otherwise shall be paid into the Consolidated Fund.

(3) Where such goods, on being offered for sale, cannot be sold for a sum to pay all duties, rent, charges and expenses due and payable to the Crown, then the same may be destroyed or otherwise disposed of as the Comptroller may direct and any rent, charges and expenses due and payable to the Crown in respect of such goods shall forthwith be paid by the owner of such goods.

Warehoused goods entered or sold must be removed within fourteen days

170. Any goods which remain in any warehouse for a period of fourteen days after being entered for use within the Island or after being sold by public auction under the customs laws shall be liable to forfeiture, unless the failure to remove the same is explained to the satisfaction of the Comptroller.

Delivery in special circumstances

171. The Comptroller may permit any goods to be taken out of any warehouse, transit shed or customs area without payment of duty for such purpose and for such period as to him may appear expedient, and in such quantities, and under such regulations and restrictions, and with such security by bond for the due return thereof or the payment of the duties due thereon, as he may direct or require; and any such goods which are dealt with in any way contrary to the terms of such permission or of such regulations or restrictions shall be liable to forfeiture.

Stores

172. The Comptroller shall not permit warehoused goods to be delivered as stores for a ship of less than twenty tons burden, nor shall any warehoused goods be delivered to any ship or aircraft otherwise than in accordance with section 75 and where any goods taken from a warehouse for use as stores are not duly put on board the ship or aircraft for which the same are entered, or otherwise accounted for to the satisfaction of the Comptroller, or are dealt with in any way contrary to the customs laws, such goods shall be liable to forfeiture.

Duty chargeable on warehoused goods

173.(1) Subject to subsection (2), the duties of customs and the rates thereof chargeable on warehoused goods shall be those in force with respect to goods of that class or description at the date of the removal of the goods from the warehouse.

(2) Where goods have been permitted under this Act to be removed from a warehouse without payment of duty for any purpose, the duties of customs and the rates thereof chargeable on the goods shall be those in force with respect to goods of that class or description—

(a) where delivery is allowed under section 171, on the giving of security by deposit of money or otherwise for the duty or any part thereof chargeable thereon, at the date of the giving of the security; or

(b) in any other case, at the date of payment.

(3) Subject to subsection (4), the amount payable in respect of any duty chargeable on goods under this section shall be calculated in accordance with the account taken of the goods upon their first being warehoused.

(4) In the case of any of the following goods, that is to say tobacco in leaf, oil in casks, wine in casks, malt liquor in casks, and spirits in casks, the amount payable in respect of any duty chargeable thereon shall be chargeable upon the quantity of such goods ascertained by weight, measure or strength, as the case

may be, at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of deficiency or difference between the weight, measure or strength, as the case may be, on landing and first examination of such goods and that ascertained at the time of actual delivery has been caused by illegal or improper means, in which case the Comptroller shall make such allowance only for loss as he may consider fairly to have arisen from natural evaporation or other legitimate cause.

Goods deemed to be in a Queen's warehouse

174. Where under the customs laws any goods, other than goods in a transit shed, are or may be required to be deposited in a Queen's warehouse, and for any reason the proper officer, in his discretion, decides that it is undesirable or inconvenient to deposit such goods in a Queen's warehouse, such goods shall for all purposes be deemed to be deposited in a Queen's warehouse as from the time that the same are required to be deposited in a Queen's warehouse, and shall, in addition to such rent and other charges as the Minister from time to time directs by notice in the *Official Gazette*, be chargeable with such expenses for securing, watching, guarding, and of removing the same from the original to some other place of deposit (if the proper officer so requires) as the proper officer may deem reasonable, and no officer shall be liable to make good any damage which such goods may sustain by reason, or during the time, of their being so deposited and dealt with as aforesaid.

Crown not liable for loss in a Queen's warehouse

175. No compensation shall be payable by the Crown to any importer, owner or consignee of any goods deposited in a Queen's warehouse, save when loss or damage occurs as the direct result of the wilful act or negligence of an officer or other person employed by the Crown or in the public service.

Goods deposited in a Queen's warehouse may be sold

176.(1) Where under the customs laws any goods are or may be required to be deposited in a Queen's warehouse and such goods are of a perishable nature,

then it shall be lawful for the proper officer, notwithstanding such provisions, to sell the same forthwith by public auction; and if such goods, though not perishable, are of a kind not permitted by any provisions of law to be deposited in a Queen's warehouse, it shall be lawful for the proper officer, notwithstanding such provisions, to sell the same by public auction after fourteen days' notice by publication in the *Official Gazette*.

(2) Where any goods are deposited in a Queen's warehouse under this Act and the same are not entered for warehousing or delivery from such Queen's warehouse within one month after such deposit or within such further period as the proper officer may direct, and all charges for removal, freight and rent and all other expenses incurred in respect thereof duly paid, such goods shall be advertised in the *Official Gazette* and one month after such advertisement shall with all convenient speed be sold by public auction.

(3) In all cases where goods are sold under this section, the proceeds shall be applied first in discharge of duties (if any), then of the expenses of removal and sale and of rent and charges due to the Crown, and then of freight and other charges for which a claim has been made before the date of the sale; and the balance, if any, shall be paid to the owner of the goods on his application for the same, if such application be made within one year from the time of the sale of such goods, but otherwise shall be paid into the Consolidated Fund.

(4) Any goods on being offered for sale as aforesaid which cannot be sold for a sum sufficient to pay all duties, expenses, rent and charges may be destroyed or otherwise disposed of as the Comptroller may direct.

Charges on goods deposited in Queen's warehouse to be paid before delivery

177. Any officer having the custody of any goods which come into his hands under this Act shall refuse delivery thereof from a Queen's warehouse until proof is given to his satisfaction that the freight, landing and storage charges due on such goods and any charges due in respect of such goods by virtue of the Tariff

Book prepared and published under the *Barbados Harbours Act*, Cap. 286 have been paid.

Goods deposited in a Queen's warehouse may be examined

178. The Comptroller may cause any goods required to be removed under this Act to a Queen's warehouse to be opened for examination by any officer, as often as may be required, at the expense of the owner of such goods.

Minister may remit rents and charges

179. The Minister may, upon application by the importer or exporter of any goods, remit or refund in whole or in part any rent or charges payable or paid on goods stored in a Government warehouse or deposited in a Government customs area or transit shed or in a Queen's warehouse if he is satisfied that it is just and equitable so to do.

Penalty for evading laws regarding warehousing of goods

180. Every person who is in any way concerned in any fraudulent evasion or attempt at evasion of the laws and restrictions relating to the warehousing of goods shall for each such offence be liable to a penalty of five hundred dollars or three times the value of the goods, whichever is the greater, or to imprisonment for one year or to both, and may be detained and all goods in respect of which such offence is committed shall be liable to forfeiture.

PART VI

CARRIAGE OF GOODS COASTWISE

Coasting trade

181.(1) Subject to section 182, any ship for the time being engaged in the trade of carrying goods coastwise between places in the Island shall, for the purposes of this Act, be a coasting ship.

(2) Subject to section 182, no goods not yet entered on importation and no goods for exportation shall be carried in a ship engaged in the trade of carrying goods coastwise.

(3) The Comptroller may from time to time give directions as to what trade by water between places in the Island is or is not to be deemed to be carrying goods coastwise.

Coasting trade exceptional provisions

182.(1) The Comptroller may, subject to such conditions and restrictions as he sees fit to impose, permit a ship to carry goods coastwise notwithstanding that the ship is carrying goods brought therein from some place outside the Island and not yet entered on importation:

Provided that a ship so permitted to carry goods coastwise shall not, for the purposes of this Act, be a coasting ship.

(2) The Comptroller may, subject to such conditions and restrictions as he sees fit to impose, permit goods brought by an importing ship to some place in the Island but consigned to and intended to be delivered at some other such place to be transhipped before due entry of the goods has been made to another ship for carriage coastwise to that other place.

(3) Where any ship has begun to load goods at any place in the Island for exportation outside the Island and is to go to any other such place to complete loading, the Comptroller may, subject to such conditions as he sees fit to impose, permit that ship to carry other goods coastwise until she has completed her loading.

(4) If, where any goods are permitted to be carried coastwise in any ship under this section, the goods are loaded, unloaded, carried or otherwise dealt with contrary to any condition or restriction imposed by the Comptroller, the goods shall be liable to forfeiture and the master of the ship shall be liable to a penalty of one hundred dollars.

Clearance of coasting ship and transire

183.(1) Subject to this section and save as permitted by the Comptroller, before any coasting ship departs from any port, the master thereof shall deliver to the proper officer an account in such form and manner and containing such particulars as the Comptroller may direct, and that account when signed by the proper officer shall be the transire, that is to say, the clearance of the ship from that port and the pass for any goods to which the account relates.

(2) The Comptroller may, subject to such conditions as he sees fit to impose, grant a general transire in respect of any coasting ship and any goods carried therein.

(3) Any such general transire may be revoked by the Comptroller by notice in writing delivered to the master or owner of the ship or to any member of the crew on board the ship.

(4) Where a coasting ship departs from any port without a correct account having been delivered, except as permitted by the Comptroller or under and in compliance with any conditions imposed on the grant of a general transire, the master shall be liable to a penalty of one hundred dollars.

Additional powers of officers in relation to coasting ships

184.(1) The proper officer may examine any goods carried or to be carried in a coasting ship—

(a) at any time while they are on board the ship;

(b) at any place in the Island to which the goods have been brought for shipment in, or at which they have been unloaded from, the ship,

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

- (2) The proper officer—
- (a) may board and search a coasting ship at any time during its voyage;
 - (b) may at any time require any document which should properly be on board a coasting ship to be produced or brought to him for examination,
- and where the master of the ship fails to produce or bring any such document to the proper officer when required, he shall be liable to a penalty of one hundred dollars.

Power to make regulations as to carriage of goods coastwise, etc.

185.(1) The Minister may make regulations as to the carriage of goods coastwise—

- (a) regulating the loading and unloading and the making waterborne for loading of the goods;
 - (b) requiring the keeping and production by the master of a coasting ship of such record of the goods carried in that ship as may be prescribed by the regulations.
- (2) Any person who contravenes or fails to comply with any regulation shall be liable to a penalty of two hundred and fifty dollars and any goods in respect of which the offence was committed shall be liable to forfeiture.

Offences in connection with carriage of goods coastwise

186.(1) Where in the case of any coasting ship—

- (a) any goods are taken on board or removed therefrom at sea or at any place outside the Island; or
- (b) except for some unavoidable cause, the ship touches at any place outside the Island or deviates from her voyage; or
- (c) the ship touches at any place outside the Island and the master does not report that fact in writing to the proper officer at the first port at which the ship arrives thereafter,

the master of the ship shall be liable to a penalty of five hundred dollars.

(2) Any goods which are shipped and carried coastwise or which, having been carried coastwise, are unloaded in any place in the Island, otherwise than in accordance with sections 181 to 184 or of any regulations made under section 185, or which are brought to any place for the purpose of being so shipped and carried coastwise, shall be liable to forfeiture.

(3) Where any goods are carried coastwise or shipped as stores in a coasting ship contrary to any prohibition or restriction for the time being in force with respect thereto under any enactment or are brought to any place in the Island for the purpose of being so carried or shipped, then those goods shall be liable to forfeiture, and, save where a penalty for the offence in question is expressly provided by the enactment imposing the prohibition or restriction, the shipper or intending shipper of the goods shall be liable to a penalty of five hundred dollars.

PART VII

PREVENTION OF SMUGGLING

Power to regulate small craft

187.(1) The Minister may make general regulations with respect to ships not exceeding one hundred tons burden and any such regulations may in particular make provision as to the purposes for which and the limits within which such ships may be used; and different provision may be made by such regulations for different classes or descriptions of such ships.

(2) The Comptroller may, in respect of any such ship as aforesaid, grant a licence exempting that ship from all or any of the provisions made under this section.

(3) Any such licence may be granted for such period, for such purposes and subject to such conditions and restrictions as the Comptroller may see fit and may be revoked at any time by the Comptroller.

(4) Any such ship as aforesaid which, except under and in accordance with the terms of a licence granted as aforesaid, is used contrary to any regulation made under this section, and any ship granted such a licence which is found not to have the licence on board, shall be liable to forfeiture.

Forfeiture of goods on board small craft

188. Where upon boarding any ship not exceeding one hundred tons burden any officer finds any goods of which the master is not able to give a satisfactory account and where such officer suspects that such goods are being or have been or are intended to be dealt with in any way contrary to the customs laws, he may arrest and detain such master and take him before a magistrate, and if such master fails to satisfy the magistrate that such goods had not been, were not being and were not intended to be dealt with contrary to the customs laws, such goods shall be liable to forfeiture and the master shall be liable to a penalty of five hundred dollars.

Penalty on persons found on board smuggling ships or aircraft

189.(1) Where any ship is found or discovered to have been within the waters of the Island or where any aircraft is found or discovered to have been within or over the Island—

- (a) having or having had on board any secret or disguised place adapted for concealing goods or any device adapted for running goods; or
- (b) having or having had on board or in any manner attached thereto, or conveying or having conveyed in any manner, any goods imported contrary to the customs laws or goods intended for exportation contrary to the customs laws; or
- (c) from which any part of the contents of such ship or aircraft have been thrown overboard to prevent seizure; or
- (d) on board which any goods have been staved or destroyed to prevent seizure,

then in every such case every person who is found or discovered to have been on board any such ship or aircraft shall, subject to subsection (2), be liable to a penalty of five hundred dollars, and all such goods shall be liable to forfeiture.

(2) No person shall be liable under subsection (1) unless there is reasonable cause to believe that such person was concerned in or privy to the illegal act or thing proved to have been committed.

Smuggling ships under 250 tons forfeited

190. Every ship of less than two hundred and fifty tons burden on board which, or in respect of which, any offence against section 189 has been committed shall be liable to forfeiture.

Penalty on smuggling ships of 250 tons or more and aircraft

191.(1) With regard to any ship of not less than two hundred and fifty tons burden or to any aircraft on board or in respect of which any offence against section 189 has been committed, such ship or aircraft shall not be liable to forfeiture for such offence, but the following provisions shall apply, that is to say—

- (a) the Comptroller shall have power, subject to the approval of the Minister, to fine any such ship or aircraft in any sum, not exceeding two hundred and fifty dollars, in any case where in his opinion a responsible officer of such ship or aircraft is implicated either actually or by neglect;
- (b) where the Comptroller considers that a fine should be imposed, then, pending the approval of the Minister, the Comptroller may require such sum as he sees fit, not exceeding two hundred and fifty dollars, to be deposited with him to await the final decision and in default of such deposit the Comptroller shall have power to withhold clearance and to detain the said ship or aircraft;
- (c) where in any case the Comptroller considers that the fine of two hundred and fifty dollars aforesaid will not be an adequate penalty

against any such ship or aircraft for the offence committed thereon, it shall be lawful for him to take proceedings in accordance with the Schedule, in like manner as he might but for the provisions of this section have taken proceedings for the condemnation of the ship or aircraft if notice of claim had been given in respect thereof, for the condemnation of the ship in such sum not exceeding two thousand five hundred dollars, as the court may see fit;

- (d) where any proceedings for condemnation are to be taken under this section the Comptroller may require such sum as he sees fit, not exceeding two thousand five hundred dollars, to be deposited with him to await the decision of the court and in default of such deposit the Comptroller shall have power to withhold clearance and to detain the said ship or aircraft;
 - (e) no claim shall be made against the Comptroller for damages in respect of the payment of any deposit or the detention of any ship or aircraft under this section.
- (2) The exemption from forfeiture of any ship or aircraft under this section shall not affect any liability to forfeiture of goods carried therein.
- (3) For the purposes of this section—
- (a) the expression “responsible officer” means the master, a mate or an engineer of any ship or the commander, navigator or any pilot of an aircraft and in the case of a ship carrying a passenger certificate the purser or chief steward;
 - (b) without prejudice to any other grounds upon which a responsible officer may be held to be implicated by neglect, he may be so held if goods not owned to by any member of the crew are discovered in a place under that officer’s supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the ship or aircraft or subsequently.

Ship forfeited for offence during chase

192. Where any ship within the waters of the Island does not bring to upon the proper signal made by any vessel or boat in service of the Crown or in the service of the customs, whereupon chase is given, and where any person on board such ship, during chase or before such ship brings to or upon bringing to, throws overboard any part of her contents or staves or destroys any part thereof to prevent seizure, such ship shall be liable to forfeiture.

Penalty for not bringing to

193. Where, save for just and sufficient cause, any ship which is liable to forfeiture or examination under the customs laws does not bring to when required so to do and so remain for such period as the boarding officer requires, the master of such ship shall be liable to a penalty of \$100.

Offences by smugglers, etc., against officers

194.(1) Any person who maliciously shoots at a ship in the service of the customs or maliciously shoots at, maims or wounds any officer in the execution of his office or duty or with violence commits any of the offences mentioned in subsection (4) and every person aiding, abetting or assisting therein shall be guilty of an offence and shall be liable, on conviction on indictment, to imprisonment for 15 years.

(2) Any person engaged, or who has been engaged, in the commission of any offence against the customs laws who is armed with firearms or other offensive weapons or, whether so armed or not, is disguised in any way, being so armed or disguised, is found with any goods liable to forfeiture under the customs laws shall be guilty of an offence and shall be liable, on conviction on indictment, to imprisonment for 3 years.

(3) Any person who by any means procures or hires or deposes or authorises any other person to procure or hire any person to assist in any evasion of the

customs laws shall be guilty of an offence and shall be liable, on conviction on indictment, to imprisonment for 2 years.

- (4) Any person who
- (a) staves, breaks, or destroys any goods to prevent seizure thereof by an officer or other person authorised to seize the same; or
 - (b) rescues, or staves, breaks or destroys to prevent the securing thereof any goods seized by an officer or other person authorised to seize the same; or
 - (c) rescues any person apprehended for any offence under the customs laws; or
 - (d) prevents the apprehension of any such person; or
 - (e) obstructs any officer going, remaining or returning from on board a ship or aircraft within Barbados, or in searching a ship or aircraft, or in searching a person liable to be searched under the customs laws, or in seizing any goods liable to forfeiture, or otherwise acting in the execution of his duty; or
 - (f) attempts or endeavours to commit, or aids, abets or assists in the commission of any of the offences mentioned in this subsection,

shall for each such offence be liable to a penalty of \$500.

- (5) For the purposes of this section, the expression “violence” means any criminal force or harm to any person, or any criminal mischief to any property, or any threat or offer of such force, harm or mischief, or the carrying or use of deadly, dangerous or offensive weapons in such manner as is likely to cause terror to any person, or such conduct as is likely to cause in any person a reasonable apprehension of criminal force, harm or mischief to him or to his property.

[1992-17]

Penalty for assembling to evade customs laws

195. All persons to the number of 3 or more who assemble for the purpose of evading any of the provisions of the customs laws, or who having so assembled evade any such provisions, shall each be guilty of an offence and shall each be liable, on conviction by a court of summary jurisdiction, to imprisonment for one year.

Penalty for signalling to smuggling ship or aircraft

196.(1) No person shall make or cause to be made, or aid or assist in making, any signal in or on board or from any ship or aircraft or on or from any part of Barbados for the purpose of giving notice to any person on board any smuggling ship or aircraft whether any person so on board of such ship or aircraft be or be not within distance to notice any such signal; and any person who makes or causes to be made, or aids or assists in making, any such signal shall, on conviction by a court of summary jurisdiction, be liable to imprisonment for one year.

(2) Where any person is charged with having made or caused to be made or for aiding or assisting in making any such signal as aforesaid, the burden of proof that such signal so charged as having been made with intent and for the purpose of giving such notice as aforesaid was not made with such intent and for such purpose shall be upon the defendant against whom such charge is made.

(3) Any person whatsoever may prevent any signal being made as aforesaid and may go upon any lands for that purpose without being liable to any prosecution or action at law.

(4) For the purposes of this section, any ship to which a signal is made as aforesaid and which changes its course or, if at anchor, weighs anchor, or from which any signal is made following any signal made from a ship or aircraft or from any part of the Island as aforesaid, shall for the purposes of this section be deemed to be a smuggling ship unless the contrary is proved.

Penalty for interfering with customs gear

197. Every person who cuts away, cuts adrift, removes, alters, defaces, sinks or destroys, or in any other way injures or conceals any ship, aircraft, buoy, anchor, chain, rope or mark in the charge of or used by any person for the prevention of smuggling or in or for the use of the service of the customs shall be liable to a penalty of two hundred and fifty dollars.

Intermeddling with goods found floating

198. Where any person, not being an officer or otherwise authorised by law, intermeddles with or takes up any uncustomed goods or any goods the importation or exportation of which is prohibited or restricted, being in packages found floating upon or sunk into the sea, such goods shall be liable to forfeiture and every such person shall be liable to a penalty of one hundred dollars.

Writs of assistance

199.(1) All writs of assistance issued from the Supreme Court (which is hereby authorised and required to grant such writs upon application by the Comptroller) shall continue in force during the reign for which they were granted and for six months afterwards.

(2) Any officer having such writ of assistance may, by day or by night, enter into and search any house, shop, cellar, warehouse, room or other place, and, in case of resistance, break open doors, chests, trunks and other packages, and seize and bring away any uncustomed or prohibited goods, or any books or documents relating thereto, and put and secure the same in a Queen's warehouse.

Search warrants

200.(1) Where any officer has reasonable cause to suspect that any uncustomed or prohibited goods, or any books or documents relating to uncustomed or prohibited goods, are harboured, kept or concealed in any house or other place in the Island, and it is made so to appear by information on oath

before any magistrate or justice of the peace in the Island, it shall be lawful for such magistrate or justice of the peace by special warrant under his hand to authorise such officer to enter and search such house or other place by day or by night, and to seize and carry away any such uncustomed or prohibited goods, or any books or documents relating to uncustomed or prohibited goods, as may be found therein.

(2) It shall be lawful for such officer, in case of resistance, to break open any door and to force and remove any other impediment or obstruction to such entry or seizure as aforesaid.

Officers may stop vehicle, etc.

201.(1) Any officer may upon reasonable suspicion stop and examine any ship, aircraft or vehicle within the Island to ascertain whether any uncustomed or prohibited goods are contained therein; and, if none shall be found, the officer shall not, on account of such stoppage and examination, be liable to any prosecution or action at law.

(2) Where the person in charge of any such ship or aircraft or any person driving or conducting such vehicle refuses to stop or allow such examination when required by any officer, he shall be liable to a penalty of five hundred dollars.

Officer may patrol freely

202. Any officer, in the execution of, or when on, duty, may patrol upon and pass freely, either on foot or otherwise, along and over and enter any part of the Island, other than a dwelling-house, and any such officer so proceeding shall not be liable to any prosecution or action at law for so doing.

Officer may moor or park patrol craft or vehicle

203. The officer in charge, of any ship or vehicle employed for the prevention of smuggling, may take such ship or vehicle to such place as he deems most convenient for that purpose, and keep any such ship or vehicle at such place

and for such time as he deems necessary and proper; and such officer shall not be liable to any prosecution or action at law for so doing.

Penalty for offering goods for sale as smuggled goods

204. Where any person offers any goods for sale as having been imported without payment of duty, or as having been otherwise unlawfully imported, then, whether or not the goods were so imported or were in fact chargeable with duty, the goods shall be liable to forfeiture and the person so offering them for sale shall be liable to a penalty of \$500 or 3 times the value of the goods, whichever is the greater.

Articles subject to forfeiture

205. Subject to section 191, all ships, aircraft and vehicles, together with all animals and things, made use of in the importation, landing, removal, conveyance, exportation or attempted exportation of any uncustomed, prohibited or restricted goods or any goods liable to forfeiture under the customs laws shall be liable to forfeiture; and the forfeiture of any ship, aircraft, vehicle, animal or thing shall be deemed to include the tackle, apparel and furniture thereof, and the forfeiture of any goods shall be deemed to include the package (including any article of passengers' baggage) in which the same are found and all the contents thereof.

PART VIII

DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS

Detention of Persons

Provisions as to detention of persons

206.(1) In addition to any other power of arrest or detention conferred by the customs laws, any person who has committed, or whom there are reasonable grounds to suspect of having committed, any offence for which he is liable to be detained under the customs laws may be detained in any place by any officer or

constable at any time within 3 years from the date of the commission of the offence.

(2) Where it was not practicable to detain any such person as aforesaid at the time of the commission of the offence, or where any such person having been then or subsequently detained for that offence has escaped, he may be detained by any officer or constable at any time in any place, and may be proceeded against in like manner as if the offence had been committed at the date when he was finally detained.

(3) Where any person has been detained by virtue of this section by a constable, the constable shall give notice of the detention to the Comptroller as soon as practicable.

Forfeiture

Provisions as to seizure and condemnation of goods, etc.

207.(1) Anything liable to forfeiture under the customs laws may be seized or detained by any officer or constable.

(2) Where anything is seized or detained as liable to forfeiture under the customs laws, the same may be seized or detained in any place, and all things so seized shall, subject to subsection (3), be forthwith delivered into the care of the Comptroller or, if such delivery is not practicable, notice in writing of the seizure or detention with full particulars of the thing seized or detained shall be given to the Comptroller.

(3) Where the person seizing or detaining anything as liable to forfeiture under the customs laws is a constable and that thing is or may be required for use in connection with any proceedings to be brought otherwise than under those laws, it may be retained in the custody of the police until either those proceedings are completed or it is decided that no such proceedings shall be brought:

Provided that

- (a) notice in writing of the seizure or detention and of the intention to retain the thing in question in the custody of the police, together with full particulars as to that thing, shall be given to the Comptroller as soon as practicable;
- (b) any officer shall be permitted to examine that thing and take account thereof at any time while it remains in the custody of the police.

(4) Subject to subsection (3), subsection (4A) and to the *Third Schedule*, anything seized or detained under the customs laws shall, pending the determination as to its forfeiture or disposal, be dealt with and, if condemned or deemed to have been condemned as forfeited, shall be disposed of in such manner as the Comptroller may direct.

[1984-44; 2007-2]

(4A) Notwithstanding subsection (4), the Minister may, in respect of any goods that have been condemned or deemed to have been condemned as forfeited, direct the Comptroller to destroy the goods if the Minister considers it necessary to do so.

[1984-44]

(5) The *Third Schedule* shall have effect for the purpose of forfeitures, and of proceedings for the condemnation of anything as being forfeited, under the customs laws.

[1984-44; 2007-2]

(6) Any person, not being an officer, by whom anything is seized or detained or who has custody thereof after its seizure or detention, who fails to comply with any requirement of this section or with any direction of the Comptroller given thereunder shall be liable to a penalty of \$50.

(7) Subsections (2) to (6) shall apply in relation to any dutiable goods seized or detained by any person, other than an officer, notwithstanding that they were not so seized as liable to forfeiture under the customs laws.

Penalty in cases of forfeiture

208.(1) Where any ship, aircraft, vehicle or goods become liable to forfeiture under the customs laws, any person who is knowingly concerned in the act or omission which renders the same liable to forfeiture shall be guilty of an offence, and shall be liable to the penalty provided by this Act in respect of such offence or, where no such penalty is provided, shall be liable to a penalty of \$500 or 3 times the value of any goods seized, whichever is the greater; and, subject to subsection (2), any such person may be arrested and detained by any officer and taken before a magistrate to be dealt with according to law.

(2) No person shall be arrested whilst actually on board any ship or aircraft in the service of a foreign state or country.

Protection of officers, etc., in relation to seizure and detention of good, etc.

209.(1) Where, in any proceedings for the condemnation of anything seized as liable to forfeiture under the customs laws, judgment is given for the claimant, the court may, if it sees fit, certify that there were reasonable grounds for the seizure.

(2) Where any proceedings, whether civil or criminal, are brought against the Comptroller, the Attorney-General or any person authorised by this Act to seize or detain anything liable to forfeiture under the customs laws on account of the seizure or detention of anything and judgment is given for the plaintiff or prosecutor, then if either

(a) a certificate relating to the seizure has been given under subsection (1);
or

(b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing under the customs laws,

the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant shall not be liable to any punishment:

Provided that nothing in this subsection shall affect any right of any person to the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction thereof.

(3) Any certificate under subsection (1) may be proved by the production of either the original certificate or a certified copy thereof purporting to be signed by an officer of the court by which it was granted.

General Provisions as to Legal Proceedings

Institution of proceedings for offences and for condemnation

210.(1) No proceedings for an offence under the customs laws or for condemnation under the *Third Schedule* shall be instituted except by order of the Comptroller.

[2007-2]

(2) Any proceeding for an offence under the customs laws or for condemnation under the *Third Schedule* shall be commenced in the name of an officer:

Provided that, in the case of death, removal, discharge or absence of the officer in whose name any proceedings were commenced, those proceedings may be continued by any officer authorised in that behalf by the Comptroller.

(3) Nothing in subsections (1) and (2) shall prevent the institution by any constable in the name of the Commissioner of Police of proceedings for an offence under the customs laws which is punishable otherwise than by way of a pecuniary penalty not designated as a fine; and nothing in subsections (1) and (2) shall prevent the institution of proceedings for an offence under the customs laws by and in the name of the Director of Public Prosecutions in any case in which he thinks it proper that proceedings should be so instituted.

[1967/168]

(4) Notwithstanding anything in subsections (1) to (3), where any person has been detained under the customs laws, any court before which he is brought may deal with the case although the proceedings have not been instituted by order of the Comptroller or have not been commenced in the name of an officer.

Proceedings for offences

211.(1) Save as otherwise expressly provided in the customs laws and notwithstanding anything in any other enactment, any proceedings for an offence under the said laws may be commenced at any time within, and shall not be commenced later than 7 years from the date of the commission of the offence.

(2) Subject to any express provision made by the enactment in question, any offence under the customs laws shall be punishable on conviction by a court of summary jurisdiction.

Place of trial for offences

212.(1) Proceedings for an offence under the customs laws may be commenced

- (a) in any court having jurisdiction in the place where the person charged with the offence resides or is found; or
- (b) if anything was detained or seized in connection with the offence, in any court having jurisdiction in the place where that thing was so detained or seized or was found or condemned as forfeited; or
- (c) in any court having jurisdiction anywhere in that part of Barbados in which the place where the offence was committed is situated.

(2) Where any such offence was committed at some place on the waters or in the air outside the area of the jurisdiction of any magistrate, the place of the commission of the offence shall, for the purposes of the jurisdiction of any court, be deemed to be any place in Barbados where the offender is found or to which he is first brought after the commission of the offence.

(3) The jurisdiction under subsection (2) shall be in addition to and not in derogation of any jurisdiction or power of any court under any other enactment.

Provisions as to imprisonment

213.(1) Where the sum adjudged to be paid by the conviction of a court of summary jurisdiction under the customs laws, including any costs adjudged to be paid by the conviction of which the amount is ascertained thereby, exceeds \$250, the maximum period of imprisonment that may be imposed in respect of non-payment of that sum or in respect of the default of a sufficient distress to satisfy that sum shall, notwithstanding anything in section 85 of the *Magistrates Jurisdiction and Procedure Act*, Cap. 116, be fixed in accordance with the following scale, that is to say

<i>Where the amount of the sum adjudged to be paid by the conviction</i>	<i>The said period shall be a period not exceeding</i>
exceeds \$250 but does not exceed \$500.....	6 months;
exceeds \$500 but does not exceed \$1 000.....	9 months;
exceeds \$1 000.....	2 years.

[1984-44]

(2) Where in any proceedings for an offence under the customs laws a court of summary jurisdiction

- (a) orders a person to be imprisoned for a term, in addition to ordering him to pay a penalty for the same offence; and
- (b) further (whether at the same time or subsequently) orders him to be imprisoned for a term in respect of such non-payment or default as aforesaid,

the aggregate of the terms for which he is so ordered to be imprisoned shall not exceed 3 years.

[1984-44]

Incidental provisions as to legal proceedings for offences

214.(1) Where liability for any offence under the customs laws is incurred by 2 or more persons jointly, those persons shall each be liable for the full amount of any pecuniary penalty and may be proceeded against jointly or severally.

(2) In any proceedings for an offence under the customs laws, any court by whom the matter is considered may mitigate any pecuniary penalty as it sees fit.

(3) In any proceedings for an offence or for the condemnation of anything as being forfeited under the customs laws, the fact that security has been given by bond or otherwise for the payment of any duty or for compliance with any condition in respect of the non-payment of which or non-compliance with which the proceedings are instituted shall not be a defence.

Directors of corporations

214A.(1) Where a corporation fails to pay an amount of duty required to be paid by this Act, the persons who were directors of the corporation at the time the corporation was required to pay the amount are jointly and severally liable, together with the corporation, to pay that amount and any penalties relating thereto.

(2) A director of a corporation is not liable under subsection (1) unless

- (a) a certificate for the amount of the corporation's liability referred to in that subsection has been registered in the High Court under section 243 and execution for that amount has been returned unsatisfied in whole or in part;
- (b) the corporation has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved; or
- (c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act*, Cap. 303 and a claim for the

amount of the corporation's liability referred to in subsection (1) has been proved.

(3) A director of a corporation is not liable for a failure to pay duty under subsection (1) where the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

(4) A director of a corporation shall not be assessed for an amount payable by him under this section more than 5 years after the duty becomes due and payable.

(5) A director who satisfied a claim under this section is entitled to contributions from the other directors who were liable for the claim.

[1998-6]

Officers of unincorporated bodies

214B.(1) In this section, "officer" of an unincorporated body means

- (a) in the case of a partnership, a partner of the partnership, other than a limited partner within the meaning of the *Limited Partnerships Act*, Cap. 312;
- (b) in the case of a joint venture, a participant in the joint venture, other than a participant who contributes to the capital of the joint venture but who is not otherwise concerned in the management and day-to-day operations of the joint venture;
- (c) in the case of a trust, a trustee of the trust; and
- (d) in the case of any unincorporated body other than a body referred to in paragraph (a), (b) or (c),
 - (i) a person who holds office as chairman, president, treasurer or secretary of the body or any similar office;

- (ii) where there is no such officer of the body a member of any committee that has management of the affairs of the body; or
 - (iii) where there is no such officer as referred to in sub-paragraph (i) or (ii) or committee referred to in sub-paragraph (ii), a member of the body.
- (2) An officer is not liable under subsection (3) unless
 - (a) a certificate for the amount of the body's liability referred to in that subsection has been registered in the High Court under section 243 and execution for that amount has been returned unsatisfied in whole or in part;
 - (b) the body has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the body's liability referred to in subsection (3) has been proved; or
 - (c) the body has made an assignment or a receiving order has been made against it under the *Bankruptcy Act*, Cap. 303 and a claim for the amount of the body's liability referred to in subsection (3) has been proved.
- (3) Where any liability or obligation is imposed by or under this Act or the regulations on an unincorporated body, the body and each of the persons who are officers of the body at the time the liability or obligation is imposed are jointly and severally liable and responsible to satisfy the liability or obligation.
- (4) A person who ceases to be an officer of an unincorporated body shall be deemed, for the purposes of this Act, not to cease being an officer thereof until the Comptroller receives notification in writing of such cessation.
- (5) Any document which is served on an unincorporated body pursuant to this Act or the regulations shall be deemed to have also been served on the officers thereof.

[1998-6]

Executors and administrators

214C.(1) For the purposes of this Act, where an individual dies

- (a) the individual's estate shall be deemed to be the same person as the individual and not to be a trust;
- (b) where any liability or obligation is imposed by this Act on the individual or his estate, the executors or administrators, as the case may be, are, subject to this section, responsible to satisfy the obligation; and
- (c) the estate and the executors or administrators, as the case may be, are jointly and severally liable for the payment of all amounts that are payable by the estate under this Act, except that the executors or administrators are liable for the payment of amounts that become payable before the individual died only to the extent of the assets of the estate after satisfying the claims of creditors whose claims rank in priority to the claim of the Crown.

(2) When an individual dies, the Comptroller may, where he considers it appropriate to do so, waive in writing the requirement that the individual's executor or administrators, as the case may be, pay the duty owed.

[1998-6]

Trustees in bankruptcy

214D. For the purposes of this Act, where a person is adjudged a bankrupt

- (a) the person's estate shall be deemed not to be an estate or trust;
- (b) the property held by the person immediately before he was adjudged a bankrupt shall be deemed not to pass to and be vested in the trustee in bankruptcy upon the receiving order being made or the assignment in bankruptcy being filed but to remain vested in the person;
- (c) the property held by the trustee in bankruptcy for the person on the day the person is discharged from bankruptcy shall be deemed not to pass

to the person on the order of discharge being granted but to have been held by and vested in the person continuously since the day it was acquired by the person or the trustee, as the case may be;

- (d) where any liability or obligation is imposed by this Act on the person in relation to assets to which the bankruptcy relates, the trustee in bankruptcy is, subject to this section, responsible to satisfy the liability or obligations;
- (e) the trustee in bankruptcy, and not the person, is liable for the payment of all amounts that become payable by the person under this Act before the person is discharged from bankruptcy, except that
 - (i) the trustee is liable for the payment of amounts that became payable by the person before the person became a bankrupt only to the extent of the person's property in the possession of the trustee that is available to satisfy the liability; and
 - (ii) the trustee is not liable for the payment of any amount which a receiver, within the meaning of section 214E, is liable to pay under section 214C, or any amount that relates to activities which the person engages in, on or after the day the person is adjudged a bankrupt and to which the bankruptcy does not relate.

[1998-6]

Receivers

214E.(1) In this section

“asset” includes any property;

“receiver” includes

- (a) a person who is appointed to manage or operate an asset of another person under the authority of a court order, an Act of Parliament or a bond, debenture or other debt security;

-
- (b) a liquidator appointed to liquidate the assets or wind up the affairs of a corporation; and
- (c) a committee, guardian or curator who has authority to manage and care for the affairs and other assets of an individual who is incapable of managing his own affairs and assets.
- (2) For the purposes of this Act, where a receiver is vested with authority to manage, operate, liquidate, or wind up any assets of a person or to manage and care for the affairs and other assets of a person,
- (a) the receiver shall be deemed to be an agent of the person in the course or furtherance of any of the person's activities over which the receiver has authority, and any act performed by the receiver in relation to the person's assets over which the receiver has authority shall be deemed to have been performed by the receiver as agent on behalf of the person;
- (b) the receiver shall be deemed not to be trustee of the estate of the person or any part thereof;
- (c) where the assets of a person over which the receiver has authority are not all of the person's assets, throughout the period during which the receiver acts as receiver of the person, the assets over which the receiver has authority shall be deemed to be separate from the other assets of the person as if they were assets of a separate person;
- (d) where any liability or obligation is imposed by this Act on the person in relation to assets over which the receiver has authority the receiver is, subject to this section, responsible to satisfy the obligation;
- (e) the person and the receiver are jointly and severally liable for the payment of all amounts that become payable by the person under this Act before the receiver was appointed, except that the receiver is liable for the payment of those amounts only to the extent of the person's assets under the control and management of the receiver after satisfying the claims of creditors whose claims rank in priority to the claim of the

Crown and after paying any amounts that the receiver is required to pay to a trustee in bankruptcy of the person;

- (f) the receiver, and not the person, is liable for the payment of all amounts that become payable by the person under this Act during the period which the receiver acts as receiver of the person to the extent that the amounts can reasonably be considered to relate to the person's assets over which the receiver has authority.

[1998-6]

Agents

214F.(1) A document made by a person, other than an individual, under this Act shall be signed on behalf of the person by an individual duly authorised to do so by the person or the governing body of the person and, where the person is a corporation or an association or organisation that has duly elected or appointed officers, the president, vice-president, secretary and treasurer thereof, or other equivalent officers, shall be deemed to be so duly authorised.

(2) Where a person fails to appoint an agent the Comptroller may designate any person who is resident in Barbados to be the agent or other representative of that person for the purposes of this Act.

(3) A person who is appointed or designated as agent pursuant to subsection (2) shall

- (a) perform every obligation and discharge every liability incurred by the person liable under this Act, and
- (b) keep in a separate account any amount payable or remittable by that person and pay or remit such duty or other amount to the Comptroller in accordance with the provisions of this Act.

(4) Any person who, having been appointed or designated as the agent, contravenes subsection (3) is guilty of an offence and is liable on summary

conviction to a fine of \$5 000 or to imprisonment for a term of 6 months or both.

[1998-6]

Imprisonment for second offence

215. Where a penalty of \$500 or upwards has been incurred under the customs laws and the defendant has previously been convicted of an offence against the customs laws or has previously incurred a pecuniary penalty or forfeiture under the customs laws which has been enforced in any court, the court may, if it thinks fit, in lieu of ordering payment of a pecuniary penalty, order the defendant to be imprisoned for any period not exceeding 2 years.

[1984-44]

Institution of civil proceedings

216.(1) Notwithstanding anything to the contrary in the *Crown Proceedings Act*, Cap. 197, any proceedings for the recovery of any rents, charges, expenses, duties and all other sums of money whatsoever payable under the customs laws may be sued for, determined, enforced and recovered by suit or other appropriate civil proceedings in a magistrate's court, which court is hereby invested with the necessary jurisdiction for the purpose, in the name of the Comptroller as nominal plaintiff and, except as herein or hereunder provided, the ordinary civil procedure of the magistrate's courts of Barbados shall apply thereto.

(2) Civil proceedings brought in the name of the Comptroller shall not be invalidated or lapse by reason of any change as to the office of Comptroller and where such change occurs those proceedings may be continued in the name of the person for the time being the holder of or acting in the office of Comptroller.

(3) Nothing in this section shall be construed so as to prejudice or affect the right of the Attorney-General to institute civil proceedings on behalf of the Crown under section 14 of the *Crown Proceedings Act*, Cap. 197.

Place where cause of action deemed to arise

217. Every cause of action under the customs laws shall be deemed to have arisen either in the place in which it actually arose or in any place on land where the person sued dwells or carries on his business at the time when the action arose or, in the case of a body corporate, at its registered or principal office.

Limitation as to pleading

218. The fact that any duties of customs have been secured by bond or otherwise shall not be pleaded or made use of in answer to or in stay of any civil proceedings under the customs laws.

Service of process

219.(1) Any summons or other process issued for the purpose of any proceedings under the customs laws shall be deemed to have been duly served

- (a) if delivered personally to the person to whom it is addressed; or
- (b) if left at his last known place of abode or business, or, in the case of a body corporate, at its registered or principal office; or
- (c) if left on board any vessel or aircraft to which he may belong or have lately belonged.

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

In this subsection, the expression “appeal” includes an appeal by way of case stated.

Persons who may conduct proceedings

220.(1) Notwithstanding anything in the *Magistrates Jurisdiction and Procedure Act*, Cap. 116, any officer may, although he is not an attorney-at-law, conduct any proceedings before any court of summary jurisdiction being

proceedings under any enactment relating to an assigned matter or proceedings arising out of the same circumstances as any proceedings commenced under any such enactment, whether or not the last mentioned proceedings are persisted in.

(2) Where any proceedings under the customs laws are brought in the name of the Comptroller, an officer or the Commissioner of Police, no such proceedings shall be dismissed by reason only of the failure of the Comptroller or officer or Commissioner of Police to appear in person or by counsel or solicitor, provided that the proceedings, where brought in the name of the Comptroller or an officer, are conducted by an officer authorised in that behalf by the Comptroller and, where brought in the name of the Commissioner of Police, are conducted by a constable for the time being present in court.

Rules as to costs

221. In all proceedings under the customs laws, the same rules as to costs shall be observed as in proceedings between private persons.

Proof of certain documents

222.(1) Any document purporting to be signed either by the Comptroller, or by his order, or by any other person with his authority shall, until the contrary is proved, be deemed to have been so signed and to be made and issued by the Comptroller and may be proved by the production of a copy thereof certified by an officer.

(2) In any proceedings under the customs laws the production of a certificate purporting to be signed by the Government Analyst shall be sufficient evidence of all the matters therein stated unless the contrary is proved.

Proof of certain other matters

223.(1) An averment in any process in proceedings under the customs laws—
(a) that those proceedings were instituted by the order of the Comptroller;
or

- (b) that any person is or was the Comptroller, an officer or constable; or
- (c) that any person is or was appointed or authorised by the Comptroller to discharge, or was engaged by the orders or with the concurrence of the Comptroller in the discharge of, any duty; or
- (d) that the Comptroller has or has not been satisfied or has or has not obtained the approval of the Minister as to any matter as to which he is required by any provision of the customs laws to be satisfied or to obtain such approval; or
- (e) that any goods thrown overboard, staved or destroyed were so dealt with in order to prevent or avoid the seizure of those goods; or
- (f) that any act was done within the limits of any port or customs airport or in the waters of the Island or over the Island; or
- (g) that any offence giving rise to proceedings for condemnation under the Schedule has been prosecuted to conviction,

shall, until the contrary is proved, be sufficient evidence of the matter in question and where any offence is committed in any port, customs airport or other place in the Island, the naming of such port, customs airport or other place in the information or proceedings shall be deemed sufficient until the contrary is proven.

- (2) Where in any proceedings under the customs laws, any question arises as to the place from which any goods have been brought or as to whether or not—
- (a) any duty has been paid or secured in respect of any goods; or
 - (b) any goods or other things whatsoever are of the description or nature alleged in the information, writ or other process; or
 - (c) any goods have been lawfully imported or lawfully unloaded from any ship or aircraft; or
 - (d) any goods have been lawfully loaded into any ship or aircraft or lawfully exported or were lawfully waterborne; or

- (e) any goods were lawfully brought to any place for the purpose of being loaded into any ship or aircraft or exported; or
- (f) any goods are or were subject to any prohibition of or restriction on their importation or exportation,

then, where those proceedings are brought by or against the Comptroller, the Director of Public Prosecutions, the Attorney-General, an officer or a constable, or against any other person in respect of anything purporting to have been done in pursuance of any power or duty conferred or imposed on him by or under the customs laws, the burden of proof shall be upon the other party to the proceedings.

Valuation of goods for penalty

224.(1) In all cases where the penalty for an offence under the customs laws is an amount which is to be determined by the value of any goods, such value shall, as regards proceedings in any court, be estimated and taken according to the rate and price for which goods of the like kind, but of the best quality, upon which the duties of customs have been paid were sold at or about the time of the offence, or according to the rate and price for which the like kind of goods were sold in bond at or about the time of the offence with the duties due thereon added to such rate or price in bond.

(2) A certificate under the hand of the proper officer of the value of such goods shall be accepted by the court as *prima facie* evidence of the value thereof.

Copies of documents valid

225. In case any book or document required by the customs laws be required to be used as evidence in any court as to the transactions to which it refers, copies thereof certified by an officer shall be admissible for that purpose without production of the original; and certificates and copies of official documents purporting to be certified under the hand and seal or stamp of office of any of the principal officers of Customs and Excise in the United Kingdom, or of any Comptroller of revenue in any other part of the Commonwealth, or of

any consular representative of Barbados in a foreign country shall be received as *prima facie* evidence.

[1967/168]

PART IX
BONDS AND OTHER SECURITIES

All bonds and other securities entered into valid

226.(1) All bonds and other securities* entered into by any person for the performance of any condition, order or matter relative to customs or incidental thereto shall be valid in law and upon breach of any of the conditions thereof may be sued and proceeded upon.

**[All bonds and securities executed before 1st July, 1963 (the date of commencement of this Act) were continued in force by Customs Act, 1962-18, section 228 (not reprinted).]*

(2) All bonds and other securities relating to customs or for the performance of any conditions or matter incidental thereto shall be taken to or for the use of Her Majesty.

(3) All such bonds and other securities as aforesaid may, after the expiration of three years from the date thereof, or from the time, if any, limited therein for the performance of the condition thereof, be cancelled by, or by the order of, the Comptroller.

(4) All bonds and other securities given under the provisions of the customs laws by persons under twenty-one years of age shall be valid.

(5) It shall not be necessary for the validity of any of such bonds or securities as aforesaid that they are sealed, or that they are signed or delivered in the presence of a witness or that they are prepared by a barrister or certified conveyancer or that they are delivered as a specialty.

Surety to be deemed a principal debtor

227.(1) Without prejudice to any rights of a surety under any bond or other security required by the customs laws against the person for whom he is surety, a surety shall, under the bond or other security executed by him, be deemed a principal debtor and not merely a surety and accordingly shall not be discharged, nor shall his liability be affected, by any giving of time for payment or by any omission to enforce the bond or other security or by any other act or omission or means whereby the liability of the surety would not have been discharged if he had been a principal debtor.

(2) Whenever any person bound under a bond or other security required by the customs laws pays the whole or any part of the sum for which he is bound or, being a surety—

- (a) dies; or
- (b) becomes a bankrupt or enters into any arrangement for composition with or for the benefit of his creditors; or
- (c) departs from the Island without leaving sufficient property therein to satisfy the whole amount for which he is bound; or
- (d) for any other reason is, in the opinion of the Comptroller, unable or likely to be unable to satisfy the bond or other security if called upon,

the Comptroller may, if he thinks fit, require a new bond or other security to be executed.

PART X
GENERAL POWERS AND OFFENCES

General Powers

Power as to bonds and security

228. Without prejudice to any express requirements as to security contained in the customs laws, the Comptroller may, if he sees fit, require any person to give security by bond or otherwise for the observance of any condition in connection with customs.

Power to require provision of facilities, etc.

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

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

and any person who contravenes or fails to comply with any provision of this subsection shall be liable to a penalty of five hundred dollars.

(2) Any such person as aforesaid shall provide and maintain any fitting required for the purpose of affixing any lock which the proper officer may require

to affix to the premises of that person or any part thereof or to any vessel, utensil or other apparatus whatsoever kept thereon, and in default—

- (a) the fitting may be provided or any work necessary for its maintenance may be carried out by the proper officer, and any expenses so incurred shall be paid on demand by the person aforesaid; and
 - (b) if the person aforesaid fails to pay those expenses on demand, he shall in addition be liable to a penalty of five hundred dollars.
- (3) Any person aforesaid or any servant of his who—
- (a) wilfully destroys or damages any such fitting as aforesaid or any lock or key provided for use therewith or any label or seal placed on any such lock; or
 - (b) improperly retains access to any place or article secured by any such lock; or
 - (c) has any such fitting or any article intended to be secured by means thereof so constructed that that intention is defeated,

shall be liable to a penalty of five hundred dollars and may be detained.

Power to take samples

230. Any officer may, on the entry of any goods or at any time afterwards, take samples of such goods for such purpose as the Comptroller may deem necessary, and such samples shall be disposed of and accounted for in such manner as the Comptroller may direct.

Examination and handling of goods

231. All goods subject to the customs laws shall be liable to such examination as the Comptroller may direct and the unloading, loading and removal of goods and bringing them to the proper place for examination and weighing, putting them into scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where such operations respectively are

necessary or permitted, and removing to and placing them in the proper place of deposit until delivered or put on board an exporting ship or aircraft, shall be performed by or at the expense of the owner of such goods; and the owner shall unpack, sort, pile or otherwise prepare any goods either before or after entry thereof in such manner as the proper officer requires to enable him to examine or take account of the same.

Search of persons

232.(1) Where any officer is informed or has reason to suppose that any person on a ship or aircraft, or any person who has landed from a ship or aircraft, or any person whom the officer may suspect to have received any goods from any such person, is carrying or has any uncustomed or prohibited or restricted goods about his person, such officer may search such person.

(2) Where any such person, upon being questioned by any officer as to whether he has any uncustomed or prohibited or restricted goods upon his person or in his possession or in his baggage, refuses to answer or denies having the same and any such goods are discovered to be or to have been upon his person or in his possession or in his baggage, such goods shall be liable to forfeiture.

(3) No officer shall be liable to any prosecution or action at law on account of any search made in accordance with this section.

Special authority may be required before search

233. Before any person is searched he may require to be taken with all reasonable despatch before a magistrate or the Comptroller or other superior officer of customs, who shall, if he sees no reasonable cause for search, discharge such person but, if otherwise, direct that he be searched.

Search of female

234. A female shall not be searched except by a female.

Governor-General may restore seizure, etc.

235. When any seizure has been made, or any fine or penalty incurred or inflicted, or any person committed to prison for any offence against the customs laws, the Governor-General acting in his discretion may direct restoration of such seizure, whether condemnation has taken place or not, or waive or suspend proceedings or mitigate or remit such fine or penalty or release such person from confinement, either before or after conviction on any terms and conditions as he sees fit.*

**[But see Constitution, section 87(2).]*

Comptroller may mitigate penalty

236. Subject to the approval of the Governor-General acting in his discretion (which approval may be signified by general directions to the Comptroller), the Comptroller may mitigate or remit any penalty or restore anything seized under the customs laws at any time prior to the commencement of proceedings in any court against any person, for an offence against the customs laws or for the condemnation of any seizure.

Power to accept compensation

237. Notwithstanding any other provisions of this Act, the Comptroller may, in any case he deems proper and in substitution for any civil proceedings in a court of summary jurisdiction, accept on behalf of the Crown a sum of money by way of compensation from any person.

Rewards

238. The Comptroller may, with the approval of the Governor-General acting in his discretion, reward any person who informs him of any offence against the customs laws or assists in the recovery of any fine or penalty:

Provided that such approval need not be obtained for a reward not exceeding \$50.

Power of the Comptroller to fine for breaches of a trivial nature

239. Notwithstanding anything in this Act with regard to the enforcement of any fine or penalty, the Comptroller is hereby authorised, in breaches of the customs laws which in his opinion are of a trivial nature, instead of having recourse to the courts of law to impose a penalty not exceeding \$500 and to order the same to be paid into the Consolidated Fund forthwith; and in default of the amount imposed being paid, proceedings may be taken against the offender in a court of law for the offence committed.

[1984-44]

Power of Comptroller to collect penalties in certain circumstances

239A. Notwithstanding section 239, the Comptroller is hereby authorised to collect the penalties set out in sections 34B, 79, 82, 86, 87 and 88 for breaches of the customs law, and in default of the amount imposed being paid, proceedings may be taken against the offender in a court of law for the offence committed.

[2007-2]

Master and commander to attend before Comptroller if so required

240.(1) Where under the customs laws the master of any ship or commander of any aircraft or the agent of either is required to answer questions put to him by the Comptroller or any officer, and such ship or aircraft is within Barbados and has not left her final position, anchorage or berth preparatory to leaving Barbados, it shall be lawful for the Comptroller or such officer to require the master, commander or agent, as the case may be, to attend before him at the office of the Comptroller or such officer, and in such case the requirements of the customs laws shall not be deemed to have been fulfilled unless the master, commander or agent, as the case may be, so attends when so required.

(2) Notwithstanding subsection (1), it shall be lawful for the master or commander, with the consent of the Comptroller or such officer, to depute a

senior officer of such ship or aircraft to attend for the purpose of answering such questions, and in such case any reply made to any question put to such senior officer by the Comptroller or such officer as aforesaid shall, for the purpose of section 245, be deemed to have been made by the person required to answer such questions.

Power to make regulations

241.(1) The Minister may make regulations for the further, better or more convenient effectuation of any of the provisions or purposes of the customs laws and may, in such regulations, prescribe fees, rents or charges to be paid in respect of any matter therein referred to.

(2) Without prejudice to subsection (1) and notwithstanding anything in this or any other Act, the Minister may make regulations prescribing the fees and charges to be enacted and made in respect of the supply as bunkers to such ships as may be prescribed of such marine fuels as may be prescribed and different fees and charges may be prescribed for different methods of supply of such fuels.

(3) Regulations made under this Act may provide that any breach or contravention of any regulation shall be punished by the imposition of a fine not exceeding \$500 or of a term of imprisonment not exceeding 3 months or of both such fine and imprisonment.

(4) All regulations made under this Act shall be subject to negative resolution.

Comptroller may prescribe forms

242. Subject to this Act and any regulations, the Comptroller may from time to time prescribe forms required to be used for the purpose of the customs laws and any such forms so prescribed shall be published in the *Official Gazette* one month before such forms are required to be used.

Unpaid tax certificate

243.(1) Where an amount payable or remittable under this Act by a person, has not been paid or remitted as required by this Act, the Comptroller may certify, in a certificate called an “unpaid tax certificate”, that the amount is an amount payable by that person under this Act.

(2) An unpaid tax certificate may be filed by the Comptroller in the High Court or the Magistrate’s Court for District “A” and shall be registered in the court in which it is filed and after the expiry of 7 days after it is filed and registered has the same force and effect as a judgment of the court in which it is registered in favour of the Crown against the person for the amount specified in the certificate, plus the reasonable costs and charges attendant upon the registration of the certificate; and all proceedings may be taken upon the certificate and it may be enforced as if it were a judgment of the court in which it is registered.

[1998-6]

Garnishment

243.1.(1) Where the Comptroller knows or suspects that a person, in this section referred to as the “third party”, is indebted to or is liable to make a payment to a person who is liable to pay or remit an amount under this Act, the Comptroller may, deliver to the third party a demand for payment stating the name of that person and the amount payable or remittable by that person, and requiring the third party to make the payment forthwith if the payment is then due and owing and, if the payment from the third party to that person is not then due and owing, as it becomes due and owing.

(2) Where the Comptroller delivers a demand to a third party under subsection (1), the third party shall pay to the Comptroller, on account of that person’s liability under this Act, moneys otherwise payable by the third party to that person as interest, rent, dividends, annuity, salary, wages, or other payment until that person’s liability under this Act is satisfied or such amount as is due from the third party to the person whichever is sooner.

(3) Where the Comptroller delivers a demand to a third party under subsection (1), the third party shall pay to the Comptroller, on account of the liability under this Act of a person who is an officer or an employee of the third party, moneys otherwise payable by the third party to that person as salary, wages or other remuneration, and the third party shall continue to do so until the amount due to that person is satisfied or until the amount demanded by the Comptroller is satisfied, whichever is lesser.

(4) A receipt issued by the Comptroller for moneys paid as required under this section is a good and sufficient discharge of the third party's original liability to a person to the extent of the payment.

(5) A third party who fails to comply with a requirement under subsection (1), (2) or (3) is liable to pay to the comptroller an amount equal to the amount that the third party was required to pay to the Comptroller under subsection (1).

(6) Where an amount that would otherwise have been payable by a third party to a person is paid by the third party to the Comptroller pursuant to a letter served on the person under subsection (1) or pursuant to an assessment of an amount payable by the third party under subsection (5), the person shall be deemed for all purposes to have paid the amount to the Comptroller on behalf of that person.

(7) The application of this section is subject to the *Protection of Wages Act*, Cap. 351.

[1998-6]

Notice for immediate payment

243.2.(1) Where the Comptroller suspects that a person is about to leave Barbados or in any other circumstances considers it appropriate for the protection of the revenue to do so, the Comptroller may, before the day otherwise fixed for payment, deliver to that person a notice for immediate payment stating the amount that the Comptroller believes that person is liable to pay as taxes or penalties under this Act or would be liable to pay if the time for payment had

arrived; and that person shall forthwith pay the amount specified in the notice for immediate payment.

(2) Where a person who has received a notice for immediate payment fails, within 24 hours after the notice was served on him under subsection (1), to pay forthwith the amount specified in the notice the Comptroller may certify the amount under section 243 in an unpaid tax certificate and require its registration in the High Court or the Magistrate's Court for District "A" under that section, and section 243(2) thereupon applies with such modifications as the circumstances require.

[1998-6]

General Offences

General penalty

244. Save as otherwise provided in section 208, any person who is convicted of any offence against the customs laws for which no specific penalty is provided shall be liable to a penalty of \$250.

Penalty for falsifying documents, etc.

245. Any person who, in any matter relating to the customs or under the control or management of the Comptroller

- (a) makes and subscribes, or causes to be made and subscribed, any false declaration;
- (b) makes or signs or causes to be made or signed, any declaration, certificate or other instrument required to be verified by signature only, the same being false in any particular;
- (c) makes or signs any declaration made for the consideration of any officer on any application presented to him, the same being untrue in any particular;

- (d) when required by the customs laws to answer questions put to him by any officer, answers any such questions untruly;
- (e) counterfeits, falsifies, or wilfully uses when counterfeited or falsified, any document required by the customs laws or by or under the directions of any officer, or any instrument used in the transaction of any business or matter relating to customs;
- (f) alters any document or instrument after the same has been officially issued;
- (g) counterfeits the seal, signature, initials or other mark of or used by any officer for the verification of any such document or instrument, or for the security of goods or any other purpose in the conduct of business relating to the customs or under the control or management of the Comptroller; or
- (h) on any document or instrument required for the purpose of the customs laws counterfeits or imitates the seal, signature, initials or other marks of or made use of by any other person whatsoever, whether with or without the consent of such person,

shall, on conviction on indictment, be liable to a fine of \$150 000 or 3 times the value of the goods, whichever is greater, or to imprisonment for 2 years or to both such fine and imprisonment.

[1963-5; 1984-44; 1999-3]

General provisions as to offences

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

(2) Where in any proceedings for an offence under the customs laws any question arises as to the duty or the rate thereof chargeable on any goods and it is not possible to ascertain the relevant time specified in section 105, that duty or rate shall be determined as if the goods had been imported or, as the case may be, exported without entry at the time when the proceedings were commenced.

PART XI

MISCELLANEOUS

Agency

Steamship agents

247.(1) Where under the customs laws any special procedure is prescribed in regard to steamships and where the owner of any steamship is not resident or represented in Barbados, it shall be the duty of the master or owner of such steamship to appoint an agent in Barbados for the purpose of performing any act which may under the customs laws be performed by the agent or the master or owner of a steamship.

(2) Where the master or owner of any steamship fails to appoint an agent as aforesaid and until such agent is appointed or where such agent does not give security when so required to the satisfaction of the Comptroller for the due observance of the customs laws, then such steamship shall be subject to the requirements of the customs laws applicable to ships other than steamships, and on failure or omission to perform any such requirement, the owner or master shall be liable in respect of such failure or omission to all penalties that might be imposed upon them or either of them under the customs laws if such ship were not a steamship.

Authority to be produced by person acting for another

248.(1) Whenever any person makes application to any officer to transact any business on behalf of any other person, such officer may require the person so

applying to produce a written authority from the person on whose behalf such application is made, and in default of the production of such authority may refuse to transact such business.

(2) Any document required by the customs laws to be signed by any particular person, if signed by any person authorised as aforesaid on behalf of the person required to sign the same, shall be deemed for all purposes to be signed by the person required to sign the same.

(3) The Comptroller may in his discretion refuse to allow any such application as aforesaid.

Regulations as to agents

249. It shall be lawful for the Minister to make regulations for the licensing of persons to transact business with the customs on behalf of others.

Clearing Agent

249A. For the purposes of sections 249B and 249C a “Clearing Agent” means a person who is licensed by the Comptroller to transact business with Customs on behalf of other persons.

[1998-6]

Gazetting of Clearing Agents

249B. The Comptroller shall cause to be published annually in the *Official Gazette* an alphabetical list of persons who are licensed Clearing Agents.

Penalty for acting as Clearing Agent when not licensed

249C. Any person

- (a) who transacts or attempts to transact business as a Clearing Agent, and who is not the holder of a valid licence issued by the Comptroller; or

(b) who assists or attempts to assist a person referred to in subparagraph (a)

is guilty of an offence and is liable to a fine of \$1 000 or to a sum which is 3 times the value of the goods which occasioned the offence.

Documents

Form of document

250. Every document submitted to the Comptroller or his officers for the purposes of the customs laws shall be in such form as may be prescribed, if any, and shall contain the particulars required by such form or indicated therein.

Errors in documentation

250A.(1) Every importer who submits a document to the Comptroller pursuant to section 250 shall ensure that the information given on that document is correct.

(2) An importer who requests an alteration to the First Customs Procedure Code on an assessed declaration is liable to a penalty of \$200.

(3) An importer who requests an alteration to an assessed declaration other than the First Customs Procedure Code is liable to a penalty of \$100.

(4) Where a proper officer examines imported goods and discovers that an error has been made by the importer on the document

(a) in the classification of the goods; or

(b) in the value of the goods,

and this error results in the collection of additional duties and taxes which do not exceed \$1 500, the importer is liable to pay a penalty of \$400.

[1998-6]

Comptroller may request further information

250B.(1) Where a declaration regarding the value of goods has been presented under this Act and the Comptroller has reason to doubt the truth or accuracy of any of the particulars stated

(a) in the declaration; or

(b) in any document produced in support of the declaration,

the Comptroller may request the importer to produce further information, including documents or other evidence, to satisfy him that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with paragraph 3(1) of the *Second Schedule*.

(2) Where after considering further information furnished to him pursuant to a request made by him under subsection (1) the Comptroller still is in doubt about the truth or accuracy of the value of the imported goods as declared, or of any document produced in support of the declaration, or where the further information requested is not produced by the importer, it shall be deemed that the transaction value of the imported goods cannot be determined under the provisions of paragraph 3 of the *Second Schedule*.

[1999-3]

(3) Before the Comptroller comes to the conclusion that the transaction value of the imported goods cannot be determined under paragraph 3 of the *Second Schedule* the Comptroller shall communicate to the importer in writing, if requested by the importer, the grounds therefor and the importer shall be given a reasonable opportunity to make any representations in regard to the matter and such representations shall be taken into consideration by the Comptroller.

[1999-3]

(4) Nothing in this section or in the *Second Schedule* shall be construed as restricting or calling into question the right of the Comptroller to satisfy himself

as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes.

[1999-3]

[1999-3]

Production of documents

251.(1) The importer, exporter, or any person concerned in the importation or exportation of any goods shall, on the request of any officer made at any time within 3 years of the date of importation or exportation, as the case may be, or of the date of delivery to the proper officer of an entry for such goods, if the same have been entered, produce for the inspection of such officer the invoices, books of account and any other documents of whatever nature relating to such goods which the officer requires and shall answer such questions and make and subscribe such declarations regarding the weight, measure, strength, value, cost, selling price, origin and destination of such goods, and the name of the place whence or where any imported goods were consigned or transferred from one ship or aircraft to another, as shall be put to him by the officer, and shall produce such evidence as the officer may consider necessary in support of any information so furnished.

(2) Where the importer or exporter or other person concerned as aforesaid without reasonable cause neglects or refuses to carry out any of the provisions of this section, he shall be liable to a penalty of \$10 000, and the Comptroller may, on such neglect or refusal, refuse entry or delivery or prevent shipment if the goods have not been entered or delivered or shipped, or may allow entry, delivery or shipment upon such terms and conditions, and upon deposit of such sum, pending the producing of the proper documents and declarations, as he sees fit to impose or require.

[1999-3]

(3) The deposit made in accordance with subsection (2) shall be brought to account as duties of customs unless within 3 months of the time of deposit, or

such further period as the Comptroller may allow, the person making the deposit shall produce the required documents or declarations to the Comptroller.

Copies of documents to be submitted, if required

252.(1) Where any person is required to submit any report, entry, declaration, or other form for the purpose of the customs laws, the Comptroller may require such person to submit as many copies thereof as he may deem necessary.

(2) Where the Comptroller requires invoices or certificates of origin, or both, to be produced for any goods imported or exported, he may require such invoices or certificates of origin, or both, to be submitted in duplicate and may retain the duplicates or, if such invoices or certificates of origin, or both, are not submitted in duplicate, he may retain the originals.

Translation

253. Where any document required for the purposes of the customs laws contains any words not in the English language, the person required to produce such document shall produce therewith a correct translation thereof in English.

Witnessing of signatures

254. Where any document or declaration is required by the customs laws to be signed in the presence of the Comptroller or any particular officer and such document or declaration is signed in the presence of a witness whose signature is known to and who is approved by the Comptroller or the officer who receives the same, then in such case such document or declaration shall be as valid as if it had been signed in the presence of the Comptroller or the officer in whose presence it is required to be signed.

Receipts for duties and other payments made on bills of entry

255. Any person requiring a receipt for duties payable under the customs laws or for any other moneys which are brought to account in accordance with the directions of the Comptroller on a bill of entry may have the same upon his

furnishing the proper officer with an additional copy of the bill of entry; and such additional copy of the bill of entry, after having been compared with the original entry and signed by the proper officer, shall be delivered as a receipt to the person requiring it.

Containers, Etc.

Special containers and coverings deemed goods

256. All containers and coverings in which goods are imported or exported and which in the opinion of the Comptroller

- (a) are not the usual or proper containers or coverings for such goods; or
- (b) are designed for separate use, other than as containers or coverings for the same or similar goods, subsequent to importation or exportation, as the case may be,

shall for all purposes of the customs laws be deemed to be separate articles except in cases where a contrary provision shall be made.

Duties and drawbacks to be proportionate to quantity or value

257. All duties, rates, charges and drawbacks imposed and allowed according to any specified quantity or any specified value or any particular description of container shall be deemed to apply in the same proportion to any greater or less quantity or value or any other description of container.

Mode of calculating weights and measures

258. All duties, rates, charges and drawbacks imposed and allowed under the customs laws shall be paid and received according to the weights and measures established by the *Weights and Measures Act*, Cap. 331, and shall be paid and received in any currency being legal tender in Barbados.

Application of the Civil Aviation Act, 1949, and Provisions as to Military Ships and Aircraft

Effect of Air Navigation Orders-in-Council

259. Where in any Order-in-Council made applicable to Barbados in accordance with the *Civil Aviation Act, 1949*^{*}, of the United Kingdom Parliament, or in any regulations made under any such Order-in-Council, any provision has been made contrary to the customs laws, such provision shall have effect to the exclusion of the corresponding provision contained in the said laws.

**[13 & 14 Geo. 6. c. 67.]*

Commissioned aircraft or ships

260.(1) The master of a ship or the commander of an aircraft having commission from the Crown in right of its government of any part of the Commonwealth, from any Republic within the Commonwealth or from any foreign state and having on board any goods other than stores, laden at any port or place outside Barbados shall, on arrival at any port, customs airport or other place in Barbados, and before any part of such goods is taken out of such ship or aircraft, or when called upon so to do by any officer, deliver an account in writing under his hand to the best of his knowledge of the quality and quantity of every package or parcel of such goods, and of the marks and numbers thereon, and of the names of the respective consignors and consignees of the same, and shall make and subscribe a declaration at the foot of such account declaring to the truth thereof, and shall also truly answer to the Comptroller or other proper officer such questions concerning such goods as shall be required of him and on failure thereof such master or commander shall be liable to a penalty of \$500.

(2) All such ships or aircraft shall be liable to such searches as merchant ships and aircraft are liable to, and officers may freely enter and go on board all such ships and aircraft, and bring from thence on shore into the Queen's warehouse any goods found on board any such ship or aircraft as aforesaid, subject nevertheless to such regulations in respect of ships or aircraft of war belonging

to the Crown as aforesaid or such Republic as shall from time to time be directed in that respect by the Minister.

[1967/168]

Barbados Defence Force

Non-application of Act to Defence Force

261. This Act does not apply to

- (a) any ship or aircraft when used for the purposes of the Barbados Defence Force; or
- (b) the importation or exportation, by or on behalf of the Barbados Defence Force, of arms, ammunition, vessels, vehicles, aircraft, uniforms and other military stores certified as such by the Prime Minister or a member of the Defence Board authorised in writing by the Prime Minister.

[1984-31]

FIRST SCHEDULE**PART I**

(Section 34(3)(a), 34A(1)(b), 78(3)(a), 78A(1)(b))

- A.** *Data relating to the voyage or flight*
- 1. Flight Identification**
IATA airline code and flight number.
 - 2. Vessel Identification**
Ship's or aircraft's name and voyage number.
 - 3. Vessel Registration**
Ship's or aircraft's registration number.
 - 4. Country of Registration**
Country where ship or aircraft is registered.
 - 5. Agent or Owner**
Name of agent for the ship or aircraft or, where no agent, name of owner.
 - 6. Scheduled Departure Date**
Date of scheduled departure of ship or aircraft (based on local time of departure from location).
 - 7. Scheduled Departure Time**
Time of scheduled departure of ship or aircraft (based on local time of departure from location).
 - 8. Scheduled Arrival Date**

Date of scheduled arrival of ship or aircraft (based on local time of arrival at location).

9. Scheduled Arrival Time

Time of scheduled arrival of ship or aircraft (based on local time of arrival at location).

10. Last Place or Port of Call of Ship or Aircraft

Ship or aircraft departed from this foreign place or port of call to go to a place or port of call.

11. Place or Port of Initial Arrival of Ship or Aircraft

Place or port of call in the country where the ship or aircraft arrives from the last place or port of call of the ship or aircraft.

12. Subsequent Place or Port of Call Within the Country or Domestic Space

13. Number of passengers on board

Total number of passengers and crew on board ship or aircraft.

14. Place or Port of Onward Foreign Destination

(For departure from Barbados)

Data relating to each individual on board a ship or aircraft

B. Core Data Elements of the Official Travel Documents

1. Official Travel Document Number

Passport or other official travel document number.

2. Issuing State or Organisation of the Official Travel Document

Name of the state or organisation responsible for the issuance of the official travel document.

3. Official Travel Document Type

Indicator to identify type of official travel document.

4. Expiration Date of Official Travel Document

Expiration date of the official travel document.

5. Surname and Given Name(s)

Family name and given name(s) of the holder as they appear on the official travel document.

6. Nationality

Nationality of the holder.

7. Date of Birth

Date of birth of the holder.

8. Gender

Gender of the holder.

PART II

(Sections 34(3)(b), 34A(1)(b), 78(3)(b), 78A(1)(b))

1. Cargo for Discharge within Barbados

A. *Data relating to the Manifest*

Voyage number

(A number assigned by local Shipping Agent for vessels or the scheduled flight number for aircraft)

Date and Time of submission**Carrier**

(Name of vessel)

Scheduled Departure Date

(Date of departure of vessel or aircraft)

Scheduled Arrival Date

(Date of arrival of vessel or aircraft)

Scheduled Arrival Time

(Time of arrival of vessel or aircraft)

Place of Departure

(The last foreign port or place of call for vessel or aircraft)

Destination

(Port or place in the country of destination where the vessel or aircraft first reports)

Subsequent Place or Port of call within the country (Optional)**Agent: Name**

(Authorised representative of the vessel or aircraft, where available)

Owner

(Name of owner of vessel or aircraft)

Transport: Mode

(The manner in which the goods are imported or exported)

Transport: Name

(Name of the importing or exporting vessel or aircraft)

Transport: Nationality

(Nationality of vessel or aircraft as determined by its port of registry)

Transport: Place (Optional)

(Port of Registry)

Registration (Optional)

(International registration number including, in respect of vessels, the International Maritime Organisation registration number or Lloyd's registration number, or, in respect of aircraft, the International Air Transport Authority registration number)

Master (Optional)

(Name of ship's captain)

Total: Bills

Total: Packages

Total: Containers

Total: Gross (Optional)

Tonnage: Net

(Ship's registered tonnage)

Date of last discharge (Optional)

(Date ship last discharged cargo at any port)

B. Data relating to Container Management

Container: Number

(The BIC identification number of containers)

Container: Type

(Type of containers, e.g. 20 feet, refrigerated)

Empty/Full Indicator

(Whether full container load or less than container load)

Seals

(The number of the security seal(s) affixed to the container door)

Marks

(Marks or numbers of the seal(s) affixed to the container door)

Sealing Party

(The authority that affixed the seal(s) to the containers)

Total Containers**Transport Document Reference Number**

C. *Data relating to individual Bills of Lading or Airway Bills*

Manifest Line Number

(Number indicating the order of bills of lading on a manifest)

Transport Document Type

(Type of document issued by vessel or aircraft, including airway bills, bills of lading or waybills)

Transport Document Reference Number**Purpose of Shipment**

(Whether for import, export, in transit or transshipment)

Unique Cargo Reference (Optional)**Place of Loading****Place of Discharge****Exporter****Exporter Address**

Consignee**Notify**

(Either the consignee or the name and phone number of the representative)

Total Containers**Packages: Kind****Packages: Marks and Numbers****Quantity: Package****Quantity: Gross Mass****Volume: Cubic Measurement (cbm)****Description of Goods**

(Pursuant to applicable law)

Freight Indicator

(Payment status, whether prepaid or payment on collection)

Amount and Currency**Values:****Customs (Optional)****Insurance (Optional)****Freight (Optional)****Additional Seals****Additional Information****2. Cargo not intended for discharge within Barbados**

All dangerous or hazardous goods, explosives, firearms and ammunition, prohibited or restricted items not destined for Barbados must be listed separately in the following format:

Description	Quantity in Kilos	Country of Destination
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[2007-2]

SECOND SCHEDULE

(Sections 2, 34(4)(c), (d))

Domestic Space

Antigua and Barbuda

Barbados

Dominica

Grenada

Guyana

Jamaica

St. Kitts and Nevis

St. Lucia

St. Vincent and the Grenadines

Trinidad and Tobago.

THIRD SCHEDULE*(Sections 207 & 210)***PROVISIONS RELATING TO FORFEITURE****NOTICE OF SEIZURE**

1. The Comptroller shall give notice of the seizure of any thing as liable to forfeiture and of the grounds therefor to any person who to his knowledge was at the time of the seizure the owner or one of the owners thereof:

Provided that notice shall not be required to be given under this paragraph if the seizure was made in the presence of

- (a) the person whose offence or suspected offence occasioned the seizure; or
- (b) the owner or any of the owners of the thing seized or any servant or agent of his; or
- (c) in the case of any thing seized in any ship or aircraft, the master or commander.

2. Notice under paragraph 1 shall be given in writing and shall be deemed to have been duly served on the person concerned

- (a) if delivered to him personally; or
- (b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business or, in the case of a body corporate, at its registered or principal office; or
- (c) where he has no address within Barbados or his address is unknown, by publication of notice of the seizure in the *Official Gazette*.

NOTICE OF CLAIM

3. Any person claiming that any thing seized as liable to forfeiture is not so liable shall, within one month of the date of the notice of seizure or, where no such notice has been served on him, within one month of the date of the seizure, give notice of his claim in writing to the Comptroller.

4. Any notice under paragraph 3 shall specify the name and address of the claimant and, in the case of a claimant who is outside the Island, shall specify the name and address of a solicitor in the Island who is authorised to accept service of process and to act on behalf of the claimant, and service of process upon a solicitor so specified shall be deemed to be proper service upon the claimant.

CONDEMNATION

5. If, on the expiration of the relevant period prescribed by paragraph 3 for the giving of notice of claim in respect of any thing, no such notice has been given to the Comptroller or if, in the case of any such notice given, any requirement of paragraph 4 is not complied with, the thing in question shall be deemed to have been duly condemned as forfeited.

6. Where notice of claim in respect of any thing is duly given in accordance with paragraphs 3 and 4, the Comptroller shall take proceedings for the condemnation of that thing by the court, and where the court finds that the thing was at the time of seizure liable to forfeiture the court shall condemn it as forfeited.

7. Where any thing is in accordance with paragraphs 5 or 6 condemned or deemed to have been condemned as forfeited, then, without prejudice to any delivery up or sale of the thing by the Comptroller under paragraph 15, the forfeiture shall have effect as from the date when the liability to forfeiture arose.

PROCEEDINGS FOR CONDEMNATION BY THE COURT

- 8.** Proceedings for condemnation shall be civil proceedings and shall be instituted in a court of summary jurisdiction.
- 9.** Proceedings for the condemnation of any thing may be instituted—
- (a) in the court of the magistrate having jurisdiction in the place where any offence in connection with that thing was committed or where any proceedings for such an offence are instituted; or
 - (b) in the court of the magistrate having jurisdiction in the place where the claimant resides or, if the claimant has specified a solicitor under paragraph 4, in the place where that solicitor has his office; or
 - (c) in the court of the magistrate having jurisdiction in the place where that thing was found, detained or seized or to which it is first brought after being found, detained or seized.
- 10.(1)** In any proceedings for condemnation, the claimant or his solicitor shall make oath that the thing seized was, or was to the best of his knowledge and belief, the property of the claimant at the time of the seizure.
- (2) If any requirement of this paragraph is not complied with, the court shall give judgment for the Comptroller.
- 11.** Where an appeal, including an appeal by way of case stated, is made against the decision of the court in any proceedings for the condemnation of any thing, that thing shall, pending the final determination of the matter, be left with the Comptroller.

PROVISIONS AS TO PROOF

- 12.** In any proceedings arising out of the seizure of any thing, the fact, form and manner of the seizure shall be taken to have been as set forth in the process without any further evidence thereof, unless the contrary is proved.

13. In any proceedings, the condemnation by a court of any thing as forfeited may be proved by the production either of the order or certificate of condemnation or of a certified copy thereof purporting to be signed by an officer of the court by which the order or certificate was made or granted.

SPECIAL PROVISIONS AS TO CERTAIN CLAIMANTS

14. For the purposes of any claim to, or proceedings for the condemnation of, any thing, where that thing is at the time of seizure the property of a body corporate, of two or more partners or of any number of persons exceeding five, the oath required by this Schedule to be taken and any other thing required by this Schedule or by any rules of the court to be done by, or by any person authorised by, the claimant or owner may be taken or done by, or by any other person authorised by, the following persons respectively, that is to say—

- (a) where the owner is a body corporate, the secretary or some duly authorised officer of that body;
- (b) where the owners are in partnership, any one of those owners;
- (c) where the owners are any number of persons exceeding five not being in partnership, any two of those persons on behalf of themselves and their co-owners.

POWER TO DEAL WITH SEIZURES BEFORE CONDEMNATION

15. Where any thing has been seized as liable to forfeiture, the Comptroller may at any time if he sees fit and notwithstanding that the thing has not yet been condemned or is not yet deemed to have been condemned, as forfeited—

- (a) deliver it up to any claimant upon his paying to the Comptroller such sum as the Comptroller thinks proper, being a sum not exceeding that which in his opinion represents the value of the thing, including any duty or tax chargeable thereon which has not been paid; or

- (b) if the thing seized is a living creature or is in the opinion of the Comptroller of a perishable nature, sell or destroy it.

16.(1) If, where anything is delivered up, sold or destroyed in accordance with paragraph 15, it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Comptroller shall on demand by the claimant tender to him

- (a) an amount equal to any sum paid by him under sub-paragraph (a) of paragraph 15; or
- (b) where he has sold the thing, an amount equal to the proceeds of sale; or
- (c) where he has destroyed the thing, an amount equal to the market value of the thing at the time of its seizure:

Provided that where the said amount includes any sum on account of any duty or tax chargeable on the thing which had not been paid before its seizure the Comptroller may deduct so much of that amount as represents that duty or tax.

(2) If the claimant accepts any amount tendered to him under sub-paragraph (1), he shall not be entitled to maintain any action on account of the seizure, detention, sale or destruction of the thing.

(3) For the purposes of head (c) of sub-paragraph (1), the market value of any thing at the time of its seizure shall be taken to be such amount as the Comptroller and the claimant may agree or, in default of agreement, as may be determined by a referee appointed by the Minister not being an official, other than a magistrate, of any Government department, whose decision shall be final and conclusive.

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(4) The procedure on any reference to a referee shall be such as may be determined by the referee and such referee shall have the powers conferred on a magistrate to require and compel the attendance of witnesses and the production of books, papers and other documents and to award costs in accordance with the

scale of costs laid down in the *Magistrates' Courts (Civil Procedure) Rules, 1958.*

[1962-39]

[2007-2]

FOURTH SCHEDULE*(Section 117(1)(a))**Value of Imported Goods***Interpretation****1.(1)** In this Schedule,

- (a) “customs value of imported goods” means the value of goods for the purposes of levying *ad valorem* duties of customs on imported goods;
- (b) “goods of the same class or kind” means goods imported from the same country as the goods being valued and goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;
- (c) “identical goods” means goods produced in the same country as the goods being valued which are the same in all respects, including physical characteristics, quality and reputation;
- (d) “identical goods” and “similar goods” do not include goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under paragraph 8(1)(b)(iv) because such elements were undertaken in Barbados;
- (e) “person” means a natural or legal person;
- (f) “produced” includes grown, manufactured and mined;
- (g) “similar goods” means goods produced in the same country as goods being valued 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.

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- (2) For the purposes of
- (a) sub-paragraph (1)(c), minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical; and
 - (b) sub-paragraph (1)(g), the quality of goods, their reputation and the existence of a trade mark are among the factors to be considered in determining whether goods are similar.
- (3) For the purposes of this Schedule
- (a) persons shall be deemed to be related in business if
 - (i) they are officers or directors of one another's businesses;
 - (ii) they are legally recognised partners in business;
 - (iii) they are employer and employee within the same business entity;
 - (iv) any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both persons;
 - (v) one of them directly or indirectly controls the other person;
 - (vi) both persons are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person or any other person;
 - (viii) they are members of the same family;
 - (b) one person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter;
 - (c) persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be treated as related only if they fall within the criteria of sub-paragraph 3(a);

- (d) an event shall be deemed to occur at or about the same time as another event if the first event occurs
 - (i) on the same day as the other event; or
 - (ii) within the 45 days immediately before, or the 45 days immediately after the day on which the other event occurs.

Customs value

2.(1) Subject to sub-paragraph (2) and sub-paragraph (5), the customs value of imported goods shall be determined in accordance with the provisions of paragraph 3.

(2) Notwithstanding paragraph 3(1), but subject to paragraph 3, where the conditions described in paragraph 3(1) do not exist, the customs value of imported goods shall be determined in accordance with paragraphs 4, 5, 6 and 7, applying each paragraph in a sequential manner as is necessary.

(3) Except as provided for in sub-paragraph (2), and sub-paragraph (4) it is only when the customs value of imported goods cannot be determined under a particular paragraph that the provisions of the next paragraph in the sequence established by subparagraph (2) can be applied.

(4) The Comptroller may, at the request of an importer, reverse the order of the application of paragraphs 6 and 7.

(5) Where the customs value of imported goods cannot be determined in accordance with paragraphs 3 to 7, it shall be determined using any reasonable means consistent with the principles and general provisions of this Schedule and taking into account to the greatest extent possible previously determined customs values, making use of the methods of valuation laid down in paragraphs 3 to 7 inclusive, using where necessary reasonable flexibility in their application, but no consideration shall be given to

- (a) the selling price in Barbados of goods produced in Barbados;

- (b) the price of the goods on the domestic market of the country of exportation;
- (c) the cost of production other than computed values which have been determined for identical or similar goods in accordance with paragraph 7;
- (d) the price of the goods for export to a country other than Barbados;
- (e) a system which provides for the acceptance for custom purposes, of the higher of two alternative values;
- (f) minimum customs values; or
- (g) arbitrary or fictitious values.

Conditions for customs value

3.(1) The customs value of imported goods determined under this paragraph shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to Barbados, adjusted in accordance with paragraph 8, and in appropriate cases paragraph 9, provided that

- (a) there are no restrictions as to the disposition or use of the goods by the buyer, other than restrictions that
 - (i) are imposed by law or by the public authorities in Barbados;
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not substantially affect the value of the goods;
- (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined and with respect to the goods being valued;
- (c) no part of the proceeds of any subsequent re-sale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with paragraph 8; and

- (d) the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under sub-paragraph (2).
- (2)
 - (a) In determining whether the transaction value is acceptable for the purposes of sub-paragraph (1), the fact that the buyer and the seller are related within the meaning of paragraph 1 shall not in itself be grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the importer or otherwise the Comptroller has grounds for considering that the relationship influenced the price, he shall communicate the grounds to the importer who shall be given a reasonable opportunity to respond.
 - (b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with sub-paragraph (1) whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time
 - (i) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to Barbados;
 - (ii) the customs value of identical or similar goods as determined under paragraph 6;
 - (iii) the customs value of identical or similar goods as determined under paragraph 7.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in paragraph 8 and costs incurred by the seller in sales in which he and the buyer are not related that are not incurred by the seller in sales in which he and the buyer are related.

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- (c) The tests set out in sub-paragraph 2(b) shall be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under that sub-paragraph.
- (4) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods.
- (5) Payments may be made directly or indirectly, need not necessarily take the form of a transfer of money, and shall include
- (i) all payments made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller; and
 - (ii) any settlement by the buyer, whether in whole or in part, of a debt owed by the seller.
- (6) Activities, including marketing activities, undertaken by the buyer on his own account, other than those for which an adjustment is provided in paragraph 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.
- (7) The customs value of imported goods shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods
- (a) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;
 - (b) customs duties and other taxes payable in Barbados by reason of the importation or sale of the goods;
 - (c) the cost of transport after importation.
- (8) The fact that goods which are the subject of a sale are entered for home use within Barbados shall be regarded as adequate indication that they were sold

for export to Barbados, and this indication shall also apply where successive sales of the goods have taken place before valuation; and where such successive sales have taken place each price resulting from them may be used as a basis for valuation.

Transaction value of identical goods

4.(1) The customs value of imported goods determined under this paragraph is the transaction value of identical goods sold for export to Barbados and exported at or about the same time as the goods being valued if the identical goods at the time of sale are at the same commercial level and of substantially the same quantity as the goods being valued.

(2) Where there is no sale of identical goods at the same commercial level and in substantially the same quantity as the goods being valued, the transaction value of identical goods sold at different commercial levels or in different quantities may be used taking account of, and making a suitable adjustment for, the differences in the commercial levels and the quantities of the identical goods.

(3) Where the costs and charges referred to in paragraph 8(1)(*e*), (*f*) and (*g*) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

(4) In applying this paragraph

- (a) if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods;
- (b) a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under subparagraphs (1) and (2) for identical goods produced by the same person as the goods being valued; and

- (c) a condition for adjustment because of different commercial levels or different quantities shall be that such adjustment shall be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in value.

(5) For the purposes of this paragraph, the “transaction value of identical imported goods” means a customs value previously determined under paragraph 3, adjusted as provided for in sub-paragraphs (2) and (3) of this paragraph.

Transaction value of similar goods

5.(1) The customs value of imported goods determined under this paragraph is the transaction value of similar goods sold for export to Barbados and exported at or about the same time as the goods being valued if the similar goods at the time of sale are at the same commercial level and of substantially the same quantity as the goods being valued.

(2) Where there is no sale of similar goods at the same commercial level and in substantially the same quantity as the goods being valued, the transaction value of similar goods sold at different commercial levels or in different quantities may be used taking account of, and making a suitable adjustment for, the differences in the commercial levels and the quantities of the similar goods.

(3) Where the costs and charges referred to in paragraph 8(1)(e), (f) and (g) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

(4) In applying this paragraph

- (a) if more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods;

- (b) a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under subparagraphs (1) and (2) for similar goods produced by the same person as the goods being valued; and
 - (c) a condition for adjustment because of different commercial levels or different quantities shall be that such adjustment shall be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in value.
- (5) For the purposes of this paragraph, the “transaction value of similar imported goods” means a customs value previously determined under paragraph 3, adjusted as provided for in sub-paragraphs (2) and (3) of this paragraph.

Deductive value

6.(1) Where the imported goods or identical goods or similar imported goods are sold in Barbados in the condition as imported, the customs value of imported goods, determined under this paragraph, shall be based on the unit price at which the imported goods or identical goods or similar imported goods are sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following

- (a) either the commission usually paid or agreed to be paid or the additions usually made for profit, and general expenses including the direct and indirect costs of marketing the goods in question in connection with sales in Barbados of imported goods of the same class or kind;
- (b) the usual costs of transport and insurance and associated costs incurred within Barbados; and
- (c) the customs duties and other taxes payable in Barbados by reason of the importation or sale of the goods.

(2) When the imported goods or identical goods or similar imported goods are not sold at or about the time of importation of the goods valued, the customs value of imported goods determined under this paragraph shall, subject otherwise to the provisions of sub-paragraph (1), be based on the unit price at which the imported goods or identical goods or similar imported goods are sold in Barbados in the condition as imported at the earliest date after the importation of goods being valued but before the expiration of 90 days after such importation.

(3) If the imported goods or identical goods or similar imported goods are not sold in Barbados in the condition as imported, then where the Comptroller so decides, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Barbados who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in sub-paragraph (1).

(4) Where the method of valuation referred to in sub-paragraph (3) is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work; and accepted industrial formulas, recipes, methods of construction and other industrial practices shall form the basis of the calculations.

(5) In this paragraph, the “unit price at which imported goods or identical goods or similar imported goods are sold in the greatest aggregate quantity” is the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

(6) Any sale in Barbados to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in paragraph 8(1) (b), shall not be taken into account in establishing the unit price for the purposes of this paragraph.

- (7) For the purposes of sub-paragraph (1)(a)
- (a) “profit and general expenses” shall be taken as a whole, the figure for the purposes of this deduction being determined on the basis of information supplied by or on behalf of the importer unless his figures are inconsistent with those obtaining in sales of imported goods of the same class or kind, and where the importer’s figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer; and
 - (b) in determining either the commissions or the additions usually made for profit and general expenses, the question whether certain goods are of the same class or kind as other goods shall be determined on a case-by-case basis by reference to the circumstances involved and in doing this, sales for which the necessary information can be provided of the narrowest group or range of imported goods of the same class or kind as the goods being valued should be examined;
 - (c) “goods of the same class or kind” includes goods imported from the same country as the goods being valued as well as goods imported from other countries.
- (8) For the purposes of sub-paragraph (2), the “earliest date” shall be the date by which sales of the imported goods or of identical imported goods or similar imported goods are made in sufficient quantity to establish the unit price.

Computed value

7.(1) The customs value of imported goods determined under this paragraph shall be based on a computed value which shall consist of the sum of

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods, ascertained from information relating to the production of the goods being valued, supplied by or on behalf of the producer, including the relevant accounts of the producer where these are prepared in accordance with

- the general accepted accounting principles applied in the country where the goods are produced;
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Barbados;
 - (c) the cost or value of the items referred to in paragraph 8(1)(e), (f) and (g).
- (2) The cost or value of materials and fabrication referred to in sub-paragraph (1)(a) shall include
- (a) the cost of elements specified in paragraph 8(1)(a)(ii) and (iii); and
 - (b) the duly apportioned value of any element specified in paragraph 8(1)(b) which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods and in the case of the elements referred to in sub-paragraph 8(1)(b)(iv) only where it has been charged to the producer.
- (3) No cost or value of an element referred to in this sub-paragraph (2) shall be counted more than once in computing the value.
- (4) For the purpose of sub-paragraph (1)(b)
- (a) the amount for profit and general expenses shall be taken as a whole and shall be determined on the basis of information supplied by or on behalf of the producer except that where his figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued and which are made by producers in the country of exportation for export to Barbados, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods;
 - (b) whether goods are of the same class or kind as other goods shall be determined on a case by case basis with reference to the circumstances

involved. In doing this, sales for export to Barbados of the narrowest group or range of goods of the same class or kind as the goods being valued for which the necessary information can be provided should be examined;

- (c) “general expenses” means the direct and indirect cost of producing and selling the goods for export which are not included under subparagraph (1)(a);
- (d) “goods of the same class or kind” means goods imported from the same country as the goods being valued.

Customs value includes certain charges

8.(1) In determining the customs value under paragraph 3, there shall be added to the price actually paid or payable for the imported goods

- (a) the following to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods, the sums paid as
 - (i) commission and brokerage, except buying commissions,
 - (ii) the cost of containers which for customs purposes are treated as a part or component of the goods in question; and
 - (iii) the cost of packing, whether for labour or materials;
- (b) the duly apportioned value of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost, for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable,
 - (i) materials, components, parts and similar items incorporated in the imported goods,
 - (ii) tools, dies, moulds and similar items used in the production of the imported goods;

- (iii) materials consumed in the production of the imported goods; and
 - (iv) engineering, development, art work, design work and plans and sketches undertaken elsewhere than in Barbados and necessary for the production of the imported goods;
- (c) royalties, licence fees or other payment made in respect of patents, trade marks, or copyrights related to the goods being valued which the buyer must pay directly or indirectly as a condition of sale of those goods;
- (d) the proceeds of any subsequent re-sale, disposal or use of the imported goods that accrue directly or indirectly to the seller;
- (e) the cost of transport of the imported goods to the port or place of importation;
- (f) loading and handling charges associated with the transport of the imported goods to the port or place of importation; and
- (g) the cost of insurance.
- (2) No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this paragraph.
- (3) Additions shall be made to the price paid or payable only in accordance with this paragraph and on the basis of objective and quantifiable data; and if such do not exist a transaction value shall not be determined under the provisions of paragraph 3.
- (4) In this paragraph, the term “buying commissions” means fees paid by an importer to his agent for the service of representing him abroad in the purchase of the goods being valued.
- (5) Notwithstanding sub-paragraph (1)(c)
- (a) charges for the right to reproduce the imported goods in Barbados shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and

- (b) payments made by the buyer for the right to distribute or re-sell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to Barbados of the goods.

Interest charges

9.(1) Charges for interest under a financing arrangement entered into by the buyer and related to the purchase of imported goods shall not be included in the customs value determined under paragraph 3 if

- (a) the charges are distinguished from the price actually paid or payable for the goods;
- (b) the financing arrangement has been made in writing;
- (c) where required by the Comptroller, the buyer can demonstrate that
 - (i) such goods are actually sold at the price declared as the price actually paid or payable; and
 - (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided.

(2) The provisions of sub-paragraph (1) shall apply where the finance is provided by the seller, a bank or other person; and it shall also apply where customs value is determined using a method other than the calculation of the transaction value.

[1992-6; 2007-2]