

within the time provided by subsection (1) the exporter shall for every such offence be liable to a penalty of five hundred dollars.

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.

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

Cap. 286.

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.

Permission required to discharge goods loaded.

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 breach of sections 64 to 67.

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

Penalty for attempting to ship prohibited or restricted goods.

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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.

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.

Penalty for short-loading of bonded goods.

(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).

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.

Exporter to notify short-loading of non-bonded goods.

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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 trans-
shipment
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.

Cap. 286.

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, 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 the Island, or which has any goods remaining on board thereof from a voyage or flight from a place outside the Island, 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

78. (1) The master of every ship, other than a steamship, and the commander of every aircraft or the agent of such master or commander shall immediately before the departure of his ship or aircraft from any port, customs airport or other place in the Island deliver to the proper officer a content of such ship or aircraft in the prescribed form and containing the prescribed particulars as far as the same can be known to him, and shall make and subscribe the declaration at the foot thereof in the presence of such officer and shall answer all such questions as are put to him by such officer concerning the ship or aircraft, the goods, stores, baggage, officers, crew and passengers to be conveyed by such ship or aircraft and the intended voyage or flight:

Master to deliver account of cargo, etc.

Provided that 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 officers, crew and passengers to the proper officer at least one hour before the scheduled time of departure.

(2) The master of a steamship or his agent shall, either before or not later than twenty-four hours (or such further period as the Comptroller may allow) after the time of the departure of the steamship from its final position, anchorage or berth in the Island to any place outside the Island, deliver to the proper officer a content of such steamship in the prescribed form and containing the several particulars therein required as far as the same can be known to him, and shall make and subscribe the declaration at the foot thereof and shall answer all such questions concerning the ship, goods,

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stores, baggage, officers, crew and passengers and the voyage as are asked of him by such officer.

Penalty for any contravention of section 78.

79. Where a master or commander or the agent of either of them fails to deliver the content required by section 78, or where any of the particulars contained in such content are false or any of the required particulars are omitted from such content and such omission is not explained to the satisfaction of the Comptroller or where a master or commander or the agent of either of them otherwise fails to comply with any of the provisions of that section, such master, commander or agent shall be liable to a penalty of five hundred dollars.

Clearance of aircraft and ships.

Cap. 286.

80. No ship or aircraft shall depart from any port, customs airport or other place in the Island to any place outside the Island, either direct or via another port, customs airport or other place in the Island, 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 and, in the case of a ship, that section 30 of the Barbados Harbours Act 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.

Penalty for not clearing.

81. Where any ship or aircraft departs from any port or place as aforesaid without authority having been granted as required by section 80, the master or his agent, or, as the case may be, the commander or his agent shall be liable to a penalty of five hundred dollars.

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 a penalty of five hundred dollars.

83. (1) Where any ship is departing in ballast from the Island to any place outside the Island, 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 words "in ballast" shall be written on the prescribed forms in the places which are provided for particulars of cargo.

Clearance
in ballast.

(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.

84. Any officer may go on board any ship or aircraft which is cleared outwards, in the case of a ship, at any time while the ship is within the limits of a port or within three nautical miles of the coast of the Island and, in the case of an aircraft, at any time while the aircraft is at a customs airport, and demand the clearance of such ship or aircraft, and any master of such ship or the commander of such aircraft who fails to produce the same, or who fails to answer or does not truly answer such questions concerning the ship or aircraft, the goods, stores, baggage, officers, crew and passengers to be conveyed by such ship or aircraft and the intended voyage or flight, as may be demanded by him, shall be liable to a penalty of five hundred dollars.

Clearance to
be produced
to officer on
demand.

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

Goods not
contained
in account
forfeited.

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penalty of five hundred dollars or three 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 the Island 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 the Island, 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 the Island), the master of such ship or the commander of such aircraft shall be liable to a penalty of one hundred dollars for every container of such goods not on board, or three times the value of such goods, whichever is the greater.

Deficiency in stores, etc.

87. Where any ship or aircraft, having departed from the Island on a voyage or flight to a place outside the Island and having returned within the Island, is boarded by an officer, and such officer discovers any deficiency in the stores of such ship or aircraft which in his opinion are 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 one hundred dollars.

Ship not bringing to at boarding station and ship or aircraft carrying away officers. L.N. 168/1967.

88. (1) Where any ship departing from the Island 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 the Island 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 five hundred dollars 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.

PROHIBITED AND RESTRICTED GOODS

89. (1) The goods, the particulars of which are set out in Part I of the List of Prohibited and Restricted Imports¹ 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.

Goods prohibited or restricted to be imported or exported.

(2) The goods, the particulars of which are set out in Part I of the List of Prohibited and Restricted Exports² 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.

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

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

- (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

¹ 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 This list, contained in the Third Schedule to the Customs Act, 1962, 1961—18, as amended, will be published in the Revised Statutory Instruments.

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.
1984—44.

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

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*; or Cap. 329.

(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

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. Application of customs laws to importation and exportation by post.

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.

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

(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. 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.

Cap. 27A.

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

TRANSIT TRADE

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. Goods in transit.

(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

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

(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.
1984—44.

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.

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 thereof,

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.

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.

Discretionary power of Comptroller in special circumstances.

PART IV

Duties and Drawbacks

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.

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

(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

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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.

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—

Duty on
goods re-
imported.

- (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 of character) are goods not liable at the time of re-importation 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 re-importation;
- (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

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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.

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.

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

(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.

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.

Set-off or deduction. 1998-6.

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.

Goods used contrary to purpose for which imported.

(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.

1982-24.

(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.

(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.

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.

Disposal of deposit.

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.

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.

Certain goods may be excepted from section 111.

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 entered for transshipment or in transit exempt from duty.

ss.115-117

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.

Determina-
tion of value
of goods
liable to
customs
duty *ad
valorem*.
1992-6.

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 *Second Schedule*; and
- (b) in the case of exported goods, in the prescribed manner.

Second
Schedule

(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.

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.

Value of articles sold by auction.

119. *Repealed by 1992-6.*

120. *Repealed by 1992-6.*

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 chargeable on reputed quantity.

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.

Duty calculated on gross weight in certain cases.

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.

Minister may fix standard contents for containers containing liquids.

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.

Damage to be assessed by Comptroller.

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.

Abatement of duty.

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

No abatement on certain goods.

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.

Qualification as to abatement.

(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.
1980-50.

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.

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.

Delegation of certain functions. 1978-17.

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

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.

Remission of duty on goods lost or destroyed, and abandonment of goods for non-payment of duties. 1975-27.

(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.

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,

Refund of duties overpaid. 1975-27.

the Comptroller shall repay the excess to that person.

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

Determina-
tion 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*.

L.N. 51/
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

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.

Minister may direct granting of drawbacks.

(2) Notwithstanding anything in subsection (1), all drawbacks payable by virtue of any subsidiary legislation made under any Act repealed by this Act¹, 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.

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.

Declaration by owners of goods exported on drawback.

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

Evidence of landing or disposal of drawback goods.

¹ 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.

Payment of
drawbacks.
1975-27.

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.

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.

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 lost.

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. Drawback on goods abandoned.

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. Modification of declaration.

PART V

Warehoused Goods and Goods in Transit Sheds, Customs Areas and Queen's Warehouse

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 Warehousing.

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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.
L.N. 168/
1967.

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.

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.

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.

Warehouse-keeper, etc., to provide facilities.

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:

Repacking: sampling of goods by owner.

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.

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.

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

(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.

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.

Effect of revocation of approval of a warehouse, etc.

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(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.

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.

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

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.

Stowage of goods in warehouse or customs area.

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.

Warehouse-keeper neglecting to arrange, stow and maintain goods.

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.

Goods to be produced to officer.

1995-16. (2)¹ 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.

(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

¹ This amendment has effect from 25th April, 1995.

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.

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.

Penalty for illegally entering, etc., 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.

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

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.

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

THE LAWS OF BARBADOS

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.

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.

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

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.

Removal in certain cases to be subject to certain conditions.

(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.

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, be paid by the Accountant-General out of the Consolidated Fund on the order of the Comptroller.

Comptroller may remove goods warehoused in a Government warehouse.

Cap. 5.

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.

Warehoused goods to be cleared within two years.

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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.

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.

Delivery in special circumstances.

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.

Stores.

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.

Duty chargeable on warehoused goods.

(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.

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(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.

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 have been paid.

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

Cap. 286.

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.

Goods deposited in a Queen's warehouse may be examined.

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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.

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.

Clearance of
coasting ship
and transire.

(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.

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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

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.

Power to
regulate
small craft.

(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

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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.

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. Smuggling ships under 250 tons forfeited.

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— Penalty on smuggling ships of 250 tons or more and aircraft.

- (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

Schedule.

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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.

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.

Penalty for not bringing to.

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.

Offences by smugglers, etc., against officers. 1992-17.

(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