

# **CUSTOMS ACT**

**Act 47 of 1988 – 1 January 1989**

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FIRST SCHEDULE

SECOND SCHEDULE

## An Act

To make provision relating to the administration of Customs and the collection of duty, **excise duty**<sup>1</sup>, levy and other taxes.

ENACTED in the Parliament of Mauritius as follows-

### PART I - INTRODUCTION

#### 1. Short title

This Act may be cited as the Customs Act.<sup>2</sup>

#### 2. Interpretation

In this Act and in any other Act relating to Customs,<sup>3</sup>-

“abandoned goods” means goods which are not claimed or removed from customs control within the <sup>4</sup>specified in section 61;

“agent”<sup>5</sup>

(a) means a freight forwarding agent appointed under this Act;

(b) in relation to the master or owner of an aircraft or ship, includes any person who notifies the <sup>6</sup>**Director-General** in writing that he is entitled to act as the agent and who, or on whose behalf any person authorised by him, signs any document required or permitted by customs laws to be signed by an agent;

"aircraft" includes balloon, helicopter, kite, glider, airship, flying machine and any other means of aerial locomotion;

“airport” means <sup>7</sup>such airport as may be prescribed;

“approved place of loading” and “approved place of unloading” means <sup>8</sup>a place approved by the **Director-General** to be a place where goods may be loaded or unloaded, as the case may be;

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<sup>1</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 2, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>2</sup> w.e.f. 15-December2001, **Revised laws of Mauritius 2000**, amended section 1 by deleting the word “1988”

<sup>3</sup> w.e.f. 15-December2001, **Revised laws of Mauritius 2000**, amended section 2 by deleting the word “unless the context otherwise requires”

<sup>4</sup> w.e.f. 15-December2001, **Revised laws of Mauritius 2000**, amended section 2, in the definition of “abandoned goods” by deleting the word “delay”

<sup>5</sup> w.e.f. 01-March-2006, **ACT-28/2004**, Finance Act 2004, Section 5 (a) (i), amended Section 2, in the definition of “agent”, by deleting paragraph (a) which is “(a) means a clearing and forwarding agent licensed under the licenses Act and appointed under this act.” and replacing it by the new paragraph (a).

<sup>6</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 2, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>7</sup> w.e.f. 15-December2001, **Revised laws of Mauritius 2000**, amended section 2, in the definition of “airport” by deleting the word “an” and replacing it by the word “such”

<sup>8</sup> w.e.f. 15-December2001, **Revised laws of Mauritius 2000**, amended section 2, in the definition of “approved place of loading” by deleting the word “any” and replacing it by the word “a”

<sup>1</sup>“Authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act <sup>2</sup>;

<sup>3</sup>“bonded vehicle” has the same meaning as in regulation 14A (2) of the Customs Regulations 1989;

“bonded warehouse” means any place whether building, store, shed, yard, dock, storage tank, <sup>4</sup>showroom or other premises<sup>5</sup>, approved by the Director-General in which goods entered to be warehoused may be lodged, kept or secured pending payment of duty, <sup>6</sup>excise duty <sup>7</sup>or taxes; and includes any central bonded warehouse;

“broker” means a <sup>8</sup>licensed customs house broker appointed under this Act;

“by authority” means by the authority of the Director-General;

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

“clearance”, in relation to goods, means release of goods from Customs by the Director-General in pursuance of the purpose for which such goods were entered;

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

“commission agent” means a <sup>9</sup>licensed person appointed under this Act;

<sup>10</sup>“container”

(a) means an article of transport equipment -

(i) of a permanent character and strong enough to be suitable for repeated use;

<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (a) (iii), amended Section 2 by inserting in the proper alphabetical order the definition of “Authority”.

<sup>2</sup> w.e.f. 03-November-2008, Revised laws of Mauritius 2007 amended section 2 in the definition of “Authority” by deleting the word 2004

<sup>3</sup> w.e.f. 07-August-2006, ACT-15/2006, Finance Act 2006, Section 8 (a) (i), amended Section 2, by adding in the appropriate alphabetical order the definition of “bonded vehicle”.

<sup>4</sup> w.e.f. 27-August-2006, ACT-17/2007, Finance Act 2007, Section 9 (a) (i), amended Section 2, in the definition of “bonded warehouse” by inserting immediately after the words “storage tank”, the word “showroom”

<sup>5</sup> w.e.f. 15-December2001, Revised laws of Mauritius 2000, amended section 2, in the definition of “bonded warehouse” by deleting the word “or place”

<sup>6</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 2, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>7</sup> w.e.f. 15-December2001, Revised laws of Mauritius 2000, amended section 2, in the definition of “bonded warehouse” by deleting the word “and” and replacing it by the word “or”

<sup>8</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 2 in the definition of “broker” by deleting the words “customs house broker licensed as such under the Licences Act and” and replacing them by the words “licensed customs house broker”

<sup>9</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000 amended section 2 in the definition of “commission agent” by deleting the words “person who is licensed as such under the Licences Act and” and replacing them by the words “licensed person”

<sup>10</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (a) (i), amended Section 2, by deleting the definition of “Comptroller” which is ““Comptroller” means the Comptroller of Customs and Excise or any officer authorised by the Comptroller to act on his behalf;”

- (ii) specially designed to facilitate the carriage of goods by one or more modes of transport without intermediate reloading;
  - (iii) fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another;
  - (iv) so designed as to be easy to fill and empty;
  - (v) having an internal volume of one cubic metre or more; and
- (b) includes the normal accessories and equipment of the container when imported with the container;
  - (c) excludes vehicles and conventional packing;

<sup>1</sup>“country of export” means –

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

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

“Customs” means the Customs and Excise Department;

“customs area”, in respect of a port or an airport, means an area approved by the **Director-General** for the landing of passengers and the deposit of goods subject to customs control;

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

“customs laws” includes this Act and any other enactment relating to Customs;

“customs warehouse” means any place belonging or rented to the <sup>2</sup>Authority, and used as a customs warehouse for the deposit of goods, including abandoned, seized or forfeited goods, pending the payment of duty, **excise duty** and taxes or charges payable or pending the disposal of such goods, in accordance with any enactment in force;

<sup>3</sup>“**Director-General**” means the **Director-General of the Authority**;

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

“dutiable goods” include all goods subject to any duty, **excise duty**, taxes or related charges;

<sup>1</sup> *w.e.f. 01-January-2000. ACT-18/1999*, Finance Act, 1999, Section 5 (a) (i), amended Section. 2, by inserting in its appropriate alphabetical order the definition of “*country of export*”.

<sup>2</sup> *w.e.f. 01-July-2006, ACT-33/2004*, MRA Act 2004, Section 27 (3) (s), amended Section 4, by deleting the word “*Government*” wherever it appears and replacing it by the word “*Authority*”

<sup>3</sup> *w.e.f. 01-July-2006, ACT-33/2004*, MRA Act 2004, Section 27 (3) (a) (iii), amended Section 2, by inserting in the proper alphabetical order the definition of “*Director-General*”.



“duty” -<sup>1 2</sup>

- (a) means any<sup>3</sup> duty leviable under any customs law;
- (b) includes any special duty or surcharge;

<sup>4</sup>“duty-free shop” means a shop at a port or airport, approved by the Director-General, for the sale of goods free of duty, excise duty or taxes to passengers arriving from or leaving for a foreign port or airport;

<sup>5</sup>“duty- paid value”, in respect of goods, means the sum of –

- (a) the value of the goods; and
- (b) the duty, excise duty and taxes payable on the goods;

<sup>6</sup>“excise duty” means the excise duty chargeable under the Excise Act<sup>7</sup> on the excisable goods specified in Part I of the First Schedule to that Act;

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

“exporter”-

- (a) means any person by whom any goods, whether previously imported or not, are exported;
- (b) includes the owner of such goods or any person acting on his behalf;

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

<sup>8</sup>“freeport zone”- has the same meaning as in the Freeport Act

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

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

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<sup>1</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (c) (ii), amended Section 2, in the definition of “duty” by deleting the word “or fiscal”.

<sup>2</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (a), amended Section 2 by deleting the word “fiscal” or “fiscal duty” as the case may be, wherever they appear.

<sup>3</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 2 in the definition of “duty” by deleting the word “customs” wherever it appears

<sup>4</sup> w.e.f. 01-10-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (a) (ii), amended Section 2, by deleting the definition of “duty free shop” which is ““duty free shop” means a shop at a port or airport or any other place, approved by the Minister, for Sale of goods free of duty or excise duty, taxes or related charges, to passengers arriving from or leaving for a foreign port or airport” and replacing it by the new definition of “duty free shop”.

<sup>5</sup> w.e.f. 01-July-1992, **ACT-23/1992**, Finance Act 1992, Section 7, amended Section 2, by inserting the in its proper alphabetical order the definition of “duty paid value”.

<sup>6</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (c) (i), amended Section 2, by inserting in its appropriate alphabetical order the definition of “excise duty”.

<sup>7</sup> w.e.f. 15-December2001, **Revised laws of Mauritius 2000**, amended section , in the definition of “excise duty” by deleting the word “1994”

<sup>8</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 2 by adding the definition of “freeport zone”.

“import” means to bring or to cause to be brought into Mauritius from any country;

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

<sup>1 2</sup> “levy” -

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

<sup>3</sup> “Mauritius” –

“Mauritius <sup>4</sup>Ports Authority” means the Mauritius <sup>5</sup>Ports Authority established under the Ports Act;

“master”, in relation to any aircraft or ship -

- (a) means the person in charge or in command of such aircraft or ship;
- (b) does not include a person appointed for the conduct of ships into or out of a port;

“Minister” means the Minister to whom responsibility for the subject of finance is assigned;

“name”, in respect of any aircraft or ship, includes the registration mark of the aircraft or ship;

“occupier”, in relation to bonded warehouses, means any person licensed and authorized to warehouse goods in such approved bonded warehouses;

<sup>6</sup> “officer” has the same meaning as in the Mauritius Revenue Authority Act <sup>7</sup>;

“owner”-

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

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<sup>1</sup> w.e.f. 01-July-1990, ACT 23/1990, The Import Levy Act 1990, Section 12 (4), amended Section 2 in the definition of “levy”, by deleting the words “the Supplies (Control of Imports) Regulations 1982 and the Finance Act 1985” and replacing them by the words “the import levy Act 1990”

<sup>2</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (c) (iii), amended Section 2, by deleting the definition of “levy”, which is ““levy” means any levy as defined under the import levy Act 1990”

<sup>3</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 2 by deleting the definition of “Mauritius”, which is ““Mauritius” means the country of Mauritius, including its territorial waters and air space of Mauritius;”

<sup>4</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 2 in the definition of “Mauritius Marine Authority” by deleting the word “Marine” wherever it appears and replacing it by the word “Ports”

<sup>5</sup> w.e.f. 03-November-2008, Revised laws of Mauritius 2007 amended section 2 in the definition of “Mauritius Ports Authority” by deleting the word “as”

<sup>6</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (a) (ii), amended Section 2, by deleting the definition of “officer” which is “officer includes any person employed in the service of customs excluding labourers, office attendants and more generally other manual workers;”and replacing it by the new definition of “officer”.

<sup>7</sup> w.e.f. 03-November-2008, Revised laws of Mauritius 2007 amended section 2 in the definition of “officer” by deleting the word 2004

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

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

“parcel” means any postal packet which is posted in Mauritius and accepted by <sup>1</sup>Mauritius Post Limited as a parcel in accordance with any enactment relating to postal services, or which is received in Mauritius from abroad by parcel post;

<sup>2</sup>“person” –

“pleasure boat” means any ship used for pleasure, sports and leisure activities;

“port” means <sup>3</sup>such port as may be prescribed;

<sup>4</sup>“produce” means to grow, to manufacture or to mine;

“prohibited goods”-

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

“proper officer” means the officer instructed by the Director-General to be the proper officer to carry out any specific provision of customs laws and of any other enactment, as the case may be;

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

“quay” means <sup>5</sup>such quay as may be prescribed;

“restricted goods” means any goods, the import or export of which is restricted by law;

“revenue” <sup>6</sup>, means any amount payable in accordance with the provisions of any applicable law of Mauritius;

“Rs” means Mauritian rupees;

“security” means a guarantee which is provided to the satisfaction of the Director-General for the payment of duty, **excise duty** and taxes, as the case may be, on any goods;

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<sup>1</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2000**, amended section 2 in the definition of “parcel” by deleting the word “Postmaster-General” and replacing it by the words “Mauritius Post Limited”

<sup>2</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2000**, amended section 2 by deleting the definition of “person”, which is ““person” includes any association, partnership, trust, société or organisation, whether incorporated or not”

<sup>3</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 2 in the definition of “port” by deleting the word “a” and replacing it by the word “such”

<sup>4</sup> w.e.f. 01-January-2000, **ACT-18/1999**, Finance Act 1999, Section 5 (a) (ii), amended Section 2, by inserting in its appropriate alphabetical order the definition of “produce”.

<sup>5</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 2 in the definition of “quay” by deleting the word “a” and replacing it by the word “such”

<sup>6</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 2 in the definition of “revenue” by deleting the words “for the purposes of this Act and any other enactment relating to Customs.”

“ship” includes any seagoing vessel, hovercraft or boat of any kind, including yachts, pleasure boats or fishing boats, whether propelled by engine or otherwise, or towed;

<sup>1</sup>“showroom” , in relation to a bonded warehouse, means any fenced yard, building or part of a building approved by the Director-General for the display of imported motor vehicles;

<sup>2</sup>“SITA” means <sup>3</sup>*Société Internationale de Transports Aéronautiques*;

“smuggling” means any import, introduction, export or attempted import, introduction or export of goods with the intent <sup>4</sup>to-

- (a) <sup>5</sup>defrauding or <sup>7</sup>evading the payment of duty, **excise duty**, taxes and other payable charges, as the case may be; or
- (b) **evading** any prohibition of, restriction on, or regulation as to, the import, introduction or export of any goods;

“taxes” <sup>8</sup>includes –

- (a) <sup>9</sup> <sup>10</sup>VAT on import levied under any enactment relating to **value added tax**; and
- (b) any other tax<sup>11</sup>, the collection of which is the responsibility of Customs;

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

“time”, in relation to import or export respectively, means -

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

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<sup>1</sup> w.e.f. 27-August-2007, **ACT-17/2007**, Finance Act 2007, Section 9 (a) (ii), amended Section 2, by inserting in its appropriate alphabetical order the definition of “showroom”.

<sup>2</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (a) (iii), amended Section 2, by inserting in the proper alphabetical order the definition of “SITA”.

<sup>3</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 2 in the definition of “SITA” by changing the font style of the words “*Société Internationale de Transports Aéronautiques*” from normal to italics

<sup>4</sup> .e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 2 in the definition “of smuggling” by inserting after the word “intent”, the word “to”.

<sup>5</sup> .e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 2 in the definition of “smuggling”, by deleting the word “to” wherever it appears.

<sup>6</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 2 in the definition of “smuggling” by deleting the word “defraud” and replacing it by the word “defrauding”

<sup>7</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 2 in the definition of “smuggling” by deleting the word “evade” wherever it appears and replacing it by the word “evading”

<sup>8</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 2 in the definition of “taxes” by deleting the words “for include” and replacing it by the word “includes”

<sup>9</sup> w.e.f. 07-September-1998. **ACT-02/1998**, VAT Act 1998, Section 74 (3), amended Section 2, by deleting the words “sales tax” wherever they appear and replacing them by the words “value added tax”.

<sup>10</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 2 in the definition of “taxes” by deleting the word “Value Added Tax” and replacing it by the word “VAT”

<sup>11</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 2 in the definition of “taxes” by adding after the words “any other tax”, a comma.

<sup>1</sup>"transaction value", in relation to imported goods, means the transaction value as determined in accordance with section 18A;

<sup>2</sup>"transshipment" means the transfer of goods under customs control from the importing means of transport to the exporting means of transport;

<sup>3</sup> "Unified Revenue Board" –

"value"-

- (a) in respect of the computation of any duty, means the value as determined in accordance with section 18 of this Act;
- (b) in respect of any penalty or forfeiture imposed under this Act and based upon the value of any goods, means the duty paid value of those goods at the time and place of the commission of the offence by which the penalty or forfeiture is incurred;

"vehicle"

- (a) means any means of conveyance of any kind, whether drawn or propelled by hand, by animal, by power or by steam;
- (b) does not include any aircraft or a ship;

<sup>4</sup>"visitor" means a person holding –

- (a) a foreign passport; and
- (b) a valid ticket for travel by air <sup>5</sup>and sea to a foreign port or airport;

"wharf" means <sup>6</sup>such wharf as may be prescribed.

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<sup>1</sup> w.e.f. 01-January-2000, **ACT-18/1999**, Finance Act 1999, Section 5 (a) (iii), amended Section 2, by inserting in its appropriate alphabetical order the definition of "transaction value".

<sup>2</sup> w.e.f. 26-August-2004, **ACT-28/2004**, Finance Act 2004, Section 5 (a) (ii), amended Section 2, by deleting the definition of "trans-shipment", which is "transshipment in relation to the entry of any goods, means the transit of such goods through Mauritius with a view to their re-export" and replacing it with the new definition of "transshipment".

<sup>3</sup> w.e.f. 30-June-1999, **ACT-10/1998**, Finance Act 1998, Section 6 (a), amended Section 2, by deleting the definition of "Unified Revenue Board", which is "Unified Revenue Board means the Unified Revenue Board established under the Unified Revenue Act 1983"

<sup>4</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (a) (i), amended Section 2, by inserting in the appropriate alphabetical order the definition of "visitor".

<sup>5</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 2 in the definition of "visitor" by deleting the word "or" and replacing it by the word "and"

<sup>6</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 2 in the definition of "wharf" by deleting the word "a" and replacing it by the word "such"

## PART II - ADMINISTRATION

<sup>1</sup>3.

### 4. Oaths

The <sup>2</sup>Director-General shall be entitled to administer any oath required by law in any matter relating to Customs.

### 5. Power to hold inquiries

- (1) The <sup>3</sup>Director-General may hold any inquiry or may direct an inquiry to be held into any matter under his responsibility and management, or into the conduct of <sup>4</sup>any officer.
- (2) Whenever he thinks it necessary or desirable so to do for the purposes of this Act, the Director-General may, by <sup>5</sup>Order, require any person to attend as a witness and give evidence, produce any document in his possession or power or otherwise furnish information, which relates to any matter relevant to the inquiry.
- (3) Where any <sup>6</sup>document is produced pursuant to subsection (2), the Director-General may take copies of or extracts from <sup>7</sup>it or require the person producing it or any connected person to provide an explanation of any such document.
- (4) Where a person is unable to produce a document, he may be required to state, to the best of his knowledge, where the document is.
- (5) Any person who fails to comply with an Order under subsection (2) or with subsection (3) or subsection (4), shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees.
- (6) Any person who, when heard as a witness in any such inquiry, gives false evidence shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 2 years.

### 6. Working days and hours

The working days and hours of Customs shall be such as may be prescribed and, except with the permission of the <sup>8</sup>Director-General, no work connected with the discharge,

<sup>1</sup>w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (b), amended the Customs Act, by repealing Section 3, which is

**“3. Comptroller.**

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

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 4, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>3</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 5, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>4</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (c), amended Section 5 (1), by deleting the words “any person employed in Customs” and replacing them by the words “any officer”.

<sup>5</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 5 by changing the case of the word “order” wherever it appears to “Order”

<sup>6</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 5 by deleting the word “documents” wherever it appears and replacing it by the word “document”

<sup>7</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 5 by deleting the word “them” wherever it appears and replacing it by the word “it”

<sup>8</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 6, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

landing, loading or receipt of any cargo shall be performed outside the prescribed working days and hours.

## 7. Overtime charges

Where work is permitted by the <sup>1</sup>Director-General to be performed outside the prescribed working days and hours, the services of the officers involved shall be charged for at such rates as may be prescribed.

## PART III - COLLECTION AND MANAGEMENT OF DUTY, <sup>2</sup>EXCISE DUTY AND TAXES

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

## 8. Payment of duty, excise duty and taxes

(1) All duty, excise duty and taxes shall be paid at the rate specified upon all goods entered unless such goods are entered to be warehoused in a bonded warehouse or are free of duty, excise duty and taxes.

<sup>3</sup>(2) Notwithstanding subsection (1), payment of duty, excise duty and taxes on such type of petroleum products imported by the State Trading Corporation as may be approved by the Minister, shall be effected within a period of 30 days of the date of importation of such products or within such other period as may be prescribed.

## 9. Duty rate

(1) <sup>4</sup>Subject to section 3 (5) of the Revenue (Temporary Protection) Act<sup>5</sup>, the rate of duty applicable to any goods shall be that in force in the Customs Tariff Act, at the time the bill of entry is validated at Customs.

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

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

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<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 7, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>2</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 8, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>3</sup> w.e.f. 26-August-2004, ACT-28/2004, Finance Act 2004, Section 5 (b), amended Section 8, by deleting subsection (2) which is

*"(2) Notwithstanding subsection (1), the Minister may allow payment of duty to be deferred*

*(a) On such types of petroleum products, imported by the State Trading Corporation of Mauritius as may be prescribed; and*

*(b) On exported sugar by the Mauritius Sugar Syndicate."*  
and replacing it by the new subsection (2).

<sup>4</sup> w.e.f. 01-January-2000, ACT-18/1999, Finance Act 1999, Section 5 (b), amended Section 9 (1), by deleting the words "The rate of duty" and replacing them by the words "to Section 3 (5) of the Revenue (Temporary Protection) Act 1999, the rate of duty"

<sup>5</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 9 by deleting the word "1999"

## **<sup>1</sup>9A. Time limit for proceeding with validated bill of entry**

- (1) Subject to this section, a declarant shall proceed with a bill of entry which has been validated pursuant to section 9 (2), and shall pay any duty, excise duty and taxes in respect of that bill of entry, within 21 days of the date of validation.
- (2) Where a bill of entry is not proceeded with under subsection (1), the declarant shall, not later than 21 days after the date of validation, apply in writing to the Director-General for cancellation of that bill of entry, stating precisely the grounds for cancellation.
- <sup>2,3</sup>(3) Where on an application under subsection (2), the Director-General is satisfied that the bill of entry needs to be cancelled, he shall cancel the bill of entry.
- (3A) Where the declarant fails to make an application under subsection (2) within the time limit specified in that subsection, the Director-General shall cancel the bill of entry referred to in subsection (2).
- (4) Any person who fails to comply with subsection <sup>4</sup>(1) or (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

## **10. Weights and measures**

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

## **11. Tare allowance**

Such allowance for tare shall be made as is prescribed.

## **12. Derelict goods dutiable**

All goods derelict, flotsam, jetsam or lagan which <sup>5</sup>are landed or saved or which come ashore from any wreck shall be subject to the same duty as goods of the like kind on import into Mauritius.

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<sup>1</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (d), amended the Customs Act, by inserting immediately after Section 9 the new Section 9A.

<sup>2</sup> w.e.f. 19-July-2008, **ACT-18/2008**, Finance Act 2008, Section 6 (a), amended Section 9A, by inserting after subsection (3), the new subsection (3A).

<sup>3</sup> w.e.f. 19-December-2009, **ACT-20/2009**, The Finance (Miscellaneous Provisions) (No.2) Act, Section 7 (a) (i), amended Section 9A, by repealing subsections (3) and (3A) which are

(3) *Where, upon an application under subsection (2), the Director-General is satisfied that the bill of entry requires to be cancelled, he shall authorise the declarant to pass, within 7 days of the date of the authorisation, an amended bill of entry to cancel that bill of entry.*

(3A) *Where the declarant fails –*

(a) *to make an application under subsection (2) within the time limit specified in that subsection; or*

(b) *to pass an amendment bill of entry under subsection (3) within the time limit specified in that subsection, the Director-General shall cancel the bill of entry referred to in subsection (2).*

and replacing them by the new subsections (3) and (3A).

<sup>4</sup> w.e.f. 19-December-2009, **ACT-20/2009**, The Finance (Miscellaneous Provisions) (No.2) Act, Section 7 (a) (ii), amended Section 9A (4), by deleting the words “(1), (2) or (3)” and replacing them by the words “(1) or (2)”

<sup>5</sup> w.e.f. 15-December-2001, **Revised laws of Mauritius of 2007**, amended section 12 by deleting the word “is” and replacing it by the word “are”



### 13. Payment of duty, <sup>1</sup>excise duty and taxes on manifested goods

All dutiable goods shown on the import manifest of any aircraft or ship shall be charged with duty, excise duty and taxes, as the case may be, unless it is proved, to the satisfaction of the <sup>2</sup>Director-General, that such goods were not landed in Mauritius.

### 14. Recovery of duty, <sup>3</sup>excise duty and taxes

(1) The correct amount of duty, excise duty, taxes and charges payable in respect of any goods shall, from the time when they should have been paid, constitute a debt due to <sup>4</sup>the <sup>5</sup>Authority at import or export, as the case may be, and shall be recoverable in a Court of competent jurisdiction by proceedings in the name of the <sup>6</sup>Director-General.

<sup>7</sup>(1A) The amount recoverable under subsection (1) shall be recovered together with interest at the rate of 12 per cent per annum or such other rate as may be prescribed from the time the amount recoverable should have been paid up to the date of payment.

<sup>8</sup>(1B) (a) The Director-General may waive the whole or part of any interest imposed under subsection (1A) where he is satisfied that failure to comply with this Act was attributable to a just or reasonable cause.

(b) In the exercise of his power under paragraph (a), the Director-General shall, in writing, record the reasons for waiving the whole or part of the interest.

(2) Any debt due to the Authority under <sup>9</sup>subsections (1) and (1A) shall be secured by a special privilege and a right of retention.

<sup>10</sup>(3) For the purposes of subsection (2) –

“right of retention” means the right conferred on the Director-General under Article 2150-1<sup>o</sup> of the Code Civil Mauricien to retain possession of the goods until the debt due to the Authority is paid;

“special privilege” has the same meaning as in Articles 2143 and 2150 of the Code Civil Mauricien.

<sup>1</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 13, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 13, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>3</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 14, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>4</sup> w.e.f. 15-December-2001, Revised laws of Mauritius of 2000, amended section 14 by adding after the words the “debt due to” the word “the”

<sup>5</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 13, by deleting the word “Government” wherever it appears and replacing it by the word “Authority”

<sup>6</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 14, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>7</sup> w.e.f. 07-August-2006, ACT-15/2006, Finance Act 2006, Section 8 (b) (i), amended Section 14, by inserting immediately after subsection (1) the new subsection. (1A).

<sup>8</sup> w.e.f. 30-July-2009, ACT-14/2009, The Finance (miscellaneous provisions) Act 2009, Section 8 (a), amended section 14, by inserting, after the subsection (1A), the new subsection (1B)

<sup>9</sup> w.e.f. 07-August-2006, ACT-15/2006, Finance Act 2006, Section 8 (b) (ii), amended Section 14 (2), by deleting the words “subsection (1)” and replacing them by the words “subsections (1) and (1A)”

<sup>10</sup> w.e.f. 07-August-2006, ACT-15/2006, Finance Act 2006, Section 8 (b) (iii), amended Section 14, by adding immediately after subsection (2) the new subsection (3).

## 15. Payment under protest

- (1) Subject to subsections (2), (3) and (4) where, in respect of any goods, a dispute arises as to -
  - (a) the amount or rate of duty, <sup>1</sup>excise duty, taxes or charges; or
  - (b) the liability of those goods to duty, excise duty, taxes or charges,

the owner of the goods may pay under protest the sum demanded by the <sup>2</sup>Director-General and the sum so paid shall, as against the owner of the goods, be deemed to be the proper amount of duty, excise duty and taxes on such goods.

- (2) Where duty, <sup>3</sup>excise duty and taxes <sup>4</sup>have been paid in the manner specified in subsection (1), the owner of the goods may, within 28 days of the date of payment of the duty, excise duty and taxes, <sup>5</sup>lodge written representations with the <sup>6</sup>Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act 2004 for the determination of the proper duty, excise duty and taxes payable in respect of those goods.
- (3) Where <sup>7</sup>duty or excise duty has been paid in the manner specified in subsection (1), the owner of the goods may, within 28 days of the date of payment of the duty or excise duty, make a claim for refund or adjustment to the Director-General.
- (4) Where as a result of the payment of duty <sup>8</sup>or excise duty in the manner specified in subsection (1), <sup>9</sup>value added tax is claimed to have been paid in excess of the amount due, the owner of the goods may make a claim for refund or adjustment to the <sup>10</sup>Director-General within 28 days of the date of payment of such tax.

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<sup>1</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 15, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 15, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>3</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (e) (i) (A), amended Section 15 (2), by inserting immediately after the word "duty" wherever it appears, the words " , excise duty and taxes".

<sup>4</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (e) (i) (B), amended Section 15 (2), by deleting the word "has" and replacing it by the word "have".

<sup>5</sup> w.e.f. 11-August-2001, ACT-23/2001, Finance Act 2001, Section 4 (a), amended Section 15 (2), by deleting the words "appeal to the Tax Appeal Tribunal" and replacing them by the words "lodge written representations with the Secretary, Assessment Review Committee in accordance with Section 8E of the Unified Revenue Act 1983"

<sup>6</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (e) (i) (C), amended Section 15 (2), by deleting the words "Secretary, Assessment Review Committee in accordance with Section 8E of the Unified Revenue Act 1983" and replacing it by the words "Clerk to the Assessment Review Committee in accordance with Section 19 of the Mauritius Revenue Authority Act 2004".

<sup>7</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (e) (ii), amended Section 15 (3), by deleting the words "excise duty" and wherever they appear and replacing it by the words "duty or excise duty".

<sup>8</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (e) (iii), amended Section 15 (4), by inserting immediately after the words "duty" the words "or excise duty".

<sup>9</sup> w.e.f. 15-December-2001, Revised laws of Mauritius of 2000, amended section 15(4) by deleting the words "sales tax on import as specified in any enactment relating to sales tax" and replacing them by the words "value added tax"

<sup>10</sup> w.e.f. 22-August-2007, ACT-17/2007, Finance Act 2007, Section 9 (b), amended Section 15 (4), by deleting the words "Commissioner for Value Added Tax" and replacing them by the word "Director-General"

## *Sub-Part II - Valuation and Invoices*

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

- (1) With the entry of any goods, there shall be delivered, <sup>1</sup>subject to section 16B, to the <sup>2</sup>Director-General the original invoices, bills of lading, <sup>3</sup>airway bills or other documents of title acceptable to the Director-General, bills of parcels, price lists, policies of insurance, letters and other documents showing the value of the goods at the place at which they were purchased together with the freight, insurance and other charges on the goods.
- (2) Invoices required under subsection (1) shall be submitted to the Director-General in duplicate.
- (3) All invoices and certifications shall contain such particulars as may be prescribed, and the Director-General may refuse to accept any invoice or certification which does not comply with the prescribed requirements.

### **<sup>456</sup>16A. Use of computer system**

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

- (a) the import or export of goods under this Act or an entry in relation to excisable goods under the Excise Act;
- (b) the submission of advance information inbound, outbound or in transit relating to cargo or container shipments;
- (c) the payment of duty, excise duty and taxes,

to be made through such computer system as may be approved by the Director-General.

<sup>1</sup> w.e.f. 10-August-2002, ACT-20/2002, Finance Act 2002, Section 5 (a), amended Section 16 (1), by inserting immediately after the word "delivered" the words "subject to Section 16B".

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 16, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>3</sup> w.e.f. 07-August-2006, ACT-15/2006, Finance Act 2006, Section 8 (c), amended Section 16 (1), by inserting immediately after the words "bill of lading" the words "airway bills or other documents of title acceptable to the Director-General".

<sup>4</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (d), amended the Customs Act, by inserting immediately after Section 16, the new Section 16A

<sup>5</sup> w.e.f. 10-August-2002, ACT-20/2002, Finance Act 2002, Section 5 (b) amended the Customs Act, by deleting Section 16A which is

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

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

- (a) *the import or export of goods under this Act; or*
- (b) *an entry in relation to excisable goods under the Excise Act,*  
*to be made through such computer system as may be approved by the Comptroller."*

and replacing it by the new Sections 16A and 16B

<sup>6</sup> w.e.f. 22-August-2007, ACT-17/2007, Finance Act 2007, Section 9 (c) amended the Section 16A, by deleting it which is

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

*Notwithstanding this Act or any other enactment, the Director-General may allow -*

- (a) *the import or export of goods under this Act or an entry in relation to excisable goods under the Excise Act; and*
- (b) *the payment of duty, excise duty and taxes,*  
*to be made through such computer system as may be approved by the Director-General."*

and replacing it by the new Section 16A.

## 16B. Facilities to qualified TradeNet users

- (1) Subject to this section, where<sup>1</sup>, a TradeNet user satisfies the prescribed conditions, he shall be a qualified TradeNet user.
- (2) A qualified TradeNet user –
  - (a) may not, after the <sup>2</sup>prescribed period with the entry of any goods, deliver to the Director-General the hard copy of the electronic declaration and the documents referred to in section 16 in respect of those goods; but
  - (b) shall, in respect of those goods, keep, at his business premises, in such manner and in such form as may be prescribed, the documents referred to in paragraph (a).
- (3) Subsection (1) shall not apply where in respect of an electronic declaration, the goods are subject to examination before delivery.
- (4) Subject to this section, where in respect of the entry of any goods, a permit or authorisation is required under any enactment for health, phytosanitary or security reasons, a qualified TradeNet user shall deliver to the Director-General with the entry of those goods, the hard copy of the electronic declaration together with the required permit or authorisation.
- (5) Every qualified TradeNet user shall, at all reasonable times, allow a proper officer to have access to his business premises for the purpose of examining the documents referred to in subsection (2).
- (6) Where a qualified TradeNet user fails -
  - (a) to satisfy the prescribed conditions pursuant to subsection (1); or
  - (b) to comply with subsection (5),

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

- (7) Where the facilities have been withdrawn pursuant to subsection (6), such facilities shall not again be given to the TradeNet user before the expiry of a period of 12 months as from the date specified in the written notification by the Director-General.
- (8) In this section -  
  
"TradeNet user" has the same meaning as in the Customs (Use of Computer) Regulations 1997.

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<sup>1</sup> w.e.f. 22-August-2007, **ACT-17/2007**, Finance Act 2007, Section 9 (d) (i), amended Section 16B, by deleting the words "*in respect of any period of 12 months*"

<sup>2</sup> w.e.f. 22-August-2007, **ACT-17/2007**, Finance Act 2007, Section 9 (d) (ii), amended Section 16B(2) (a), by deleting the words "*period specified in subsection (1)*" and replacing them by the words "*prescribed period*"

## 17. Powers of <sup>1</sup>Director-General over documents

- (1) <sup>2</sup>(a) Where information has been received by the Director-General, or the Director-General has reason to believe, that goods have been smuggled, under declared, unlawfully entered or illegally dealt with, or that it is intended to smuggle, under declare, unlawfully enter or deal illegally with any goods, or where any goods have been seized or detained, the importer or exporter shall, immediately upon being requested so to do by the Director-General, produce and hand over to the Director-General all books, invoices and documents relating to those goods or to any other goods imported or exported by him at any time within the <sup>3</sup>5 years immediately preceding the date of such request.
- (b) The importer or exporter shall also produce for the inspection of the Director-General, and permit him to make copies of, or take extracts from, all books or documents of any kind including price lists, bank drafts, orders, letters of credit, invoices, wherein any entry or memorandum appears, in any way, to relate to any such goods.
- (2) Any person, not being the importer or exporter, who has in his possession or custody any books, invoices or documents mentioned in subsection (1) shall produce such books, invoices or documents to the Director-General on demand.
- (3) Notwithstanding any other enactment, subsection (2) shall apply to brokers, commission agents, manufacturers' representatives, commodity syndicates, and to other commercial enterprises and parastatal bodies, as the case may be.
- (4) Any person who refuses or neglects to comply with a request of the Director-General under this section, and any person who produces any false book, invoice or document or makes any false representation in regard to the country in which any goods were grown, produced or manufactured or processed, or makes any false representation with the intent to contravene this section, shall commit an offence and shall, on conviction, be liable to a fine not exceeding <sup>4</sup>200,000 rupees <sup>5</sup>and to imprisonment for a term not exceeding 4 years.
- (5) For the purposes of subsection (4), an invoice which is drawn in a fictitious name or in the name of a person other than the specified importer of the goods shall be deemed to be a false invoice.

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<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 17, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>2</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 17 by creating subsection (a) and (b)

<sup>3</sup> w.e.f. 30-July-2009, ACT-14/2009, The Finance (miscellaneous provisions) Act 2009, Section 8 (b), amended section 17 (1), by deleting the words "3 years" and replacing them by the words "5 years"

<sup>4</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (b), amended Section 17 (4), by deleting the words "Rs 100,000" and replacing them by the words "200,000 rupees".

<sup>5</sup> w.e.f. 31-July-1999, ACT-18/1999, Finance Act 1999, Section 5 (c), amended Section 17, by adding at the end of subsection (4), the words "and to imprisonment for a term not exceeding 4 years"

## **<sup>1</sup>18. Mode of ascertaining ad valorem duties**

- (1) Where duty<sup>2</sup> is leviable on goods by reference to their value, the value of <sup>3</sup>the goods shall be the transaction value of the goods as determined <sup>4</sup>in accordance with section 18A.
- (2) Subject to subsections (3) and (4), where the value of the goods cannot be determined in accordance with section 18A, the value of those goods shall be determined in accordance with any of the paragraphs (a), (b), (c) or (d) in the sequential order in which they appear -
  - (a) the transaction value of identical goods in accordance with section 18B;
  - (b) the transaction value of similar goods in accordance with section 18C;
  - (c) the deductive method of valuation in accordance with section 18D; or
  - (d) the computed method of valuation in accordance with section 18E.
- (3) The importer may, by notice in writing to the <sup>5</sup>Director-General, opt for the sequence of subsection (2) (c) and (d) to be reversed.
- (4) Where the value of the goods cannot be determined in accordance with <sup>6</sup>section 18A, 18B, 18C, 18D, or 18E, the value of those goods shall be determined in accordance with the fall back method of valuation under section 18F.

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<sup>1</sup> w.e.f. 01-January-2000, **ACT-18/1999**, Finance Act 1999, Section 5 (d), amended the Customs Act, by deleting section 18 which is

### ***“18. Mode of ascertaining ad valorem duties.***

(1) *Where a duty is leviable on goods by reference to their value, the value of those goods for customs purposes shall be the price paid or payable at which such or like goods are ordinarily sold or offered for sale for delivery in Mauritius.*

(2) *Such value is to be determined at the time of import or export, as the case may be, in the course of normal international trade under fully competitive conditions where the seller and the buyer are not related to each other and where the price is the sole consideration for the sale or offer for sale.*

(3) *Where such value cannot be ascertained in accordance with subsection (1), the value of such goods for customs purposes shall be based on the nearest ascertainable equivalent of such value as may be prescribed.*

(4) *For the purposes of subsections (1), (2) and (3), two or more persons shall be deemed to be related if, whether directly or indirectly, any of them has any interest in the business or property of the other, or together they have a common interest in any business or property, or some third person has an interest in the business or property of any of them, or if they are members of the same family.*

(5) *For the purposes of this Section, “family”, in relation to a person means-*

(a) *his spouse and their children;*

(b) *his parents and the parents of his spouse*

(c) *his brother and sisters and their spouses and children”*

and replacing it by the new Sections 18, 18A, 18B, 18C, 18D, 18E and 18F.

<sup>2</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (a), amended Section 18, by deleting the word “fiscal” or “fiscal duty” as the case may be, wherever they appear.

<sup>3</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2000**, amended section 18 (1) by deleting the word “determined” the words “in accordance”

<sup>4</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2000**, amended section 18 (1) by inserting after the word “those” and replacing it by the word “the”

<sup>5</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 18, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>6</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 18 (4) by deleting the words “any of the sections” and replacing them by the word “section”

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

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

- (a) all costs, charges and expenses incidental to the sale contract and delivery of those goods; and
- (b) the loading charges, freight, insurance and other charges and expenses in respect of those goods as may be prescribed,

provided that the prescribed conditions are satisfied.

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

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

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

- (a) means goods which -
  - (i) are the same in all respects, including physical characteristics, quality and reputation, as the goods being valued, except for minor differences in appearance that do not affect the value of the goods;
  - (ii) are produced in the country in which the goods being valued are produced; and
  - (iii) are produced by, or on behalf of, the person who produces the goods being valued; but
- (b) does not include goods where engineering, development work, artwork, design work, plans or sketches undertaken in Mauritius are supplied, directly or indirectly, by the importer of those goods, free of charge or at a reduced cost, for use in connection with the production and sale for export of those goods.

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

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

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

- (a) means goods which -
  - (i) closely resemble the goods being valued in respect of component materials, parts and characteristics and are functionally and

commercially interchangeable with the goods being valued, having regard to the quality and reputation of the goods and the goods being valued;

(ii) are produced in the country in which the goods being valued are produced, and

(iii) are produced by the person who produces the goods being valued, but

(b) does not include goods where engineering, development work, artwork, design work, plans or sketches undertaken in Mauritius are supplied, directly or indirectly, by the importer of those goods, free of charge or at a reduced cost, for use in connection with the production and sale for export of those goods

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

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

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

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

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

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

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

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

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

(2) Subject to subsection (3), the fall back method of valuation shall be determined on the basis of the value <sup>1</sup>derived from the methods of valuation specified in sections 18A to 18E, applied in a reasonable manner and adjusted to the extent necessary to arrive at the value of the goods being valued.

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<sup>1</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2000*, amended section 18f (2) by inserting after the words “basis of the value” the word “derived”



- (3) The value of the goods being valued under subsection (2) shall not be determined on the basis of -
- (a) the selling price in Mauritius of those goods produced in Mauritius;
  - (b) a system which provides for the acceptance for duty purposes of the higher of <sup>1</sup>2 alternative values;
  - (c) the price of those goods on the domestic market of the country of export;
  - (d) the costs of production, other than the computed method of valuation under section 18E;
  - (e) the price of the goods for export to a country other than Mauritius; or
  - (f) <sup>2</sup>minimum customs values or arbitrary or fictitious values.

### <sup>3</sup>19. Under or over valuation of goods

- (1) Where the <sup>4</sup>Director-General finds that goods have been declared at a value different from their true value he may, on the basis of the information provided by the importer and on such other information as is available to <sup>5</sup>him, determine the value of those goods and the importer shall pay duty, <sup>6</sup>excise duty and taxes, if any, on the <sup>7</sup>values so determined.
- (2) On determination of the value of any goods under subsection (1), the Director-General shall give to the importer notice in writing of the basis of the valuation
- <sup>8</sup>(2A) Where, in the course of determining the value of any goods, the Director-General finds that it is necessary to delay the final determination, he may, subject to subsection (2B), authorise in writing delivery of the goods provided that -
- (a) the duty, excise duty and taxes on those goods as declared on the entry are paid;

<sup>1</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 18F (3) (b) by deleting the word “two” and replacing it by the word “2”

<sup>2</sup>w.e.f. 19-December-2009, **ACT-20/2009**, The Finance (Miscellaneous Provisions) ( No.2) Act, Section 7 (b), amended Section 18F (3) (f), by deleting the words “arbitrary or” and replacing them by the words “minimum values or arbitrary or”

<sup>3</sup> w.e.f. 01-January-2000, **ACT-18/1999**, Finance Act 1999, Section 5 (e), amended Section.19, by deleting Section 19 which is

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

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

and replacing it by the new Sections 19 and 19A.

<sup>4</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 19, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”.

<sup>5</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 19 (1) by deleting the words “the Director-General” and replacing them by the word “him”

<sup>6</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 19, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>7</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2000**, amended section 19 (1) by deleting the words “value so determined” and replacing it by the word “values so determined”

<sup>8</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (f) (i), amended Section 19, by inserting immediately after subsection (2) the new subsection (2A), (2B), (C), (2D), (2E) and (2F).

- (b) a deposit is made or a bank guarantee is furnished for an amount representing the difference between the amount of duty, excise duty and taxes computed by the Director-General and the amount paid; and
  - (c) such samples of the goods as may be required are produced to the Director-General.
- (2B) Where the Director-General authorises the delivery of goods pursuant to subsection (2A), the importer shall, not later than 28 days after the date of authorisation, submit to the Director-General in respect of those goods, such documents as may be required in writing by the Director-General, including sales contracts, bank transfers, orders, letters of credit and <sup>1</sup>pro forma invoices.
- (2C) The Director-General shall, within 14 days of the receipt of the documents required under subsection (2B), make the final determination of the value of the goods and notify the importer in writing of the determination and the additional amount of duty, excise duty and taxes payable, if any, on those goods.
- (2D) Where the Director-General issues a notice under subsection (2C) requiring payment of an additional amount of duty, excise duty and taxes, the importer shall, not later than 7 days after the date of the notice, pass an amendment bill of entry and pay the additional amount due.
- (2E) Where the additional amount due is paid, the Director-General shall, not later than 14 days after the date of payment, refund the deposit or release the bank guarantee made or furnished under subsection (2A) (b).
- (2F) Where the importer does not submit the documents required under subsection (2B) within the time limit specified in that subsection -
- (a) the value of the goods on which the amount of duty, excise duty and taxes has been computed under subsection (2A) (b) shall be deemed to have been determined as the final determination of the value of the goods;
  - (b) the deposit or the bank guarantee made or furnished under subsection (2A) (b) shall be forfeited or realised, as the case may be; and
  - (c) the importer shall be notified in writing by the Director-General of the final determination.
- <sup>2</sup>(3) Where the importer disputes the value of the goods determined by the Director-General, the importer may ask for a review of the notice under subsection (2)<sup>3</sup>, <sup>4</sup>(2C) or (2F) (c), within 28 days of the date of the notice and shall for <sup>5</sup>the purpose lodge

<sup>1</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 19(2B) by deleting the word “proforma” and replacing it by the words “pro forma”

<sup>2</sup> w.e.f. 21-July-2003, **ACT-18/2003**, Finance Act 2003, Section 5 (a), amended Section 19, by repealing subsection (3) which is

“(3) Where the importer disputes the value of the goods determined by the Comptroller, he may, within 7 days of the date of the notice under subsection (2), notify the Comptroller of the dispute in writing.”

and replacing it by subsections (3) and (4)

<sup>3</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 19 (3) by adding after the words “subsection (2)” a comma

<sup>4</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (f) (ii) (A), amended Section 19 (3), by inserting immediately after the words “subsection (2)” the words “(2C) or (2F) (c)”

<sup>5</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 19 (3) by deleting the words “and shall for that purpose” and replacing them by the words “and shall for the purpose”

with the <sup>1</sup>Clerk to the Assessment Review Committee, in accordance with section 19 of the Mauritius Revenue Authority Act<sup>2</sup>, written representations specifying precisely the reasons thereof.

- (4) Any dispute on valuation of goods pending immediately before the commencement of subsection (3), <sup>3</sup>in so far as it relates to a notice under subsection (2) shall, on the commencement of that subsection, be deemed to have satisfied the requirements for the lodging of a review before the Assessment Review Committee under that subsection.

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

- (1) Except for the purposes of administering customs laws or for the purposes of any judicial proceedings, no officer shall communicate to any person any matter relating to the valuation of any goods.
- (2) Any officer who, without lawful excuse, contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 2 years.

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<sup>1</sup> *w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (f) (ii) (B), amended Section 19 (3), by deleting the words "Secretary, Assessment Review Committee, in accordance with the Section 8E of the Unified Revenue Act" and replacing them by the words "Clerk to the Assessment Review Committee, in accordance with Section 19 of the Mauritius Revenue Authority Act 2004".*

<sup>2</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 19 (3) by deleting the word "2004"*

<sup>3</sup> *w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (f) (iii), amended Section 19 (4), by inserting after the words "subsection (3)" the words ", in so far as it relates to a notice under subsection (2)"*

## **<sup>1</sup>20. Disputes relating to classification or origin of goods**

- (1) Where in respect of an entry of any goods, the <sup>2</sup>Director-General is not satisfied with the classification or origin of the goods, he shall, on the basis of such information as is available to him and on such information as is provided by the importer or exporter, determine the classification or origin of those goods.
- (2) On a determination under subsection (1), the Director-General shall give to the importer or exporter notice in writing thereof.
- (3) Where the importer or exporter disputes the classification or origin of the goods as determined by the Director-General under subsection (1), the importer or exporter may ask for the review of the notice under subsection (2), within 28 days of the date of the notice and shall for that purpose lodge with the <sup>3</sup>Clerk to the Assessment Review Committee, in accordance with section 19 of the Mauritius Revenue Authority Act<sup>4</sup>, written representations specifying precisely the reasons thereof.
- (4) Any dispute on classification or origin of goods, pending immediately before the commencement of this section shall, on the commencement of this section, be deemed to have satisfied the requirements for the lodging of a review before the Assessment Review Committee under subsection (3).<sup>5</sup>

<sup>1</sup> w.e.f. 21-July-2003, **ACT-18/2003**, The Unified Revenue (Amendment) Act 2003, Section 5 (b), amended Section 20, by deleting it which is

### **“20 Customs Advisory Committee.**

(1) *There shall be established an advisory committee to be called the Customs Advisory Committee on Classification, Valuation and Origin of Goods.*

(2) *The Committee shall be composed of the following members-*

(a) *A chairman appointed by the Minister, on the advice of the Comptroller and the Mauritius Chamber of Commerce and Industry;*

(b) *A representative of Customs;*

(c) *A representative of the Mauritius Chamber of Commerce and Industry;*

(d) *A representative of the Ministry of Trade and Shipping; and*

(e) *Any other co-opted member called upon by the Chairman.*

(3) *The Committee shall be competent in reviewing all matters relating to classification, valuation or determination of origin of imported or exported goods, except matters involving fraud.*

(4) *The Committee shall be empowered to call for the importer or exporter, as the case may be, and for the Comptroller; and the Committee shall be empowered to examine all documents in their possession.*

(5) *The Committee shall perform its functions diligently and expeditiously and refrain from communicating to any unauthorized person any information supplied to it.*

(6) *Notwithstanding any enactment, no person who aggrieved by the decision of the Comptroller on classification, valuation or origin of goods, shall appeal to the Tax Appeal Tribunal except within 28 days after the matter in dispute has been reviewed by the Committee and the Committee has given its findings.*

(7) *The Comptroller shall, without unreasonable delay, refer every dispute under this Section, except any matter involving fraud, to the Committee for review and inform the importer or exporter, as the case may be, accordingly.*

(8) *The Committee shall meet as often as necessary at the request of its chairman”*

and replacing it by the new Section 20.

<sup>2</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 20, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>3</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (g), amended Section 20 (3), by deleting the words “Secretary, Assessment Review Committee, in accordance with the Section 8E of the Unified Revenue Act” and replacing them by the words “Clerk to the Assessment Review Committee, in accordance with Section 19 of the Mauritius Revenue Authority Act 2004”.

<sup>4</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 20 (3) by deleting the word “2004”

<sup>5</sup> w.e.f. 11-August-2001, **ACT-23/2001**, Finance Act 2001, Section 4 (b) amended Section 20, by deleting subsection (6) which is

*“(6) Notwithstanding any other enactment, no person who is aggrieved by a decision of the Comptroller on classification, valuation or origin of goods, shall appeal to the Tax Appeal Tribunal except within 28 days after*

### *Sub-Part III - Temporary admission, duty-free shops and refunds*

#### **21. Conditions for temporary admission of goods**

- (1) Subject to the provisions of this section, the <sup>1</sup>**Director-General** may, for a period of <sup>2</sup>6 months, which may be extended by another period of 6 months, authorise the temporary admission of goods where the importer furnishes adequate security to cover the duty, <sup>3</sup>**excise duty** and taxes which would otherwise be payable.
- (2) The **Director-General** may exempt an importer of any goods from furnishing security if the goods are covered by documents for temporary admission issued under any international convention and if so approved by the Minister.
- (3) The **Director-General** may, for the purpose of identifying the goods for temporary admission, affix Customs marks, seals, stamps, perforations or other devices to such goods or may take a sample of such goods or such other steps as he thinks necessary.
- (4) Subject to <sup>4</sup>any other enactment relating to the import of goods or the protection of revenue, the **Director-General** may allow goods imported under subsection (1) to remain in Mauritius on payment of duty, **excise duty** and taxes, and interest computed on the basis of duty, **excise duty** and taxes payable on such goods, at the rate of 12 per cent per annum or such other rate as may be prescribed, for the period for which payment of duty, **excise duty** and taxes has been deferred.
- (5) The **Director-General** may terminate temporary admission at the request of the importer, if the goods are abandoned, destroyed or rendered commercially valueless under his supervision.
- (6) Where the **Director-General** is satisfied that any goods imported under subsection (1) have been destroyed or lost by accident or <sup>5</sup>*force majeure*, no duty shall be payable on such goods.
- (7) Any waste or scrap remaining after the destruction of any goods under subsection (5) or (6) shall, if put to any use in Mauritius, be liable to any applicable duty, **excise duty** and taxes.
- (8) Except where goods have been allowed to remain in Mauritius under subsection (4) -
  - (a) any importer who fails to export temporarily admitted goods at the end of the period specified under subsection (1);
  - (b) any person who sells or purchases any temporarily admitted goods; and

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*the matter in dispute has been reviewed by the Committee and the Committee has given its findings”*  
and replacing it by the new subsection (6)

<sup>1</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 21, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>2</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 21(1) by deleting the word “six” wherever it appears and replacing it by the word “6”

<sup>3</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 21, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>4</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 21(4) by deleting the words “the provision of any law in force” and replacing them by the words “any other enactment”

<sup>5</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 21 (6) by deleting the words “force majeure” and replacing them by the words “force majeure”

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

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

- (9) Notwithstanding the rules of temporary admission as described under this Act, the **Director-General** may authorize, for such period as he may determine, the temporary admission of goods for the purpose of processing and re-exporting such goods<sup>1</sup>.

## **22. Goods imported for sale to visitors**

- (1) Any goods which are intended for sale –
- (a) in a duty-free shop shall be exempted from payment of any duty, <sup>3</sup>excise duty or taxes; or
  - (b) in a shop <sup>4</sup>or any place, other than at the port or airport, approved under the Deferred Duty and Tax Scheme shall be entered on which payment of any duty, excise duty or taxes is deferred.
- (2) The conditions under which goods referred to in subsection (1) may be imported, exported or otherwise dealt with shall be as prescribed.
- (3) For the purposes of subsection (1) –
- “Deferred Duty and Tax Scheme” means such scheme as may be prescribed whereby any shop may sell goods –
- (a) mainly to visitors without payment of duty, excise duty and taxes; and
  - (b) to other persons upon payment of duty, excise duty and taxes.

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<sup>1</sup> w.e.f. 01-July-1991, **ACT-17/1991**, Finance Act 1991, Section 6 (1), amended Section 21 (9), by deleting the words “, provided that, in such circumstances, subsection (1) shall not apply in respect of sales tax”.

<sup>2</sup> w.e.f. 01-10-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (d), amended the Section 22, by repealing it which is

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

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

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

and replacing it by the new Section 22.

<sup>3</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 22, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>4</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 22 (1) (b) by deleting the word “at” and replacing it by the word “or”

## 23. Refunds<sup>12</sup>

- (1) Where goods have been damaged, pilfered, lost or destroyed during the voyage or where duty <sup>34</sup>or excise duty has been paid through an error of fact or an erroneous construction of the law<sup>5</sup> or where any goods have been ordered to be destroyed as being unfit for consumption, the <sup>6</sup>Director-General, upon request, may refund or adjust the amount of duty or excise duty payable accordingly.
- <sup>7</sup>(1A) Where goods have been cleared from Customs and are found to be defective, obsolete or not according to specifications and are returned to the seller, the Director-General may, upon request, refund the amount of duty or excise duty originally paid, on such conditions as may be prescribed.
- (2) Where, in the case of a provisional entry, any sum paid under section 37 of this Act by the importer is in excess of the correct amount of duty, a refund shall be made.
- (3) Where any duty, excise duty or charge has been paid and repayment of such duty, excise duty or of any portion thereof, is claimed by the importer on the ground that the duty, excise duty or charge was paid under an erroneous construction of the law or from other error, no repayment of such duty and excise duty or charge, or of any portion thereof, shall be made by the Director-General where such claim is made after 3 years from the date of the payment.
- (4) Where a claim for refund of duty or excise duty is made and the Director-General is not satisfied that the importer is entitled to a refund, he shall give written notice to the importer of his decision.
- (5) Where the importer is dissatisfied with the decision of the Director-General under subsection (4), he may <sup>8</sup>lodge written representations with the <sup>9</sup>Clerk to the Assessment Review Committee, in accordance with section 19 of the Mauritius Revenue Authority Act <sup>10</sup>2004;

<sup>1</sup> w.e.f. 01-January-1989, ACT-02/1991, Customs (Amendment) Act 1991, Section 3, amended Section 23 (1), by adding after the word “duty” wherever it appears the words “ or levy”.

<sup>2</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 23, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>3</sup> w.e.f. 01-January-1989, ACT-02/1991, (Amendment) Act 1991, Section 3 (a), amended Section 23 (1), by adding after the word “duty” wherever it appears, the following words “or levy”

<sup>4</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 2, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>5</sup> w.e.f. 01-January-1989, ACT-02/1991, Customs (Amendment) Act 1991, Section 3 (b), amended Section 23 (1), by adding after the words “the law” the words “or where any goods have been ordered to be destroyed as being unfit for consumption”.

<sup>6</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 23, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>7</sup> w.e.f. 07-August-2006, ACT-15/2006, Finance Act 2006, Section 8 (e), amended Section 23, by inserting immediately after the subsection (1), the new subsection (1A)

<sup>8</sup> w.e.f. 11-August-2001, ACT-23/2001, Finance Act 2001, Section 4 (c), amended Section 23, by deleting the words “appeal to the Tax Appeal Tribunal” and replacing them by the words “lodge written representations with the Secretary, Assessment Review Committee in accordance with Section 8E of the Unified Revenue Act 1983”

<sup>9</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (h), amended Section 23 (5), by deleting the words “Secretary, Assessment Review Committee, in accordance with the Section 8E of the Unified Revenue Act” and replacing them by the words “Clerk to the Assessment Review Committee, in accordance with Section 19 of the Mauritius Revenue Authority Act 2004”.

<sup>10</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 23 (5) by deleting the word “2004”

## 24. Erroneous refund, remission or reduction

- (1) Where an importer has benefited through error from a refund remission or reduction of duty, <sup>1</sup>excise duty or taxes, he shall be liable to pay the amount of duty, excise duty or taxes which has been erroneously refunded, remitted or reduced on a demand being made by the <sup>2</sup>Director-General within 3 years from the date of the duty, excise duty or taxes having been erroneously refunded, remitted or reduced.
- <sup>3</sup>(2) Where a demand is made under subsection (1), the importer shall pay the amount of duty, excise duty and taxes within 21 days of the **date** of the demand.

## PART IV - CONTROL, EXAMINATION, ENTRIES AND SECURITIES

### 25. Customs control of goods

- (1) Goods shall be subject to the control of Customs <sup>4</sup>in the case of goods-
- (a) <sup>5</sup>imported, from the time of import until removal for home consumption, or until the time of export, whichever shall first happen;
  - (b) under drawback, from the time of the claim for drawback until the time of export;
  - (c) for export, from the time when the goods are brought to an approved place of loading for export until the time of export.
- (2) (a) Except as otherwise provided by this Act, no goods subject to customs control shall be moved, altered or interfered with.
- (b) Except with the written authorisation of the <sup>6</sup>Director-General, no goods subject to customs control shall be removed from Customs or delivered to any person.

### 26. Minimum size of ships

Except with the permission in writing of the <sup>7</sup>Director-General, no goods shall be imported into or exported from Mauritius in any ship of less than 50 tons net tonnage.

### 27. Rights of examination and cost

- (1) The control of goods by Customs shall include the right of Customs to examine all goods subject to such control.

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<sup>1</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 24, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 24, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>3</sup> w.e.f. 07-August-2006, ACT-15/2006, Finance Act 2006, Section 8 (f), amended Section 24, by adding the new subsection (2), the existing provision being numbered (1) accordingly.

<sup>4</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 25 (1) by adding after the word "Customs" the words "in the case of goods"

<sup>5</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 25(1) by deleting the words "in the case of goods" wherever they appear in the paragraphs

<sup>6</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 25, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>7</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 26, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"



- (2) The loading, unloading, carrying, and landing of all goods, including passengers' baggage, and the bringing of the goods to the place of examination, and the measuring, weighing, counting, unpacking and repacking, and the opening and closing of the packages, shall be performed by and at the expense and risk of the importer or exporter.

## 28. No Customs liability

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

## **29. Goods imported or exported by post or courier**

Goods imported or exported through persons holding a postal service licence or a courier service licence under the <sup>23</sup>Postal Services Act shall be subject to Customs control.

## 30. Entries for import

- (1) All entries in respect of imported goods shall be made on the form prescribed in respect of goods for-
- (a) home consumption;
  - <sup>4</sup>(b) warehousing; or**
  - (c) transshipment.<sup>5</sup>**
- (2) Notwithstanding subsection (1), newspapers and magazines for sale in Mauritius imported by airfreight and airmail may, subject to any prescribed conditions, be delivered at the time of arrival to importers without previous entry having been made.

## 31. Form prescribed for export

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

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<sup>1</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (g) amended Section 29, by repealing it which is **"29. Goods Imported or Exported by Post.**

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

and replacing it by the new Section 29.

<sup>2</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (i), amended Section 29, by deleting the words *"the Post Office"* and replacing them by the word *"post"*.

<sup>3</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 29 by deleting the word *"post"* and replacing it by the words *"Postal Services Act"*

<sup>4</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (h), amended Section 30 (1), by repealing paragraphs (b), (c) and (d) which are

*"(b) for warehousing;*

*(c) For transshipment; or*

*(d) For processing, export or re-export in accordance with the Industrial Expansion Act 1993 and the*

*Export Service Zones Act, as the case may be."*

and replacing them by the new paragraphs (b) and (c).

<sup>5</sup> w.e.f. 11-August-2000, **ACT-25/2000**, Finance Act 2000, Section 3 (a), amended Section 30 (1) (d), by deleting the words *"Export Processing Zones Act"* and replacing them by the words *"Industrial Expansion Act 1993"*.

### 32. Passengers' and crew's luggage

Notwithstanding sections 30 and 31, the <sup>1</sup>*bona fide* personal goods which are luggage of passengers, master and crew in any aircraft or ship may, subject to any prescribed conditions, be imported or exported without entry having been made.

### 33. Holder of a draft

- (1) The holder of a draft with a bill of lading in guarantee of the payment thereof may give notice in writing to the <sup>2</sup>Director-General that he holds those documents and, thereupon, the Director-General shall not allow the passing of entry of such goods without the written consent of the holder of those documents.
- (2) Where goods have been entered but have not been taken delivery of by the importer, the Director-General may, at any time before such goods are disposed of as unclaimed, deliver such goods to any person holding a draft with a bill of lading or other documents of title to such goods in guarantee of the payment thereof, notwithstanding that an entry has already been made by the importer, and such goods as described under subsection (2) shall be dealt with in accordance with the bill of entry presented and the importer shall have no claim against the Director-General for any expenses or other costs incurred by him in connection with the entering of the goods.

### 34. Particulars of bill of entry

- (1) The person entering any goods, whether for himself or on behalf of any importer or exporter, shall deliver to the <sup>3</sup>Director-General the bill of entry in the prescribed form in respect of such goods and such copies as may be required.
- (2) The particulars required to be given on such bill of entry shall be written and arranged in such form and manner as the Director-General shall require.

### 35. Making of entries

Any person making any entry shall, if so required by the <sup>4</sup>Director-General, answer questions relating to the goods referred to in the entry.

### 36. Passing of entries

Entries shall be passed by the <sup>5</sup>Director-General and, on the passing of the entry, the goods shall be deemed to have been entered, and any entry so passed shall be the warrant to the proper officer for dealing with the goods in accordance with the entry.

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<sup>1</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 32 by changing the font style of the word “*bona fide*” from bold to italics

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 33, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>3</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 34, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>4</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 35, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>5</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 36, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

### 37. Provisional entry

- <sup>1</sup>(1) Where the importer of any goods is unable immediately to supply the full particulars required for making an entry and makes a declaration to that effect before the <sup>2</sup>Director-General, he may be authorised to make a provisional entry as prescribed.
- (2) In a case referred to in subsection (1), such importer shall pay any estimated duty, excise duty, and taxes, and shall make <sup>3</sup>such deposit as may be required by the Director-General.

### 38. Perfect entry

- (1) Within 3 months from the passing of the provisional entry, or within such further period not exceeding 3 months as the <sup>4</sup>Director-General thinks fit to allow, the importer of the goods shall make complete entry, failing which the deposit described under section 39 shall be forfeited.
- (2) A complete entry of the goods included in a provisional entry shall be made in such manner as if the provisional entry had not been made.
- (3) Where an importer is in possession of all particulars required by the Director-General, the importer shall complete such perfect entry immediately.
- <sup>5</sup>(4) Failure to comply with subsection (3) shall constitute an offence and the importer shall, on conviction, be liable to a fine not exceeding <sup>6</sup>3 times the amount of duty, <sup>7</sup>excise duty and taxes involved.

### 39. Power to require security

- (1) The <sup>8</sup>Director-General may require and take security for compliance with this Act and generally for the protection of the revenue and, pending the giving of the required security in relation to any goods subject to the control of Customs, the Director-General may refuse to deliver the goods or to pass any entry relating to them.
- (2) Every security in the nature of a bond which is issued by a company or a partnership shall, in the absence of fraud, be binding on the company and on the partners of the partnership, as the case may be.
- (3) Where any security is required to be given, such security shall be given by bond or bank guarantee or cash deposit or all or any of those methods and, in each case, the security shall be subject to acceptance by the Director-General.

<sup>1</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 37 by creating subsections (1) and (2)

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 37, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>3</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 37 by deleting the word "a deposit" and replacing it by the word "such deposit"

<sup>4</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 38, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>5</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 38 by creating a subsection (4)

<sup>6</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 38 (4) by deleting the words "three" and replacing them by the word "3"

<sup>7</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 38, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>8</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 39, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

- (4) The forms of security specified by the **Director-General** shall be sufficient for all purposes of a bond or guarantee under this Act and shall bind the subscribers thereto jointly and severally for the full amount.
- (5) Every security shall be valid for such period as may be specified in the bond or guarantee and, subject to section 41, may be reviewed.

#### **40. Production of security**

Where any security <sup>1</sup>is issued upon the <sup>2</sup>**Director-General**, its production on its due date or thereafter, without further proof, shall entitle the **Director-General** to judgment for its stated liability against the persons who have subscribed such security unless release or satisfaction of such security is established.

#### **41. Fresh security**

Where the **Director-General** is dissatisfied with the sufficiency of any security previously given, he may require a fresh security.

#### **42. General bonds**

Where security is required for any particular purpose, the security may, by authority of the <sup>3</sup>**Director-General**, be accepted to cover all transactions for such time and for such amount as the **Director-General** may approve.

#### **43. Cancellation of security**

All securities may, after the expiration of 3 years from the date thereof or from the time specified for the performance of the conditions thereof, whichever may be the later date, be cancelled by the <sup>4</sup>**Director-General**.

#### **<sup>5</sup>43A. Record**

- (1) Every person who, in the course of his business, imports or exports goods shall, for the purposes of any customs laws, keep a full and true written record, whether on computer or otherwise, in the English or French language, of every transaction he makes.
- (2) Every person referred to in subsection (1) shall, in respect of any goods, keep in chronological order a copy of the entry he makes, either electronically through the TradeNet or otherwise, together with a copy of the documents delivered to the **Director-General** with that entry.
- (3) Every record under subsections (1) and (2), shall be kept for a period of at least 5 years after the completion of the transaction to which it relates and shall be made available on demand by the proper officer.

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<sup>1</sup> w.e.f. 22-August-2007, **ACT-17/2007**, Finance Act 2007, Section 9 (e), amended Section 40, by deleting the words "is issued upon by" and replacing them by the words "is issued upon"

<sup>2</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 40, by deleting the word "Comptroller" wherever it appears and replacing it by the word "**Director-General**"

<sup>3</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 42, by deleting the word "Comptroller" wherever it appears and replacing it by the word "**Director-General**"

<sup>4</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 43, by deleting the word "Comptroller" wherever it appears and replacing it by the word "**Director-General**"

<sup>5</sup> w.e.f. 31-July-1999, **ACT-18/1999**, Finance Act 1999, Section 5 (f), amended the Customs Act, by inserting immediately after Section 43, the new Section 43A.

- (4) For the purposes of subsection (2), "TradeNet" has the same meaning as in the Customs (Use of Computer) Regulations 1997.
- (5) Any person who fails to keep, or to make available to the proper officer, any record required to be kept under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding <sup>1</sup>200,000 rupees and to imprisonment for a term not exceeding 3 years.

## **PART V: REPORT OF AIRCRAFT AND SHIPS AND IMPORT OF GOODS**

### ***Sub-Part I - Boarding of Aircraft and Ships***

#### **44. Ship to enter ports**

- (1) The master of a ship from parts beyond the seas shall not permit his ship to enter any place in Mauritius other than a port unless from stress of weather or other reasonable cause.
- (2) Subject to section 48, the <sup>2</sup>**Director-General** may authorise pleasure boats to proceed to any place other than a port in Mauritius.

#### **45. Ship to bring to on being signaled**

The master of every ship arriving within the territorial waters of Mauritius shall bring his ship to for boarding when approached by or hailed or signalled from any vessel in the service of Customs, or from any vessel in the service of the <sup>3</sup>**Government of Mauritius**, flying the proper ensign.

#### **46. Ship or aircraft to bring to at boarding station**

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

#### **47. Unauthorised boarding**

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

#### **48. Declaration by owner of pleasure boat**

- (1) Where a foreign pleasure boat enters Mauritius, the owner or master of such boats shall provide the <sup>4</sup>**Director-General** with a written declaration in prescribed form on the purpose of the boat's presence in Mauritius and the duration of its stay.

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<sup>1</sup> w.e.f. 21-July-2003, **ACT-18/2003**, Finance Act 2003, Section 5 (c), amended Section 43A (5), by deleting the words "50,000 rupees" and replacing them by the words "200,000 rupees".

<sup>2</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 44, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>3</sup> w.e.f. 22-August-2007, **ACT-17/2007**, Finance Act 2007, Section 9 (f), amended Section 45, by deleting the words "Authority of Mauritius" and replacing them by the words "Government of Mauritius"

<sup>4</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 48, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

- (2) The owner or master of such pleasure boat shall notify the **Director-General** immediately of any change in the content of the declaration required under subsection (1).
- (3) Subsection (1) shall be without prejudice to any duty, <sup>1</sup>**excise duty** or taxes which may be payable in respect of the boat or any cargo or stores in the boat.

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

#### **49. Cargo report**

- <sup>2 3</sup>(1) The master, owner or duly authorised agent of every ship or aircraft arriving from ports or airports beyond the seas shall make report to the <sup>4</sup>Director-General by delivering a full and complete inward manifest, both in electronic form and hard copy or in any other manner acceptable to the Director-General, in respect of the ship or aircraft, its cargo and passengers -
  - (a) in the case of a ship -
    - (i) arriving from Reunion Island, not later than 5 hours before arrival; or
    - (ii) arriving from any other port, not later than 24 hours before arrival;
  - (b) in the case of an aircraft -
    - (i) arriving from Reunion Island, upon arrival; or
    - (ii) arriving from any other airport, not later than one hour before arrival.
- <sup>5</sup>(1A) Where an <sup>6</sup>inward manifest under subsection (1) is received by the Director-General through SITA, it shall be deemed to have been submitted by the owner or duly authorised agent of the aircraft and all the provisions of customs laws relating to submission of manifest shall apply.
- (2) (a) Except where otherwise especially allowed by the **Director-General**, every report under subsection (1) shall be made before bulk is broken.

<sup>1</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 48 by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>2</sup> w.e.f. 21-July-1998, **ACT-10/1998**, Finance Act 1998, Section 6 (c) (i), amended Section 49 (1) (a) by deleting the words “within 24 hours after arrival” and replacing them by the words “not earlier than 48 hours before arrival but not later than 24 hours after arrival”.

<sup>3</sup> w.e.f. 21-July-2003, **ACT-18/2003**, Finance Act 2003, Section 5 (d), amended Section 49 by deleting subsection (1) which is

**“49 Cargo Report**

(1) The master, owner or duly authorised agent of every aircraft or ship arriving from ports beyond the seas shall-

- (a) not earlier than 48 hours before arrival but not later than 24 hours after arrival, exclusive of Sundays and other public holidays, make report of the aircraft or ship and of the cargo by delivering an inward manifest to the Comptroller in such form and with such copies as may be prescribed; and
- (b) answer questions and give all information required relating to the aircraft or ship and the cargo”

and replacing it by the new subsection (1)

<sup>4</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 49, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>5</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (j), amended Section 49, by adding immediately after subsection (1) the new subsection (1A).

<sup>6</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (i) (i), amended Section 49 (1A) by deleting the words “air cargo manifest” and replacing them by the words “inward manifest under subsection (1)”

(b) The **Director-General** may permit the master, owner or his agent to amend obvious errors in the report after its submission.<sup>1</sup>

<sup>2</sup>(3) Any person who fails to comply with subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

#### **50. Manifest for other ports**

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

#### **51. Master of wrecked ship to report**

Where any ship is lost or wrecked on the coast of Mauritius, the master or owner or the duly authorised agent of the ship shall, without any unnecessary delay, make report of the ship and cargo by delivering to the <sup>3</sup>**Director-General** a manifest so far as it may be possible for him to do so.

#### **52. Tonnage of ships**

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

#### **53. Master's name on ship's register**

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

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

#### **54. Landing of goods**

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

- (a) landed at such place as the <sup>4</sup>**Director-General** may direct; or
- (b) transhipped or removed direct to the ship or aircraft into which they are to be transhipped or removed, as the case may be, or after conveyance thereto.

#### **55. Loading and unloading of goods**

<sup>1</sup> w.e.f. 21-July-1998, **ACT-10/1998**, Finance Act 1998, Section 6 (c) (ii), amended Section.49 (2) (b) by deleting the words “on payment of a fee of Rs 50, or such other amount as may be prescribed, for every such amendment”.

<sup>2</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (i) (ii), amended Section 49 by adding immediately after subsection (2) the new subsection (3).

<sup>3</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 51, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>4</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 54, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

- (1) Except with the written authorisation of the <sup>1</sup>Director-General, no person shall load goods on to, or unload goods from, a ship or aircraft except at a port or at a quay or wharf or airport.
- (2) The Director-General may, for the purpose of ensuring compliance with this Act, by written direction to the master of a ship or aircraft, prohibit the loading and unloading or delivery of goods to or from the ship or aircraft, as the case may be.

## 56. Accommodation <sup>2</sup>at ports and airports

The owner or lessee of any port or airport shall provide, to the satisfaction of the <sup>3</sup>Director-General, suitable office accommodation for the exclusive use of the officers employed at that port or airport.

## 57. Return by <sup>4</sup>Mauritius <sup>5</sup>Ports Authority

Where a ship enters a port which is under the management of the Mauritius Ports Authority or any other duly authorised authority, the Mauritius Ports Authority shall submit to the <sup>6</sup>Director-General a return showing the cargo which has been-

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

## 58. Return for landing aircraft

- (1) Subject to subsection (2), where an aircraft lands at an airport, the agent shall submit to the <sup>789</sup>Director-General a return showing the cargo which has been-
  - (a) manifested and unloaded;
  - (b) manifested but not unloaded; or
  - (c) unloaded but not manifested.
- (2) Where an aircraft lands in an airport which is under the management of any competent authority, such authority shall submit to the <sup>10</sup>Director-General a return as described under subsection (1).

<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 55, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>2</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 56, in the title, by deleting the word "or" and replacing them by the word "at"

<sup>3</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 56, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>4</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 57, in the title, by deleting the word "the"

<sup>5</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 57 by deleting the word "Marine" wherever it appears and replacing it by the word "Ports"

<sup>6</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 57, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>7</sup> w.e.f. 10-January-1991, ACT-28/1986, The Merchant Shipping Act 1986, Section 204 (3), amended Section 58, by deleting the word "Comptroller" and replacing it by the words "Director of Shipping"

<sup>8</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 58 (1), by deleting the words "Director of Shipping" and replacing them by the word "Comptroller"

<sup>9</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 58, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"



## 59. Removal of goods landed from aircraft

- (1) Where the importer of goods landed from an aircraft has not taken delivery of the goods, the agent of the aircraft shall, not later than the day following the day of the report inwards of the aircraft, cause the goods to be stored in such place as the <sup>1</sup>Director-General may approve.
- (2) The Director-General shall not incur liability for any loss or damage to goods stored in accordance with subsection (1).

## 60. Repacking of goods

Except with the written authorisation of the <sup>2</sup>Director-General, no person other than the Mauritius <sup>3</sup>Ports Authority or any other competent authority, as the case may be, shall repack or rearrange the contents of any packages landed from an aircraft or ship.

## 61. Disposal of goods

- (1) Where any goods <sup>4</sup>are landed and are not claimed or removed within <sup>5</sup>2 months of being landed, the <sup>6</sup>Director-General may cause the goods to be sold by public auction or public tender, as the Director-General may determine, after giving public notice of the sale.
- (2) Subsection (1) shall apply to goods which are dealt with in accordance with section 69 (2) <sup>7</sup>or 77 (1).
- <sup>8</sup> <sup>9</sup>(3)
- (4) The proceeds of any sale of goods under subsection (1) shall be applied to the payment of -
  - (a) duty on the goods;

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<sup>10</sup>w.e.f. 19-December-2009, ACT-20/2009, The Finance (Miscellaneous Provisions) ( No.2) Act, Section 7 (c), amended Section 58 (2), by deleting the words “Director of Shipping” and replacing them by the word “Director-General”

<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 59, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 60, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>3</sup> w.e.f. 15-December-2001, Revised laws of Mauritius of 2000, amended section 60 by deleting the word “Marine” and replacing it by the word “Ports”.

<sup>4</sup> w.e.f. 26-August-2004, ACT-28/2004, Finance Act 2004, Section 5 (c) (i), amended Section 61 (1), by deleting the words “other than goods under the control of the Mauritius Ports Authority or any other competent authority, as the case may be.”

<sup>5</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 61 (1) by deleting the word “two” and replacing it by the word “2”

<sup>6</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 61, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>7</sup> w.e.f. 07-August-2006, ACT -15/2006, Finance Act 2006, Section 8 (j) (i), amended Section 61 (2), by adding after the words “Section 69 (2)” the words “or 77 (1)”

<sup>8</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 61, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>9</sup> w.e.f. 26-August-2004, ACT 28/2004, Finance ACT 2004, Section 5 (c) (ii), amended Section 61, by deleting subsection (3) which is

“(3) where under Section 37 of the Ports Act, the Mauritius Marine Authority intends to dispose of goods landed from a ship, it shall give written notice to that effect to the Comptroller who shall, subject to subsection (6), assess the duty, excise duty and taxes payable on the goods.”

- (b) <sup>1</sup>excise duty and taxes;
  - (c) penalties and charges incurred; and
  - (d) freight and other charges.
- (5) (a) Subject to paragraph (b), the balance of the proceeds of any sale under subsection (1) shall be paid into the Consolidated Fund.
- (b) Where the balance of the proceeds of a sale has been paid into the Consolidated Fund, any person who is entitled to it may, not later than one year after the day of the sale, apply to the **Director-General** for a refund.
- (6) Where goods cannot be sold for a sufficient price to cover duty, excise duty and taxes, the **Director-General** may authorise the goods to be disposed of as he thinks fit.
- (7) Where the duty, excise duty and taxes on any goods on sale at any Customs sale is <sup>2</sup>*ad valorem*, the value of such goods shall, if approved by the **Director-General**, be taken to be the price that may be fetched by the sale.
- (8) Notwithstanding <sup>3</sup>this Act, where the **Director-General** is of the opinion that any goods specified in subsection (1) are of a perishable nature or that it is otherwise desirable to do so, he may direct that the goods be sold forthwith.
- <sup>4</sup>(9) Where the **Director-General** is satisfied that goods have been damaged or outmoded or have deteriorated in value or have a short expiry date, he may revalue those goods for the purposes of sale under this section.

## PART VI - PROHIBITED GOODS

### 62. Prohibition of certain imports and exports

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

### 63. Prohibited imports

The import of -

- (a) base or counterfeit coin;
- (b) manufactured articles bearing the name, address or trade mark of any manufacturer or dealer or the name of any place, calculated to impart to those articles a special character of manufacture which they do not actually possess; and

<sup>1</sup> *w.e.f. 27-July-1994, ACT-25/1994*, Finance Act 1994, Section 2 (b), amended Section 61, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>2</sup> *w.e.f. 15-December2001, Revised laws of Mauritius of 2000*, amended section 61 (7) by changing the font style of the word “ad valorem” from bold to italics

<sup>3</sup> *w.e.f. 15-December2001, Revised laws of Mauritius of 2000*, amended section 61 (8) by deleting the words “any other provisions under”

<sup>4</sup> *w.e.f. 07-August-2006, ACT-15/2006*, Finance Act 2006, Section 8 (j) (ii), amended Section 61, by adding immediately after the subsection (8), the new subsection 9.

- (c) any other goods the import of which is for the time being prohibited by any other enactment,

is prohibited.

#### **64. Export subject to restriction**

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

#### **65. Prohibited imports consigned to other places**

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

#### **66. Restricted imports**

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

### **<sup>12</sup>PART VIA – INFRINGEMENT OF PATENT, INDUSTRIAL DESIGN, COLLECTIVE MARK, MARK OR COPYRIGHT**

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

- (1) Any owner or authorised user of a <sup>3</sup>patent, industrial design, collective mark or mark or copyright may apply in writing to the <sup>4</sup>Director-General to suspend the clearance of any goods imported or being exported on the grounds that his patent, industrial design, collective mark or mark or copyright is being or is likely to be infringed.
- (2) An application made under subsection (1) shall specify a period not exceeding 2 years during which the Director-General may suspend the clearance of such goods.
- (3) An application under subsection (1) shall be accompanied by -
  - (a) any evidence that the applicant is the owner or the authorised user of the patent, industrial design, collective mark or mark, or of the copyright;

<sup>1</sup> *w.e.f. 26-August-2004, ACT-28/2004*, Finance Act 2004, Section 5 (d), amended the Customs Act, by inserting immediately after Part VI the new Part VIA.

<sup>2</sup> *w.e.f. 19-July-2008, ACT-18/2008*, Finance Act 2008, Section 6 (b), amended Part VIA, in the heading, by deleting the words “**INFRINGEMENT OF COLLECTIVE MARK, MARK OR COPYRIGHT**” and replacing them by the words “**INFRINGEMENT OF PATENT, INDUSTRIAL DESIGN, COLLECTIVE MARK, MARK OR COPYRIGHT**”

<sup>3</sup> *w.e.f. 19-July-2008, ACT-18/2008*, Finance Act 2008, Section 6 (c), amended Section 66A, by inserting before the words “*collective mark*” wherever they appear, the words “*patent, industrial design*”

<sup>4</sup> *w.e.f. 01-July-2006, ACT-33/2004*, MRA Act 2004, Section 27 (3) (s), amended Section 66, by deleting the word “*Comptroller*” wherever it appears and replacing it by the word “*Director-General*”

- (b) a statement of the grounds for the application, and in particular, the <sup>1</sup>*prima facie* evidence showing that his right has been or is likely to be infringed; and
  - (c) particulars relating to the description of the goods making them readily recognisable by Customs, and the place where such goods are to be found.
- (4) The applicant shall furnish adequate security to protect the Director-General for any loss or damage that may result from the suspension of the clearance of the goods and to cover any reasonable expenses likely to be incurred as a result of such suspension.

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

- (1) On receipt of an application under section 66A, the Director-General shall within 7 days of the date of receipt of the application –
- (a) grant or reject the application; and
  - (b) notify the applicant in writing of his decision.
- (2) The Director-General shall reject an application where the applicant fails to comply with section 66A (4)
- (3) Where the application is granted, the Director-General shall notify in writing the <sup>2</sup>applicant, importer, exporter or his agent of the suspension of the clearance of the goods.

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

- (1) Where, within a period of not more than 10 working days after the applicant has been served notice of the suspension under section 66B (3), the Director-General has not been informed in writing that legal proceedings have been initiated by the applicant, the goods shall be released, provided that all other conditions for importation or exportation have been complied with.
- <sup>3</sup>(1A) Notwithstanding subsection (1), where the suspension relates to refrigerated goods, the period to release the goods shall be 3 working days
- (2) The Director-General may, in appropriate cases and on the applicant's request, extend the time limit referred to in subsection (1) by another period of not more than 10 working days.
- (3) The Director-General shall release the goods forthwith where he is informed by the registered owner or authorised user referred to in section 66A that the collective mark, mark or copyright registered in the name of the owner has ceased to be valid provided that all other conditions for importation or exportation have been complied with.

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<sup>1</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2007*, amended section 66A (3) (b) by changing the font style of the word “*prima facie*” from normal to italics

<sup>2</sup> *w.e.f. 19-July-2008, ACT-18/2008*, Finance Act 2008, Section 6 (d), amended Section 66B(3), by inserting before the word “*importer*” the word “*applicant*”

<sup>3</sup> *w.e.f. 19-July-2008, ACT-18/2008*, Finance Act 2008, Section 6 (e), amended Section 66C, by inserting after the subsection (1), the subsection (1A).

## 66D. Inspection and taking of samples

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

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

## 66E. Interpretation of this Part

In this Part –

“owner” means the registered owner of a collective mark or mark under the Patents, Industrial Designs and Trademarks Act or the copyright owner under the Copyright Act and includes the owner of a collective mark or mark or copyright, registered with a competent authority outside Mauritius as approved by the Director-General.

## PART VII - BONDED WAREHOUSES

### 67. Appointment of warehouses by <sup>1</sup>Director-General

- (1) On application, the Director-General may, by notice in writing, appoint <sup>2</sup>such buildings, places or surfaces as may be approved by him for the warehousing and securing of goods therein without payment of duty, <sup>3</sup>excise duty and taxes upon first entry thereof.
- (2) The Director-General may direct in what different parts or divisions of such warehouses, and in what manner, any goods or any species of goods may be warehoused, kept and secured without payment of duty, excise duty and taxes upon the first entry thereof.
- <sup>4</sup>(2A) Where the applicant or the proprietor or occupier of a bonded warehouse satisfies the prescribed conditions, his warehouse shall be appointed a specified bonded warehouse as from the date specified in a written notification issued by the Director-General.
- <sup>5</sup>(3) The Director-General may, by notice in writing, revoke or alter any such appointment where it is established that-
  - (a) the warehouse has not been in operation for a continuous period of 6 months; or

<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 67, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>2</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 67 (1) by deleting the word “any” and replacing it by the word “such”

<sup>3</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 67, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>4</sup> w.e.f. 10-August-2002, ACT-20/2002, Finance Act 2002, Section 5 (c), amended Section 67, by inserting immediately after the subsection (2) the new subsection (2A).

<sup>5</sup> w.e.f. 07-August-2006, ACT-15/2006, Finance Act 2006, Section 8 (k), amended Section 67 by repealing subsection (3) which is

(3) “The Director-General may, by notice in writing under his hand, revoke or alter any such appointment.” and replacing it by the new subsection (3).

- (b) the proprietor or occupier has committed any act of misconduct, dishonesty, malpractice or fraud.
- (4) Any notice pertaining to the appointment or the revocation of a warehouse shall be published in the *Gazette*.

#### **<sup>1</sup>67A. Specified bonded warehouses**

- (1) Subject to this section, the proprietor or occupier of a specified bonded warehouse may -
  - (a) without Customs locks, manage the operations of the specified bonded warehouse; and
  - (b) without the presence of a customs officer, enter into or remove from the specified bonded warehouse, goods, on payment of duty, excise duty and taxes, if any, in compliance with any applicable enactment, other than goods for re-export.
- (2) The security to be given by the proprietor or occupier of every specified bonded warehouse shall, for the purposes of section 70, be in the form of a bank guarantee.
- (3) Where the proprietor or occupier of a specified bonded warehouse fails to satisfy the conditions prescribed pursuant to section 67 (2A), this section shall, without prejudice to any action which the Director-General may take under the customs laws, cease to apply to the proprietor or occupier with effect from such date as may be specified by the Director-General in a written notification to the proprietor or occupier.
- (4) Section 73 shall not apply to a specified bonded warehouse.

#### **68. Appointment of central bonded warehouse**

The Minister may direct the <sup>2</sup>Director-General to appoint any location for the purpose of establishing a central bonded warehouse.

#### **69. Goods to be cleared on revocation**

- <sup>3</sup>(1) Where the <sup>4</sup>Director-General, by notice in writing, revokes any order approving any warehouse -

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<sup>1</sup> w.e.f. 10-August-2002, ACT-20/2002, Finance Act 2002, Section 5 (d), the Customs Act by inserting immediately after Section 67 the new Section 67A.

<sup>2</sup>w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 68, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>3</sup> w.e.f. 26-August-2004. ACT-28/2004, Finance Act 2004, Section 5 (e) (i), amended Section 69 by deleting subsection (1) which is

“(1) Where the Comptroller, by notice in writing, revokes any order approving any warehouse, the duty, excise duty and taxes on all the warehoused goods, including those which are not accounted for to the satisfaction of the Comptroller shall be paid, or the goods shall be exported or remove the goods to another approved warehouse within such time as the Comptroller may direct.”

and replacing it by the new subsection (1).

<sup>4</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 69, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

- (a) the proprietor or occupier of the warehouse shall pay the duty, <sup>1</sup>excise duty and taxes on all the warehoused goods, including those which are not accounted for to the satisfaction of the Director-General;
  - (b) the owner of the goods shall remove the goods to another approved warehouse or export the goods within one month of the date of revocation.
- (2) Where goods are not dealt with in accordance with subsection (1), the Director-General may cause them to be transferred to a customs warehouse <sup>2</sup>or a warehouse approved by the Director-General for the purpose of auction sales and sold in accordance with section 61.
- <sup>3</sup>(3) Any person who fails to comply with subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

## 70. Bond by proprietor or occupier

The proprietor or occupier of every approved warehouse, other than the Mauritius <sup>4</sup>Ports Authority<sup>5</sup>, shall, before any goods are warehoused, give general security by bond, with <sup>6</sup>2 sufficient sureties, in such sum as the <sup>7</sup>Director-General may direct, for the payment of the full duty, <sup>8</sup>excise duty and taxes due on any goods which may, at any time, be warehoused therein or for export.

## 71. Account of goods to be warehoused

- (1) Upon entry of any goods to be warehoused, or as soon as practicable thereafter, the proper officer shall take a particular account of the goods and such account shall be entered in a ledger book.
- (2) Except where otherwise provided, such account shall be that upon which the duty, <sup>9</sup>excise duty and taxes shall be ascertained and paid.

## 72. Duty of proprietor or occupier

The proprietor or occupier of every warehouse shall -

<sup>1</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 69 by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>2</sup> w.e.f. 26-August-2004, ACT-28/2004, Finance Act 2004, Section 5 (e) (ii), amended Section 69 (2) by inserting immediately after the words “customs warehouse” the words “or a warehouse approved by the Comptroller for the purpose of auction sales”.

<sup>3</sup> w.e.f. 26-August-2004, ACT-28/2004, Finance Act 2004, Section 5 (e) (iii) by adding immediately after subsection (2), the new subsection (3).

<sup>4</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 70 by deleting the word “Marine” and replacing it by the word “Port”

<sup>5</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 70 by adding the after the word “Authority” a comma

<sup>6</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 70 by deleting the word “two” and replacing it by the word “2”

<sup>7</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 70, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>8</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 70, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>9</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 71, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

- (a) stack and arrange the goods in the warehouse in such manner that reasonable access to the goods for the purpose of examination of the packages may be provided at all times;
- (b) provide sufficient lights and accurate scales and weights for use by Customs;
- (c) find and provide all labour and materials required for the storing, examination, packing, marking, cooping, weighing and taking stock of the warehoused goods whenever the <sup>1</sup>Director-General so desires;
- (d) pay the duty, <sup>2</sup>excise duty and taxes due on all warehoused goods removed from his warehouse, except on goods removed by authority of the Director-General, and on all warehoused goods not produced to the officer on demand, unless such goods are otherwise accounted for the satisfaction of the Director-General.

### 73. Opening warehouse

No person shall, except by the authority of the <sup>3</sup>Director-General, open any warehouse or obtain access to any such warehouse or any goods warehoused therein.

### 74. Entry of warehoused goods

Warehoused goods may be entered <sup>4</sup>for—

- (a) <sup>5</sup>home consumption;
- (b) export;
- (c) re-warehousing;
- (d) export as ship's stores<sup>6</sup>.
- <sup>7</sup>(e)

### 75. Export of goods from warehouse

Upon the entry outwards of any goods to be exported from a bonded warehouse, the exporter shall give security acceptable to the <sup>8</sup>Director-General, for treble the amount of the

<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 72, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>2</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 72, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”

<sup>3</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 73, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>4</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 74 by adding after the word “entered” the word “for”

<sup>5</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 74 (a) by deleting the word “for” wherever it appears in the paragraphs (a), (b), (c) and (d)

<sup>6</sup> w.e.f. 07-August-2006, ACT-15/2006, Finance Act 2006, Section 8 (l), amended Section 74, by repealing paragraph (e) which is

“(e) for supply to enterprises operating under the Industrial Expansion Act 1993, and the Export Services Zones Act, as the case may be”,

the semi-colon at the end of paragraph (d) being deleted and replaced by a full stop.

<sup>7</sup> w.e.f. 27-July-1994, ACT-25/2000, Finance Act 2000, Section 3 (b), amended Section 74 (e), by deleting the words “Export Processing Zones Act” and replacing them by the words “Industrial Expansion Act 1993”.

<sup>8</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 75, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”



duty due on such goods, for ensuring that the goods shall be landed at the place for which they have been entered outwards.

**<sup>1 2 3</sup>76. Warehoused goods may be re-warehoused<sup>4</sup>**

- (1) Where any warehoused goods are not cleared within 12 months of the date of the entry for warehousing, the Director-General may, on application in writing, allow the importer to <sup>5</sup>re-warehouse the goods for one further period of 12 months provided security by bank guarantee to cover the amount of duty, <sup>6</sup>excise duty and taxes involved at the time of <sup>7</sup>re-warehousing is given to the satisfaction of the Director-General.
- <sup>8</sup> (2) Notwithstanding subsection (1), any motor vehicle lying in a bonded warehouse as at 1 October 2008 or entered into a bonded warehouse during the period 1 October 2008 to 31 December 2009 shall, unless cleared, be allowed to remain in the bonded warehouse until 31 December 2010.

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<sup>1</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (m) amended the Customs Act by repealing Sections 76 and 77, which are

**“76. Clearing of Warehoused Goods.**

- (1) *Where any warehoused goods are not cleared within 12 months of the date of the entry for warehousing, the Director-General may, on application, allow the importer to re-warehouse the goods for one further period of 12 months provided security by bank guarantee to cover the amount of duty, excise duty and taxes involved at the time of re-warehousing is produced to the satisfaction of the Director-General.*
- (2) *Where any rewarehoused goods are not cleared within the further period of 12 months as specified in subsection (1), the Director-General shall, upon giving fifteen days notice in writing to the owner of the goods, cause such bank guarantee to be realized.*

**77. Failure to clear warehoused goods or re-warehoused goods.**

- (1) *Where, upon expiry of the initial 21 months period, the owner of the goods fail to clear the goods or to apply for rewarehousing as provided in this Act, the Director-General may, upon giving the owner fifteen days notice in writing, cause the goods to be transferred to customs warehouse and to be sold in accordance WITH SECTION 61.*
- (2) *Where rewarehoused goods are abandoned for any reason, the Director-General shall cause the goods to be transferred to customs warehouse and to be sold in accordance with Section 61.”*  
and replacing them by the Sections 76 and 77.

<sup>2</sup> w.e.f. 11-August-2001, **ACT-23/2001**, Finance Act 2001, Section 4 (d), amended Section 76 (1), by deleting the words “6 months” and replacing them by the words “12 months”.

<sup>3</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 76, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>4</sup> w.e.f. 15-July-1989, **ACT-22/1989**, Finance Act 1989, Section 9 (1), amended Section 76, by deleting the words “three months” wherever they appear and replacing them by the words “six months”.

<sup>5</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 76 by deleting the word “rewarehouse” and replacing it by the word “re-warehouse”

<sup>6</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 76, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>7</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 76 by deleting the word “rewarehousing” and replacing it by the word “re-warehousing”

<sup>8</sup> w.e.f. 30-July-2009, **ACT-14/2009**, The Finance (miscellaneous provisions) Act 2009, Section 8 (c), amended section 76, by adding the new subsection (2), the existing provision being numbered (1) accordingly.

## **177. Failure to clear warehoused goods or re-warehoused goods**

<sup>2</sup>(1)<sup>3</sup> Where –

- (a) any warehoused goods are not cleared within a period of 12 months of the date of the entry for warehousing; or
- (b) any <sup>4</sup>re-warehoused goods are not cleared within one further period of 12 months,

pursuant to section 76, the Director-General may, without prejudice to any action he may take under the Act, upon giving 15 days' notice in writing to the owner of the goods –

- (i) cause the bank guarantee referred to in section 76 to be realised;
- (ii) cause the goods to be transferred to a customs warehouse <sup>5</sup>or a warehouse approved by the Director-General for the purpose of auction sales and be sold in accordance with section 61.

- (2) Any person who fails to clear any warehoused goods within a period of 12 months of the date of the entry for warehousing those goods, or fails to clear any re-warehoused goods within a further period of 12 months, pursuant to section 76, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

## **78. Re-warehousing**

The procedure for the <sup>6</sup>re-warehousing of goods shall be -

- (a) an application for re-warehousing shall be made by the owner of the goods to the <sup>7</sup>Director-General;
- (b) the goods shall be examined by the proper officer at the expense of the owner;
- (c) duty, <sup>8</sup>excise duty and taxes shall be paid upon any disallowed deficiency;

<sup>1</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 77, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>2</sup> w.e.f. 11-August-2001, **ACT-23/2001**, Finance Act 2001, Section 4 (e) amended Section 77 (1), by deleting the subsection (1) which is

*"(1) Where, upon expiry of the initial three months period, the owner of the goods fails to clear the goods or fails to apply for rewarehousing as provided in this Act, the Comptroller may, upon giving the owner fifteen days notice in writing, cause the goods to be transferred to customs warehouse and to be sold in accordance with Section 6"*

and replacing it by the new subsection (1).

<sup>3</sup> w.e.f. 15-July-1989, **ACT-22/1989**, Finance Act 1989, Section 9 (2), amended Section 77 (1), by deleting the words "three months" by replacing them by the words "six months".

<sup>4</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 77 by deleting the word "rewarehoused" wherever it appears and replacing it by the word "re-warehoused"

<sup>5</sup> w.e.f. 26-August-2004, **ACT-28/2004**, Finance Act 2004, Section 5 (f), amended Section 77, by inserting immediately after the words "customs warehouse" the words "or a warehouse approved by the Comptroller for the purpose of auction sales".

<sup>6</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 78 by deleting the word "rewarehousing" wherever it appears and replacing it by the word "re-warehousing"

<sup>7</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 78, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>8</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 78, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

- (d) a re-warehousing entry shall be made by the owner of the goods according to the result of the examination;
- (e) on the passing of the entry, a fresh account shall be substituted in the ledger book for the last account.

**79. <sup>1</sup>Director-General to have access to warehouse**

- (1) The **Director-General** shall have access, at all hours of the day and night, to every part of any warehouse and shall have power to examine the goods therein and, for that purpose, may break open the warehouse.
- (2) No liability of the **Director-General** shall result from any action <sup>2</sup>described under subsection (1).

**80. Re-examination of goods**

- (1) Warehoused goods may be regauged, remeasured, reweighed or examined by an officer either by direction of the <sup>3</sup>**Director-General** or at the request and expense of the owner, and duty, <sup>4</sup>**excise duty** and taxes on the goods shall be payable according to the result, unless the **Director-General** is of opinion that any loss shown is excessive, in which case the duty, **excise duty** and taxes shall be paid on the original entry with any reduction which the **Director-General** thinks fit to allow.
- (2) No allowance shall be made for any deficiency on wines or spirits in bottles.

**81. Revaluation**

Where any warehoused goods which are subject to an *ad valorem* duty have deteriorated in value, they may be revalued on the application and at the expense of the owner and duty, <sup>5</sup>**excise duty** and taxes shall be paid according to the result where the <sup>6</sup>**Director-General** is satisfied that the deterioration is due to accidental causes.

**82. Goods may be sorted and repacked**

- (1) The <sup>7</sup>**Director-General** may authorise any person having control over any warehoused goods to sort, separate, pack and repack any goods in the warehouse and to make any such lawful alterations therein, or arrangements and assortments thereof, as may be necessary for the preservation, sale, shipment, or legal disposal of those goods.
- (2) After they have been so sorted, separated or repacked in proper or approved packages, the **Director-General** may –

<sup>1</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 79, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>2</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 79 (2) by deleting the word “as”

<sup>3</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 80, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>4</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 80, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>5</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 81, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>6</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 81, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>7</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 82, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

- (a) at the request of the owner of such goods, cause or permit any refuse, or damaged or surplus goods, (being the result of such sorting, separation, packing or repacking), or any goods which may not be worth the duty,<sup>1</sup> **excise duty** and taxes to be destroyed; and
- (b) remit the duty, **excise duty** and taxes payable thereon.

### 83. Goods not worth the duty may be destroyed

- (1) The <sup>2</sup>**Director-General** may, after giving the owner a one month written notice, cause any warehoused goods which are not to his satisfaction worth the duty,<sup>3</sup> **excise duty** and taxes payable to be destroyed, and he may also remit the duty, **excise duty** and taxes thereon.
- (2) The destruction of warehoused goods under subsection (1) <sup>4</sup>shall not affect any liability of the owner of the goods to pay any rent or other charges due in respect of such goods.
- (3) Notwithstanding subsections (1) and (2), any person who -
  - (a) removes any goods from any bonded warehouse without paying the duty, **excise duty** and taxes; or
  - (b) wilfully destroys any goods duly warehoused,

shall commit an offence.

### 84. Constructive warehousing

Where goods which have been entered for warehousing on import, or for <sup>5</sup>re-warehousing, are entered for home consumption, export or removal before they have been actually warehoused or <sup>6</sup>re-warehoused, such goods shall be deemed to have been warehoused or re-warehoused and shall be delivered as such for home consumption, export or removal, as the case may be.

## PART VIII - CUSTOMS WAREHOUSES

### 85. Appointment of customs warehouse

The customs warehouse shall be appointed by the <sup>7</sup>**Director-General** and such appointment shall be published in the *Gazette*.

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<sup>1</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 82, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>2</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 83, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>3</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 83 by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>4</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 83 (2) by deleting the word "does" and replacing it by the word "shall"

<sup>5</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 84 by deleting the word "rewarehousing" and replacing it by the word "re-warehousing"

<sup>6</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 84 by deleting the word "rewarehoused" wherever it appears and replacing it by the word "re-warehoused"

<sup>7</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 85, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

## 86. Goods lodged in customs warehouse

The following goods shall be deposited in the customs warehouse -

- <sup>1</sup>(a) abandoned goods, other than goods under the control of the Mauritius <sup>2</sup>Ports Authority;
- (b) seized goods pending investigation, the decision of the <sup>3</sup>Director-General or the decision of the court;
- (c) goods forfeited by the Director-General's decision in a compounding or the <sup>4</sup>Court's decision, until the disposal of such goods;
- (d) passengers' dutiable goods pending payment of duty, <sup>5</sup>excise duty and taxes or pending reshipment; and
- (e) such other goods as the Director-General may authorise.

## 87. Rent to be charged

Where any goods are deposited in the customs warehouse or other place of deposit approved by the <sup>6</sup>Director-General for the security of the duty, <sup>7</sup>excise duty and taxes thereon, or until regulations relating to the import have been complied with, the Director-General may charge, demand and receive warehouse rent for such period as such goods remain therein and at such rates and subject to such conditions as may be prescribed.

## 88. Combustible or inflammable goods

- (1) No goods of a combustible or inflammable nature shall be deposited in the customs warehouse except with the authorisation of the <sup>8</sup>Director-General.
- (2) Where any goods described under subsection (1) are landed, they may be deposited in any other available place approved by the Director-General.
- (3) Whilst deposited in any such other place the goods shall be deemed to be in the customs warehouse, unless duly cleared or warehoused in some approved place in the meantime, and such charges shall be made for securing, watching and guarding the goods until sold, cleared or warehoused as the Director-General thinks reasonable.

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<sup>1</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2007*, amended section 86 by numbering the paragraphs in alphabetical order instead of figures

<sup>2</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2007*, amended section 86 by deleting the word "Marine" wherever it appears and replacing it by the word "Port"

<sup>3</sup> *w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s)*, amended Section 86, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>4</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2007*, amended section 86 (c) by changing the case of the word "court's" to "Court's".

<sup>5</sup> *w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b)*, amended Section 86, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>6</sup> *w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s)*, amended Section 87, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General".

<sup>7</sup> *w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b)*, amended Section 87 by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>8</sup> *w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s)*, amended Section 88, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General".

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

## 89. Control of customs warehouse

The customs warehouse shall be wholly under the control of Customs and all the provisions of this Act relating to bonded warehouses shall, so far as is practicable, apply to <sup>1</sup>the customs warehouse.

## 90. Compensation

No compensation shall be paid by <sup>2</sup>the <sup>3</sup>Authority to any importer or owner of any goods by reason of any damage occasioned to the goods in the customs warehouse by fire or other inevitable accident.

## PART IX - EXPORT OF GOODS AND CLEARANCE OF AIRCRAFT AND SHIPS

### 91. Landing place of goods for export

No goods in any ship or aircraft for export shall be unshipped or relanded in Mauritius without the prior authorisation of the <sup>4</sup>Director-General.

### 92. Conditions of export

- (1) No goods other than passengers' baggage shall be taken on board an aircraft or ship for export unless the exporter or his agent has previously delivered to the <sup>5</sup>Director-General a bill of entry and such copies thereof as may be required, in the prescribed form, and has paid all duty, <sup>6</sup>excise duty and taxes, if any, upon the goods.
- (2) Notwithstanding subsection (1), with the authorisation of the Director-General, goods produced in Mauritius and liable to export duty, may be shipped <sup>7</sup>prior to the delivery by the exporter or his agent of a perfect entry for the same.
- (3) Notwithstanding section 8 (1) <sup>8</sup>and subsections (1) and (2), with the authorisation of the Minister, sugar produced in Mauritius and liable to export duty may be shipped prior to the delivery by the exporter or his agent of a perfect entry.

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<sup>1</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 89, by inserting immediately after the word "apply", the word "the"

<sup>2</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 90 by adding after the words "paid by" the word "the"

<sup>3</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 91, by deleting the word "Government" wherever it appears and replacing it by the word "Authority"

<sup>4</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 91, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>5</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 92, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>6</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 92, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>7</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 92 (2), by deleting the word "previous" and replacing it by the word "prior"

<sup>8</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 92 (3) by deleting the words "of this Act"

### 93. Short shipped goods

Where any goods entered for export are not thereafter shipped according to the entry, the exporter shall immediately report the fact to the <sup>1</sup>Director-General and shall amend the entry for the goods not later than 7 working days after the clearance of such aircraft or ship.

### 94. Clearance certificate

The master of any aircraft or ship, other than an aircraft or ship calling for bunkers, provisions and stores, shall not depart with his aircraft or ship from Mauritius without receiving from the Director of Shipping, or the <sup>2</sup>Director-General, as the case may be, immediately before leaving Mauritius, a certificate of clearance, provided that, in the case of clearance of ships, the Director of Shipping shall grant such clearance only with the consent of the Director-General.

### 95. Requisites for obtaining clearance

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

- (a) delivered to the <sup>3</sup>Director-General any outward manifest and such copies as may be required in the prescribed form;
- (b) furnished such information and documents relating to the aircraft or ship, the voyage and the cargo as may be required by the Director-General; and
- (c) complied with all legal requirements in regard to such aircraft or ship and the inward and outward cargo.

### 96. Missing goods to be accounted for

Where required by the <sup>4</sup>Director-General, the master of every aircraft or ship shall, after clearance -

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

## PART X - SHIP'S STORES

### 97. Stores subject to seal

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

<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 93, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 94, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>3</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 95, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>4</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 96, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

- (a) unconsumed stores of the aircraft or ship; or
  - (b) personal property in the possession of the master or any member of the crew or of any passenger in transit for another port outside Mauritius.
- (2) Any seal placed in accordance with subsection (1) shall not be broken, disturbed or tampered with except with the permission of the <sup>1</sup>Director-General while the aircraft or ship remains in port or the airport.
- (3) (a) On boarding of the proper officer, the master of any ship or aircraft shall make a full disclosure of any dutiable goods being unconsumed stores on board the aircraft or ship.
- (b) Any member of the crew or the master of any aircraft or ship shall make a full disclosure of any dutiable goods being unconsumed stores of the aircraft or ship in his possession.
- (4) Where the master or any member of the crew of any aircraft or ship fails to disclose, when required by an officer, any dutiable goods being the property of, or in the possession of, the master or such member of the crew, as the case may be, such master or member of the crew shall commit an offence and shall, on conviction, be liable to a fine which shall -
- (a) where the value of the goods <sup>2</sup>does not exceed 1,500 rupees, be 4,000 rupees;
  - (b) where the value of the goods <sup>3</sup>exceeds 1,500 rupees, be 3 times the value of the goods or 20,000 rupees, whichever is the higher,

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

#### **497A. Customs-Approved Storeroom**

- (1) The Director-General may, by notice in writing, approve any building or place for the warehousing and securing therein of aircraft supplies without payment of duty, excise duty and taxes, to be used by passengers and crew or sold to passengers on aircraft leaving for a foreign port.
- (2) a building or place approved under subsection (1) shall be known as a Customs-Approved Storeroom.
- (3) The conditions under which the supplies referred to in subsection (1) may be imported, exported or otherwise dealt with and the procedure for the supplies entering and leaving the Customs-Approved Storeroom shall be such as may be prescribed.

<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 97, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>2</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (d) (i), amended Section 97 (4) (a), by deleting the words "is not more than Rs 700, be Rs 2,000" and replacing them by the words "does not exceed 1,500 rupees, be 4,000 rupees".

<sup>3</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (d) (ii), amended Section 97 (4) (b), by deleting the words "is more than Rs 700, be three times the value thereof or Rs 10,000" and replacing them by the words "exceeds 1,500 rupees, be three times the value of the goods or 20,000 rupees".

<sup>4</sup>w.e.f. 19-December-2009, ACT-20/2009, The Finance (Miscellaneous Provisions) ( No.2) Act, Section 7 (d), amended the Customs Act, by inserting, after section 97, the new section 97A.



- (4) The Director-General may, by notice in writing, revoke or alter any approved under subsection (1) where he is of opinion that the owner or occupier of the Customs-Approved Storeroom has committed any act of misconduct, dishonesty, malpractice or fraud.

## 98. Use of ship's stores

Subject to section 101 and any regulations, ship's stores, <sup>1</sup>whether shipped in parts beyond the seas or in Mauritius, shall only be used by the passengers and crew for the service of the aircraft or ship, and no such stores shall be unshipped except by permission of the <sup>2</sup>Director-General.

## 99. Surplus stores

Surplus ship's stores may, with the authorisation of and at the discretion of the <sup>3</sup>Director-General, be entered in like manner as merchandise or warehoused for future use as aircraft or ship's stores.

## 100. Shipment of stores

- (1) (a) Upon an application made in that behalf in the prescribed form by the master of an aircraft or ship bound for a port beyond the seas <sup>4</sup>or by the master of a fishing vessel bound for a fishing expedition on the high seas, the <sup>5</sup>Director-General may allow, for the use of the aircraft or ship or fishing vessel, such stores as may appear to him necessary for the voyage upon which the aircraft or ship is about to depart.
- (b) No goods taken on any aircraft or ship shall be deemed to be stores unless duly shipped as such and duly listed in the prescribed form.
- (2) Stores shipped, otherwise than in accordance with this section, shall be deemed to be goods not entered and shall be liable to forfeiture.
- (3) <sup>6</sup>Where an aircraft, a ship or a fishing vessel does not reach its destination due to unforeseen circumstances and has to return to a port or an airport in Mauritius and it is found on its arrival that there is a deficiency in its stores in excess of what the Director-General considers reasonable, the master shall commit an offence and shall, on conviction, be liable to a fine which shall-
- (a) where the value of the deficiency in excess does not exceed 1,500 rupees, be 4,000 rupees; or

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<sup>1</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 98, by deleting the words “(whether shipped in parts beyond the seas or in Mauritius)” and replacing them by the words “whether shipped in parts beyond the seas or in Mauritius,”

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 98, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>3</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 99, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>4</sup> w.e.f. 19-December-2009, ACT-20/2009, The Finance (Miscellaneous Provisions) ( No.2) Act, Section 7 (e) (i), amended Section 100 (1) (a), by inserting after the words “the seas” and “the use of the aircraft or ship”, the words “or by the master of a fishing vessel bound for a fishing expedition on the high seas” and “or fishing vessel”, respectively

<sup>5</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 100, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>6</sup> w.e.f. 19-December-2009, ACT-20/2009, The Finance (Miscellaneous Provisions) ( No.2) Act, Section 7 (e) (ii), amended Section 100, by adding after subsection (2), the new subsection (3)

- (b) where the value of the deficiency in excess exceeds 1,500 rupees, be 3 times the value thereof or 20,000 rupees, whichever is the higher.

#### 101. Duty on stores

- (1) Where stores are *bona fide* required for the master, crew or passengers of any aircraft or ship leaving Mauritius, they shall, if taken from any bonded warehouse, be allowed to be exported free of duty, <sup>1</sup>excise duty and taxes.
- (2) Notwithstanding subsection (1), where stores are *bona fide* required for the master, crew or passengers of any aircraft or ship leaving Mauritius, such stores shall, whether taken from any bonded warehouse for export or not, be liable to export duty, if any, as prescribed in the Customs Tariff Act.

#### 102. Amount of stores may be restricted

Where the amount of goods from a bonded warehouse applied for by the master or agent of any aircraft or ship under section 101 <sup>2</sup>is, in the opinion of the <sup>34</sup>Director-General, in excess of the amount which should be normally required for the purpose of the application, the Director-General may restrict the amount to be taken free of duty, <sup>5</sup>excise duty and taxes to such quantity as he shall consider fair and reasonable in the circumstances.

#### 103. Bond to be given

The master or agent of any aircraft or ship applying to be allowed to take stores out of any bonded warehouse and free of duty, <sup>6</sup>excise duty and taxes shall give to the <sup>7</sup>Director-General a bond with one sufficient surety residing in Mauritius for 3 times the amount of duty, excise duty and taxes on those stores, the condition of which bond being that those stores shall not be landed again in any part of Mauritius without the prior authorisation of the Director-General.

#### 104. Stores under seal

All stores taken on board any aircraft or ship free of duty, <sup>8</sup>excise duty and taxes shall be placed under seal by an officer and shall remain under such seal until the aircraft or ship has departed from Mauritius on the outward voyage.

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<sup>1</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 101, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>2</sup> w.e.f. 15-December-2001, Revised laws of Mauritius of 2000, amended section 102 by deleting the words "of this Act"

<sup>3</sup> w.e.f. 10-January-1991, ACT-28/1986, The Merchant Shipping Act 1986, Section 204 (3), amended Section 102, by deleting the word "Comptroller" and replacing it by the words "Director of Shipping"

<sup>4</sup> w.e.f. 19-December-2009, ACT-20/2009, The Finance (Miscellaneous Provisions) ( No.2) Act, Section 7 (f), amended Section 102, by deleting the words "Director of Shipping" whenever they appear and replacing them by the word "Director-General"

<sup>5</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 102, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>6</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 103, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>7</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 103, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>8</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 104, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

## 105. Penalty for breaking the seal

- (1) Where such lock, mark or seal is unlawfully opened, altered or broken, the master shall commit an offence and shall, on conviction, be liable to a fine which shall -
    - (a) where the value of the goods <sup>1</sup>does not exceed 1,500 rupees, be 4,000 rupees;
    - (b) where the value of the goods <sup>2</sup>exceeds 1,500 rupees, be 3 times the value of the goods or 20,000 rupees,
- <sup>3</sup>whichever is the higher.
- (2) Where stores are secretly conveyed away before the departure of such aircraft or ship on the outward voyage, the master shall commit an offence and shall, on conviction, be liable to a fine which shall -
    - (a) where the value of the goods <sup>4</sup>does not exceed 1,500 rupees, be 4,000 rupees;
    - (b) where the value of the goods <sup>5</sup>exceeds Rs 1,500, be 3 times the value of the goods or 20,000 rupees, whichever is the higher.

## PART XI - DRAWBACK

### 106. Drawback allowed on re-export

- (1) Where goods have been imported for the purpose of undergoing processing (including repacking, sorting and grading), manufacturing or repair and are thereafter exported, duty and <sup>6</sup>excise duty paid at the time of import of such goods may be repaid as drawback on such conditions as may be prescribed.
- (2) Where goods have been imported and subsequently <sup>7</sup>re-exported without having undergone any processing and without having been put to use, duty and excise duty paid at the time of import of such goods may be repaid as drawback on such conditions as may be prescribed.
- (3) No payment of drawback shall be made until the aircraft or ship carrying such goods has left Mauritius.

<sup>1</sup> w.e.f. 21-July-1998, **ACT-10/1998**, Finance Act 1998, Section 6 (e) (i), amended Section.105 (1) (a), by deleting the words "is not more than Rs 700, be Rs 2,000" and replacing them by the words "does not exceed 1,500 rupees, be 4,000 rupees".

<sup>2</sup> w.e.f. 21-July-1998, **ACT-10/1998**, Finance Act 1998, Section 6 (e) (ii), amended Section.105 (1) (b), by deleting the words "is more than Rs 700, be three times the value thereof or Rs 10,000" and replacing them by the words "exceeds 1,500 rupees, be three times the value of the goods or 20,000 rupees".

<sup>3</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 105 (1) (b), by deleting the words "whichever is the higher" and inserting after paragraph (b), the words "whichever is the higher"

<sup>4</sup> w.e.f. 21-July-1998, **ACT-10/1998**, Finance Act 1998, Section 6 (ii) (A), amended Section.105 (2) (a), by deleting the words "is not more than Rs 700, be Rs 2,000" and replacing them by the words "does not exceed 1,500 rupees, be 4,000 rupees".

<sup>5</sup> w.e.f. 21-July-1998, **ACT-10/1998**, Finance Act 1998, Section 6 (ii) (B), amended Section.105 (2) (b), by deleting the words "is more than Rs 700, be three times the value thereof or Rs 10,000" and replacing them by the words "exceeds 1,500 rupees, be three times the value of the goods or 20,000 rupees".

<sup>6</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 106, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>7</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 106 (2) by deleting the word "reexported" and replacing it by the word "re-exported"

<sup>1</sup>(4) Notwithstanding subsection (3), payment of drawback shall be made at the time the goods are admitted into a freeport zone exclusively for export.

## 107. Application by actual exporters

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

## <sup>2</sup>108. When no drawback allowed

Where any goods which have been entered for export under drawback are brought to any quay, wharf or other place to be shipped for export and are, upon examination by the proper officer found not to be of the description on the bill of entry or other documents for the allowance of drawback, or where any goods upon which drawback has been claimed or allowed after shipment and are subsequently found not to have been shipped, all such goods and the packages containing them with all other contents, shall be liable to forfeiture, as the case may be, and the person entering such goods and claiming the drawback thereon shall in every case commit an offence and shall, on conviction, be liable to a fine which shall –

- (a) when the value of such goods <sup>3</sup>does not exceed 1,500 rupees, be 4,000 rupees;
- (b) where the value of such goods <sup>4</sup>exceeds 1,500 rupees, be 3 times the value of the goods or 20,000 rupees, whichever is the higher.

## 109. Standard drawback rates

In case of goods manufactured in and exported from Mauritius, a drawback on the duty and <sup>5</sup>excise duty may be allowed in respect of any imported raw material used in the manufacture of such goods at such standard drawback rates and subject to such conditions as may be prescribed.

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<sup>1</sup> w.e.f. 12-August-1995, ACT-17/1995, Finance Act 1995, Section 2, amended Section 106, by adding the immediately after subsection (3) the new paragraph (4).

<sup>2</sup> w.e.f. 07-August-2006, ACT-15/2006, Finance Act 2006, Section 8 (n), amended Section 108, by repealing it which is

**“108. When no Drawback Allowed.**

*When no goods upon which drawback is claimed or allowed are shipped or brought to any quay, wharf or other place to be shipped for export and are, upon examination by the proper officer, found not to be of the description borne on the bill of entry or other document for the allowance of drawback or shipment, all such goods and the packages containing them with all other contents therein shall be liable to forfeiture and the person entering such goods and claiming the drawback thereon every case commit an offence and shall, on conviction, be liable to a fine which shall –*

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

and replacing it by the new Section 108.

<sup>3</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (f) (i), amended Section 108 (a), by deleting the words “is not more than Rs 700, be Rs 2,000” and replacing them by the words “does not exceed 1,500 rupees, be 4,000 rupees”.

<sup>4</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (f) (ii), amended Section.108 (b), by deleting the words “is more than Rs 700, be three times the value thereof or Rs 10,000” and replacing them by the words “exceeds 1,500 rupees, be three times the value of the goods or 20,000 rupees”.

<sup>5</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 109, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

## **<sup>1</sup>PART XII - GOODS FOR TRANSIT OR <sup>2</sup>TRANSHIPMENT**

### **110. Transit or transhipment**

- (1) On the entry inwards of any aircraft or ship, the <sup>3</sup>Director-General may, on the application of the owner of any imported goods which have been specifically manifested at the time of import as being for transit or transhipment, permit the transit or transhipment of such goods without payment of duty, excise duty and taxes, if any, leviable thereon.
- (2) Any transit or transhipment shall take place after the passing of the appropriate entry in respect of the goods.
- (3) Where goods under subsection (1) for any reason have to leave the customs area prior to their transit or transhipment, the Director-General may -
  - (a) require and take appropriate security to cover the duty, <sup>4</sup>excise duty and taxes payable;
  - (b) require that the goods be placed or transported under seal affixed by Customs.
- (4) Any person who, without the prior authorisation of the Director-General -
  - (a) tranships or attempts to tranship any goods from an aircraft or ship to another aircraft or ship; or
  - (b) attempts to take out of Customs control any goods entered for transit or transhipment,

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

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<sup>1</sup> w.e.f. 26-August-2004, ACT28/2004, Finance ACT 2004, Section 5 (g), amended the Customs Act, by repealing Part XII which is

***"PART XII  
GOODS FOR TRANSHIPMENT***

**110. Transhipment.**

- (1) *On the entry inwards of any aircraft or ship the Comptroller on the application of the owner (or his agent) of any imported goods which have been specially manifested at the time of import as being for transhipment, permit the transshipment of such goods without payment of import or export duties and taxes, if any, leviable thereon.*
- (2) *Such transshipment shall take place under the supervision of an officer at the expense of the applicant after the due entries inwards outwards have been passed for the goods.*
- (3) *Where goods as described under subsection (1) for any reason have to leave the customs area prior to their transhipment, the Comptroller may require and take security to cover the duty, excise duty and taxes payable, if any.*
- (4) *Any person who, without the previous authorization of the Comptroller-*
  - (a) *Transships or attempts to tranship any goods from an aircraft or ship to another aircraft or ship; or*
  - (b) *Attempts to take out of the Customs area any goods entered for transshipment,**Shall commit an offence, and the goods, the subject-matter of the offence, shall be liable to forfeiture."*  
and replacing it by the new Part XII.

<sup>2</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended PART XII by deleting the word "transshipment" wherever it appears and replacing it by the word "transhipment"

<sup>3</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 110, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>4</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 110, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

## PART XIII - COASTING TRADE

### 111. Coasting aircraft or ship

- (1) No goods, being carried coastwise, shall be taken into or put out of any coasting aircraft or ship at sea or in parts beyond the seas, and no coasting aircraft or ship shall touch at any port beyond the seas, or deviate from its flight or voyage, unless forced so to do by unavoidable circumstances.
- (2) Where the master (or his agent) of any coasting aircraft or ship, which has touched at any port beyond the seas or deviated from its flight or voyage does not declare such fact in writing to the <sup>1</sup>Director-General on the arrival of the aircraft or ship in Mauritius, he shall commit an offence under this Act and shall, on conviction, be liable to a fine not exceeding <sup>2</sup>2 million rupees.

### 112. Foreign aircraft or ships in coasting trade

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

### 113. Officers may board

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

### 114. Goods entered outwards without landing

Where the master of any aircraft or ship has brought any goods not liable to duty, **excise duty**<sup>3</sup> and taxes coastwise, and wishes to proceed with such goods or any of them to parts beyond the seas, he may, with the authorisation of the <sup>4</sup>Director-General, enter outwards the aircraft or ship, as well as such goods for the intended voyage without first landing the same.

### 115. Bond for stores

- (1) The master of every aircraft or ship bound for any island (other than the <sup>5</sup>Island of Mauritius) which is under the jurisdiction of the State of Mauritius, shall furnish bond that only such stores as the <sup>6</sup>Director-General may consider necessary for the use of the master, crew and passengers of the said aircraft or ship during its flight or

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<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 111, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>2</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (g), amended Section 111 (2), by deleting the words "Rs 1,000,000" and replacing them by the words "2 million rupees".

<sup>3</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 114, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>4</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 114, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>5</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 115 by changing the case of the word "island" to "Island"

<sup>6</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 115, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

voyage to that island and back again, shall be carried for the purpose to and from the island.

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

## **116. Goods to be carried coastwise**

No goods shall be carried coastwise except goods produced in Mauritius and goods which have been legally imported into Mauritius and upon which duty, <sup>1</sup>**excise duty** and taxes, if any, have been paid.

### **<sup>2</sup>PART XIII A - RODRIGUES DEVELOPMENT ZONE**

#### **116A. Application of PART XIII A**

- (1) This Part shall apply to specified goods entering <sup>3</sup>or leaving the Island of Rodrigues from or to the Island of Mauritius.
- (2) Any specified goods shall be transported from the Island of Mauritius to the Island of Rodrigues under Customs control.
- (3) For the purposes of this Part -

<sup>4</sup> <sup>5</sup>"specified goods" means any goods subject to duty, other than those specified in the First Schedule, destined for the Island of Rodrigues, which are-

- <sup>6</sup>(a) imported;
- (b) removed from a bonded warehouse;
- <sup>7</sup>(c)
- (d) removed from a freeport zone.

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<sup>1</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 116, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

<sup>2</sup> w.e.f. 11-August-2000, **ACT-25/2000**, Finance Act 2000, Section 3 (c), amended the Customs Act, by inserting immediately after PART XIII, the new PART XIII A.

<sup>3</sup> w.e.f. 15-December-2001, **Revised laws of Mauritius of 2000**, amended section 116A (1) by deleting the words "the Island of Rodrigues or"

<sup>4</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (o) (i), amended Section 116 (A) (3), by repealing paragraphs (a) and (b) which are

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

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

<sup>5</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 116A (3) by deleting the paragraph (c) and by de-numbering the paragraph (d)

<sup>6</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 116A (3) by changing the numbering style of the paragraphs from (i), (ii), (iii) and (iv) which are in roman letters to alphabetical form (a), (b), (c) and (d).

<sup>7</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (o) (ii), amend Section 116 (A) (3) (d), by repealing subparagraph (iii) which is

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

### **116B. Specified goods entering the Island of Rodrigues**

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

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

- (1) Subject to the other provisions of this section, any specified goods which have entered the Island of Rodrigues free of duty shall, when entering the Island of Mauritius as merchandise for sale or as accompanied or unaccompanied luggage, be deemed to be goods imported into the Island of Mauritius and shall be entered on payment of duty and value added tax.
- (2) The value added tax referred to in subsection (1) shall be calculated on the amount of duty payable on those goods.
- (3) Subject to subsection (4), where a passenger travels from the Island of Rodrigues to the Island of Mauritius, he shall, upon presentation to a proper officer, of his passport, national identity card, or travel document, as the case may be, be entitled -
  - (a) where he is under the age of 12 years, to a duty-free allowance of 5,000 rupees; or
  - (b) in any other case, to a duty-free allowance of 10,000 rupees; or
  - (c) such other amounts as may be prescribed,

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

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

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

The master of every ship or aircraft transporting specified goods from the Island of Mauritius to the Island of Rodrigues shall submit to the <sup>1</sup>Director-General a report, in such form and in such manner as may be approved by the Director-General, of the ship or aircraft, its cargo of specified goods and of its departure from the Island of Mauritius and its arrival in the Island of Rodrigues.

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

The offences and penalties provided for under the customs laws shall apply to any specified goods leaving the Island of Mauritius and entering the Island of Rodrigues or leaving the Island of Rodrigues and entering the Island of Mauritius as if those goods were exported from, or imported into, the Island of Mauritius.

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<sup>1</sup> *w.e.f. 01-July-2006, ACT-33/2004*, MRA Act 2004, Section 27 (3) (s), amended Section 116, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”



## PART XIV - AGENTS AND BROKERS

### 117. Authorised persons

<sup>1</sup>The Director-General may, in writing, authorise such persons as he thinks fit to act as agents or brokers for transacting business relating to the entry or clearance of any aircraft or ship or any goods or baggage other than the accompanied non-manifested personal baggage of persons travelling by air or sea.

### 118. Execution of bond

- (1) Every broker and agent shall subscribe and execute a bond with two sureties for the proper compliance by such broker and agent, and their customs clerks, with the customs laws.
- (2) In the case of brokers, the bond shall be in the amount of <sup>2</sup>250,000 rupees.
- (3) In the case of <sup>3</sup>freight forwarding agents, the bond shall be in the amount of not less than <sup>4</sup>one million rupees.
- (4) The <sup>5</sup>Director-General may at any time call for the renewal of a bond for any valid reason, including the replacement of sureties who have ceased to be acceptable as sureties.

### 119. Requisites for agents and brokers

- <sup>6</sup>(1) No person shall be authorized by the <sup>7</sup>Director-General to act as agent or broker unless he is satisfied that such person has the necessary ability or the necessary equipment and storage facilities for the handling and safe custody of cargo to effectively transact his business.
- <sup>8</sup>(1A) A freight forwarding agent shall apply to the Director-General for any of its employees to be authorized to act as customs agent to transact business on his behalf relating to the entry of any goods.

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<sup>1</sup>w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 3 (k), amended Section 117, by deleting the words “The Minister may, on the recommendation of the Comptroller, authorize” and replacing them by the words “The Director-General may, in writing, authorize”.

<sup>2</sup> w.e.f. 01-March-2006, ACT-28/2004, Finance Act 2004, Section 5 (h) (i), amended Section 118 (2), by deleting the words “Rs25,000” and replacing them by the words “250,000 rupees”.

<sup>3</sup> w.e.f. 01-March-2006, ACT-28/2004, Finance Act 2004, Section 5 (h) (ii) (a), amended Section 118 (3), by deleting the words “clearing and forwarding agents” and replacing them by the words “freight forwarding agents”.

<sup>4</sup> w.e.f. 01-March-2006, ACT-28/2004, Finance Act 2004, Section 5 (h) (ii) (b) amended Section 118 (3), by deleting the words “Rs500,000” and replacing them by the words “one million rupees”.

<sup>5</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 118, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>6</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 3 (l) (i), amended Section 119, by deleting subsection (1) which is

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

and replacing it by the new subsection (1).

<sup>7</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 119, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>8</sup> w.e.f. 01-March-2006, ACT-28/2004, Finance Act 2004, Section 5 (i) amended Section 119, by inserting immediately after subsection (1) the new subsections (1A), (1B), (1C) and (1D).

- <sup>1</sup>(1B) (a) The Director-General may, subject to paragraph (b), grant the application and authorize the employee referred to in the application to act as customs agent.
- <sup>2</sup>(b) No employee of a freight forwarding agent shall be authorized to act as customs agent unless the Director-General is satisfied that such employee has the necessary ability to transact business referred to in subsection (1A).
- (1C) Where the Director-General is of opinion that any customs agent has, in the discharge of his duties as customs agent, committed any act of misconduct, dishonesty or fraud, he shall, by notice in writing, suspend, for such period as he may determine, or cancel, his authorisation.
- (1D) Where a customs agent ceases to be in the employment of a freight forwarding agent, the freight forwarding agent shall immediately notify in writing the Director-General thereof and the Director-General shall cancel the authorisation of the customs agent.
- (2) The storage facilities of an agent or broker shall be deemed to form part of a quay or wharf for the purposes of section 55.<sup>3</sup>
- (3) The Minister may prescribe the maximum number of persons to be authorised under subsection (1).
- (4) <sup>4</sup>The Director-General may, by notice in writing, <sup>5</sup>suspend for such period as he may determine, or revoke the authority given to any person to act as agent or broker <sup>6</sup>where –
- (a) <sup>7</sup>that person has been guilty of an offence involving fraud or other dishonesty or been guilty of any crime or misconduct;
- (b) findings of fraud or misconduct in the exercise of such person's function as broker or agent, have been established;
- (c) that person is unable efficiently to act as agent or broker by reason of mental or physical incapacity;

<sup>1</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (p), amended Section 119, by repealing subsection (1B) which is

*“(1B) The Director-General may grant the application and authorize the employee referred to in the application to act as customs agent where he is satisfied that such person has the necessary ability to effectively transact business at Customs relating to the entry of any goods.”*

and replacing it by the new subsection (1B).

<sup>2</sup> w.e.f. 22-August-2007, **ACT-17/2007**, Finance Act 2007, Section 9 (g) (i), amended Section 119 (1B) (b), by repealing it which is

*“(b) No person shall be authorized to act as customs agent unless he is authorised by the Director-General to act as customs broker.”*

and replacing it by the new paragraph (b).

<sup>3</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 119 (2) by deleting the words “of this Act”

<sup>4</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (l) (ii), amended Section 119 (4), by deleting the words “The Minister may, on the recommendation of the Comptroller, and by order in writing” and replacing them by the words “The Director-General may, by notice in writing”

<sup>5</sup> w.e.f. 22-August-2007, **ACT-17/2007**, Finance Act 2007, Section 9 (g) (ii), amended Section 119 (4), by deleting the word “revoke” and replacing it by the words “suspend for such period as he may determine, or revoke”

<sup>6</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000** amended section 119 (4) by adding after the words “broker” the word “where”

<sup>7</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 119 (4) by deleting the word “where” wherever it appears in the paragraphs (a), (b), (c), (d) and (e)

- (d) that person fails to execute or renew the bond required by section 118, or fails to take out or renew the <sup>1</sup>prescribed licence; or
  - (e) where that person has not, on a continual basis, practised as agent or broker for a period of one year.
- (5) Where <sup>2</sup>a notice in writing made under subsection (4) specifying the reason or reasons for which the authority is revoked has been given to that person or to his clerk or at his usual place of abode or business, such authority shall cease to have effect.
- <sup>3</sup>(5A) While an authorisation is suspended, the agent or broker shall not, during the period of the suspension, carry out his duties as agent or broker.
- (6) For the purpose of this Part, “agents or brokers” does not include shipping or aircraft agents entering or clearing the aircraft or ship, or their principals, in the discharge of their duties as agents or proxies.

#### <sup>4</sup>120. Appointment and revocation of <sup>5</sup>Customs clerk

- (1) (a) An agent, broker, importer or exporter shall apply to the <sup>6</sup>Director-General for such person as may be designated by him to assist him in transacting his business at Customs, to be registered as customs clerk.
- (b) An application under paragraph (a) shall be made in such manner and in such form as may be approved by the Director-General.
- (2) The Director-General may register a customs clerk on such terms and conditions as he may determine.
- (3) No person shall act as customs clerk unless he is registered with the Director-General.
- (4) Where the Director-General is of opinion that any customs clerk has, in the discharge of his duties as customs clerk, committed any act of misconduct,

<sup>1</sup> w.e.f. 15-December2001, **Revised laws of Mauritius of 2000**, amended section 119 (4) (d) by deleting the words “licence of broker under the Licences Act” and replacing them by the words “prescribed licence”

<sup>2</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act2004, Section 3 (l) (iii), amended Section 119 (5), by deleting the words “an order in writing made under subsection (3)” and replacing them by the words “a notice in writing made under subsection (4)”

<sup>3</sup> w.e.f. 22-August-2007, **ACT-17/2007**, Finance Act 2007, Section 9 (g) (iii), amended Section 119, by inserting immediately after subsection (5), the new subsection (5A).

<sup>4</sup> w.e.f. 01-March-2006, **ACT-28/2004**, Finance Act 2004, Section 5 (j) amended The Customs Act, by repealing section 120, which is

**“120 Appointment and Revocation of Clerk**

- (1) Any person authorised to act as agent or broker under this Part may, with the written approval of the Comptroller, designate clerks to assist him in transacting his business.
  - (2) Any clerk so designate shall not assist any person other than the person appointed by him.
  - (3) Where any such clerk commits any fraud or misconduct the Comptroller may, by notice to such clerk and to the agent or broker employing him, withdraw his approval of the designation of that clerk and the designation shall thereupon cease to have effect.
  - (4) Importers, exporters and consignees shall register their clerks with the Comptroller.”
- and replacing it by the new Section 120.

<sup>5</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 120 in the heading, by changing the case of the word “customs” to “Customs”. RLM

<sup>6</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 120, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

dishonesty or fraud, he shall, by notice in writing, suspend for such period as he may determine, or cancel, the registration of the customs clerk.

- (5) The Director-General shall give an opportunity to a customs clerk to answer in writing any charge of misconduct, dishonesty or fraud before a notice under subsection (4) is given.

## 121. No entry of goods by unauthorised persons

<sup>1</sup>Where -

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

makes or causes to be made entry of any goods without being duly authorised for the purpose by the importer, exporter or consignee of these goods, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding <sup>2</sup>20,000 rupees.

## 122. Authority may be required

- (1) Where any person makes an application to the <sup>3</sup>Director-General to transact business on behalf of any other person, the Director-General may require the person so applying to produce a written authority from the person on whose behalf the application is made and, in default of the production of such authority, reject such application.
- (2) The Director-General may require the authority to specify the business and such other reasonable information as he may determine.

## 123. Liability of agents and brokers

- (1) Subject to subsection (2), an agent, broker or person who performs any act on behalf of the owner of any goods shall, for the purposes of this Act, be deemed to be the owner of such goods and shall accordingly be personally liable for the payment of any duty, <sup>4</sup>excise duty and taxes to which such goods are liable and for the performance of all acts in respect of such goods which the owner thereof is required to perform under <sup>5</sup>this Act.
- (2) The liability of the agent, broker or other person under this section shall not extend to the payment of any such duty, excise duty and taxes which become payable, or the performance of any such act which falls to be performed, after the agent, broker

<sup>1</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 121 by de-numbering the subsection (1)

<sup>2</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (h), amended Section 121, by deleting the words “Rs 10,000” and replacing them by the words “20,000 rupees”.

<sup>3</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 122, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>4</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 123, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>5</sup> w.e.f. 15-December-2001, Revised laws of Mauritius of 2000, amended section 123 (1) by deleting the words “the provisions of”

or other person has ceased, in respect of such goods, to be the agent of the owner unless he has undertaken a personal liability.

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

#### **124. Liability of owner for acts of agent or his own employee**

- (1) Unless otherwise established to the satisfaction of the <sup>1</sup>**Director-General**, an owner of goods shall be liable for the acts and declarations of his duly authorised agent or designated clerk and may accordingly be prosecuted for an offence committed by such agent or designated clerk in relation to any such goods as if such owner had himself committed the offence.
- (2) An owner shall not be sentenced to imprisonment for any offence committed by his duly authorised agent or designated clerk unless such owner actually consented to the commission of the offence.
- (3) Nothing herein contained shall relieve the duly authorised agent or designated clerk from any liability to prosecution in respect of any such offence.

### **PART XV - POWERS OF OFFICERS**

#### ***Sub-Part I - General***

#### **125. Power of <sup>2</sup>**Director-General** to enforce customs laws**

- (1) The **Director-General** has, within the customs area, exclusive power to enforce customs laws and any other enactment in so far as import or export of goods is concerned, including the power to question, detain and search passengers and to search their luggage and goods.
- (2) The **Director-General** has power to enforce, anywhere in Mauritius, customs laws and any other enactment in so far as import or export of goods is concerned.
- (3) The **Director-General** may request the assistance of the police in enforcing customs laws within the customs area.

#### **126. Power of officers to enforce laws relating to customs**

Every officer is hereby empowered to enforce the provisions of <sup>3</sup>this Act and the Customs Tariff Act and any other enactment in so far as import or export is concerned and in so far as the assistance of Customs is required for the implementation of such enactments.

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<sup>1</sup> *w.e.f. 01-July-2006, ACT-33/2004*, MRA Act 2004, Section 27 (3) (s), amended Section 124, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>2</sup> *w.e.f. 01-July-2006, ACT-33/2004*, MRA Act 2004, Section 27 (3) (s), amended Section 125, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>3</sup> *w.e.f. 15-December2001, Revised laws of Mauritius of 2000*, amended section 126 by deleting the words “the present” and replacing them by the word “this”

<sup>4</sup> *w.e.f. 19-July-2008, ACT-18/2008*, Finance Act 2008, Section 6 (f), amended Section 126, by inserting after Section 126 the new Sections 126A, 126B, 126C and 126D.

<sup>5</sup> *w.e.f. 01-July-2009, ACT-14/2009*, The Finance (miscellaneous provisions) Act 2009, Section 8 (d), amended the Customs Act, by repealing sections 126A, 126B, 126C, and 126D, which are

**“126A. Permit or authorization requirements under any enactment suspended**

## 127. Power to examine all goods

- (1) Any officer may, at the risk of the owner, open packages and examine, weigh, mark and seal any goods subject to the control of <sup>1</sup>Customs.
- <sup>2</sup>(1A) Any examination under subsection (1) may include the physical or chemical testing of, the drilling into, or the dismantling of, the goods and may be facilitated by any means including the use of chemical substances, detector dogs, x-ray scanning or other imaging equipment, or other mechanical, electrical or electronic device.
- (2) The expenses of the examination including the cost of removal to and from the place of examination shall be borne by the owner.

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*Any permit or authorisation required under the customs laws or any other enactment for the import or export of goods shall be suspended as from 1st August 2009 or on such date as may be prescribed.*

### **126B. Permit review committee**

- (1) There is set up for the purposes of this section, a Committee to be known as the Permit Review Committee which shall ascertain the need for an importer or exporter to obtain a permit for the import or export of goods.
- (2) The Committee shall consist of –
  - (a) a representative of the Ministry responsible for the subject of commerce, who shall be the Chairperson;
  - (b) a representative of the Ministry responsible for the subject of finance;
  - (c) a representative of the Mauritius Chamber of Commerce and Industry;
  - (d) a representative of the Mauritius Export Association (MEXA);
  - (e) a representative of the Association of Mauritian Manufacturers;
  - (f) a representative of the Small and Medium Entrepreneurs Federation;
  - (g) a representative of the Association Mauricienne des Femmes Chefs D'Entreprises; and
  - (h) 2 other persons appointed by the Minister.
- (3) The Committee shall meet as often as is necessary and at such time and place, and may use such means of communication, as the Chairperson thinks fit.
- (4) At any meeting of the Committee, 5 members shall constitute a quorum.
- (5) The Committee may co-opt such other person as may be of assistance in relation to any matter before the Committee.
- (6) Any person co-opted under subsection (5) shall have no right to vote on any matter before the Committee.
- (7) Subject to the other provisions of this section, the Committee shall regulate its meetings and proceedings in such manner as it thinks fit.

### **126C. Submission to the Committee**

- (1) Any authority issuing a permit or authorisation under any enactment for the import or export of goods shall submit to the Committee, not later than 31 December 2008 –
  - (a) a list of goods showing the HS Codes, if known to the authority, for which a permit or authorisation is needed and the reasons thereof; and
  - (b) the proposed simplified process and procedures and the time limit for the application and issue of such permit or authorisation.
- (2) Any body or person, other than the authority referred to under subsection (1), may, not later than 31 December 2008, submit to the Committee his proposals relating to the simplified process and procedures referred to in subsection (1) (b).

### **126D. Recommendations of the Committee**

The Committee –

- (a) shall, with the assistance of the Mauritius Revenue Authority, examine the submissions under section 126C;
- (b) may hear the authority issuing the permit or authorisation or any other body or person; and
- (c) shall, not later than 31 March 2009, submit to the Minister its recommendations for any change in the process and procedures including any legislative changes.”

<sup>6</sup> w.e.f. 27-June-2009, **GN-63/2009**, The Customs (Suspension of Permit or Authorisation) Regulations 2009, Regulation 3, amended Section 126A, , by deleting the words “July” and replacing it by the word “August”

<sup>1</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 127 (1) by changing the case of the word “customs” to “Customs”

<sup>2</sup> w.e.f. 21-April-2005, **ACT-14/2005**, Finance Act 2005, Section 8 (a), amended Section 127, by inserting immediately after subsection (1), the new subsection (1A).

## **<sup>1</sup>127A. Production of books and records**

- (1) The <sup>2</sup>Director-General or a proper officer may, in respect of the entry of any goods, require the importer or exporter of those goods <sup>3</sup>to—
- <sup>4</sup>(a) produce, at such time and place as may be specified by the Director-General, for —
- (i) examination, books, records, invoices or other documents of any kind relating to those goods, whether on computer or otherwise, which the Director-General or the proper officer considers necessary and which are in the possession or custody or under the control of that importer or exporter;
- (ii) retention, for a period not exceeding 2 months by the Director-General, of any record or document specified in subparagraph (i) or for taking copies of or extracts therefrom;
- (b) <sup>5</sup>give all reasonable assistance and answer all proper questions either orally or in writing.
- (2) Any person who, when so required, fails to comply with <sup>6</sup>subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding <sup>7</sup>200,000 rupees and to imprisonment for a term not exceeding 2 years.

## **<sup>8</sup>127B. Power to access computers and other electronic devices**

For the purposes of section 127A, the Director-General may, at any reasonable time –

- (a) have access to –
- (i) any computer, computer software, whether installed in the computer or otherwise, electronic till or any other device, used in connection with any document which the person is required to produce; or
- (ii) any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such computers or devices into readable and comprehensive format or text;

<sup>1</sup> *w.e.f. 21-July-1998, ACT-10/1998*, Finance Act 1998, Section 6 (i), amended Section 127, by inserting immediately after Section 127, the new Section 127A.

<sup>2</sup> *w.e.f. 01-July-2006, ACT-33/2004*, MRA Act 2004, Section 27 (3) (s), amended Section 127, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>3</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2007*, amended section 127A (1) by deleting at the start of each paragraph the word “to” and inserting it after the words “those goods” in paragraph (1)

<sup>4</sup> *w.e.f. 22-August-2007, ACT-17/2007*, Finance Act 2007, Section 9 (h), amended Section 127A(1) (a), by deleting the words “to produce for-” and replacing them by the words “to produce, at such time and place as may be specified by the Director-General, for-”

<sup>5</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2007*, amended section 127A (1) (b) by deleting the words “to give” and replacing them by the word “give”

<sup>6</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2007*, amended section 127A (2) by deleting the word “the provision of”

<sup>7</sup> *w.e.f. 21-July-2003, ACT-18/2003*, Finance Act 2003, Section 5 (e), amended Section 127A(2), by deleting the words “20,000 rupees” and replacing it by the words “200,000 rupees”

<sup>8</sup> *w.e.f. 30-July-2009, ACT-14/2009*, The Finance (miscellaneous provisions) Act 2009, Section 8 (e), amended the Customs Act, by inserting after section 127A, the new section 127B

- (b) inspect and check the operation of any such computer or other device and make extracts of any computer software, computer output or such other document used in connection therewith;
- (c) require any person by whom or on whose behalf the computer or other electronic device is operated, or any person concerned with the operation of the equipment, to give such assistance as is necessary for the purposes of this section; and
- (d) require any person in possession of decryption information to grant him access to such decryption information necessary to decrypt data required for the purposes of this section.

## 128. Power to board and search aircraft or ship

- (1) Any proper officer may, within the borders of Mauritius including its territorial waters and air space -
  - (a) board any aircraft or ship;
  - (b) search any aircraft or ship; and
  - (c) secure any goods on any aircraft or ship
- (2)
  - (a) The power of an officer to board extends to staying on board any aircraft or ship in or for the performance of his duties.
  - (b) The <sup>1</sup>Director-General may station an officer on board any ship and the master shall provide suitable accommodation and suitable and sufficient food for that officer.
- (3) The power of an officer to search extends to every part of any aircraft or ship and includes the power to open any package, locker or place and to examine all goods.
- (4) The power of an officer to secure any goods includes the power to fasten down hatchways and other openings into the hold and to lock up, seal, mark or otherwise secure any goods and to remove any goods to the customs warehouse.
- (5) No person shall open, alter, break or erase any fastening, mark, lock or seal placed by an officer upon any goods or upon any door, hatchway, opening or place upon any aircraft or ship except by authority of the Director-General, so long as the goods upon which the fastening, lock, mark or seal is placed, or which are intended to be secured, remain subject to the control of Customs.

## 129. Patrol of coasts

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

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<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 128, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"



### 130. Boats to be moored in any place

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

### 131. Power to question

- (1) Any person <sup>1</sup>who has landed from or got out of, <sup>2</sup>or is about to embark on, any aircraft or ship may be questioned by any officer as to whether he has any dutiable or other goods or any prohibited goods in his possession.
- (2) In the course of any questioning as described under subsection (1), such officer may inspect such person's travel documents including passport or *laissez-passer* and tickets.

### <sup>3</sup>131A. Physical cross-border transportation

<sup>4</sup> <sup>5</sup>(1) Any person making a physical cross-border transportation of currency or bearer negotiable instruments of an amount of more than 500,000 rupees or such other amount as may be prescribed or its equivalent in any foreign currency shall make a declaration to the proper officer, in such manner as may be prescribed, of the amount of the currency or bearer negotiable instruments in his possession, their origin and intended use.

<sup>6</sup>(1A) Where the proper officer reasonably suspects that the amount of currency or bearer negotiable instruments in the possession of a person making a physical cross-border transportation –

- (a) is more than 500,000 rupees or such other amount as may be prescribed or its equivalent in foreign currency and that person has not made a declaration under subsection (1); or
- (b) may involve money laundering or financing of terrorism,

he shall require the person to make a declaration to the proper officer, in such manner as may be prescribed, of the amount of the currency or bearer negotiable instruments in his possession, their origin and intended use.

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<sup>1</sup> w.e.f. 15-December2001, **Revised laws of Mauritius 2000**, amended section 131 (1) by deleting the words “on board any aircraft or ship or”

<sup>2</sup> w.e.f. 15-December2001, **Revised laws of Mauritius 2000**, amended section 131 (1) by inserting after the words “got out of” the words “, or is about to embark on,”

<sup>3</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (q), amended the Customs Act, by inserting immediately after Section 131 the new Section 131A.

<sup>4</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 131, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>5</sup> w.e.f. 30-July-2009, **ACT-14/2009**, The Finance (miscellaneous provisions) Act 2009, Section 8 (f) (i), amended section 131A, by repealing subsection (1) which is

“(1)The Director-General may, on reasonable suspicion, require any person making a physical cross-border transportation to make a written truthful disclosure in a form approved by the Director-General, of the amount of currency or bearer negotiable instruments in his possession, their origin and intended use.”

and replacing it by the new subsection (1)

<sup>6</sup> w.e.f. 30-July-2009, **ACT-14/2009**, The Finance (miscellaneous provisions) Act 2009, Section 8 (f) (ii), amended section 131A, by inserting, after subsection (1), the new subsections (1A) and (1B).

- (1B) For the purposes of ascertaining the amount of foreign currency referred to in subsections (1) and (1A), the rate of exchange applicable shall be determined in accordance with section 7 of the Customs Tariff Act.
- (2) Any person making <sup>1</sup>a declaration under subsection (1) or (1A) may be questioned by an officer on the particulars of the <sup>2</sup>declaration and in the course of any questioning, the officer may inspect the person's travel documents including passport or <sup>3</sup>*laissez-passer* and tickets.
- (3) Where <sup>4</sup>a proper officer has reasonable cause to believe that the declaration made by a person under subsection (1) or (1A) is false or misleading in any material particular, the officer may detain and search the person in accordance with section 132.
- <sup>5</sup>(4) Where a proper officer reasonably suspects that the amount of currency or bearer negotiable instruments declared under subsection (1) or (1A) and detected, if any, pursuant to subsection (3), may involve money laundering or the financing of terrorism, he shall forthwith refer the matter to the Police and, at the same time, pass on the relevant information to the FIU.
- (5) Any person who –
- <sup>6</sup>(a) fails to make a declaration under subsection (1);
- <sup>7</sup>(b) when so required, refuses to make <sup>8</sup>a declaration under subsection (1) or (1A);
- (c) makes a declaration under subsection (1) or (1A) which is false or misleading in any material particular; or
- (d) without reasonable excuse, refuses to answer questions under subsection (2),
- shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 3 years.

<sup>1</sup> w.e.f. 30-July-2009, **ACT-14/2009**, The Finance (miscellaneous provisions) Act 2009, Section 8 (f) (iii), amended section 131A (2), by deleting the words “a disclosure under subsection (1)” and replacing them by the words “a declaration under subsection (1) or (1A)”.

<sup>2</sup>w.e.f. 19-December-2009, **ACT-20/2009**, The Finance (Miscellaneous Provisions) ( No.2) Act, Section 7 (g) (i), amended Section 131A (2) by deleting the word “disclosure” and replacing it by the word “declaration”

<sup>3</sup> w.e.f. 03-November-2008, **Revised laws of Mauritius of 2007**, amended section 131A (2) by changing the font style of the word “*laissez-passer*” from normal to italics

<sup>4</sup> w.e.f. 30-July-2009, **ACT-14/2009**, The Finance (miscellaneous provisions) Act 2009, Section 8 (f) (iv), amended section 131A (3), by deleting the words “an officer” and “the disclosure made by a person under subsection (1)” and replacing them by the words “a proper officer” and “the declaration made by a person under subsection (1) or (1A)” respectively.

<sup>5</sup> w.e.f. 30-July-2009, **ACT-14/2009**, The Finance (miscellaneous provisions) Act 2009, Section 8 (f) (v), amended section 131A, by repealing subsection (4) which is

“(4) Where an officer reasonably suspects that the amount of currency or bearer negotiable instruments disclosed under subsection (1) and detected, if any, pursuant to subsection (3), may involve the laundering of money or the financing of terrorism, he shall forthwith refer the matter to the Police.”

and replacing it by the new subsection (4)

<sup>6</sup>w.e.f. 19-December-2009, **ACT-20/2009**, The Finance (Miscellaneous Provisions) ( No.2) Act, Section 7 (g) (ii) (A), amended Section 131A ((5), by relettering the existing paragraphs (a), (b) and (c) as paragraphs (b), (c) and (d), respectively

<sup>7</sup>w.e.f. 19-December-2009, **ACT-20/2009**, The Finance (Miscellaneous Provisions) ( No.2) Act, Section 7 (g) (I) (B), amended Section 131A (5), by inserting, before paragraph (b) as relettered, the new paragraph (a)

<sup>8</sup> w.e.f. 30-July-2009, **ACT-14/2009**, The Finance (miscellaneous provisions) Act 2009, Section 8 (f) (vi), amended section 131A (5) (a) and (5) (b), by deleting the words “a disclosure under subsection (1)” and replacing them by the words “a declaration under subsection (1) or (1A)”.

(6) In this section –

“bearer negotiable instruments”-

(a) means monetary instruments in bearer form; and

(b) includes –

(i) bearer traveller’s cheques;

(ii) cheques, promissory notes and money orders, that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; or

(iii) incomplete instruments, including cheques, promissory notes and money orders, signed, but with the payee’s name omitted;

“currency” means banknotes and coins that are in circulation as a medium of exchange;

<sup>1</sup>“financing of terrorism”, in relation to section 131A, has the meaning assigned to it in section 11 of the Prevention of Terrorism Act;

“FIU” has the same meaning as in the Financial Intelligence and Anti-Money Laundering Act;

“money laundering”, in relation to section 131A, has the meaning assigned to it in section 3 of the Financial Intelligence and Anti-Money Laundering Act;

“physical cross-border transportation” –

(a) means any in-bound or out-bound physical transportation of currency or bearer negotiable instruments from one country to another country; and

(b) includes –

(i) physical transportation by a natural person, or in that person’s accompanying luggage;

(ii) shipment of currency through containerized cargo; or

(iii) the mailing of currency or bearer negotiable instruments by a natural or legal person.

### **132. Detention and search of suspected persons**

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

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

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<sup>1</sup> w.e.f. 30-July-2009, **ACT-14/2009**, The Finance (miscellaneous provisions) Act 2009, Section 8 (f) (vii), amended section 131A (6), by inserting, in the appropriate alphabetical order, the definition of “*financing of terrorism*”, “*FIU*” and “*money laundering*”

### 133. Power to stop vehicles within customs area

- (1) Any officer may, upon reasonable suspicion, stop and search any vehicle within the customs area for the purpose of ascertaining whether any dutiable goods, or any prohibits or restricted imports or exports, are contained therein.
- (2) The driver of any vehicle who fails to stop or who fails to permit such search whenever required by any such officer shall commit an offence.

### 134. Power to stop vehicles outside customs area

- (1) Any officer or police officer may, upon reasonable suspicion, stop and search any vehicle for the purpose of ascertaining whether any dutiable goods, or any prohibited or restricted imports or exports, are contained therein.
- (2) The driver of any vehicle who fails to stop or who fails to permit that search whenever required by any such officer shall commit an offence.

### 135. Search warrant

- (1) Where the <sup>1</sup>Director-General reasonably suspects that an offence against this Act has been, is being or is likely to be committed, he may issue to an officer a warrant in the form set out in the <sup>2</sup>Second Schedule <sup>3</sup>for the search of any premises.
- (2) Notwithstanding subsection (1), licensed premises may be searched without warrant.
- <sup>4</sup>(3) For the purposes of subsections (1) and (2), an officer may -
  - (a) question the owner of, or any person found on, the premises;
  - (b) inspect and take copies of any material documents, or of any material information stored in a computer or other electronic device found on the premises;
  - (c) detain and remove any suspected goods or place them under Customs locks and seals at the premises, pending their removal to a customs warehouse.
- (4) The Director-General may, at the request of the owner or custodian of detained goods, allow the release of the goods, other than prohibited goods, subject to -
  - (a) the submission of a bank guarantee covering the duty paid value of the goods which shall be liable to forfeiture on a final conviction by a competent Court;
  - (b) the retention of appropriate samples as exhibits.

<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 135, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General"

<sup>2</sup> w.e.f. 11-August-2000, ACT-25/2000, Finance Act 2000, Section 3 (d), amended Section 135, by deleting the word "Schedule" and replacing it by the words "Second Schedule".

<sup>3</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 135 by deleting the words "to this Act".

<sup>4</sup> w.e.f. 26-August-2004, ACT-28/2004, Finance Act 2004, Section 5 (k), amended Section 135, by adding after subsection (2) the new subsections (3) and (4).

### 136. Power to take assistance

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

### 137. Arrest of persons

- (1) Any officer may, without warrant, arrest any person whom he has reasonable ground to believe is involved in the commission or attempted commission of any of the following offences -
  - (a) smuggling;
  - (b) importing any prohibited goods;
  - (c) exporting any prohibited goods;
  - (d) unlawfully conveying or having in his possession any smuggled goods or prohibited goods; or
  - (e) striking, obstructing, molesting or assaulting any officer in the execution of his duty.
- (2) Every person arrested shall, as soon as practicable and at any rate not later than within 24 hours of his arrest, be referred to the police.
- (3) The police shall make an appropriate entry of the referrant in the occurrence book of the police station where an arrested person is brought by an officer.
- (4) Any such officer may use reasonable force to make the arrest.

### 138. Impounding of documents

- <sup>1</sup>(1) The <sup>2</sup>Director-General may impound or retain any document presented in connection with any entry or required to be produced under this Act and the person otherwise entitled to such documents shall, on his application, be given in lieu thereof a copy of the document duly certified by the Director-General.
- (2) Such certified copy shall be admissible evidence at any trial to the same extent and in the same manner as the original.

### 139. Further proof of proper entry

The <sup>3</sup>Director-General may <sup>4</sup>detain or require from the importer or exporter of any goods proof by declaration, or by the production of documents, that the goods are owned as claimed and are properly described, valued or rated for duty and, failing such proof, the Director-General may refuse to deliver the goods or allow the exporter to pass any entry relating thereto.

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<sup>1</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 138 by creating the new subsections (1) and (2)

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 138, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General".

<sup>3</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 139, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General".

<sup>4</sup> w.e.f. 26-August-2004, ACT-28/2004, Finance Act 2004, Section 5 (l), amended Section 139, by inserting after the words "the Comptroller may" the words "detain or".

#### 140. Translation of foreign documents

Where any document in a language other than English is presented to any officer for any purpose connected with the business of Customs, the <sup>1</sup>Director-General may require a translation in the English language to be made at the expense of the owner by such person as the Director-General may approve.

#### 141. Customs samples

Samples of any goods under the control of Customs may, for any purpose deemed necessary by the <sup>2</sup>Director-General, be taken, utilised and disposed of by him in the prescribed manner.

#### 142. Officers may board ships hovering on coast

- (1) Any officer, in the course of his duty, may require the master of any ship hovering within the territorial waters of Mauritius to depart and, if the ship fails to depart accordingly within 24 hours thereafter, any officer may, in the course of his duty, board such ship and have her brought into port and searched.
- (2) Any officer, in the course of his duty, may examine all persons on board that ship and they shall each thereupon answer questions relative to the ship and her cargo, crew, passengers, stores and voyage and produce documents relative to the ship and her cargo.
- (3) For purposes of subsections (1) and (2) such officer may request the assistance of the National Coast Guard.

### *Sub-Part II - Legal Proceedings*

#### 143. Notice of seizure to be given

- (1) Where any goods have been seized under this Act, the <sup>3</sup>Director-General shall serve notice in writing of the seizure and the cause thereof to the owner of the goods or his agent.
- (2) All goods which have been seized shall be deemed to be condemned by the Director-General and may be sold as provided in section 144 unless the person from whom such goods were seized, or the owner thereof, gives notice in writing to the Director-General within one month from the date of seizure or service of the notice of such seizure, as the case may be, that he claims such goods and enters an action claiming the goods before the competent court within 3 months from the date of his notice to the Director-General.
- (3) Where any goods so seized are of a perishable nature or are living animals, they may forthwith be sold by the Director-General in accordance with section 144 of this Act and the proceeds of the sale shall be retained by the Director-General and be subject to the same conditions as other seized goods.

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<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 140, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General".

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 141, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General".

<sup>3</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 143, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General".

#### 144. Seized goods to be sold by public auction or public tender

- (1) All goods which are seized under this Act shall be delivered into the custody of the <sup>1</sup>Director-General who shall, subject to section 143 (2) or to the order of a <sup>2</sup>Court, cause them to be sold by public auction or by public tender, as he may determine.
- (2) Notwithstanding subsection (1), the Minister may direct that, in lieu of being sold, such goods shall be destroyed or shall be reserved <sup>3</sup>for benevolent and charitable institutions affiliated with the Mauritius Council of Social Services or receiving a subsidy from Government, foreign Governments, Ministries and Departments or for other public service.

#### 145. Value of goods seized

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

#### 146. Security may be given for goods seized

- (1) Where any goods have been seized under this Act, the judge may,<sup>4</sup> unless the <sup>5</sup>Director-General objects to a delivery, order the delivery thereof on the provision of security and with <sup>6</sup>2 sufficient sureties<sup>7</sup> approved by the Director-General.
- (2) The security mentioned in subsection (1) shall be given for double the value of the goods and delivered to the Director-General.

#### 147. Burden of proof

In any action or proceedings arising out of the seizure of any goods on the ground that the duty, <sup>8</sup>excise duty and taxes thereon have not been paid or on any other ground, the burden of proving that the seizure was illegal shall lie on the person making the allegation.

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<sup>1</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 144, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General".

<sup>2</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 144 by changing the case of the word "court" to "Court".

<sup>3</sup> w.e.f. 30-July-2009, ACT-14/2009, The Finance (miscellaneous provisions) Act 2009, Section 8 (g), amended section 144 (2), by deleting the words "for the public service" and replacing them by the words "for benevolent and charitable institutions affiliated with the Mauritius Council of Social Services or receiving a subsidy from Government, foreign Governments, Ministries and Departments or for other public service."

<sup>4</sup> w.e.f. 15-July-1989, ACT-22/1989, Finance Act 1989, Section 9 (3) (a), amended Section 146 (1), by deletion the words "after hearing the Comptroller" and replacing them by the words "unless the Comptroller objects to a delivery".

<sup>5</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 146, by deleting the word "Comptroller" wherever it appears and replacing it by the word "Director-General".

<sup>6</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 146 (1) by deleting the word "two" and replacing it by the word "2".

<sup>7</sup> w.e.f. 15-July-1989, ACT-22/1989, Finance Act 1989, Section 9 (3) (b), amended Section 146 (1), by adding the immediately after the word "sureties" the words "approved by the Comptroller".

<sup>8</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 147, by deleting the word "levy" wherever it appears and replacing it by the words "excise duty".

## **<sup>1</sup>148. Proceedings how instituted**

- (1) Subject to subsection (2) proceedings for the recovery of duty, excise duty, taxes and penalties imposed under this Act or for the forfeiture of goods under this Act shall be instituted in the name of the <sup>2</sup>Director-General and shall be commenced within a period of 5 years from the date of commission of the offence by reason of which the duty, excise duty and taxes have not been paid or the penalty has been incurred or the forfeiture made.
- (2) Proceedings for any offence under section 156 or 158 may be instituted at any time.

## **149. Security to abide by decree of court**

- (1) Where in any proceedings, the <sup>3</sup>Court delivers judgment ordering the return of any goods to the owner or claimant, the execution of the judgment shall not be stayed pending the appeal where the party to whom the goods are ordered to be returned furnishes security to the satisfaction of the court for the restitution of the goods, or the payment of the full value thereof in case the judgment is reversed on appeal.
- (2) The full value of the goods, for the purposes of subsection (1), shall either be ascertained by agreement between the parties or, where the parties cannot agree, by appraisalment under the authority of the court.

### ***<sup>4</sup>Subpart III Protection to Officers***

## **150.**

### **PART XVI - PENAL PROVISIONS**

#### ***Sub- Part I - Seizures and Forfeitures***

## **151. Seizure of goods**

- (1) The following goods may be seized by an officer-

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<sup>1</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (j), amended Section 148, by deleting it which is

***“148 Proceedings How Instituted***

*Proceedings for the recovery of penalties imposed under this Act or for the forfeiture of goods under this Act shall be instituted in the name of the Comptroller and shall be commenced within a period of three years from the date of commission of the offence by reason of which the penalty or forfeiture has been incurred “*

*and replacing it by the new Section 148.*

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 148, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>3</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 149 (1) by changing the case of the word “court” to “Court”

<sup>4</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (m), amended the Customs Act, by repealing Sub-Part III of Part XV which is

***“Sub-Part III- Protection to Officers***

***150. Reasonable Cause for Seizure – a Bar to Action.***

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



- (a) <sup>1</sup>goods imported into Mauritius, including but not limited to those listed below, in relation to which an offence under the customs laws is reasonably suspected to have been committed by any person;
- (b) goods which have been smuggled into Mauritius;
- (c) goods which are not claimed by any person or which are disclaimed by any person on any ground;
- (d) goods which are imported while being prohibited or restricted;
- (e) prohibited or restricted goods put on any aircraft or ship or brought to any wharf, port or place for export;
- (f) goods in respect of which bulk is unlawfully broken;
- (g) dutiable goods concealed in any manner in respect of which applicable duty, <sup>2</sup>excise duty and taxes have not been paid;
- (h) dangerous drugs specified in the Dangerous Drugs Act<sup>3</sup>, which are unlawfully imported or unlawfully in the possession of any person;
- (i) goods which are not properly classified or described in an import entry or which are classified or described in a manner likely to deceive an officer in the discharge of his duties, unless the same does not appear to have been done wilfully or deliberately;
- (j) goods which are imported in a name, including a purported trade name, which is fictitious, false or misleading;
- (k) goods which are consigned to an address which is fictitious, false or misleading or an address which is designed to conceal the true name or identity of the importer or consignee;
- (l) goods which are imported in the name of a corporate body which is not registered or not registered under that name;
- (m) goods which, being required under this Act to be removed or dealt with in any particular way, are not removed or dealt with accordingly;
- (n) goods, other than baggage belonging to any crew, master or passenger, which are found in any aircraft or ship after reporting inward or outward, as the case may be, in a port or airport and which are not specified in the inward or outward manifest or parcel list;
- (o) dutiable goods found in the possession or in the baggage of any person who has landed from any aircraft or ship and who has denied that he has any such goods in his possession or in his baggage or who, when questioned by an officer, does not fully disclose such goods;

<sup>1</sup> *w.e.f. 15-December2001*, **Revised laws of Mauritius of 2000**, amended section 151 by deleting the word “*all*” wherever it appears

<sup>2</sup> *w.e.f. 27-July-1994*, **ACT-25/1994**, Finance Act 1994, Section 2 (b), amended Section 151, by deleting the word “*levy*” wherever it appears and replacing it by the words “*excise duty*”.

<sup>3</sup> *w.e.f. 15-December2001*, **Revised laws of Mauritius of 2000**, amended section 151 (1) (h) by deleting the word “*1986*”.

- (p) dutiable, prohibited or restricted goods which are found to be unlawfully in any aircraft or ship;
- (q) goods which are falsely or incorrectly described in the manifest of an aircraft or ship or in any document relating to the import thereof;
- (r) <sup>1</sup>cargo of any aircraft or ship which hovers in the vicinity of the coast and does not depart within 24 hours after being required to depart in accordance with section 142 of this Act.

(2) <sup>2</sup>Any goods seized by an officer under subsection (1) shall be liable to forfeiture.

## 152. Seizure of modes of transport

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

## 153. Seizure of goods and packages

- (1) The seizure of any goods shall extend to the seizure of the packages in which such goods are contained.
- (2) Where a ship, aircraft, vehicle or container, or any part thereof, has been specially constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that ship, aircraft, vehicle or container may be seized and shall be liable to forfeiture.

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

## 154. Penalties applying to owner of aircraft or ship

- (1) The owner of <sup>3</sup>any aircraft or ship-
  - (a) <sup>4</sup>used in smuggling or used in the unlawful import, export, or conveyance of any prohibited or restricted goods;
  - (b) found within the territorial waters or air space of Mauritius, as the case may be, and failing to bring to for boarding upon being lawfully requested to do so;
  - (c) hovering within the territorial waters or air space of Mauritius, as the case may be, and not departing within 24 hours after being requested to depart by an officer;
  - (d) from which any goods are thrown overboard, staved or destroyed, to prevent seizure by Customs;

<sup>1</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 151 (1) (r) by deleting the word “the” at the start of the paragraph

<sup>2</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 151 (2) by deleting the word “All” and replacing it by the word “Any”

<sup>3</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 154 (1) by adding after the words “the owner of” the word “any aircraft or ship”

<sup>4</sup> w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 154 (1) by deleting the words “any aircraft or ship” wherever they appears on the paragraphs (a), (b),(c), (d), (e), (f), (g) and (h)

- (e) found within any port or airport with cargo on board, and afterwards found light or in ballast or with the cargo deficient, and the master of which is unable lawfully to account for the deficiency to the satisfaction of the <sup>1</sup>**Director-General**;
- (f) found within Mauritius including its territorial waters or the air space, as the case may be, having false bulkheads, false bows, sides or bottoms, or any secret or disguised place adapted for the purpose of concealing goods or having any hole, pipe or other device adapted for the purpose of smuggling goods;
- (g) found within any port or airport having on board or in any manner attached thereto, or conveying or having conveyed any goods in a manner such as to be in contravention of customs laws or any other laws of Mauritius, whenever a responsible officer of such aircraft or ship is involved, even by neglect;
- (h) engaged in coasting trade in violation of section 116,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding <sup>2</sup>**2 million rupees** and the aircraft or ship may be detained until the penalty is paid or until security, to the satisfaction of the <sup>3</sup>**Court**, is given for payment of such penalty.

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

<sup>4</sup>“neglect” includes cases where goods not claimed, or owned by any of the crew are discovered in a place in which they could not reasonably have been put if the responsible officer or officers having supervision of such place had exercised care at the time of the loading of the aircraft or ship or of the coming on board the aircraft or ship of the crew or subsequently.

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

## 155. Collusion

Any person who, being an officer or police officer -

- (a) makes any collusive seizure or delivers up or makes any agreement to deliver upon not to seize any aircraft or ship or goods liable to forfeiture;
- (b) conspires or connives with any person to import or export or is in any way concerned in the import or export, of any goods for the purpose of seizing or

<sup>1</sup> *w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 154, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”*

<sup>2</sup> *w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (k), amended Section 154 (1), by deleting the words “Rs 1,000,000” and replacing them by the words “2 million rupees”.*

<sup>3</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 154 (1) by changing the case of the word “court” to “Court”*

<sup>4</sup> *w.e.f. 15-December2001, Revised laws of Mauritius of 2000, amended section 154 (2) by reclassifying the 2 paragraphs in alphabetical order*

causing the seizure of any aircraft or ship or goods and <sup>5</sup>the police officer obtaining any reward for such seizure;

- (c) rescues any goods which have been seized;
- (d) before, at or after any seizure, staves in or destroys any such goods or destroys any documents relating thereto to prevent the seizure thereof,

shall commit an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding 5 years.

## 156. Smuggling and other prohibited activities

(1) Any person who -

- (a) smuggles into Mauritius any goods;
- (b) imports any prohibited or restricted goods;
- (c) unlawfully conveys or has in his possession -
  - (i) any goods on which any duty, <sup>1</sup>excise duty and taxes payable have not been paid; or
  - (ii) any goods, whether dutiable or not, which cannot be accounted for to the satisfaction of the <sup>2</sup>Director-General; or
  - (iii) any smuggled goods, prohibited goods or restricted goods,

shall commit an offence.

<sup>3</sup>(2) Any person who commits an offence under subsection (1) shall on conviction, be liable

- (a) to a fine which shall –
  - (i) where the value of the goods does not exceed 1,500 rupees, be 4,000 rupees;
  - (ii) where the value of the goods exceeds 1,500 rupees, be 3 times the value of the goods or 20,000 rupees, whichever is the higher,

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<sup>5</sup> w.e.f. 30-July-2009, ACT-14/2009, The Finance (miscellaneous provisions) Act 2009, Section 8 (h), amended section 155 (b), by deleting the words “obtaining any reward” and replacing them by the words “the police officer obtaining any reward”

<sup>1</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 156, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>2</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 156, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>3</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (1), amended Section 156 (2), by deleting it which is

“(2) Any person who commits an offence under subsection (1) shall on conviction, be liable to a fine which shall-

(i) where the value of the goods is not more than Rs 700, be Rs 2,000.

(ii) where the value of the goods is more than Rs 700, be treble the value thereof or Rs 20,000, whichever is the higher,

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

and replacing it by the new subsection (2).

- (b) <sup>1</sup>imprisonment for a term not exceeding 8 years, <sup>2</sup>and the goods, the subject-matter of the offence, shall be liable to forfeiture.

## 157. Shooting offences

Any person who -

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

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

## 158. Customs offences

(1) Every person who -

- (a) evades or attempts to evade payment of any duty, excise duty or taxes which are payable;
- <sup>3</sup>(b) in relation to the entry of any goods, declares a value which he knows to be false or below their true value;
- <sup>4</sup> <sup>5</sup>(c)
- <sup>6</sup>(d) smuggles out of Mauritius any goods or exports any prohibited or restricted goods; or
- (e) unlawfully removes any goods from, or who cannot satisfactorily account for goods in, a bonded warehouse, <sup>7</sup>duty free shop or shop under the Deferred Duty and Tax Scheme referred to in section 22 <sup>8</sup>or Customs-Approved Storeroom referred to in section 97A,

shall commit an offence.

<sup>1</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 156 (2) (b) by deleting the word “to”

<sup>2</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 156 (2) (b) by merging the two paragraphs

<sup>3</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (m), amended Section 158, by inserting immediately after paragraph (a) the new paragraph (b), the existing paragraphs (b) and (c) being relettered (c) and (d) accordingly-

<sup>4</sup> w.e.f. 21-July-2003, ACT-18/2003, Finance Act 2003, Section 5 (f) (i) (A), amended Section 158 (1) (c), by deleting the word “or” appearing at the end.

<sup>5</sup> w.e.f. 01-10-2006, ACT-15/2006, Finance Act 2006, Section 8 (r) (i) (A), amended Section 158 (1), by repealing paragraph (c) which is

“158 (1) (c) obtains or attempts to obtain any drawback which is not payable; or”

<sup>6</sup> w.e.f. 21-July-2003, ACT-18/2003, Finance Act 2003, Section 5 (f) (i) (B), amended Section 158 (1), by deleting paragraph (d) which is

“(d) smuggle out of Mauritius any goods or exports any prohibited or restricted goods,”

and replacing it by the new paragraphs (d) and (e).

<sup>7</sup> w.e.f. 01-10-2006, ACT-15/2006, Finance Act 2006, Section 8 (r) (i) (B) amended Section 158 (1) (e), by deleting the words “or duty free shop” and replacing them by the words “duty free shop under the Deferred Duty and Tax Scheme referred to in Section 22”

<sup>8</sup> w.e.f. 19-December-2009, ACT-20/2009, The Finance (Miscellaneous Provisions) ( No.2) Act, Section 7 (h), amended Section 158 (1) (e), by inserting after the words “referred to in section 22” the words “or Customs-Approved Storeroom referred to in section 97A”.

- (2) Every person who, on board any aircraft or ship in a port or airport, as the case may be, has in his possession for sale or for any other commercial dealing or sells or attempts to sell any goods without the prior authorisation in writing of the <sup>1</sup>**Director-General** shall commit an offence.
- (3) Every person who, for any purpose under this Act -
- (a) prepares, passes or presents any document purporting to be a genuine invoice which is not, in fact, a genuine invoice;
  - (b) makes any entry which is false in any particular;
  - (c) makes, produces or delivers to any officer any certificate, document or declaration which is false in any particular;
  - (d) misleads any officer in any particular likely to affect the discharge of his duty;
  - (e) refuses or fails to answer any question or to produce any document; <sup>2</sup>or
  - (f) unlawfully opens, alters or breaks any lock or seal on any premises <sup>3</sup>container or bonded vehicle,

shall commit an offence.

- (4) For the purposes of subsection (3) a certificate, document, invoice, declaration, entry, <sup>4</sup>statement or a statement contained in a document produced by a computer in accordance with section 16A and subject to section 158A shall be deemed to be false if it is incorrect or misleading in any material particular.
- <sup>5</sup>(5) (a) For the avoidance of doubt and notwithstanding any other provision of this Act, the expression “Every person” in subsection (3) shall be construed as including an agent or a broker acting as such on behalf of an importer or exporter.
- (b) Where an agent or a broker is prosecuted for an offence under subsection (3), he shall, on conviction, be liable to a fine not exceeding 200,000 rupees.

#### **<sup>6</sup>158A. Admissibility of documents produced by computers**

- (1) In any legal proceedings under this Act, a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated therein of

<sup>1</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 158, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>2</sup> w.e.f. 26-August-2004, **ACT-28/2004**, Finance Act 2004, Section 5 (m), amended Section 158 (3), by inserting immediately after paragraph (e), the new paragraph (f), the comma at the end of paragraph (e) being deleted and replaced by the words “; or”

<sup>3</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (r) (ii), amended Section 158 (3) (f), by inserting immediately after the words “on any premises” the words “container or bonded vehicle”

<sup>4</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (e), amended Section 158, by deleting the words “or statement” and replacing them by words “statement or a statement contained in a document produced by a computer in accordance with Section 16A and subject to Section 158A”.

<sup>5</sup> w.e.f. 21-July-2003, **ACT-18/2003**, Finance Act 2003, Section 5 (ii), amended Section 158, by adding immediately after subsection (4), the new subsection (5).

<sup>6</sup> w.e.f. 27-July-1994, **ACT-25/1994**, Finance Act 1994, Section 2 (f), amended the Customs Act, by inserting immediately after Section 158, the new Section 158A.

which direct oral evidence would be admissible if it is shown that the prescribed conditions have been satisfied.

- (2) In any proceedings the court may for special cause require oral evidence to be given of any matter under this section.
- (3) Any person giving any information under this section which is false or misleading in any material particular shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 3 years and to a fine not exceeding <sup>1</sup>20,000 rupees.

## 159. Joint and several liability to penalties

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

## 160. Other penalties

- (1) Any person who, in relation to any import, commits an offence under this Act for which no specific penalty is provided or who otherwise contravenes this Act shall, on conviction, be liable to a fine which shall –
  - (a) where the value of the goods which are the subject matter of the offence <sup>2</sup>does not exceed 1,500 rupees, be 4,000 rupees;
  - (b) where the value of the goods which are the subject matter of the offence <sup>3</sup>exceeds 1,500 rupees, be 3 times the value of the goods or 20,000 rupees, which ever is the higher,

and the goods shall be liable to forfeiture.

- (2) Without prejudice to any other enactment, any person who, in relation to any export, commits an offence under this Act for which no specific penalty is provided or who otherwise contravenes this Act shall, on conviction, be liable to a fine <sup>4</sup>not exceeding <sup>5</sup>200,000 rupees and to imprisonment for a term not exceeding 5 years.

## 161. Jurisdiction

- <sup>6</sup>(1) Notwithstanding -
  - (a) section 114 of the Courts Act; and

<sup>1</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1994, Section 6 (n), amended Section 158A(3), by deleting the words “10,000” and replacing them by the words “20,000 rupees”.

<sup>2</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (o) (i) (A), amended Section 160 (1) (a), by deleting the words “is not more than Rs 700, be Rs 2,000” and replacing them by the words “does not exceed Rs1,500, be 4,000 rupees”.

<sup>3</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (o) (i) (B), amended Section 160 (1) (b), by deleting the words “is more than Rs 700, be three times the value thereof or Rs 10,000” and replacing them by the words “exceeds Rs 1,500, be 3 times the value of the goods or 20,000 rupees”

<sup>4</sup> w.e.f. 21-April-2005, ACT-14/2005, Finance Act 2005, Section 8 (b), amended Section 160 (2), by deleting the words “which shall not exceed 100,000 rupees” and replacing them by the words “not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years”

<sup>5</sup> w.e.f. 21-July-1998, ACT-10/1998, Finance Act 1998, Section 6 (o) (ii), amended Section 160 (2), by deleting the words “Rs50,000” and replacing them by the words “100,000”

<sup>6</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (n), amended Section 161, by adding the new subsection (2), the existing provision being numbered (1) accordingly.

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

a Magistrate shall, <sup>1</sup>subject to subsection (2), have jurisdiction to try all offences under this Act other than an offence under section 157, and may impose any penalty provided under this Act.

- (2) The prosecution for an offence under any of the sections of <sup>2</sup>this Act specified in the Fourth Schedule to the Mauritius Revenue Authority Act 2004 shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.

## PART XVII - SETTLEMENT OF CASES BY <sup>34</sup>DIRECTOR-GENERAL

### 162. Compounding of cases<sup>5</sup>

- <sup>67</sup>(1) (a) The Director-General may compound any offence committed by any person against the customs laws where such person agrees in writing to pay such amount acceptable to the Director-General, not exceeding the maximum pecuniary penalty imposable under such customs laws for such offence.
- (b) For the purposes of paragraph (a), the Director-General shall chair a committee which shall consist of 3 other officers of the management team of the Authority.
- (2) Any vessel, means of conveyance, goods or other articles liable to forfeiture under the customs laws under which the offence or act so compounded has been committed may be seized by the Director-General.
- (3) Every agreement to compound shall be in writing and signed by the Director-General and such person as described under subsection (1), and witnessed by an officer, and a copy shall be delivered to such person.
- (4) Every agreement to compound shall be final and conclusive.
- (5) Where the amount agreed upon under this section or any part of such amount is not paid in accordance with the compounding agreement, the Director-General shall send a certified copy of such compounding agreement to the District Court of Port

<sup>1</sup> w.e.f. 21-July-2003, ACT 17/2003, The Unified Revenue (Amendment) Act 2003, amended Section 161 in the new subsection (1) by inserting immediately after the words “a Magistrate shall”, the words “subject to subsection (2)”.

<sup>2</sup> w.e.f. 01-July-2006, ACT-15/2006, Finance Act 2006, Section 8 (s), amended Section 161 (2), by deleting the words “the enactments” and replacing them by the words “this Act”.

<sup>3</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended the heading of PART XVII by deleting the word “THE”

<sup>4</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (s), amended Section 162, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

<sup>5</sup> w.e.f. 03-November-2008, Revised laws of Mauritius of 2007, amended section 162 in the heading by deleting the words “by Director-General”

<sup>6</sup> w.e.f. 21-July-1998. ACT-10/1998, Finance Act 1998, Section 6 (p), amended Section 162, by deleting the words “Unified Revenue Board” and replacing them by the words “Revenue Authority established under the Unified Revenue Act 1983”

<sup>7</sup> w.e.f. 01-July-2006, ACT-33/2004, MRA Act 2004, Section 27 (3) (o), amended Section 162 (1), by deleting it which is

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

and replacing it by the new subsection 1



Louis which shall thereupon proceed to enforce such agreement in the same manner as if it had imposed such agreed amount by way of fine.

- (6) The compounding of an offence under the customs laws or of any act committed against any such customs laws shall take into account the <sup>1</sup>excise duty and taxes payable on the goods which are the subject matter of such offence or act.
- (7) On payment of the agreed amount in accordance with the compounding agreement, no further proceedings in regard to such particular offence or act shall be taken against the person who has so agreed to the compounding.

<sup>2 3 4 5 6 7</sup>(8)

## PART XVIII - POWERS OF MINISTER

### 163. Regulations

(1)<sup>89</sup> The Minister may -

(a) make such regulations as he thinks fit for -

- (i) the purpose of this Act and generally for the better carrying out of the objects and purposes of this Act;
- (ii) the proper implementation of any <sup>10</sup>international convention, treaty or agreement to which Mauritius is a contracting party;

<sup>1</sup> w.e.f. 27-July-1994, ACT-25/1994, Finance Act 1994, Section 2 (b), amended Section 162, by deleting the word “levy” wherever it appears and replacing it by the words “excise duty”.

<sup>2</sup> w.e.f. 15-October-2001, ACT 17/2001, The Freeport Act, Section 40, amended Section 162 (8), by deleting the words “Industrial Expansion Act 1993 and the Export Service Zones Act” and replacing them by the words “Industrial Expansion Act 1993 and the Export Service Zones Act and the Freeport Act 2001”

<sup>3</sup> w.e.f. 13-July-1991, ACT-33/1991, The Pioneer Status Enterprise Act 1991, Section 16, amended Section 162 (8), by deleting the words “and the Export Services zones Act” and replacing them by the words “the Export Services Act and the Pioneer Status Enterprise Act 1991”

<sup>4</sup> w.e.f. 13-February-1993, ACT-35/1992, The Health Development Certificate Act 1992, Section 21, amended Section 162 (8), by adding immediately after the words “by any person against” the words “The Health Development Certificate Act 1992”.

<sup>5</sup> w.e.f. 11-August-2000, ACT-25/2000, Finance Act 2000, Section 3 (e), amended Section 162, by deleting the words “Export Processing Zones Act, the Export Services Zones Act and the Pioneer Status Enterprise Act 1991” and replacing them by the words “Industrial Expansion Act 1993 and the Export Service Zones Act”.

<sup>6</sup> w.e.f. 11-August-2001, ACT-23/2001, Finance Act 2001, Section 4 (f), amended Section 162 (8), by deleting the words “and the Export Service Zones Act” and replacing them by the words “the Export Service Zones Act and the Export to the United States of America (AGOA) Regulations 2000”.

<sup>7</sup> w.e.f. 01-10-2006, ACT-15/2006, Finance Act 2006, Section 8 (t), amended the Customs Act by repealing subsection 162 (8), which is

“(8) The authority of the Director-General to compound as described under this Section shall extend to compounding of any offence or act committed by any person against the Industrial Expansion Act 199, the Export Service Zones Act and the Export to the United States of America (AGOA) Regulations 2000”.

<sup>8</sup> w.e.f. 01-July-1991, ACT-17/1991, Finance Act 1991, Section 6 (2), amended Section 163, by deleting subsection (1) “(1) The Minister may make such regulations as he thinks fit for the purposes of this Act and generally for the better carrying out of the objects and purposes of this Act”

and replacing it by the new subsection (1).

<sup>9</sup> w.e.f. 11-August-2000, ACT-25/2000, Finance Act 2000, Section 3 (f), amended Section 163, by deleting the subsection (1) which is

“(1) The Minister may make such regulations as he thinks fit for-

(a) the purpose of this Act and generally for the better carrying out of the objects and purposes of this Act;

(b) the proper implementation of any international Convention, Treaty or Agreement to which Mauritius is a contracting party. “

and replacing it by the new subsection (1).

- (b) by regulations, amend the Schedules.
- (2) Regulations made under subsection (1) may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding <sup>1</sup>200,000 rupees <sup>2</sup>and to imprisonment for a term not exceeding 5 years and that goods which are the subject matter of the contravention shall be liable to forfeiture.
- (3) Regulations made under subsection (1) may provide for the method of assessing *ad valorem* duty on exported sugar.
- <sup>3</sup>(4) Regulations made under subsection (1) may provide for the regulation of exports of goods to the European Union and the issue of movement certificates EUR 1 and invoice declarations in connection <sup>4</sup>herewith.
- <sup>5</sup>(5) Any regulations made under this section may provide –
- (a) for the levying of fees and charges;
- (b) on the recommendation of the Authority, for the licensing of persons transacting business with Customs.

<sup>6</sup>164.

## PART XIX - MISCELLANEOUS

### 165. Commissioned aircraft or ships

- (1) The person in command of any aircraft or ship holding commission from any foreign State and having on board any goods, other than aircraft or ship's stores, laden in parts beyond the seas shall –
- (a) deliver an account in writing of the quantity of such goods, the marks and numbers thereof, and the names of the shippers and consignees, and declare to the truth thereof; and
- (b) answer questions relating to such goods.
- (2) Aircraft or ship under commission from any foreign state having on board any goods other than ship's stores laden in parts beyond the seas, may be boarded and

<sup>10</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2007*, amended section 163 (1) (a) (ii) by changing the case of the words “*International Convention, Treaty or Agreement*” to “*international convention, treaty or agreement*”

<sup>1</sup> *w.e.f. 21-July-1998, ACT-10/1998*, Finance Act 1998, Section 6 (q), amended Section 163, by deleting the words “*Rs 100,000*” and replacing them by the words “*200,000 rupees*”

<sup>2</sup> *w.e.f. 21-April-2005, ACT-14/2005*, Finance Act 2005, Section 8 (c) (i), amended Section 163 (2), by inserting immediately after the words “*a fine not exceeding 200,000 rupees*”, the words “*and to imprisonment for a term not exceeding 5 years*”.

<sup>3</sup> *w.e.f. 21-April-2005, ACT-14/2005*, Finance Act 2005, Section 8 (c) (ii), amended Section 163, by adding after subsection (3) the subsection (4).

<sup>4</sup> *w.e.f. 03-November-2008, Revised laws of Mauritius of 2007*, amended section 163 (4) by deleting the word “*therewith*” and replacing it by the word “*herewith*”

<sup>5</sup> *w.e.f. 07-August-2006, ACT-15/2006*, Finance Act 2006, Section 8 (u), amended Section 163, by adding immediately after subsection (4) the subsection (5).

<sup>6</sup> *w.e.f. 01-July-2006, ACT-33/2004*, MRA Act 2004, Section 27 (3) (p), amended the Customs Act, by repealing Section 164 which is

**“164. General Directions.**

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

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

<sup>1 2 3</sup>**166. Rewards**

**167. Application of penalties**

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

**<sup>4</sup>168. Transitional provisions**

(1) Notwithstanding any customs laws, any holder of an investment certificate in respect of an export enterprise or a pioneer status enterprise issued under the Investment Promotion Act and in force as at 30 September 2006 shall, not later than 15 October 2006, submit to the <sup>5</sup>Director-General, a certified statement of materials imported during the period 1 June 2006 to 30 September 2006 exempted from payment of duty, excise duty and taxes and not yet used in production as at 30 September 2006, showing –

- (a) brief description of the materials and their value;
- (b) separately, the amount of duty, excise duty and taxes, that would otherwise be payable, on the materials; and
- (c) such other particulars as may be prescribed,

and pay any duty, excise duty and taxes within such time as may be prescribed.

(2) Any person operating a duty free shop at a place, other than at the port or airport, may, by irrevocable notice in writing to the Director-General, not later than 30 September 2006, elect to operate under the Deferred Duty and Tax Scheme referred to in section 22.

(3) Any person who does not make an election under subsection (2) shall –

- (a) continue to be governed by the provisions of section 22 in force immediately before 1 October 2006; and

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<sup>1</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (q) (ii), amended Section 166, by deleting the word “Minister” wherever it appears and replacing it by the word “Director-General”

<sup>2</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (q) (i), amended Section 166 (1), by inserting immediately after the words “any person” the words “other than the Director-General, an officer or any other employee of the Authority”

<sup>3</sup> w.e.f. 30-July-2009, **ACT-14/2009**, The Finance (miscellaneous provisions) Act 2009, Section 8 (i), amended the Customs Act by repealing section 166 which is

**“166. Rewards**

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

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

<sup>4</sup> w.e.f. 07-August-2006, **ACT-15/2006**, Finance Act 2006, Section 8 (v), amended the Customs Act by adding immediately after Section 167 the new Section 168.

<sup>5</sup> w.e.f. 01-July-2006, **ACT-33/2004**, MRA Act 2004, Section 27 (3) (s), amended Section 168, by deleting the word “Comptroller” wherever it appears and replacing it by the word “Director-General”

(b) be authorised, as from 1 October 2006, to sell goods to visitors only.

**169. Consequential amendments**

**170. Commencement**

This Act shall come in force on 1<sup>st</sup> January 1989

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

L. RIVALTZ QUENETTE

Clerk of the Legislative Assembly

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## **<sup>1</sup>FIRST SCHEDULE**

[Section 116A (3) (d)]

### LIST OF GOODS

For the purpose of this Schedule -

- (1) The heading numbers specified in the first column refer to the heading numbers of Part I of the First Schedule to the Customs Tariff Act.
- (2) Any goods specified in the second column shall mean the goods which fall under the corresponding heading number specified in the first column.

Heading No.	Description
22.03	Beer made from malt.
22.04	Wine of fresh grapes, including fortified wines; grape must other than that of heading No. 20.09.
22.05	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances.
22.06	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included.
22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher; ethyl alcohol and other spirits, denatured, of any strength.
22.08	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages.
24.01	Unmanufactured tobacco; tobacco refuse.
24.02	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.
24.03	Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences.
36.01	Propellant powders.
36.02	Prepared explosives, other than propellant powders.
36.03	Safety fuses; detonating fuses; percussion or detonating caps; igniters; electric detonators.
71.13	Articles or jewellery and parts thereof, of precious metal or of metal clad with precious metal.
71.14	Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal.
71.15	Other articles of precious metal or of metal clad with precious metal.
71.16	Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed).
89.03	Yachts and other vessels for pleasure or sports; rowing boats and canoes.
89.06	Other vessels, including warships and life-boats other than rowing boats.
91.13	Watch straps watch bands and watch bracelets, and parts thereof of precious metal

<sup>1</sup> w.e.f. 11-August-2000, ACT-25/2000, Finance Act 2000, Section 3 (h), amended the Customs Act by inserting immediately before the Second Schedule as amended, the First Schedule to this Act.

	or of metal clad with precious metal.
93.01	Military weapons, other than revolvers, pistols and the arms of heading No. 93.07.
93.02	Revolvers and pistols, other than those of heading No. 93.03 or 93.04.
93.04	Other arms (for example, spring, air or gas guns and pistols, truncheons), excluding those of heading No. 93.07.
93.05	Parts and accessories of articles of headings Nos. 93.01 to 93.04.
93.06	Bombs, grenades, torpedoes, mines, missiles, and similar munitions of war and parts thereof; cartridges and other ammunition and projectiles and parts thereof, including shot and cartridge wads.
93.07	Swords, cutlasses, bayonets, lances and, similar arms and parts thereof and scabbards and sheaths thereof.
<sup>1</sup> 94.01	Seats (other than those of heading No. 94.02), whether or not convertible into beds, and parts thereof.
94.03	Other furniture and parts thereof.

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<sup>1</sup> *w.e.f. 29-December-2000*, G/N 200/2000, regulation 3, amended the First Schedule by adding the new items 94.01 and 94.03

**<sup>1</sup>SECOND SCHEDULE**

(Section 135)

**SEARCH WARRANT**

In the discharge of my functions under the Customs Act<sup>2</sup>, I hereby authorise you, the officers named hereunder, to enter the premises occupied by ..... and situated at ..... and to search and inspect any goods and documents found therein and to seize such of those goods and documents as you may reasonably require for any examination, investigation or trial under that Act.

Name of officers

.....

**<sup>3</sup>Director-General**

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<sup>1</sup> *w.e.f. 11-August-2000, ACT-25/2000*, Finance Act 2000, Section 3 (g), amended in the Schedule by deleting the word “**SCHEDULE**” and replacing it by the words “**SECOND SCHEDULE**”.

<sup>2</sup> *w.e.f. 15-December2001, Revised laws of Mauritius of 2000*, amended the second schedule by deleting the word “1988”

<sup>3</sup> *w.e.f. 01-July-2006, ACT-33/2004*, MRA Act 2004, Section 27 (3) (r), amended Second Schedule, by deleting the word “*Comptroller of Customs*” and replacing it by the word “*Director-General*”