

## ↔**Customs Act, 2019 (1962)**

### Date of Authentication and Publication

2019/8/6 (Nov. 21, 1962)

### Amendments:

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| 1. Some Nepal Acts Amendment, Repeal and Continuance Through Rearrangement Acts, 2019 (1962) | 2019.12.30 (Apr. 12, 1963) |
| 2. Some Nepal Laws (Amendment and Rearrangement) Act, 2020 (1963)                            | 2020.11.16 (Feb. 28, 1964) |
| 3. Customs (Amendment) Act, 2021 (1964)  | 2021.5.13 (Aug. 28, 1964)  |
| 4. Customs (Second Amendment) Act, 2025 (1968)   | 2025.5.27 (Sept. 11, 1968) |
| 5. Customs (Third Amendment) Act, 2028 (1971)  | 2028.6.6 (Sept. 22, 1971)  |
| 6. Revenue Tribunal Act, 2031 (1974)   | 2031.4.18 (Aug. 2, 1974)   |
| 7. Customs (Fourth Amendment) Act, 2031 (1974)   | 2031.6.20 (Oct. 6, 1974)   |
| 8. Some Nepal Acts (Amendment) Act, 2041 (1984)  | 2041.4.24 (Aug. 8, 1984)   |
| 9. Customs (Fifth Amendment) Act, 2042 (1985)  | 2042.6.09 (Sept. 22, 1985) |
| 10. Customs (Sixth Amendment) Act, 2043 (1986)   | 2043.6.16 (Oct. 2, 1986)   |
| 11. Financial Related Some Nepal Acts (Amendment) Act, 2047 (1990)                           | 2047.8.27 (Dec. 13, 1990)  |
| 12. Customs (Seventh Amendment) Act, 2054  | 2054.5.6 (Aug. 22, 1997)   |

Act No. 26 of the year 2019 (1962)

### **An Act to Consolidate and Amend Nepal Laws Relating to Customs**

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↔ Repealed by Custom Act, 2064

Whereas, it is expedient to consolidate and amend separate orders and regulations issued in the names of Kathmandu General Customs Office and the Customs Offices of the hill and terai areas, as well as the orders and regulations made and framed from time to time and to make uniform arrangements for their application all over the Kingdom of Nepal, to maintain peace and order and comfort of the people in general;<sup>1</sup>

Now, therefore, His Majesty King Mahendra Bir Bikram Shah Dev has made and promulgated this Act <sup>2</sup> under Article 93 of the Constitution of Nepal.

**1. Short title, extent and commencement** : (1) This Act may be called the "Customs Act, 2019 (1962)".

(2) It shall extend to the whole of the Kingdom of Nepal.

(3) It shall come into force at once.

**2. Definition** : Unless the context otherwise requires, in this Act :-

(a) "Export" means the movement of any goods from the Kingdom of Nepal to foreign countries.

(b) "Import" means the movement of any goods from foreign countries into the Kingdom of Nepal.

(c) "Customs duty" means the duty payable on exportable or importable goods as prescribed by Nepal laws from time to time.

(d) "Customs office" means the main Customs Office established by His Majesty's Government, and this term shall also include the subordinate customs offices.

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<sup>1</sup> Amended by Some Nepal Laws (Amendment and Revalidation) Act, 2020.

<sup>2</sup> Amended by the Act Relating to Amendment, Repeal and Revalidation of Nepal Acts, 2019.

- (e) "Customs warehouse" means the customs warehouse established by His Majesty's Government.
- (f) "Custom's Chief Authority" means the Customs Director or the authority designated by His Majesty's Government to discharge prescribed functions including inspection of the functioning of all customs offices of the Kingdom of Nepal.
- <sup>3</sup> (g) "Customs officer" means the Customs Officer, or the Chief  
<sup>4</sup> Customs Officer appointed by His Majesty's Government, and this term shall also include the chief of a subordinate customs office.
- <sup>5</sup> (h) ... ..
- (i) "Customs area" means the areas as prescribed by a notification in the Nepal Gazette, by His Majesty's Government or, by order, by Custom's Chief Authority as authorized by His Majesty's Government.
- (j) "Declaration form" means a form containing particulars of the goods and materials which are to be exported or imported.
- <sup>6</sup> (k) ... ..
- (l) "Smuggling" means exportation or importation of goods without payment of customs duty or clandestinely or through illicit routes.

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<sup>3</sup> Amended by Fourth Amendment.

<sup>4</sup> Inserted by Fourth Amendment.

<sup>5</sup> Repealed by Customs (Amendment) Act, 2021.

<sup>6</sup> Repealed by Customs (Amendment) Act, 2021.

- (m) "Demurrage" ... ..<sup>7</sup> means the charge payable by the owner of goods and materials in case he fails to take delivery of such goods and materials stored at the customs warehouse within the given time-limit.
- (n) "Customs privilege" means the privilege or facility on importing or exporting goods merely by filling the declaration Form without having them opened or inspected and without paying any government dues or duties in respect to imports and exports as well as personal luggage and belongings accompanying the concerned passenger or brought or procured by him before or after his arrival.
- (o) "Customs duty privilege" means the privilege or facility of importing or exporting personal luggage accompanying the concerned passenger or brought or procured by him before or after his arrival without charging the prescribed customs duty, by their opening, inspecting and maintenance of record.
- (p) ... ..<sup>8</sup>
- (q) "Prescribed" or "as prescribed" means prescribed or as prescribed in the regulations framed or order issued under this Act.

**3. Establishing of customs offices and prescribing routes of export and import:** His Majesty's Government, by Notification in the Nepal Gazette, may:

- (a) Establish customs office or sub-customs offices for the purpose of collecting customs duties in any customs area, and the existing

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<sup>7</sup> Repealed by Customs (Amendment) Act, 2021.

<sup>8</sup> Deleted by Seventh Amendment.

customs areas and customs offices shall be deemed to have been established under this Act.

- (b) Designate, in such notification, routes only through which export or import is to be permitted.

<sup>9</sup>  
**4. Agent of the Owner of Goods and Materials to be regarded as**

**Owner of Goods**: (1) Person, firm institution or company willing to work as an agent for clearance of goods shall obtain license from His Majesty's Government, Customs Department or Customs Officer, by paying the prescribed fee.

(2) His Majesty's Government may prescribe necessary conditions regarding the issuance of license under Sub-section (1).

(3) In case the owner of the goods and materials appoints directly or indirectly, any person, firm institution or company which has obtained a license under Sub-section (1) for any or all the purposes or this Act to act as his agent in respect to such goods, such agent shall be regarded as the owner of the goods in respect thereto for the purpose of this Act.

(4) In case any agent appointed under this Section causes any loss or damage to the owner and materials of the goods by taking any action in contrary to this Act or the Rules thereunder, he shall pay compensation for such loss or damage to the owner of the goods.

**5. Declaration Form to be Filled up and Submitted While**

**Importing or Exporting Goods and Materials** : (1) Any person willing to export or import any goods and materials, which is or is not subject to payment of customs duty shall fill up the declaration form as prescribed and submit it to the Customs Officer of that area.

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<sup>9</sup> Amended by Customs (Amendment) Act, 2021.

<sup>10</sup> Provided that, the goods and materials contained in the luggage (accompanied by the passenger) which have been exempted as prescribed by His Majesty's Government from customs duty under Sub-section (1) of Section 9 may be allowed only after thorough checking to export or import without requiring to fill up the Declaration Forms.

(2) The Customs Officer shall issue a receipt on payment of customs duty due on such goods, or if he is satisfied that no customs duty is to be levied on such goods, he shall issue a certificate to that effect, and such goods and materials may be exported or imported only after such receipt or certificate is issued.

(3) If any employee of the customs office is informed that any person has imported or is going to export certain goods and has not paid customs duty thereon, or in case there exists reasonable grounds to believe so, he may demand receipt of payment of customs duty on goods as imported or going to be exported from that person, or if no customs duty is payable on such goods he may demand a certificate to that effect.

(4) The exporting or importing person shall produce such receipt or certificate on demand under Sub-section (3). In case such person fails to produce such receipt or certificate, or if the goods are found different from those mentioned in the certificate it shall be submitted to the Customs Officer. The Customs Officer may order to withhold such goods and take necessary action assuming that the said goods were smuggled.

(5) In case any person is found by any customs employee or by the Customs Officer or by any employee empowered by any officer authorized by the government, to have imported or exported any goods or attempted to do so through routes other than those prescribed under

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<sup>10</sup> Inserted by Third Amendment.

Section 3, such goods as well as the person and the carrier shall be withheld and produced before the Customs Officer or the authority as prescribed by the government; and the Customs Officer or such authorized person shall then take necessary action assuming that the said goods were imported or exported clandestinely. Provided that this Sub-section shall be used in respect to the movement of goods from one place to another within the country on the ground that this was not through prescribed routes.

(6) If the goods kept at the customs warehouse are not taken delivery within the prescribed time-limit <sup>11</sup> ....., His Majesty's Government may charge demurrage thereon in the prescribed manner.

Provided that, notwithstanding anything contained in Sub-section (6) the authority prescribed by His Majesty's Government may exempt the demurrage wholly or partially in case he finds any specific reasons for doing so or it is decided to be so.

<sup>12</sup> **5A. Particulars of Goods to be Filled Up:** The driver of the carrier transporting the importing or exporting goods shall fill up the particulars of goods as prescribed and submit the same to the Customs Officer.

**6. Customs Duties:** Customs duties shall be levied on all goods which are imported or exported.

**7. Prohibited Days and Time for Export or Import:** No goods other than government mail or passengers' personal luggage of daily use, shall in the absence of special permission of Customs Office, be imported or exported on public holidays or at the time the customs office is closed.

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<sup>11</sup> Deleted by Customs (Amendment) Act, 2021.

<sup>12</sup> Repealed by Sixth Amendment.

However, the time as considered necessary and prescribed by the Chief Customs Authority shall be maintained.

8. <sup>13</sup> ... ..

9. **Authority to Grant Customs Privilege and Customs Duty**

**Privilege:** (1) His Majesty's Government may, by Notification in the Nepal Gazette from time to time, grant partial or full exemption from payment of customs duties to be levied under Nepal laws on any goods prescribed therein.

(2) His Majesty's Government may, by Notification in the Nepal Gazette from time to time, grant partial or full customs privilege on goods which are to be exported or imported.

(3) His Majesty's Government may, by Notification in the Nepal Gazette from time to time, grant customs privilege or customs duty privilege to the prescribed authority or individual.

(4) His Majesty's Government may, in respect to goods to be transported from one part to another part of the Kingdom of Nepal through any foreign routes, make provisions in a prescribed manner.

10. **Customs Duty to be Levied on the Re-importation of Indigenous**

**Goods** : If any goods produced or manufactured within the Kingdom of Nepal are exported and then re-imported, customs duty thereon shall be levied in the same way as in the case of goods of the same kind or value not produced or manufactured in the Kingdom of Nepal which are imported for the first time.

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<sup>13</sup> Inserted by Third Amendment.

<sup>14</sup> Provided that, no import duty shall be levied in case such goods or commodities exported from the Kingdom of Nepal by parcel, but are returned because of non-delivery.

**11. Full or Partial Refundment of Customs Duty** : (1) If any person, after importing goods from foreign countries on payment of customs duty, exports the same in the same condition within three months from the date of import, His Majesty's Government may refund him the customs duty in full or in part as it considers reasonable.

Provided that, such person shall produce evidence that he has exported the same goods as were recorded in the customs office while importing them before.

(2) His Majesty's Government may frame rules granting full or partial exemption from payment of customs duty on the export of goods produced or manufactured within the Kingdom of Nepal to foreign countries for the purpose of encouragement to increased production in the Kingdom of Nepal.

(3) His Majesty's Government may refund the customs duty which has been already paid up on any goods imported into the Kingdom of Nepal, either in full or in part as considered reasonable to ensure public welfare or provide encouragement to any industry.

<sup>15</sup> (4) In case any person submit an application along with evidence for refundment of customs duty paid while importing goods under <sup>16</sup> D.R.P. form after having them certified by the Indian Land Customs and paying local Indian duties, the customs office collecting

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<sup>14</sup> Inserted by Third Amendment.

<sup>15</sup> Inserted by Second Amendment.

<sup>16</sup> Amended by Fifth Amendment.

such duty may refund the amount after deducting the additional surcharge if any.

**12. Customs Duty not to be Refunded:** Notwithstanding anything contained in Section 11, customs duty shall not be refunded in the following circumstances:-

- (a) In case the goods are not included in the schedule of exportable goods, or are included in the schedule of non-exportable goods, or;
- (b) In case the value of exportable goods at the time of export is less than the amount claimed for refund, or,
- (c) In case the amount claimed for refund is Fifty Rupees or less and the Customs Officer deems it necessary to reject the claim, or,
- (d) In case the goods are as prescribed for by His Majesty's Government, or,
- (e) In case the application for refund is made after the expiry of Thirty Five days.

<sup>17</sup> Provided that, in respect to Sub-section (4) of Section 11, application may be made within a period not exceeding three months after the date when customs duty was paid.

<sup>18</sup>**13. Determination of Customs on basis of Transaction Value:** (1) The customs duty of any goods to be imported shall be determined on the basis of the transaction value of such goods.

(2) The owner of the such goods shall submit bill, invoice of such goods and other necessary documents relating to import as requested by

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<sup>17</sup> Inserted by Third Amendment.

the customs officer to the customs office for the certification of value of the goods to be imported.

(3) The owner shall have the responsibility to provide authenticity of bills, invoices or documents to be submitted pursuant to Sub-section (2)

(4) If the value submitted by the owner does not match with the actual transactions value system while determining the custom duty on the basis of transaction value of any goods to be imported, the Chief Custom Officer or any Custom Officer designated by him/her shall determine custom duties on the basis of value, price list or reference value of such goods.

(5) If the custom value of any goods cannot be determined due to not submitting transaction value by the owner, Chief Custom Officer or any Custom Officer designated by him/her shall determine custom duties on the basis of determined reference value, price list or value of similar types of goods.

(6) The Chief Custom Officer or any Custom Officer designated by him/her may take ground to determined reference value, price list submitted by producer or distributor or available data or notice or suggestion of export or concerned institution or agency for determining value of goods.

(7) His Majesty Government of Nepal may take ground on the basis of bills, invoice submitted by owner of the goods or commodities or authentic price list of producer or distributor or internal market rate or suggestion of export concerned institution related to industry, commerce or trade while determine the value of any goods or commodities for the purpose of custom duty.

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18 Amended by Seventh Amendment.

(8) If the importer is unable to determine the transaction value of any goods brought from abroad, received as present or sample or by any reason, the owner of such goods shall submit an application to the concerned custom office mentioning the matter accordingly.

(9) If it is proved that it was not possible to mention the transaction value, upon making necessary inquiry to the application submitted pursuant to Sub-section (8), the chief custom officer or any officer designated by him/her determine the value of such goods or commodities as referred to in Sub-section (5).

(10) No demurrage shall be levied to such goods or commodities until the determination of such value for the purpose of determining the custom duty for those imported goods or commodities.

**13A.** <sup>19</sup> ... ..

**14. Search to be Made on Reasonable Suspicion :** (1) If there is any reasonable ground of suspicion that any person has imported or is going to export goods liable to pay customs duty or prohibited goods by evading the customs, any customs employee may detain such person or the means of transport and demand receipts of payment of customs duty. In case goods liable to pay customs duty are recovered, but the owner thereof is unable to produce receipt of payment of customs duty, he shall be deemed to have evaded the customs.

Provided that, in the case such detention is made by a peon he shall have to send such detention case to the higher official senior to him.

(2) After detention is made under Sub-section (1) an employee senior to the peon may conduct search.

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<sup>19</sup> Repealed by Seventh Amendment.

**15. Person who is to be Searched May Demand Presentation Before the Customs Officer Prior to Search:** In case any employee other than the Customs Officer wants to search any person under Section 14, such person may, before being searched, demand that he be presented before the Customs Officer. On such demand the employee of the Customs Office shall present such person before the Customs Officer within Twenty Four hours exclusive of the time required for the journey. The Customs Officer may direct a search of the person presented before him, subject to the provision of Section 14, if he finds proper grounds to do so, or release him immediately, if he does not find any such grounds.

<sup>20</sup>**15A. Search in House, Building, Warehouse or Places:** (1) In case there is some reasonable ground of suspicion to His Majesty's Government that any person has concealed some smuggled goods and materials in any house, building, Warehouse or any other places, the authority designated by His Majesty's Government may direct search of such house, building, Warehouse or any other places by issuing a search notice along with the reasons of such search.

(2) The authority designated by His Majesty's Government under Sub-section (1), shall give notice, stating the reasons of such search to the owner and the immediate tenant of the house, building, Warehouse or places to be searched. In case the concerned person does not want to receive the said notice a copy of the notice shall be posted to a publicly visible spot of such house, building, Warehouse or place. After the notice is posted it shall be deemed that the concerned person has received it.

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<sup>20</sup> Inserted by Sixth Amendment.

(3) After the notice has been given to the concerned person under Sub-section (2), the staff designated for the search shall be allowed to search the house, building, Warehouse and any other place.

(4) If the concerned person interrupts or disturbs the search under Sub-section (3), the staff designated for such search shall give notice and a chance to the persons residing in such houses, building, Warehouse and any other places to evacuate such premises. If they do not evacuate on such ultimatum, search may be conducted on such house, building, Warehouse or any other place, any time during sunrise to sunset by opening or breaking the external or internal door, window or locker by using force as well.

(5) While conducting search under this Section, the staff conducting such search shall conduct it in the presence of at least one member of <sup>21</sup> Village Development Committee or Municipality or, in whose absence, at least two well known persons from the locality.

(6) While conducting search under this Section, if any smuggled goods or materials are found, the staff conducting such search shall take such goods and materials under his custody.

**16. Arrest of Suspected Person on Reasonable Ground:** (1) The Customs Officer or any other employee of the Customs Office empowered by him or any employee appointed for the purpose may arrest any person anywhere or on any vehicle, in case there exist reasonable ground to suspect that the person has done or is doing in contrary to this Act.

(2) It shall be the responsibility of the owner of the goods to submit satisfactory evidence to the Chief Customs Authority of the fact of having imported such goods in accordance with the rules and paid

customs duty due thereon, or is having manufactured the goods and paid excise duty due thereon.

**17. Detention or Release on Bail:** (1) In case any person, while being searched by any employee other than the Customs Officer under Section 14, is found to have committed any offence, he shall be presented before the Customs Officer for action within 24 hours excluding the time required for the journey.

(2) In case any person is presented before him under Sub-section (1) or is found to have committed any offence while being searched by himself the Customs Officer shall immediately take necessary action against such person. He shall not keep such person waiting for more than 24 hours without taking any action against him.

(3) The Customs Officer may detain any person held guilty under Sub-section (1) and (2), or release him on bail on condition that he presents himself at the prescribed time and place.

Provided that, such person shall not be kept under custody for a period exceeding the terms of punishment that he is awarded for. In case he is proved immediately released on bail, if he submit bank guarantee in the Kingdom of Nepal or sufficient security in the form of cash or immovable property.

**18. Absconding Person May be Arrested Latter:** If a person could not be arrested at the time of commissioning of the offence or he absconds after the arrest, such a person may be arrested at any time by the Customs Office or by the officer acting on this authority or the officer authorized by the government. Such a person shall be prosecuted as if he has been arrested at the time of commissioning of the crime.

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<sup>21</sup> Amended by Some Nepal Acts amending Act relating to Finance, 2047 (1990)

**19. Seizure of Goods or Materials Liable to be Confiscated:** The Customs Officer or an officer of the Customs Office acting on the authority of the Customs Officer or the officer authorized by the Government may, on seeing or finding any goods or materials liable to be confiscated pursuant to this Act, seize such goods and materials at any place and time.

<sup>22</sup> **19A. Authority to Prosecute:** The authority to arrest and prosecute pursuant to this Act shall, in case where goods and materials are being imported without paying customs lie on the Chief Customs Officer or the officer deputed by him.

**20. Seized Goods or Materials to be Handed Over :** (1) The goods or materials liable to be confiscated if seized by the officer shall be handed over to the Customs Officer as soon as possible.

(2) The goods or materials seized and handed over by the officer are found to have been seized without any reason or are not liable to be confiscated, the Customs Officer shall immediately return such goods or materials to their owner.

(3) If the goods or materials which are liable to be seized are perishable, or depreciable in their costs due to their oldness or are difficult to be stored due to the lack of Warehouse and place or if then any are living creatures, the Customs Officer may auction such goods and materials and keep the amount raised by auction and deposit, which is to be handled as decided latter. If such auctioned goods and materials are decided to be returned to the owner pursuant to the stipulations in this Section the owner shall only get the amount raised by auction and his claim on the goods and materials as such shall not be entertained.

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<sup>22</sup> Inserted by Fifth Amendment.

**21. Document Evidencing the Seizure and Detention is to be Given:**

(1) If any goods or a material is seized pursuant to this Act, the Customs Officer shall within three days of the seizure; give a list of such goods and materials and the reasons thereof to the owner of such goods of materials.

<sup>23</sup> (1A) Notwithstanding anything written in Sub-section (1), one copy of the list detailing the goods and materials seized by a search conducted pursuant to Section 15A shall be immediately submitted to the concerned person of the house, building, Warehouse or the place.

(2) If any person arrested on the charge of an offence punishable under this Act is remanded on custody by the Customs Officer such a person shall be so remanded on custody only by giving an detention order mentioning of the reasons thereof.

<sup>24</sup> **22. Goods and Materials Confiscated or Uncleared From the Customs Shall Belong to His Majesty's Government:**

(1) Goods and materials confiscated pursuant to this Act or uncleared from the customs within the specified period of time shall belong to His Majesty's Government.

(2) Such confiscated or uncleared goods and materials shall be put on record and be auctioned as Prescribed.

Provided that, His Majesty's Government may keep for its use such goods and materials without auctioning them.

(3) Notwithstanding anything written in Sub-section (2), special provisions may be made by framing Rules in relation to the gold, silver, jewellery goods or materials which are to be sold only by license and to

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<sup>23</sup> Inserted by Sixth Amendment.

<sup>24</sup> Amended by Third Amendment.

invaluable minerals which belong to His Majesty's Government due to confiscated or not clearing out from the customs.

<sup>25</sup> (4) While fixing the price of gold, silver and jewellery belonging to His Majesty's Government pursuant to Sub-section (3) shall, on the basis of the prevalent, be fixed by the committee as prescribed by His Majesty' Government consisting of the representatives of Nepal Rastra Bank and Rastriya Banijya Bank also.

<sup>26</sup> **22A. Commission is to be Given to the Person Who Seizes The Smuggled Goods or Materials or Gives a Clue Thereof:** (1)

Commission at the following rate shall be given to the <sup>27</sup> ... .. employee or the individual who seizes any dutiable goods and materials which have been smuggled or being smuggled or gives a clue thereof in case such smuggling is proven :

- (a) <sup>28</sup> Ten per cent of price of the goods to the one who gives a clue of the smuggling.
- (b) <sup>29</sup> Thirty per cent of price of the goods or materials to those who hand-over them along with the person committing such offence.
- (c) <sup>30</sup> Fifteen per cent of price of the goods and materials if only such goods and materials are handed over.

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25 Inserted by Fifth Amendment.

26 Inserted by Customs (Amendment) Act, 2021; and amended by Fifth amendment.

27 Deleted by Some Nepal Acts amending Act relating to Finance, 2047 (199).

28 Amended by Sixth Amendment.

29 Amended by Sixth Amendment.

30 Amended by Sixth Amendment.

- <sup>31</sup> (d) If the person giving the clue of the smuggling and the person handling over the goods and materials along with the offender is the same he shall be entitled to a commission of Thirty per cent of price of such goods and materials.
- (e) Twenty per cent of price of the goods and materials if the same are gold, silver or jewellery and are seized under the above Clauses other than Clause (c).

(2) Notwithstanding anything written in Sub-section (1), if the goods and materials are seized with prompt action of the employees of the Special police, Revenue Intelligence, Nepal Public Relation Office, Police and the employees of the Customs who have been deputed in the Customs Office, the employees shall be entitled to a commission not exceeding Twelve per cent of price of the goods and materials and Rupees twelve thousand in maximum to each employee.

(3) While giving commission pursuant to Sub-section (1) and (2), the concerned customs office shall give such commission out of the amount raised from the auction or sale of the goods and materials which were being smuggled in or out.

<sup>32</sup>  
**22B.** ... ..

<sup>33</sup>  
**23. Power to Open and Examine Consignment or Packet:** (1) The Custom Officer may open and examine, or give order to any of his/her sub-ordinate employee to open and examine, each and every consignment or packet of any goods whatsoever to be exported or

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<sup>31</sup> Amended by Sixth Amendment.

<sup>32</sup> Repealed by Financial Related Some Nepal Acts (Amendment) Act, 2047 (1990).

<sup>33</sup> Amended by Seventh Amendment.

imported or open and examine them randomly and causally or open and examine only a certain percentage of the same.

(2) Where the Custom Officer or his/her sub-ordinate employee has opened and examined the consignment or packet of goods or commodities pursuant to Sub-section (1), the method of such examination and a clear description of the items so examined shall be set down in the declaration form.

(3) If there is a suspicion about any consignment or packet examined or not examined under this Section or any information is received about the same, the customs officer shall give order to any of his or her sub-ordinates to examine such consignment or packet if it has not been examined or to re-examine the same if it has already been examined.

<sup>34</sup> **23A. Deemed examination:** If, while examining any consignment or packet pursuant to Section 23, the goods held in the consignment or packet are found to be conforming to the submitted bills, invoices, other documents or details, the goods in the other consignments or packets which have not been examined shall also be deemed to have been examined.

<sup>35</sup> **23B. Responsibility to the owner or Agent of goods:** If goods or commodities or items thereof examined pursuant to Section 23 or 23A do not match, in the course of one to one examination within the custom area or outside thereof, with the bills, invoice, other documents or details so produced, in the consignment or packets, the responsibility there on lies to owner or agent of such goods or commodities.

**24. The Owner is to Pay the Expenses to be Incurred Under This Act:** The owner of the goods and materials has to carry them at the

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<sup>34</sup> Inserted by Seventh Amendment.

reasonable place of lifting, opening, inspection, mounting on the weighing scale, marking, etc. on his own cost.

**25. Claim of Compensation of the Goods and Materials Detained at the Customs Office:** If the goods and materials in the custody of the customs office is damaged, stolen, lost or pilfered otherwise than due to acts of god and if the owner is to get back those goods or materials may put a claim for compensation.

**26. Copies of Catalogues, Bills or Documents may be Granted on Payment of Fees:** In case any person submits an application to the Customs Officer in respect to any certificate, bill or any other document of the Customs Office, he may grant copies of the same on payment of prescribed fees.

<sup>36</sup>**26A. Issuance of Certificate for Imported Goods and Materials:** In case any person who imports goods or materials on which sales tax has been paid in India submits an application to the concerned Customs Office for a certificate in respect thereto, the Customs Officer shall issue a certificate to him on payment of prescribed fee.

**27. Customs Agent:** (1) No person who is not authorized under Section 4 of this Act shall be allowed to do anything in the Customs Office as an agent on behalf of anybody.

(2) The Customs Officer may cause the person acting as an agent in the customs to sign an affidavit stating that he shall comply with the Regulations relating to the customs duly and about the office and behave honestly.

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<sup>35</sup> Inserted by Seventh Amendment.

<sup>36</sup> Inserted by Second Amendment.

(3) In case the Customs Officer finds *mala fide* intentions of the person acting as an agent he may withdraw or suspend the permission granted by him.

Provided that, an appeal against such order for withdrawal or suspension may be filed with the Chief Customs Officer whose decision in this matter shall be final.

(4) An appeal under this Section shall be filed within Thirty-Five days of the order to withdraw or suspend.

**28. Agent to Produce Letter of Authority, if Necessary:** (1) Generally, the agent or employee of any person or firm may work at the Customs Office on behalf of such person or firm.

Provided that, the Customs Officer may refuse permission to such agent or employees if they have not been provided with any letter of identity by the person or the firm for the purpose of performing the work and does not produce letter of authority with his signature affixed therein.

(2) In case any person applies for permission to work on behalf of any other person, the Customs Officer may direct him to produce before him the letter of authority issued by the person on behalf of whom he intends to work, and in case the later fails to produce such letter of authority, the Customs Officer may refuse such permission to him.

**29. Customs Duty to be Accepted as Deposit:** (1) In case the owner of the goods or materials is not satisfied with the assessment of customs duty or the imposition of fines on him in respect of any goods or materials, he may file an appeal only after depositing the customs duty or fines as fixed by the Customs Officer with the Customs Office.

(2) In case the authority hearing the appeal decides not to impose customs duty or fines as mentioned in the appeal in full or in part, the Customs Officer shall cause to refund such amount or goods or materials as decided upon to the owner of the goods or materials.

(3) Customs employees shall explicitly mention the code number of the customs duty while issuing a receipt for customs duty paid by any person or for the amount deposited under Sub-section (1).

**30. Goods and Materials no to be Cleared Unless Fines Imposed**

**Thereon are Paid:** In case any fine or higher customs duty is imposed or levied under this Act in respect to any goods or materials the owner of such goods or materials shall not be allowed to clear them from the customs unless he pays the fine or the higher customs duty.

**31. Obligation to Pay Fines:**

In case any person fails to pay fines or higher customs duty according to the decision made under this Act, the Customs Officer may realize the amount of such fines or higher customs duty by causing the sale of goods belonging to such person lying with any other Customs Officer, and even if it is not possible to do so, the Customs Officer may realize the amount by taking action pursuant to the law relating to the fines and dues of the court of law.

**32. Issuance of Summon and Acceptance of Power of Attorney:**

While issuing the initial summon to the concerned accused in connection with the case, the employee empowered by this Act shall issue a fifteen day summon, excluding the time period required for the journey, to come to attend without allowing him to file any petition for the extension of that period of time and his attorney shall only be accepted if he pays, as deposit, the fines and the amount involved in the case.

33. <sup>37</sup> ... ..

34. **Punishment:** (1) In case any person;

- (a) Exports or imports or attempts to export or import any goods or materials through routes other than those prescribed under Section 3; or
- (b) Cooperates in the action mentioned in Clause (a) above, or deliberately keeps in his possession goods or materials in respect to which such action has been taken, or permits any body to keep in his possession or conceal such goods, the customs officer may punish such person with an a fine of up to Fifty Rupees in respect of the goods or materials which are not subject to customs duty, and One Thousand Rupees in respect of goods which are subject to customs duty and the goods or materials in respect of which such offence is committed shall be confiscated. Provided, that in case such person causes physical disturbances or uses force when the authorized government employee seeks to detain him while he is exporting or importing goods or materials through routes other than those prescribed under Clause (a) above, such employee shall convince the persons causing disturbance or using force and if he remains transient in site of their effort to convince and precautions given the above mentioned government employee in self-defence and in the discharge of his duties, then he may shoot at them below the knees.

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<sup>37</sup> Deleted by Financial Related Some Nepal Acts (Amendment) Act, 2047 (1990).

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(1A) In case a vehicle is driven or tried to escape out through the customs routes without making its inspection ordered by the employee of the customs, by any person causing physical disturbance, the customs guard in defence of the order or such employee may shoot at the wheel of such vehicle on the order of the Customs Officer.

(2) In case the owner of the goods or materials before or after their arrival at the Customs Office removes or tries to remove them with intention to evade the payment of customs duty, the Customs Officer may confiscate such goods or materials and fine him with an amount equal to the value of the concerned goods or materials.

(3) In case the owner of the goods or materials gives false particulars of the goods or materials while filling in the Declaration Form he shall be charged with the double of the customs duty which otherwise would have been levied on the amount of goods or materials the Custom Officer may punish such person with a fine not exceeding Five Hundred Rupees or with an imprisonment for a term not exceeding One years or both.

(4) In case forged or fictitious bills, invoices draft etc. are submitted or <sup>39</sup> false particulars are given in respect to any goods or materials such goods or materials shall be confiscated and the Customs Officer may fine such person with an amount equivalent to the value of the goods or materials.

(5) In case the owner of the goods or materials or his employee or agent opens the customs Warehouse or opens the goods stored at the customs Warehouse or attempts to do so with the intention of stealing or damaging such goods and materials, the Customs Officer may fine such

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<sup>38</sup> Inserted by Fifth Amendment.

<sup>39</sup> Inserted by Sixth Amendment.

owner or his employee or agent with an amount not exceeding Five Hundred Rupees.

(6) In case any person removes or attempts to remove goods or materials stored at the customs Warehouse with the intention of stealing them, the Customs Officer may punish him with a fine of an amount equivalent to the price of the concerned goods or materials or with an imprisonment for a term not exceeding Six months.

(7) <sup>40</sup> ... ..

<sup>41</sup> (8) (a) In case any person is proved to have attempted to smuggle out or having smuggled in any goods or materials without paying customs duty, such goods or materials shall be confiscated and the smuggler shall be punished with fine of an amount equal to the value thereof or to an <sup>42</sup> imprisonment for a period not exceeding Five years or both. In case the proprietor of the vehicle too is found to have engaged in or co-operated in such act, such vehicle shall be confiscated and he shall be punished with an imprisonment for a term not exceeding One year. In case the driver of the vehicle too is found to have co-operated in such act, he shall be sentenced to imprisonment for a period not exceeding Six months provided that if only the driver of the vehicle is proved to have committed such offence without the consent of the proprietor, he shall be punished with an imprisonment for a period not

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<sup>40</sup> Repealed by Customs (Amendment) Act, 2021.

<sup>41</sup> Amended by Third Amendment.

<sup>42</sup> Inserted by Six Amendment.

exceeding One year or with fine not exceeding One Thousand Rupees or both.<sup>43</sup> Fine and penalties under this Clause shall be imposed by the Customs Officer.

- (b) In case any person incites anybody to smuggle in or out goods or materials without paying customs duty or co-operates in doing so, the Customs Officer may punish him with a fine of an amount not exceeding Five Hundred Rupees or<sup>44</sup> with an imprisonment for a period not exceeding Six months or both.

(9) In case any person writes, signs or uses the particular in the Customs Declaration Form, the document utilized in the performance of the functions of the Customs Office knowing that the main content of the said particulars or the statement of the document is false, or forges the document signed, stamped, sealed initialed or any sign affixed therein by the head of the Customs Office or prepares a false document or alters the document in a false manner or destroys them,<sup>45</sup> he shall be punished by the Customs Officer with a fine not exceeding Five Hundred Rupees or with an imprisonment of One year, or both.

(10) In case the owner, while filling the Declaration Form, does not mention in the prescribed manner any prohibited goods or materials in his possession, and in case there are recovered subsequently in course of a search, such goods or materials shall be confiscated, and the Customs Officer may punish him with a fine of an amount not exceeding Five Hundred Rupees or with an imprisonment for a period not exceeding One year, or both.

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<sup>43</sup> Inserted by Fourth Amendment.

<sup>44</sup> Inserted by Six Amendment.

<sup>45</sup> Amended by Fourth Amendment.

Provided that, if the owner mentions the prohibited goods and materials in the Declaration Form, action shall be taken in the prescribed manner.

(11) In case customs employee carelessly losses or deliberately damages goods stored at the customs Warehouse, he shall pay the cost thereof as well as the customs duty thereon, and <sup>46</sup> he shall also be fined with an amount not exceeding Five Hundred Rupees by the Customs Officer.

(12) In case any unauthorized employee removes or orders the removal of goods stored at the customs Warehouse, the Customs Officer may punish him with a fine not exceeding One Thousand Rupees or with an imprisonment for a period not exceeding Two years, or both.

(13) In case any person deliberately obstructs Customs Officer or any employee of the Customs Office in the exercise of powers conferred by this Act, he shall be punished with a fine of an amount not exceeding One Hundred Rupees or <sup>47</sup> with an imprisonment for a period not exceeding One month, or both. Provided that, in case such person happens to be a government employee, he shall be punished with a fine not exceeding Five Hundred Rupees or with an imprisonment for a period not exceeding One year, or with both.

(14) In case any person not empowered under Section 4 of this Act works as an agent of the owner for the goods and materials, the Customs Officer may fine him with an amount not exceeding Five Hundred Rupees.

(15) In case any person acts in contravention of this Act or the rules made thereunder, the Customs Officer may, if no explicit provision

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<sup>46</sup> Amended by Fourth Amendment.

<sup>47</sup> Amended by Fourth Amendment.

has been made in this Act for punishment for such offenses, impose a fine not exceeding Five Hundred Rupees.

(16) <sup>48</sup> ... ..

<sup>49</sup> **34A. Designating an Officer and Empowering Him with Authority by**

**His Majesty's Government:** His Majesty's Government may designate an officer and empower him to exercise any or all of the power vested in to the Customs Officer under this Act.

**35. Goods or Materials Liable to be Confiscated:** Goods or materials liable to be confiscated under this Act, shall include the following goods, materials and vehicles :

- (a) Parcels, packets, and other articles.
- (b) Every vehicles (other than railways and aeroplanes) used for transporting goods and materials liable to be confiscated, i.e. motor-cars, trucks, rickshaws, hose-carts, animals etc.
- (c) Cloth, furniture and other materials contained in any vehicle liable to be confiscated under this Act.

**36. Punishment Under This Act not to Affect Punishment Under the Prevalent Law:** The order issued under this Act to confiscate goods or materials or impose fines or levy higher customs duty in respect to any person shall, in no way, affect the punishment to be awarded to him under other prevalent Nepal laws.

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<sup>48</sup> Deleted by Fourth Amendment.

<sup>49</sup> Inserted by Fourth Amendment.

- <sup>50</sup> **37. Appeal** : Appeal against the customs assessment or punishment order made by the Customs Officer or the officer as prescribed by His Majesty's Government shall lie on the Revenue Tribunal.
- 38. His Majesty's Government may Designate any Officer to Hear Appeal Cases**: In case a complaint alleging that a Customs Officer or with joint effort with other employees in doing anything in contravention of this Act or the Rules made hereunder is filed, and the concerned Ministry is convinced of such occurrence, His Majesty's Government may cause the preliminary proceedings to be initiated by another Customs Officer or any officer as prescribed by His Majesty's Government.
- 39. Notice of the Proceedings and the Time-Limit for Action** : No case shall be filed against the Customs Officer or other employees in respect to any work which they consider to have been performed under this Act or the Rules made thereunder except in the following circumstances :
- (a) Unless Two months have elapsed from the date when a written notice giving the reasons for filling the plaint and the names and addresses of the plaintiff and of his attorney, if any, are handed over or sent by registered post to the Customs Officer, or employee of the Customs Office, and a copy thereof as submitted to the Chief Customs Officer, and
  - (b) Unless the case is filed within Six months after the cause of action.
- 40. Delegation of Authority**: His Majesty's Government may, by Notification published in the Nepal Gazette, delegate to the Chief of the

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<sup>50</sup> Amended by Revenue Tribunal Act, 2031.

Customs Office or any other officer prescribed in the said notification any or all of the power vested in it under this Act.

**41. Duty to Provide Cooperation and Assistance** : It shall be the duty of every police and other government employees to render all possible cooperation and assistance within their competence whenever called upon to do so by the Chief of the Customs or the Customs Officer or other employees of the Customs Office in the discharge of their duties and in the exercise of their powers under this Act or the rules made thereunder.

**42. Punishment to Employees** : (1) In case His Majesty's Government feels that the punishment given under the Civil Service Regulations to any civil employee with the responsibility of discharging duties relating to customs, who has undergone departmental action under the Civil Service Act and Regulations is inadequate, the officer prescribed under the Civil Service Act and Regulations in respect to such punishment may order the realization of compensation in full or in part from the property of such employee for the loss or damage, if any, caused to any person as a result of his having committed any of the following offenses :

- (a) If he is proved to have deliberately violated the provisions of this Act, or
- (b) If he has acted deliberately so as to cause loss in the revenue of His Majesty's Government, or has caused such loss or has remained silent even while knowing that somebody has caused or is going to cause such loss, or
- (c) If he has published any information known to him in his official capacity for his personal benefit or for the benefit of some other person or with the

intention of causing damage to anybody; or if he has disclosed or handed over to anybody confidential information or function entrusted to him, except when he has discharged the duties pertaining to any goods or materials with *bona fide* motives.

(2) An appeal may be filed before the competent authority mentioned in the Civil Service Act and Regulations against the order issued by the competent authority mentioned in this Act, and the appeal shall be disposed of under the same Act and Regulation.

(3) The competent authority may realize the fines imposed under this Act by exercising the provisions of Nepal law relating to the realization of fines imposed by a court of law.

(4) Nothing in this Section shall be deemed to have in any way obstructed the initiation of any legal action in a court against the offending employee under the existing Nepal law.

Provided that, no action shall be taken under this Section after legal action in a court of law has been initiated.

**43. Power to Frame Rules:** His Majesty's Government may frame Rules for implementing the objectives of this Act.

**44. Power to Remove Obstacles:** In case there is any obstacle in implementing the objective of the Act, His Majesty's Government may issue necessary orders by Notification in the Nepal Gazette for removing the same, and such orders shall be deemed to be a part of this Act.

<sup>51</sup> **44A. Power to Fix** : In case of difficulty in fixing the value of exportable or imported goods or materials due to any doubt in the reference number of the customs schedule, it shall be as fixed by the Chief of the Customs Office.

<sup>52</sup> **44B. Power to review**: (1) The Customs Officer may review the declaration forms of the goods or commodities for the purpose of collecting customs duty pursuant to this Act.

Provided that, such a review shall be done within Four years of examination of such goods or commodities.

(2) If, in making review pursuant to Sub-section (1), it appears that the duty recoverable has been omitted from being recovered, the duty so omitted shall be recovered from the owner of such goods as if it were a governmental due.

(3) If, in making review pursuant to Sub-section (1), it is proved that custom has not been fully paid due to false bills invoices or document submitted knowingly by the owner of goods or commodities, the custom officer may impose a fine equal to the value of goods or commodities released from custom office or imprisonment upto One year or both to such an owner.

(4) If, in making review pursuant to Sub-section (1), it is proved that custom duty has not been fully recovered due to the negligence or *mala fide* intent of the employees of the custom office with an objective of revenue leakage, an action as per prevailing law shall be taken to such employee and a cent percent of the custom duty, which is not so recovered shall be recovered from such an employee.

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<sup>51</sup> Inserted by Fifth Amendment.

<sup>52</sup> Inserted by Seventh Amendment.

(5) The customs shall have authority to issue a summons, record the statements of persons, conduct search, hold or take into control the godown as good as the court of law and cause to submit documents in the same manner as a court is empowered to do review pursuant to Sub-section (1).

<sup>53</sup>**44C. Delegation of powers:** The Chief Customs Officer may, as required, delegate some of the powers conferred to him/ her by this Act to any sub-ordinate officer level employee.

**45. Repeal and Amendment:** All prevalent Nepal laws which conflict with this Act or the rules framed hereunder shall be deemed to have been repealed for the purposes of this Act.

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**46.** <sup>54</sup> ... ..

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<sup>53</sup> Inserted by Seventh Amendment.

<sup>54</sup> Deleted by An Act relating to Amendment, Repeal and Revalidation of Nepal Act, 2019 (1962).