

**CUSTOMS ORDINANCE**  
**Arrangement of Sections**

1. Short title.

**PART I**  
**MANAGEMENT**

2. Appointment of officers.

3. Persons employed by Customs deemed officers for such service.

4. Officer taking any fee or reward on account of anything done by him relating to his office shall be dismissed. Penalty for offering fee.

5. Officers of Customs not liable to serve in other local offices.

6. Minister to determine hours of attendance.

6A. Payment for special service or attendance.

6B. Persons to provide accommodation and shelter for officers of Customs.

7. Director-General authorised to administer oaths.

8. Director-General may examine witnesses on oath. False oath deemed false evidence.

8A. How Judge to deal with witness who makes a contradictory statement.

9. Power of Director-General to call for documents or samples of articles.

9A. Service of notice.

9B. Presumption as to documents in certain cases.

9C. Translation in the official language, National language, or English language to be produced.

**PART II**  
**LEVYING OF CUSTOMS DUTIES**

10. Duties to be levied and power of Parliament to modify duties.

10A. Surcharge to be levied on imported goods, where expedient.

11. Provision for imposition of export duty at varying rates.

12. Prohibitions and restrictions and power of Parliament to add thereto.

13. Goods in warehouse to be liable to the duties imposed by this Ordinance.

14. Goods in warehouse to be liable to increased or new duties.

15. Power to charge warehouse rent.

16. Definition of time of an importation and of an exportation, and of an arrival; and of a departure.

17. Duties to be paid in Sri Lanka currency according to units of measurements for sri lanka produce of customes to be paid into the Treasury.

18. Duties, dues and charges paid in excess to be refunded.

18A. Proceedings for recovery of duties, dues or other charges short levied, before a Magistrate.

19. Power of Minister to exempt Diplomatic personnel from payment of Customs duties subject to certain conditions.

19A. Exemption of goods imported by certain persons from import duties.

20. Imports by President of the Republic exempt from import duties of Customs.
21. Certificate from Naval or Military or Air Force officer required for exemption or payment of rebate.
22. Drawbacks on re-exportation.
- 22A. Importation without payment of duty.

### **PART III**

#### **PORT DUES**

23. Port dues.
24. Power of Director-General to summarily enforce payment of dues, rates, buoy rent, charges, and penalties.
25. Composition for dues.
26. Tonnage of ship how ascertained.

### **PART IV**

#### **REGULATIONS INWARDS**

27. No goods to be landed nor bulk broken before report.
28. Ship and cargo to be reported within twenty-four hours of arrival of ship. Particulars of report.
29. Master to deliver manifest, and, if required, bill of lading, or copy. Penalty on failure.
30. Officers to board ships may seal or secure goods and open locks. Goods concealed forfeited. If seal broken, master to forfeit one hundred thousand rupees.
31. Officers may be stationed in ships within the limits of any port.
32. Penalty on master not having clearance and if cargo do not correspond with ship's papers, or if goods sent out of vessels be not landed at the appointed places.
33. Goods unshipped from the importing vessel, or landed contrary to the regulations of the Director-General, forfeited. Penalty on persons concerned.
34. Provision with respect to unloading goods, depositing and removing of the same from the warehouse of the Republic, and penalties for failure to remove within prescribed time.
35. No goods to be unladen except during the legal hours and days of business.
36. Cargo in ships of 150 tons to be landed within ten days, and exceeding 150 tons within twenty-five days after arrival of such ship. In default Director-General may land and convey goods to warehouse of the Republic. Duties to be paid within one month, or goods to be sold.
37. Goods in transit and goods trans-shipped allowed without payment of duty.
38. Boat-notes to accompany goods unladen from any ship.
39. Ship's stores.
40. Goods to be landed and examined at the expense of importer.
41. Goods in warehouse must be properly stowed and re-piled.
42. Penalty for neglect or refusal.
43. Prohibitions and restrictions.
44. Goods exported contrary to the prohibitions and restrictions in Schedule B to be forfeited.
45. Repealed.
46. Abatement of duty on damaged goods.

47. Importer to deliver bill of entry together with other documents.
48. Delivery of goods prior to entry.
49. Entry by bill of sight. Perfect entry to be made within three days. In default goods to be sold after one month.
50. Entry to agree with manifest. Goods not duly entered forfeited.
- 50A. Action applicable to goods exempted from Customs duties and other dues conditionally.
51. Value of goods for the purpose of *ad valorem* duties.
- 51A. When officer in doubt he may call for further information.
- 51B. Importer to keep records for three years.
- 51C. Confidentially to be strictly maintained.
52. Forfeiture for non-compliance or false declaration. Forfeiture of value where goods not recoverable.
- 52A. Penalty failing to keep destroying or altering records.

## **PART V**

### ENTRY OF GOODS RE-IMPORTED

53. Entry of re-imported, goods by bill of stores.
54. Bill of store may be issued by the proper officer. Agent to declare name of employer. Consignee to declare who is proprietor. Proprietor to declare to identity and proprietor unchanged. The entry by bill of store to be granted. Conditions for grant of will of store.

## **PART VI**

### REMOVAL OF GOODS BY SEA OR INLAND CARRIAGE

55. Goods may be removed by land, or from one sea port to another in Sri Lanka.

## **PART VII**

### REGULATIONS OUTWARDS

56. Ship to be entered and goods cleared before shipment.
57. Exporter to deliver bill of entry.
58. Exportation prior to the presentation of the bill of entry.
59. Boat-notes to accompany goods laden for export.
- 59A. Goods to be examined at expenses of exporter.
60. Stiffening order.
61. Stores.
62. Director-General may grant general sufferance for the shipping of goods.
63. Master to deliver content answer questions, and produce bills of lading Certificate of clearance.
64. Officers may board vessels after clearance.

## **PART VIII**

### TRADE BY VESSELS OF LESS THAN 15 TONS BURTHEN

65. No goods to be imported or exported in vessel of less than 15 tons.

## **PART IX**

## REGULATIONS COASTWISE

- 66. Coastwise trade.
- 67. What goods shall be carried coastwise.

### PART X

#### REGULATION OF MOVEMENTS OF SHIPS UNDER 250 TONS TONNAGE

- 68. Regulation of movements of ships under 250 tons tonnage.

### PART XI

#### WAREHOUSING OF GOODS

- 69. Power to appoint warehouses for warehousing of goods.
- 70. Warehouse Keeper to give security as required by the Director-General.
- 71. Importer under certain restrictions may warehouse the goods.
- 72. Entry for the warehouse. Particulars. Warrant for warehousing. Bond upon entry of goods for the warehouse.
- 73. Power of lessee of Customs premises in certain cases to cause warehousing entry to be passed for goods.
- 74. Goods warehoused to be marked and numbered Storage of goods warehoused. Penalty. Locking and opening warehouses. Carrying goods to and from warehouses.
- 75. Goods not duly warehoused or fraudulently concealed or removed, forfeited.
- 76. Warehouse keeper neglecting to produce goods deposited, when required, to forfeit one hundred rupees.
- 77. Importer or proprietor clandestinely gaining access to warehoused goods to forfeit one hundred thousand rupees.
- 78. Duty on goods taken out of warehouse without entry to be paid by warehouse keeper. Persons taking out of or destroying goods in warehouse to be deemed guilty of an offence. Importer or consignee defrauded by officers to be indemnified.
- 79. Director-General may remit duties on warehoused, goods lost or destroyed.
- 80. Landing account to be taken of goods for the warehouse. Contents to be marked on packages and in landing book.
- 81. Goods to be entered and duties paid according to landing account.
- 82. Goods to be cleared within two years. Duties to be paid upon deficiencies.
- 83. Goods not cleared or re-warehoused or duties paid on deficiencies after two years to be sold. Proceeds of sale how to be applied. Goods not worth the duty same may be exported or destroyed.
- 84. Goods in warehouse may be repacked. Damaged parts may be destroyed.
- 84A. Processing including manufacture or assembly of goods in warehouses.
- 84B. Manufacturer permitted to sub-contract under certain conditions.
- 85. Entry for exportation re-warehousing or home use.
- 86. Bill of entry for warehoused goods delivered for home use. Duties to be paid according to landing account, except in certain cases when duties are to be charged on ascertained quantity on delivery, unless deficiency has been caused by improper means.
- 87. Value of goods for allowance on deficiencies to be estimated by officers of Customs.

88. Deficiencies on goods exported not to be charged with duty unless fraudulent.
89. On entry outward, bond for due shipment and landing to be given when required.
90. General bond for warehoused goods exported.
91. Minister may close bonded warehouse.
92. Director-General may issue warrants.
93. Goods transferable by endorsement and deliverable to the holders of warrants.
94. Warrants by private warehouse keepers.
95. No goods warehoused in Government or bonded warehouses to be delivered save on surrender of the warrant, and no warrant once surrendered to be reissued.
96. Penalty on infringement of section 95.
97. Stamp duty on warehouse warrants fixed at fifty cents.
98. State when liable to make compensation for loss in any warehouse of the Republic.
99. Goods otherwise liable to Customs laws and regulations.
100. Penalties.
- 100A. Warehousing of duty paid goods and goods of local origin.

## **PART XII**

### GENERAL REGULATIONS

101. Regulations.
102. Goods of dangerous quality.
103. Special regulations for ships.
- 103A. Container Freight Stations or Inland Clearing Depots for Customs clearance of cargo.
- 103B. Regulation of the movement of containers, containerised cargo, cargo intended for containerisation and security to be furnished.
104. Transport of goods overland under band.
105. Goods lodged in warehouse of the Republic liable to claims for freight.
106. Bonds to be taken by Director-General.
107. Goods being moved out of any ship or to any ship or out of any warehouse if not duly entered to be forfeited.
- 107A. Regulation of passengers baggage inwards and outwards.
108. Goods in any warehouse to be at risk of the owner.
109. Power to sell goods not cleared within thirty days.
110. Director-General to order removal of goods from one warehouse or Customs premises to another warehouse or place.
111. Government may appoint ports and quays and alter or annul the same. Existing ports to continue.
112. Director-General to appoint wharves.
113. Officers may refuse any person to do any act as master of ship, unless his name is endorsed on registry.
114. When ship's agent may act for master.

115. Director-General to grant licences to Customs House Agents.
- 115A. Importers and exporters to be registered with Customs.
116. No vessel to be hauled on shore without permission. Boat to be removed from wharf when directed Penalty.
117. No timber to be left on wharf for more than one day.
118. Officers may board ships hovering within territorial waters and bring them into port.
119. Making false declaration. Signing false documents and untruly answering questions. Counterfeiting and using false documents.
120. Bond entered into with the Director-General for the due performance of anything relating to the Customs, to be valid in law.
121. Export of Naval, Military, and air stores may be prohibited.
122. Unauthorised persons not permitted to make entries.
123. Samples.
- 123A. Drawing of samples on goods cleared out of Customs control.
124. Director-General may refuse clearance.

### **PART XIII**

#### **SMUGGLING, SEIZURES, AND PROSECUTIONS GENERALLY**

125. Smuggling, seizures, and prosecutions generally. Forfeiture of ship to include tackle.
- 125A. Inclusion of prohibited goods in Schedule B of Customs Ordinance.
- 125B. Suspension of certain goods by Customs Authorities.
126. Stoppage, inspection, and search of vehicles suspected to be transporting smuggled goods.
127. Arrest of persons reasonably suspected of an offence under the Ordinance.
- 127A. Persons arrested to be produced before a Magistrate under certain circumstances.
- 127B. Access to persons in custody for purpose of investigations.
- 127C. Power to release on bail to be vested in High Court.
128. Power to enter and search certain premises and seize certain goods and documents.
- 128A. Power to enter for the purpose of audit or examination or records.
129. Persons concerned in importing prohibited or restricted goods, whether unshipped or not, and persons unshipping, harbouring or having custody of such goods, to forfeit treble the value, or one hundred thousand rupees.
130. Persons concerned in exporting prohibited or restricted goods.
131. Forfeited ships.
132. If goods removed prior to examination, penalty upon parties concerned in the removal.
133. Persons assisting in unshipping or harbouring such goods liable to treble the value or one hundred thousand rupees.
134. How value to be ascertained.
135. Goods, vessels liable to forfeiture may be seized by officers. Persons resisting officers or rescuing or destroying goods to prevent seizure, to forfeit one hundred thousand rupees.
136. Goods stopped or taken by Police Officer.

137. Officers making collusive seizures, or taking bribes, and persons giving bribes, subjected to penalties.
138. Officers may search persons on board or on shore in certain cases.
139. Prohibition against the throwing overboard of goods.
140. Before such search the person may require to be taken before a Magistrate or a superior officer of the Customs.
141. Penalty on officers for misconduct with respect to search.
142. Penalty on persons on board falsely denying having foreign goods about them.
143. Power to fire at vessels failing to bring to when required.
144. Goods not to be passed if incurred penalty is not paid.
145. Recovery of penalties.
146. Persons liable to forfeiture or penalty under any section of the Ordinance to be guilty of an offence.
147. Prosecutions for offences and application of fines.
- 147A. Magistrates to have jurisdiction to impose any punishment prescribed for offences under this Ordinance.
148. Averment of offence.
149. Several persons concerned in the same offence jointly and severally liable to the penalty, and may be sued either by one or by separate informations.
150. Goods not specified in boat-note when found concealed in any boat to be presumed to have been stolen or unlawfully received by tindal and boatmen of such boat.
151. Goods not mentioned in boat-note when found in possession of any tindal or boatmen when on board of boat or on wharves to be presumed to have been stolen.
152. *Onus probandi* to be on the party.
153. Disbursement of forfeitures and penalties recovered under this Ordinance.
- 153A. Purposes to which the Fund may be applied.
154. Seized goods, if unclaimed for a month, to be condemned and dealt with accordingly.
155. Claim to thing seized to be entered in the name of the owner.
156. Notice to be given to officers.
157. Actions to be brought within two months of the cause of them.
158. Officer may tender amends.
159. Judge may certify probable cause of seizure.
160. Repealed.
161. Persons employed for the protection of the revenue to be deemed to be duly employed.
162. Vessels and goods seized and condemned may be disposed of as the Director-General shall direct.
163. Director-General in certain cases may mitigate forfeiture or penalty.
164. Restoration of seized goods, ships.
165. The Minister may restore seizures, and mitigate or remit punishments and penalties.
166. Possession of articles suspected to have been stolen.

166A. Where the offence is concerned with goods, the value of which exceeds five hundred thousand rupees such offence to be deemed a non-bailable offence.

166B. Guidelines for imposing penalty or ordering forfeiture.

#### **PART XIV**

#### **INTERPRETATION OF TERMS USED IN THIS ORDINANCE**

167. Interpretation.

#### **SCHEDULES**

17 of 1869,  
1 of 1871,  
21 of 1873,  
1 of 1875,  
22 of 1877,  
3 of 1883,  
12 of 1884,  
4 of 1886,  
18 of 1896,  
20 of 1898,  
13 of 1900,  
7 of 1901,  
2 of 1903,  
9 of 1904,  
3 of 1906,  
40 of 1908,  
5 of 1909,  
29 of 1909,  
5 of 1910,  
9 of 1910,  
5 of 1914,  
14 of 1914,  
21 of 1916,  
10 of 1917,  
17 of 1922,  
3 of 1927,  
17 of 1928,  
23 of 1929,  
6 of 1938,  
3 of 1939,

32 of 1941,  
54 of 1941,  
8 of 1944,  
17 of 1946,  
43 of 1946,  
35 of 1974,  
6 of 1948,  
9 of 1949,  
10 of 1950,  
27 of 1951,  
29 of 1952,  
25 of 1958,  
29 of 1966,  
34 of 1966,  
23 of 1968,  
10 of 1983,  
83 of 1988,  
24 of 1991,  
2 of 2003,  
36 of 2003,  
9 of 2013.

**AN ORDINANCE** for the general regulation of Customs in Sri Lanka.

[Date of Commencement: *1st January, 1870*]

**1. Short title.**

This Ordinance may be cited as the Customs Ordinance.

**PART I**

**MANAGEMENT**

**2. Appointment of officers.**

There may be appointed a Director-General of Customs (hereinafter referred to as the "Director-General") and other officers and servants for the management and collection of the Customs, and the performance of all duties connected therewith; on such salaries and allowances as may be provided in that behalf, and there may be required of every person now employed or who shall hereafter be employed in the service of the Customs, such securities for his good conduct as the Minister may deem necessary, and the Director-General shall, throughout Sri Lanka, have the general superintendence of all matters relating to the Customs.

[S 2 am by Sch of Act 83 of 1988.]

**3. Persons employed by Customs deemed officers for such services.**

Every person employed on any duty or service relating to the Customs within Sri Lanka, by the orders or with the concurrence of the Minister or the Director-General whether previously or subsequently expressed, shall be deemed to be the officer for that duty or service, and every act, matter, or thing required by any law at any time in force to be done or performed by, to, or with any particular officer

nominated in such law for such purpose, being done or performed by, to, or with any person appointed by the Minister or the Director-General to act for or in the behalf of such particular officer, shall be deemed to be done or performed by, to, or with such particular officer; and every act, matter, or thing required by any law at any time in force to be done or performed at any particular place within any port, being done or performed at any place within such port appointed by the Minister for such purpose, shall be deemed to be done or performed at the particular place so required.

**4. Officer taking any fee or reward on account of anything done by him relating to his office shall be dismissed. Penalty for offering fee.**

If any officer or other person acting in any office or employment in or belonging to the Customs shall take or receive any fee, perquisite, gratuity, or reward, whether pecuniary or of any other sort or description whatsoever, directly or indirectly from any person (not being a person duly appointed to some office in the Customs) on account of anything done, to be done, or omitted to be done by him in any way relating to his said office or employment, except such as he shall receive under any order or permission of the Minister or Director-General, such officer or other person so offending shall, on proof thereof, be dismissed from his office, and he shall be deemed guilty of an offence, and shall be liable on conviction to a fine not exceeding ten thousand rupees; and if any person, not being a person duly appointed to some office in the Customs, shall give, offer, or promise to give any such fee, perquisite, gratuity, or reward, such person shall for every such offence forfeit a sum not exceeding ten thousand rupees.

[S 4 am by s 2 of Act 83 of 1988.]

**5. Officers of Customs not liable to serve in other local offices.**

No officer of Customs, nor person employed in the collection or management of or accounting for the revenue of Customs, or any part thereof, nor any other person acting under him, shall, during the time of his acting as such officer, or of his being so employed as aforesaid, be compelled to serve in any other public office or employment or to serve on any jury or inquest, any law, usage, or Custom to the contrary notwithstanding.

**6. Minister to determine hours of attendance.**

(1) It shall be lawful for the Minister to determine in consultation with the Minister in charge of the subject of Public Administration the hours of general attendance and hours of special attendance of officers of Customs and other persons employed in the service of Customs at their proper offices and places of employment.

(2) The Director-General shall determine the proper offices and places of employment of officers of Customs and such other persons referred to in subsection (1):

Provided however that within a specified Port, as defined in the Sri Lanka Ports Authority Act, No. 51 of 1979, or an airport, proper offices and places of employment of officers of Customs and such other persons referred to in subsection (1) shall be determined by the Director-General in consultation with the authority in charge of such port or airport.

[S 6 subs by s 3 of Act 83 of 1988.]

**6A. Payment for special service or attendance.**

Where any person requires—

- (a) any service which is determined by the Minister as a special service; or
- (b) the attendance of any officer of Customs at any office or place other than his proper office or place of employment,

payment shall be made for such service or attendance, as the case may be, to the Director-General by such person at such rates as may be specified by the Director-General.

[S 6A ins by s 4 of Act 83 of 1988.]

**6B. Persons to provide accommodation and shelter for officers of Customs.**

Notwithstanding anything in any other law, it shall be the duty of every authority of any Port or of every person in charge of any place or warehouse which requires the attendance or services of officers of Customs or any person employed in the service of Customs, to provide suitable shelter

and accommodation in such Port, warehouse or place, as the case may be, for the use of the Customs.

[S 6B ins by s 4 of Act 83 of 1988.]

#### **7. Director-General authorised to administer oaths.**

In all cases wherein proof on oath shall be required by any law, or shall be necessary in any matter relating to the Customs, the same may be made before the Director-General or other principal officer of Customs, or before the persons acting for them respectively, who are hereby authorised and empowered to administer the same.

#### **8. Director-General may examine witnesses on oath. False oath deemed false evidence.**

(1) Upon examinations and inquiries made by the Director-General, or other principal officer of the Customs, or other persons appointed to make such examinations and inquiries, for ascertaining the truth of statements made relative to the Customs, or the conduct of officers or persons employed therein, any person examined before him or them as a witness shall deliver his testimony on oath, to be administered by such Director-General or other principal officer, or such other persons as shall examine any such witness, who are hereby authorised to administer such oath; and if such person shall be convicted of giving false evidence on his examination on oath before such Director-General or other principal officer of Customs, or such other person in conformity to the directions of this Ordinance, every such person so convicted as aforesaid shall be deemed guilty of the offence of giving false evidence in a judicial proceeding, and shall be liable to the fines and penalties to which persons are liable for intentionally giving false evidence in a judicial proceeding.

(2) A person making an inquiry under subsection (1) may summon as a witness any other person whose evidence is necessary for the purposes of the inquiry; and a person who is summoned under this subsection shall, if he does not comply with the summons or refuses to be sworn or affirmed or to give evidence, be guilty of an offence of and liable to a fine not exceeding twenty five thousand rupees.

[S 8(2) am by s 5 of Act 83 1988.]

#### **8A. How Judge to deal with witness who makes a contradictory statement.**

(1) If in the course of a trial for an offence under this Ordinance any witness shall on any material point contradict either expressly or by necessary implication a statement previously made and signed by him, before any officer of Customs or person referred to in section 8, in the course of any investigation into such offence under this Ordinance, it shall be lawful for the presiding Judge if he considers it safe and just in all the circumstances—

- (a) to act upon the statement given by the witness in the course of the investigation, if such statement is corroborated in material particulars by evidence from an independent source; and
- (b) to have such witness at the conclusion of such trial arraigned and tried on an indictment which shall be prepared and signed by the Registrar of such court, for intentionally, giving false evidence in a stage of a judicial proceeding.

(2) At any trial under paragraph (b) of subsection (1) it shall be sufficient to prove that the accused made the contradictory statements alleged in the indictment and it shall not be necessary to prove which of such statements is false.

(3) The presiding Judge may, if he considers it expedient, adjourn the trial of any witness under paragraph (b) of subsection (1) for such period as he may think fit and in any such case the accused shall be remanded until the conclusion of such trial.

[S 8A ins by s 6 of Act 83 of 1988.]

#### **9. Power of Director-General to call for documents or samples of articles.**

(1) The Director-General or any officer of Customs authorised in that behalf by him may for the purpose of ascertaining or verifying any matter relative to the Customs or with regard to any matter into which it is his duty to inquire under this Ordinance, by written order require any person to give information or produce for examination such books and documents or samples of any article with regard to any matter relative to the Customs or the subject of inquiry which are in such person's power to give or produce at such place and within such period as may be specified in such order and

allow such officer to examine, take extracts and copies of such books, documents and samples of articles, as the case may be.

(2) Any person who is required, for purposes of this section, to answer any question put to him by any officer of Customs, or to give any information which may be required of him by such officer and which it is in his power to give and who—

- (a) refuses to answer such question;
- (b) wilfully makes a thereto false answer;
- (c) refuses to give such information;
- (d) furnishes any information which he knows or has reason to believe to be false; or
- (e) without reasonable cause fails to comply with any order issued under subsection (1),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty five thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

[S 9 subs by s 7 of Act 83 of 1988.]

#### **9A. Service of notice.**

Any notice, order or other document required to be served on any person under this Ordinance or any regulations made there under may be served by post under registered cover, and if so served, shall be (deemed) to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service, it shall be sufficient to prove that the notice, order or other document was properly addressed and put into the post.

[S 9A ins by s 8 of Act 83 of 1988.]

#### **9B. Presumption as to documents in certain cases.**

When a document which appears to have been made in the ordinary course of business having regard to the nature of such business and is not otherwise open to suspicion by reason of alterations or other circumstances—

- (i) is produced by any person or has been seized from the custody or control of any person, under this Ordinance; or
- (ii) has been received from any place outside Sri Lanka in the course of investigation of any offence alleged to have been committed by any person under this Ordinance,

and such document is tendered in evidence, the court shall, unless the contrary is proved—

- (a) presume, that the signature and every other part of such document which purports to be in the hand writing of any particular person or which the court may reasonably assume to have been signed by, or to be in the hand writing of any particular person, is in the handwriting of that person and in the case of a document executed or attested, that it was executed or attested, by the person by whom it purports to have been executed or attested; and
- (b) as regards a document referred to in paragraph (i), presume the truth of the contents of such documents.

[S 9B ins by s 8 of Act 83 of 1988.]

#### **9C. Translation in the official language, National language, or English language to be produced.**

(1) Where any document required for the purpose of this Ordinance is written in a language other than the official language, National language or the English language, the person producing or using such document may be required to produce therewith a correct translation thereof in the official language, National language or the English language.

To produce copies of documents as required.

(2) Where any person is required to produce any document for the purposes of this Ordinance, the Customs officer may require such person to produce as many copies thereof as the Customs officer may deem necessary for the purposes of this Ordinance.

(3) Where a Customs officer requires any invoice and/or any other document to be produced for any goods which have been imported, exported, entered for export or entered in transit, he may require such invoice and/or document to be submitted in original and may require him to submit as many copies thereof as may be necessary for the purposes of this Ordinance and he may retain such copies.

[S 9C ins by s 8 of Act 83 of 1988.]

## PART II

### LEVYING OF CUSTOMS DUTIES

#### 10. Duties to be levied and power of Parliament to modify duties.

(1) The several duties of Customs, as the same are respectively inserted, described, and set forth in figures in the table of duties (Schedule A)<sup>1</sup> shall be levied and paid upon all goods, wares, and merchandise imported into or exported from Sri Lanka: Provided that—

- (a) Parliament may from time to time, by means of a resolution duly passed at any public session, increase, reduce, abolish, or otherwise alter the Customs duty leviable on any goods imported into or exported from Sri Lanka or into or from any specified port therein, or subject to such terms or conditions, if any, as may be expressed in the said resolution, may impose Customs duty upon any goods so imported or exported whereon Customs duty at the time when such resolution is passed is not leviable, or may add other goods to the goods enumerated in the said Schedule as exempt from Customs duty; or may add to, rescind, or vary any of the conditions, exceptions, or provisions of the said Schedule with regard to the payment of Customs duty; or may amend or alter the provisions of the said Schedule by the deletion of references to goods stated therein to be exempt from import duty, or by specifying that goods of any class or description shall, subject to such terms and conditions as may be expressed in the resolution, be exempt from export duty, or by adding to, deleting from or in any manner varying the classification or description of goods specified in the said Schedule or any provision contained therein relating to any such goods, whether or not the duty on such goods is varied, imposed or abolished by the resolution;
- (b) no such resolution shall take effect unless it shall have been notified in the *Gazette*;
- (c) express reference in the said Schedule to any Customs duty leviable on any goods imported into or exported from Sri Lanka shall not affect or be deemed to affect any royalty, cess or duty, by whatsoever name called, which is leviable or payable on the importation or exportation of such goods under any written law other than this Ordinance.

[S 10 re-numbered as s 10(1) by Sch of Act 10 of 1983.]

(1A) Where there is a dispute relating to the imposition or exemption of customs duty on any goods, any condition or exception to the payment of customs duty on any goods or clarification or description of the goods, imported into or exported from Sri Lanka, the importer or exporter of such goods as the case may be may make an application forthwith to the Director-General for determination.

[S 10(1A) ins by s 2 of Act 9 of 2013.]

(1B) The Director-General shall, within ninety days from the date of receipt of such application determine any application made to him under subsection (1A).

[S 10(1B) ins by s 2 of Act 9 of 2013.]

(1C) —

- (a) Where the Director-General fails to intimate the determination within the time period specified in subsection (1B) to the importer or exporter as the case may be; or
  - (b) Any person who is aggrieved by such determination,
- may, within thirty days from the expiration of the time period specified in subsection (1B) or from the date of receipt of such determination as the case may be, appeal to the Tax Appeals Commission established under the provisions of the Tax Appeals Commission Act, No. 23 of 2011.

[S 10(1C) ins by s 2 of Act 9 of 2013.]

(2) every duty altered or imposed on the basis of any measurement unit under the proviso to subsection (1), shall be according to the Inter National System of Units as defined in section 5 of the Weights and Measures Ordinance.

[S 10(2) ins by Sch of Act 10 of 1983.]

#### **10A. Surcharge to be levied on imported goods, where expedient.**

(1) In addition to any duties leviable under this Ordinance, the Minister may, with the approval of the Cabinet of Ministers, by Order published in the *Gazette*, levy a surcharge on the Customs duty payable on such imported goods as are specified in such Order, at such rates and for such periods as are specified in such Order, if he deems it expedient in the interest of the National economy to do so.

(2) Every Order made by the Minister under subsection (1) shall come into force on the date of such Order. Every such Order shall be published in the *Gazette* and shall, as soon as may be after its publication in the *Gazette* be tabled in Parliament. Parliament may by resolution revoke any Order made by the Minister under this section within sixty days of the publication of such Order in the *Gazette*, and in the computation of such period of sixty days no account shall be taken of any period during which Parliament stands prorogued or dissolved. Where any such Order is revoked any sum paid in pursuance of such order shall be refunded.

[S 10A ins by s 9 of Act 83 of 1988.]

#### **11. Provision for imposition of export duty at varying rates.**

(1) Any resolution under section 10 imposing export duty—

(a) may impose upon any goods duty at rates varying in accordance with fluctuations in the world market price of the goods; and

(b) may provide for the estimation from time to time by the Director-General of the amount which shall be deemed for the purposes of the application of the resolution, to be the world market price of the goods to which it applies.

[S 11(1) subs by s 3(1) of Law 35 of 1974.]

(2) Where in terms of subsection (1) of this section export duty on any goods is imposed by any resolution at rates differing in accordance with fluctuations in the world market price of the goods, the following provisions shall have effect in relation to contracts for the exportation of such goods entered into by a seller in Sri Lanka (hereinafter referred to as "the exporter") and a buyer overseas:

(a) the exporter may make application to the Director-General for the registration of the contract, specifying in the application—

(i) the total quantity of the goods covered by the contract;

(ii) the period within which the goods are required by the terms of the contract to be exported (hereinafter referred to as the "proposed period of exportation"); and

(iii) such other particulars as the Director-General may require;

(b) any such contract may be registered by the Director-General subject, however, to the provisions of subsections (3) and (4);

(c) where any such contract is registered, then notwithstanding anything in the resolution imposing export duty upon such goods,

export duty shall be charged, levied and paid, on all goods proved to the satisfaction of the Director-General to be exported during the proposed period of exportation in fulfillment of the contract, at the rate which would have been applicable if the goods had been exported on the date of the application for the registration of the contract.

[S 11(2) subs by s 3(1) of Law 35 of 1974.]

(3) No contract shall be registered as provided in subsection (2), if the proposed period of exportation of the goods to which the contract relates is a period ending later than six months after the date of the application for registration of the contract:

Provided that the aforesaid term of six months may, by regulation made under subsection (12), be increased or reduced whether in relation to contracts generally or to contracts of any specified description.

(4) No contract shall be registered as provided in subsection (2) unless the exporter under that contract, either—

(a) deposits with the Director-General a sum of money equal to one-fourth of the amount which would be payable as export duty upon the total quantity of goods covered by the contract if such total quantity were being exported on the date of the application for the registration of the contract; or

(b) the exporter has furnished to the Director-General a bond in such form, and executed by any such bank, as may be approved by the Director-General, whereby the bank undertakes to pay to the Director-General on demand any sum which may be declared by order of the Director-General under subsection (5) to be payable by the bank in relation to that contract, so however that the maximum sum so undertaken to be paid shall be one-fourth of the amount which would be payable as export duty upon the total quantity of goods covered by the contract, if such total quantity were being exported on the date of the application for the registration of the contract.

(5) In any case where a contract has been registered as provided in subsection (2) and it is found on the date of the expiration of the proposed period of exportation that the contract remains wholly or partly unfulfilled, then, if the lowest rate of duty which prevailed during the proposed period of exportation under the resolution passed in terms of subsection (1) (hereinafter referred to as the "new rate") is lower than the rate which prevailed thereunder on the date of the application for the registration of the contract (hereinafter referred to as the "old rate")—

(a) the Director-General shall make an assessment of the amount which would have been payable as export duty at the old rate on the quantity of the goods in respect of which the contract remains unfulfilled and an assessment of the amount which would be payable as export duty at the new rate on the said quantity; and

(b) the Director-General shall make order declaring that a sum representing the difference between the two amounts so assessed shall be made good out of the deposit made by the exporter under subsection (4) in respect of the contract, or, as the case may be, be paid by the bank by which the bond was executed in terms of that subsection in respect of the contract.

If the sum ordered to be paid under the preceding provisions of this subsection in respect of any contract shall exceed the total sum deposited under subsection (4) in respect of that contract or, as the case may be, the total sum specified in the bond executed in terms of that subsection in respect of that contract, the Director-General shall make further order declaring that the sum representing the difference between the amount so ordered to be paid, and the amount furnished as deposit or for the payment of which the exporter has furnished to the Director-General a bond executed in terms of the same subsection shall be paid by the exporter within the period stipulated in that order; and it shall be lawful for the officers of Customs to refuse to pass any goods belonging to the exporter until the said sum is paid.

Upon an order being made by the Director-General under this subsection declaring that any sum shall be paid by a bank, the bank shall be bound forthwith on demand made by the Director-General to pay such sum to the Director-General.

[S 11(5) subs by s 3(2) of Law 35 of 1974.]

(6) In any case where the Director-General is satisfied that any contract registered under this section remains wholly or partly unfulfilled owing to causes beyond the control of the exporter, then notwithstanding anything in the preceding provisions of this section the Director-General may in his discretion—

(a) extend the proposed period of exportation and direct that such extended period shall be deemed for the purposes of paragraph (c) of subsection (2) and of subsections (5) and (10) to be the proposed period of exportation; or

(b) make order directing that the provisions of subsection (5) shall not apply in relation to the contract; or

(c) make order directing that for the purposes of subsection (5) the contract shall be deemed to remain unfulfilled only in relation to such part of the total quantity of goods covered by the contract as may be specified in the order.

(7) All sums ordered under subsection (5) to be made good out of any deposit and all sums paid by any bank in compliance with an order under subsection (5) shall be paid into the Consolidated Fund.

(8) In any case where a contract has been registered under the preceding provisions of this section, it shall be the duty of the exporter, whenever any goods are being exported in fulfillment of the contract,

to make a declaration to that effect in the bill of entry relating to the goods and in the specification furnished in respect of the shipment of such goods; and—

(a) where no goods have been so declared by the exporter to be goods exported in fulfillment of the contract, the Director-General shall, for the purposes of subsection (5) be entitled to presume, unless the contrary is proved to his satisfaction, that the contract remains wholly unfulfilled; or

(b) where the quantity of goods so declared by the exporter to be goods exported in fulfillment of the contract is less than the total quantity covered by the contract, the Director-General shall, for the purposes of subsection (5), be entitled to presume, unless the contrary is proved to his satisfaction, that the contract remains unfulfilled in respect of the outstanding part of such total quantity.

(9) The Minister may by order provide for the payment of interest on deposits made under this section, at such rate, and in such circumstances, and subject to such conditions, as may be specified in the order.

(10) The amount of any deposit made under subsection (4) by any exporter in respect of any contract shall, subject to the operation of any order made under subsection (5), be returned to the exporter as soon as convenient after the exportation in fulfillment of the contract of the total quantity of goods covered thereby or the expiration of the proposed period of exportation, whichever time is the earlier:

Provided, however, that the Director-General may in his discretion make order directing the return of any part of any such deposit at any time after the contract has been substantially fulfilled.

(11) No sum constituting or forming part of any deposit made under subsection (4) by any exporter shall be liable at any time to be seized or sequestered in execution of any decree or order of any court, if the Director-General certifies that the exporter is not at that time entitled to the return of that sum under subsection (10) of this section.

(12) The Minister may make such regulations as he may consider necessary for carrying into effect the preceding provisions of this section.

(13) In each of the preceding subsections—

.

["Director-General" omitted by s 3 of Law 35 of 1974.]

"the date of the application for registration of the contract" means the date on which the application for registration is received by the Director-General.

(14) .

[S 11(14) rep by s 3(4) of Law 35 of 1974.]

(15) .

[S 11(15) rep by s 3(4) of Law 35 of 1974.]

## **12. Prohibitions and restrictions and power of Parliament to add thereto.**

(1) The goods enumerated in the table of prohibitions and restrictions in Schedule B2 shall not be imported or brought into or exported or taken out of Sri Lanka save in accordance with the conditions expressed in the said Schedule.

(2) Parliament may from time to time, by means of a resolution duly passed at any public session, amend Schedule B2 by the addition thereto of any goods other than those enumerated therein or by the omission therefrom of any goods enumerated therein or otherwise, and regulate the conditions subject to which the importation or bringing into or the exportation or taking out of Sri Lanka of any goods enumerated in the said Schedule<sup>2</sup> is prohibited or restricted.

## **13. Goods in warehouse to be liable to the duties imposed by this Ordinance.**

All goods whatsoever which shall have been warehoused without payment of duty upon the first importation thereof, and which shall be in the warehouse when this Ordinance comes into force, shall become liable to the duties imposed by this Ordinance, in lieu of all former duties.

## **14. Goods in warehouse to be liable to increased or new duties.**

When any variation is made in any of the provisions of Schedule A2, whether by the amendment of this Ordinance or by the exercise of any power given by this Ordinance or any other enactment, any goods that shall have been warehoused without payment of duty upon the first importation thereof, and which shall be in the warehouse at the time when the said variation comes into force, shall be subject to duty or exempt from duty, as the case may be, in accordance with the said variation.

#### **15. Power to charge warehouse rent.**

On all goods lodged in any warehouse of the Republic, warehouse, or place of deposit provided by Government, it shall be lawful for the Director-General to charge, demand, and receive warehouse rent for all such time as the same shall remain in such warehouse, at such rates and under such regulations as may from time to time be fixed by the Minister, as warehouse rent payable on goods so lodged, and no goods upon which warehouse rent may be due shall be removed until the same be paid.

#### **16. Definition of time of an importation and of an exportation, and of an arrival and of a departure.**

If upon the first levying or repealing of any duty, or upon the first permitting or prohibiting of any importation or whether inwards, outwards, or exportation; coastwise in Sri Lanka, it shall become necessary to determine the precise time at which an importation or exportation of any goods made and completed shall be deemed to have had effect, such time, in respect of importation, shall be deemed to be the time at which the ship importing such goods had actually come within the limits of the port at which such ship shall in due course be reported and such goods be discharged; and such time, in respect of exportation, shall be deemed to be the time at which the goods had been shipped on board the ship in which they had been exported; and if such question shall arise upon the arrival or departure of any ship, in respect of any charge or allowance upon such ship, exclusive of any cargo, the time of such arrival shall be deemed to be the time at which the report of such ship shall have been or ought to have been made; and the time of such departure shall be deemed to be the time of the last clearance of such ship with the Director-General for the voyage upon which ship had departed.

#### **17. Duties to be paid in Sri Lanka currency according to units of measurements for sri lanka produce of customes to be paid into the Treasury.**

(1) All duties of Customes, as well as all penalties and forfeitures incurred under this Ordinance, shall be paid and received in the currency of the Republic of Sri Lanka and according to the units of measurement of the Republic.

[S 17(1) subs by s 10 of Act 83 of 1988.]

(2) Conversion of foreign currency values of the Republic.

For the purpose of subsection (1) conversion of foreign currency values to the currency values of the Republic of Sri Lanka shall be made in accordance with such rates of exchange determined by the Director-General and published in the *Gazette*, as were prevailing on the date of presentation of the bill of entry relating to the goods on which the duty is payable.

[S 17(2) subs by s 2 of Act 24 of 1991.]

(3) Produce of Customs duties to be paid into the Consolidated Fund.

The produce of all duties of Customs shall be paid by the Director-General into the Consolidated Fund of the Republic of Sri Lanka.

[S 17(3) subs by s 10 of Act 83 of 1988.]

#### **18. Duties, dues and charges paid in excess to be refunded.**

(1) If it is proved to the satisfaction of the Director-General by any claim duly made in writing that any person has paid on goods imported or exported by him, any duties, dues or charges in excess of the amount with which he was properly chargeable thereon, such person shall be entitled to have refunded the amount so paid in excess, if such claim is made within twenty-four months from the date of such payment.

(2) When any duties, dues or charges on any goods, imported or exported, have been short levied or where any such duties, dues or charges after having been levied, have been erroneously refunded, the persons chargeable with the duties, dues or charges so short levied or to whom such refund has erroneously been made shall pay the deficiency or repay the amount so erroneously refunded, if the payment of the amount short levied or erroneously refunded shall be demanded within twenty- four months from the date of such short levy or refund.

(3) If the amount so demanded to be paid in terms of subsection (2) is not paid by the person from whom the payment is demanded by the Director-General, it shall be lawful for the officers of Customs to refuse to pass any goods which that person imports or brings into or is seeking to export or take out of Sri Lanka until that amount is paid.

[S 18 subs by s 4 of Law 35 of 1974; s 18(3) proviso rep by s 11 of Act 83 of 1988.]

#### **18A. Proceedings for recovery of duties, dues or other charges short levied before a Magistrate.**

(1) Where the Director-General is of opinion in any case that recovery under section 18, of any duties, dues or other charges omitted to be levied, short levied, erroneously refunded or rebated or paid on a fraudulent claim, is impracticable or index pediment, he may issue a certificate containing particulars of such duties, dues or other charges as contained in the demand under subsection (2) of section 18, and the name and last known place of business or residence of the defaulter to a Magistrate having jurisdiction in the division in which such place is situate. The Magistrate shall thereupon summon such defaulter before him to show cause why further proceedings for the recovery of the duties, dues or other charges should not be taken against him, and in default of sufficient cause being shown, such duties, dues or other charges shall be deemed to be a fine imposed by a sentence of the Magistrate on such defaulter for an offence punishable with fine only or not punishable with imprisonment, and the provisions of subsection (1) of section 291 (except paragraphs (a), (d) and (i) thereof) of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine imposed for such an offence shall thereupon apply and the Magistrate may make any direction which, by the provisions of that subsection, he could have made at the time of imposing such sentence.

(2) The correctness of any statement in a certificate issued by the Director-General for the purposes of subsection (1) shall not be called in question or examined by the Magistrate in any proceeding under this section and accordingly, nothing in that subsection shall be read and construed as authorising a Magistrate to consider, or decide, the correctness of any statement in such certificate.

(3) Nothing in subsections (2) to (5) of section 291 of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply in any case referred to in subsection (1) of this section.

(4) In any case referred to in subsection (1) in which the defaulter is sentenced to imprisonment in default of payment of the fine deemed by that subsection to have been imposed on him, the Magistrate may allow time for the payment of the amount of that fine or direct payment of that amount to be made in installments.

(5) The Court may require bail to be given as a condition precedent to allowing time under subsection (1) for showing cause as therein provided or under subsection (4) for the payment of the fine; and the provisions of Chapter XXXIV of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply where the defaulter is so required to give bail.

(6) Where a Magistrate directs under subsection (4), that a payment be made in installments and default is made in the payment of any one installment, proceedings may be taken as if default had been made in payment of all the installments then remaining unpaid.

(7) In any proceedings under subsection (1), the Director-General's certificate shall be sufficient evidence that the duties, dues or other charges are in default, and any plea that such duties, dues or other charges are incorrect shall not be entertained.

[S 18A ins by s 12 of Act 83 of 1988.]

#### **19. Power of Minister to exempt Diplomatic personnel from payment of Customs duties subject to certain conditions.**

(1) The Minister may from time to time, by Order published in the *Gazette*, exempt goods consigned to, or imported or cleared out of bond by or for the use of the representative in Sri Lanka (by whatsoever

name, title or designation called) of the Government of any foreign State, the Trade Commissioner in Sri Lanka of any such Government, and persons on the staff of any such representative or Commissioner named in such Order and the representatives of the United Nations or its affiliates and such other inter-national organisations, institutions or bodies from payment of Customs duty.

(2) The Minister may, in his discretion, by such Order—

(a) prescribe the conditions, if any, subject to which the exemption is allowed;

(b) extend such exemption to goods consigned to, or imported by or for the use of the families and suites of such officers;

(c) limit the exemption to a grade or class of persons referred to in subsection (1) of any specified country or organisation and to articles of any specified description.

(3) Any Order under the preceding provisions of this section shall, if so expressed be deemed to have had effect from such date prior to the making of the order as may be specified therein.

(4) The Minister may at his discretion, by Order published in the *Gazette*, withdraw or modify any exemption granted under this section, or vary the conditions subject to which the exemption is allowed.

(5) No Order made under this section shall have effect unless it has been approved by Parliament, by resolution.

(6) Notwithstanding anything in any Order under the preceding provisions of this section, no goods to which such Order applies may be sold or otherwise disposed of, without the prior permission of the Director-General and unless the duties payable on such goods as determined in accordance with the value of such goods and rates of duty applicable at the time of such sale or disposal, are paid to the Director-General. Any goods sold or disposed of in contravention of the preceding provisions of this subsection shall be liable to be forfeited.

[S 19 subs by s 13 of Act 83 of 1988.]

#### **19A. Exemption of goods imported by certain persons from import duties.**

(1) The Minister may, if he deems it expedient in the public interest so to do, by Order exempt any goods imported by, or consigned to, any person specified in the Order from the whole or any part of the duties of Customs leviable thereon, subject to such conditions (to be fulfilled before or after clearance) as may be specified in the Order.

(2) Every Order made by the Minister under subsection (1) shall come into force on the date of such Order. Every such Order shall be published in the *Gazette* and shall, as soon as may be after its publication in the *Gazette*, be tabled in Parliament. Parliament may by resolution revoke any Order made by the Minister under this section within sixty days of the publication of such Order in the *Gazette*, and in the computation of such period of sixty days no account shall be taken of any period during which Parliament stands prorogued or dissolved. Where any such Order is so revoked, the duties of Customs payable on the exempted goods shall be paid by the importer of such goods or the person to whom such goods were consigned, to the Director-General of Customs, and such duties may be recovered under the provisions of section 145.

(3) Where any goods specified in an Order made under subsection (1) are subsequently sold or disposed of contrary to the conditions of such Order, such goods shall be liable to the same duty of Customs as may by law be levied on like goods which are subject to duties of Customs and the importer or person by whom or on whose behalf the goods are sold or disposed of shall prior to such sale or disposal obtain the permission of the Director-General of Customs and pay the duties payable on such goods at the time of such sale or disposal to the Director-General. Any goods sold or disposed of in contravention of such section shall be liable to be forfeited.

[S 19A ins by s 6 of Law 35 of 1974.]

#### **20. Imports by President of the Republic exempt from import duties of Customs.**

Articles of every description imported or bearded from bond for the official use of the President of the Republic of Sri Lanka shall not be liable to the payment of import duties.

[S 20 subs by s 14 of Act 83 of 1988.]

#### **21. Certificate from Naval or Military or Air Force officer required for exemption or payment of rebate.**

(1) Upon the production of a certificate from such Naval, Military, or Air Force officer, or such other person as the Minister may from time to time authorise by notification in the *Gazette* to issue the same, the Director-General of Customs shall pass free from duty the articles hereinbefore exempted, or, in the event of the duty having been paid, he shall, subject to the provisions of subsection (2), allow a rebate of such duty:

Provided that if such articles are not required for the use for which they were imported or purchased or exported as aforesaid, no such articles may be sold or otherwise disposed of without the prior permission of the Director-General and unless the duties payable on such articles at the time of such sale or disposal are paid to the Director-General; and any articles sold or disposed of in contravention of the preceding provisions of this proviso shall be liable to be forfeited.

[S 21(1) proviso subs by s 7 of Law 35 of 1974.]

(2) The Director-General of Customs shall allow a rebate of the duty paid on any article hereinbefore exempted, upon the production of a certificate relating to that article in accordance with the provisions of subsection (1) and upon proof to his satisfaction of the fact that such article was actually imported, exported, purchased or procured, as the case may be, and of such particulars as he may require in regard to the amount of duty paid and the time and place of payment of such duty:

Provided that no such rebate shall be allowed in the case of any article unless the certificate relating to that article is produced within twelve months next after the date on which that article was imported, exported, purchased or procured, as the case may be;

Provided further that the Director-General of Customs may refuse to allow a rebate of the duty paid on any article if he is satisfied, after such inquiry as he may deem necessary, that a rebate of the duty paid on that article has previously been allowed in accordance with the provisions of this section.

(3) The rebate shall be paid to the person issuing the certificate required by this section out of the duties received by the Director-General of Customs, anything in section 18 to the contrary notwithstanding.

(4) The certificate required by this section shall be in such form as the Director-General of Customs shall from time to time prescribe.

## **22. Drawbacks on re-exportation.**

(1) Where any goods capable of being easily identified which have been imported from any foreign port, and upon which Customs duties have been paid, are re-exported to any foreign port, a sum not exceeding nine tenths of such duties may, be repaid as drawback:

Provided that in every such case—

(a) the goods are identified to the satisfaction of the Director-General, or such other officer authorised in that behalf;

(b) there has been no change of ownership of the goods;

(c) the re-export must be made within one year from the date of importation as shown by the records of the Customs office, unless such period is specially extended by the Director-General, if he considers that the re-export was prevented due to circumstances beyond the control of the importer;

(d) no drawback will be allowed on goods (other than goods imported through the post by any person for his personal use) on which the import duty paid does not exceed one hundred rupees;

(e) the claim for drawback must be established at the time of re-export, and payment must be demanded within six months from the date of entry for shipment;

(f) when a drawback is allowed on the re-export of goods imported the amount so allowed as drawback shall not exceed nine tenths of the duty paid or payable at the time of importation thereof, notwithstanding the variation in the rates of duty or the rates of exchange.

[S 22(1) subs by s 15 of Act 83 of 1988.]

(2) Save as hereinafter provided; this section shall not apply to goods which have been used after importation.

[S 22(2) ins by s 3 of Act 24 of 1991.]

(3) Where however, the Customs duties have not been paid, the Director-General may, if he is satisfied that the conditions specified in paragraphs (a), (b) and (c) of subsection (1) have been

complied with, permit the re-export of such goods on payment of one tenth of the duty that would have been payable at the time of import.

[S 22(2) subs by s 15 of Act 83 of 1988; re-numbered as s 22(3) by s 3 of Act 24 of 1991.]

## **22A. Importation without payment of duty.**

(1) The Director-General or such other officer authorised in that behalf shall and subject to such terms and conditions as may be prescribed by the Minister from time to time allow importation of articles which are intended to be re-exported without payment of import duty.

(2) Where goods manufactured or processed in Sri Lanka containing as a part or in gradient thereof any material imported and upon which import duty has been paid or secured are exported, refund or rebate of the whole or part of the import duty actually paid or secured in respect of such quantity of the raw material or articles as may appear to the satisfaction of the Director-General to have been used in the manufacture or processing of the goods shall be allowed upon such terms, and subject to such conditions, as may be prescribed by the Minister.

(3) The provisions of subsection (2) shall apply only to such goods as may from time to time be prescribed by the Minister by Notification to be published in the *Gazette* having regard to the economic development of the country.

(4) Drawback or rebate of the duty paid or secured in the case of plant, machinery and equipment imported for use in projects and ventures approved by the Minister, having regard to the economic development of the country and subject to such terms and conditions shall be allowed, on re-export, by the Minister at such rates as he may prescribe, having regard to the duration of use, depreciation in value and such other circumstances relating to such plant, machinery or equipment.

(5) Drawback of export duties.

Where any class or description of goods manufactured or produced in Sri Lanka are exported to any place outside Sri Lanka and are thereafter re-imported, a drawback of the export duties of Customs paid at the time of export under this Ordinance shall be allowed in full or part in respect of such goods upon such terms and conditions as may be prescribed by the Minister having regard to the period within which such goods are re-imported.

(6) Penalty for fraudulent claims.

Every person concerned in making any fraudulent claim for drawback or rebate of duty shall at the election of the Director-General be liable to a penalty not exceeding one hundred thousand rupees or three times the value of such goods on which such claim is made.

[S 22A ins by s 16 of Act 83 of 1988.]

## **PART III**

### **PORT DUES**

## **23. Port dues.**

(1) Port dues shall be leviable and payable for entry inwards, and for clearance outwards, on all ships arriving at or departing from any port of Ceylon, and upon cargo imported to or exported from Colombo, according to the table of port dues set forth in figures in Schedule C:

Provided that—

(a) when a vessel has paid port dues inwards or outwards she shall not be liable for additional port dues for goods carried coastwise during the same voyage;

(b) a vessel leaving port for a period not exceeding twelve hours for the purpose of trying her machinery or of throwing overboard any damaged cargo shall, for the purposes of this section, be deemed to be in port, and shall be liable on re-entry to pay only the full pilotage dues chargeable in respect of such vessel as if for a first entry into port;

(c) the period during which such vessel has been out of port shall, for the purpose of reckoning buoy rent, be considered as part of her stay in port;

(d) where a sailing vessel or a vessel not exceeding three hundred tons burthen is compelled by stress of weather to re-enter port within twelve hours of her departure therefrom, no further port

dues shall be charged, if the Master Attendant certifies that the vessel could not have proceeded on her voyage without unnecessary risk.

(2) Parliament may from time to time, by means of resolution duly passed at any public session, increase, reduce, abolish, or otherwise alter the port dues leviable and payable under Schedule C<sup>3</sup> on ships arriving at or departing from any port of Sri Lanka, and upon cargo imported to or exported from Colombo, or may impose port dues upon such ships in cases where port dues, at the time when such resolution is passed, are not chargeable under the said Schedule: or may add to, rescind, or vary any of the conditions, exceptions, or provisions of the said Schedule with regard to the charge or payment of port dues. Such resolution shall not take effect until it shall have been notified in the *Gazette*.

**24. Power of Director-General to summarily enforce payment of dues, rates, buoy rent, charges, and penalties.**

If the master, owner, or agent of any vessel in respect of which any dues, rates, buoy rent, charges, or penalties have heretofore become payable, or have been incurred, or shall hereafter become payable or be incurred, whether under this Ordinance, or under any regulations or orders made in pursuance thereof, or under any other enactment or regulations, refuses or neglects to pay them or any part of them on demand, the Director-General of Customs of the port may of his own authority distrain or arrest such vessel and the tackle, apparel, and furniture belonging thereto or any part thereof, and detain the same until the amount so due is paid to him. And, in case any part of the said dues, rates, buoy rent, charges, or penalties, or of the costs of the distress or arrestment, or of the keeping of the same remains unpaid for the space of five days next after any such distress or arrestment has been so made, the Director-General of Customs may cause the vessel or other thing so distrained or arrested to be sold, and the amount due to the State shall be deemed to be a first charge on the proceeds of such sale. The balance, if any, of the proceeds of the sale, after satisfying the amount due to the State together with all costs, shall be rendered by the Director-General of Customs to the master, owner, or agent of such vessel on demand.

**25. Composition for dues.**

Any coastwise ship shall be allowed to compound for port dues for twelve months at such rate per ton of the registered tonnage as may be fixed by the Minister by Notification published in the *Gazette*, and on payment thereof the Director-General or other principal officer shall grant a certificate which shall exempt such vessel while so employed from any further demand for port dues during the period stated in such certificate.

[S 25 subs by s 8 of Law 35 of 1974.]

**26. Tonnage of ship how ascertained.**

The tonnage or burthen of every British ship, within the meaning of this Ordinance, shall be the tonnage set forth in the certificate of registry of such ship, and the tonnage or burthen of every other ship shall for the purposes of this Ordinance be ascertained in the same manner as the tonnage of British ship is ascertained.

**PART IV**

**REGULATIONS INWARDS**

**27. No goods to be landed nor bulk broken before report. Times and places of landing and care of officers. Goods not reported or entered, forfeited. Penalty.**

And whereas it is expedient that the officers of Customs should have full cognisance of all ships coming into any port or place in Sri Lanka, or approaching the coast thereof, and of all goods on board or which may have been on board such ships, and also of all goods unladen from any ships in any port or place in Sri Lanka.

It is enacted that no goods shall be unladen from any ship arriving from parts beyond the seas at any port or place in Sri Lanka, nor shall bulk be broken after the arrival of such ship within the territorial waters of Sri Lanka, before due report of such ship and sufferance granted, in manner hereinafter directed; and that no goods shall be so unladen except at such times and places and in such manner and by such persons and under the care of such officers as hereinafter directed; and that all goods not duly reported, or which shall be unladen contrary hereto, shall be forfeited; and if bulk be broken contrary hereto the master of such ship shall forfeit a sum not exceeding one hundred thousand rupees; and if after the arrival of any ship within the territorial waters of Sri Lanka any alteration be made in the stowage of the cargo of such ship so as to facilitate the unloading of any part of such

cargo, or if any part be staved, destroyed, or thrown overboard, or any package be opened, such ship shall be deemed to have broken bulk:

Except coin, bullion, cattle, passengers.

Provided always that coin, bullion, cattle, and other livestock, and passengers with their baggage, may be landed previous to report, entry or sufferance.

[S 27 subs by s 9 of Law 35 of 1974; am by s 17 of Act 83 of 1988.]

**28. Ship and cargo to be reported within twenty-four hours of arrival of ship. Particulars of report.**

The master of every ship arriving at any port or place in Sri Lanka, whether laden or in ballast, shall come within twenty-four hours after such arrival, and before bulk be broken, to the Custom-house, and there make a report in writing, and such report shall be in duplicate, and shall make and subscribe a declaration to the truth of the same before the Director-General or other officer of Customs of the arrival and voyage of such ship, stating the name, country, and tonnage, and if British, the port of registry, the name and country of master, the country of the owners, the number of the crew, and how many are of the country of such ship, the number of passengers, if any, and whether such ship be laden or in ballast, and if laden, the marks, numbers, and contents of every package or parcel of goods on board, and the particulars of such goods as are stored loose, and where any such goods were laden, and where and to whom consigned, and where and what goods, if any, had been unladen during the voyage, and what part of the cargo, if any, is intended for exportation in such ship to parts beyond the seas, and what stores or stock remain on board such ship, as far as any of such particulars can be known to him; and further, the master shall answer all such questions concerning the ship and the cargo, and the crew and the voyage, as shall be demanded of him by such officer; and if any goods shall be unladen from any ship before such report be made, or if the master shall fail to make such report, or if after such report any package shall have been opened, or if he shall make an untrue report, or shall not truly answer the questions demanded of him, he shall be liable to a penalty not exceeding one hundred thousand rupees.

[S 28 am by s 18 of Act 83 of 1988.]

**29. Master to deliver manifest, and, if required, bill of lading, or copy. Penalty on failure.**

The master of every ship shall, at the time of making such report, deliver to the Director-General the manifest of the cargo of such ship, when a manifest is required, and, if required by the Director-General, shall produce to him any bill or bills of lading, or a true copy thereof, for any and every part of the cargo laden on board; and in case of failure or refusal to produce such manifest or to produce such bill of lading or copy, or if such manifest or bill of lading or copy shall be false, or if any bill of lading be uttered or produced by any master, and the goods expressed therein shall not have been *bonafide* shipped on board such ship, or if any bill of lading uttered or produced by any master shall not have been signed by him or other duly authorised person, or any such copy shall not have been received or made by him previously to his leaving the place where the goods expressed in such bill of lading or copy were shipped, then in every such case such master shall be liable to forfeit a sum not exceeding one hundred thousand rupees.

[S 29 am by s 19 of Act 83 of 1988.]

**30. Officers to board ships may seal or secure goods and open locks. Goods concealed forfeited. If seal broken, master to forfeit one hundred thousand rupees.**

Officers of the Customs may board any ship arriving at any port in Sri Lanka, and freely stay on board until all the goods laden therein shall have been duly delivered from the same, and such officers shall have free access to every part of the ship, with To have free power to fasten down hatchways, and to access to all mark any goods before landing, and to lock ,up, seal, mark, or otherwise secure any goods on board such ship; and if any place or any box or chest be locked and the keys be withheld, such officers, if they be of a degree superior to tidewaiters or boatmen, may open any such place, box, or chest in the best manner in their power, and if they be tidewaiters, or boatmen, or only of that degree, they shall send for their superior officer who may open or cause to be opened any such place, box, or chest in the best manner in his power; and if any goods be found concealed on board any such ship they shall be forfeited; and if the officers shall place any lock, mark, or seal upon any goods on board, and such lock, mark, or seal be wilfully opened, altered, or broken before the delivery of such goods, or if any of such goods be secretly conveyed away, or if the hatchways after

being fastened down by the officer be opened, the master of such ship shall be liable to forfeit a sum not exceeding one hundred thousand rupees.

[S 30 am by s 20 of Act 83 of 1988.]

### **31. Officers may be stationed in ships within the limits of any port.**

Officers of the Customs may be stationed on board any ship while within the limits of any port or place in Sri Lanka, and the master of every ship on board of which any officer is so stationed shall provide every such officer with suitable shelter and accommodation while on board, and in case of neglect or refusal so to do shall be liable to forfeit a sum not exceeding ten thousand rupees.

[S 31 am by s 21 of Act 83 of 1988.]

### **32. Penalty on master not having clearance and if cargo do not correspond with ship's papers, or if goods sent out of vessels be not landed at the appointed places.**

If any ship shall arrive at any port in Sri Lanka without, clearance or other paper which it is usual to grant at the place or places from which such ship shall have come, the master shall be liable to a penalty not exceeding twenty-five thousand rupees or if any goods entered on any clearance, or other paper granted at the place from which any ship shall have come, shall not be found on board such ship, or if the quantity found be short, and the deficiency be not duly accounted for, or if goods sent out of the ship be not landed at the appointed places, the master shall, in respect of any goods which are missing or deficient and not accounted for, be liable, if such goods are chargeable with duty, and if such duty can be ascertained, to a penalty of twenty five thousand rupees or a sum not exceeding the amount of the duty chargeable thereon, whichever is the greater amount, or if such duty cannot be ascertained or if such goods are not chargeable with duty, to a penalty not exceeding ten thousand rupees for each missing or deficient package, and the Director-General is authorised to require the payment of such penalty, and to decline the granting of clearance outwards to the master of any vessel so liable, and refusing the pay such penalty:

Provided always that nothing herein contained shall be construed to prevent the Director-General from accepting an explanation in the absence of clearance, or permitting at his discretion the master of any ship to amend obvious errors or to supply omissions from accidents or inadvertence, by furnishing an amended report, or accepting at his discretion an estimated single duty in respect of any class of goods.

[S 32 subs by s 22 of Act 83 of 1988.]

### **33. Goods unshipped from the importing vessel, or landed contrary to the regulations of the Director-General, forfeited. Penalty on persons concerned.**

No goods shall be unshipped or carried from the importing ship to any wharf or other place, except under such rules, regulations, and restrictions as the Director-General may from time to time direct and appoint; and all goods unshipped or carried contrary to such rules, regulations, and restrictions, or any of them, shall be forfeited, together with the boat or other means used for the conveyance of such goods; and every person knowingly concerned in the unshipping or carrying of such goods, or into whose hands and possession such goods shall knowingly come, contrary to such rules, regulations, and restrictions, shall forfeit and pay a sum not exceeding one hundred thousand rupees, or treble the value of such goods, at the election of the said Director-General.

[S 33 am by s 23 of Act 83 of 1988.]

### **434. Provision with respect to unloading goods, depositing and removing of the same from the warehouse of the Republic, and penalties for failure to remove within prescribed time.**

(1) No goods shall be unladen from any ship until a sufferance shall have been granted by the Director-General for the landing of the same, and no goods shall be landed except at the place appointed and expressed in such sufferance; and all goods so landed shall be taken and deposited in the warehouse of the Republic, and within three clear days from the date of landing the importer shall make a full and complete entry thereof as hereinafter provided, and shall either pay down all duties which shall be due and payable on such goods, or shall duly warehouse the said goods, or, if the goods be free of duty, shall so enter the same; and in default of such entry being made and the said goods being removed within three clear days as aforesaid, such goods shall during such time as they may remain in the warehouse be liable to additional rent at such rate as may be fixed by the Minister

by regulation under section 15; and all goods unladen, landed, or removed without such sufferance, or contrary to the directions in such sufferance, shall be forfeited.

[S 34(1) subs by s 11 of Law 35 of 1974.]

(2) In computing the said period of three clear days, public holidays shall not be taken into account; but, in ascertaining the period for which any goods are liable to double rent, account shall be taken of public holidays, and a fractional part of a period of twenty-four hours shall count as a full period of twenty-four hours.

### **35. No goods to be unladen except during the legal hours and days of business.**

The master of any ship from which goods or cargo shall be unladen outside such hours as the Director-General with the sanction of the Minister may from time to time prescribe, or on any day when the Custom-house is closed for business, without permission from the Director-General, shall be liable to a fine not exceeding one thousand rupees, and the boat and other means used for the conveyance of such goods shall be liable to be forfeited.

[S 35 am by s 2 of Law 35 of 1974.]

### **36. Cargo in ships of 150 tons to be landed within ten days and exceeding 150 tons within twenty-five days after arrival of such ship. In default Director-General may land and convey goods to warehouse of the Republic. Duties to be paid within one month, or goods to be sold.**

Except in special cases sanctioned by the Director-General of Customs, ten days, exclusive of public holidays, shall be allowed for the discharge of the import cargoes of vessels not exceeding 150 tons burthen; and twenty-five days for vessels exceeding that burthen; and the said period shall be calculated from the date on which the vessel was admitted to entry and sufferance granted; and if any goods remain on board after the periods above fixed the Director-General may order such goods to be at once landed, and in case of neglect of such directions or of unnecessary delay or other unwarranted cause the Director-General may authorise the landing of the cargo and its conveyance to the warehouse of the Republic; and if the duties, warehouse rent, and charges of landing and freight due upon any goods so landed shall not be paid within one month after such landing, the same shall be sold and the produce thereof applied, first to the payment of freight and landing charges, next of duties and warehouse rent, and the overplus, if any, shall be paid to the owner of the goods, if claimed within twelve months from the date of such sale, otherwise such surplus shall be brought to account as revenue:

Provided that it shall be lawful for the Director-General to have any small package or parcel of goods landed and conveyed to the warehouse of the Republic out of any ship whatever, although the periods above specified shall not have expired.

### **437. Goods in transit and goods trans-shipped allowed without payment of duty.**

(1) Any goods in a vessel being goods mentioned in the import manifest as goods intended for transit in the same vessel to any port outside Sri Lanka may be allowed to be so transmitted without payment of duty.

(2) No transshipment of any goods shall be made without payment of duty except by the special order of the Director-General or other proper officer, and after due entry of the goods and subject to such conditions as may be prescribed by the Minister. If any goods are transhipped, or attempted to be removed from one vessel to another contrary to the provisions of this section, such goods, together with the boat and other means used for conveying the same, may be seized and shall be liable to forfeiture.

[S 37 subs by s 24 of Act 83 of 1988.]

### **38. Boat-notes to accompany goods unladen from any ship.**

With all goods unladen from any ship there shall be sent with each boat load a boat-note, specifying the number or packages and the marks and numbers or other description thereof, and such boat-note shall be furnished and signed by an officer of the ship, and if there be a Customhouse officer on board the boat-notes shall be signed by such officer also; and the tindal and owner of the boat into which the goods have been laden shall be held responsible for the due landing and delivery at the Custom-house of all the goods so laden and specified in the boat-note, and shall be liable to treble the duties due on any deficiency; and if any goods be found in a boat without a boat-note, as above

provided for, or in excess of the quantity specified in the boat-note, or if the boat be found deviating from the proper course to the proper place of landing, the boat containing such goods may be detained by any officer of the Customs, and unless the cause of deviation or excess be explained to the satisfaction of the Director-General, such boat and such goods shall be liable to forfeiture.

The owner of each such boat shall provide the Director-General within such period as may be specified in that behalf by the Director-General a statement setting out the quantity and description of the goods so laden, the person to whom and the place at which he has delivered those goods, and such other particulars as the Director-General may, by written order issued to him not less than seven days before the expiration of the aforesaid period, require him to furnish. Any such owner who fails to provide such statement within such period shall be liable to a penalty of ten thousand rupees.

[S 38 am by s 25 of Act 83 of 1988.]

### **39. Ship's stores.**

The stores of every ship shall be subject to the same duties and the same prohibitions, restrictions, regulations, fines, and penalties, as goods and merchandise on importation, and may in like manner be entered for payment of proper duties or to be warehoused.

### **40. Goods to be landed and examined at the expense of importer.**

The unshipping, carrying, and landing of all goods, and the bringing of the same to the proper place for examination or for weighing, and the putting of the same into and out of the scales, and the measuring, counting, unpacking, and repacking, and the opening and closing of the same, and removing to and placing them in the proper place of deposit shall be performed by and at the expense and risk of the importer, consignee, or agent.

### **541. Goods in warehouse must be properly stowed and re-piled.**

All goods placed in the warehouse of the Republic or other warehouses by any person shall be stowed by such person so as to afford easy access thereto, and in such parts or divisions of the warehouse and in such manner as the Director-General shall direct; and if the stowage be broken the goods shall be re-piled by the person breaking such stowage, in such manner as the Director-General may require.

### **542. Penalty for neglect or refusal.**

If any person placing such goods or breaking the stowage shall neglect or refuse to stow or re-pile them as hereinbefore directed, he shall for such neglect or refusal be guilty of an offence, and be liable to a fine not exceeding one hundred rupees:

Expenses to be Provided that it shall be lawful for the person so offending to avoid prosecution for the offence by tendering double the sum incurred in properly stowing or re-piling the goods; and if such sum be duly tendered before the institution of the prosecution, no further proceedings shall be had against such person for the offence aforesaid.

In case of prosecution, the Magistrate shall paid to direct so much to the fine as shall be Director-General sufficient to cover the expense of properly stowing and re-piling the goods to be paid to the Director-General.

[S 42 am by s 2 of Law 35 of 1974.]

### **43. Prohibitions and restrictions.**

If any goods enumerated in the table of prohibitions and restrictions in Schedule F shall be imported or brought into Sri Lanka contrary to the prohibitions and restrictions contained in such table in respect thereof, such goods shall be forfeited, and shall be destroyed or disposed of as the Director-General of Customs may direct:

Provided that if any dangerous substance be imported or brought into Sri Lanka without the licence of the Minister, or contrary to any of the regulations which may be made from time to time by the Minister, for the safe landing and deposit of such substance, the person importing or bringing the same to Sri Lanka, and any person concerned in such importation or bringing of the same, shall, in addition to the forfeiture above provided, be guilty of an offence and be liable to a fine not exceeding two thousand rupees.

[S 43 am by s 2 of Law 35 of 1974.]

**44. Goods exported contrary to the prohibitions and restrictions in Schedule B to be forfeited.**

If any person exports or attempts to export or take out of Sri Lanka any goods enumerated in the table of prohibitions and restrictions in Schedule B, in contravention of the prohibitions and restrictions contained in such table in respect thereof, such goods shall be forfeited, and shall be destroyed or disposed of as the Director-General of Customs may direct.

45. .

[S 45 rep by s 26 of Act 83 of 1988.]

**46. Abatement of duty on damaged goods.**

(1) Where any goods imported into Sri Lanka have sustained damage, the Director-General of Customs may, upon claim made in that behalf and upon proof to his satisfaction that such damage was sustained after the goods had been shipped in the importing ship and before the goods had been landed in Sri Lanka, make an abatement of the whole or any part of the duty chargeable thereon, as he may in his discretion determine.

(2) Every claim under subsection (1) for the abatement of duty shall be made by the importer or consignee of the goods in such form and in such manner as the Director-General may prescribe.

(3) If the importer or consignee of the goods is not satisfied with the abatement made by the Director-General, the Director-General may call upon two impartial merchants or representatives of insurance companies to examine the goods and report to what extent in their judgment the goods are lessened in value by the damage they have sustained, and may, in his discretion, having regard to such report, vary the original abatement.

(4) Where an abatement of the whole duty originally chargeable on any goods is made under subsection (1), or where any damaged goods are abandoned by the importer or consignee thereof, the Director-General may in his discretion take those goods for the use of the State, or order that those goods be destroyed or removed from the Customs premises under the supervision of an officer of Customs and at the expense of the importer or consignee of the goods.

(5) Where the importer or consignee of any goods fails to pay any sum incurred under subsection (4) in the destruction or removal of such goods, it shall be lawful for the officers of Customs to refuse to pass any other goods belonging to such importer or consignee until such sum is paid:

Provided that nothing in the preceding provisions of this subsection shall be deemed to prohibit the recovery of such sum from such importer or consignee as a debt due to the State.

**47. Importer to deliver bill of entry together with other documents.**

The person entering any goods inwards, whether for payment of duty or to be warehoused, or for payment of duty upon the taking out of the warehouse, or whether such goods be free of duty, shall deliver to the Director-General a bill of entry of such goods, on a form of such size and colour as may be specified in that behalf by the Director-General by Notification published in the *Gazette*, and be fairly written in words at length, expressing the name of the ship, and of the master of the ship in which the goods were imported, and of the place from which they were brought, and the description and situation of the warehouse, if they are to be warehoused, and the name of the person in whose name the goods are to be entered, and the quantity, value and description of the goods, and the number, dimensions, and denomination or description of the respective packages containing the goods, and such other particulars as the Director-General by that or a subsequent Notification may require him to furnish, and in the margin of such bill shall delineate the respective marks and numbers of such packages. The particulars furnished in the bill of entry shall be supported by such documents containing such particulars as the Director-General may, by Notification published in the *Gazette*, require if such person fails to deliver a bill of entry prepared, and supported by such documents, as aforesaid, he shall be liable to a penalty not exceeding one thousand rupees. Such person shall pay any duties and dues which may be payable upon the goods mentioned in such entry; and such person shall also deliver at the same time two or more duplicates of such bill, in which bill all sums and numbers shall be expressed in figures, and the particulars to be contained in such bill shall be legibly written and arranged in such form and manner, and the number of such duplicates shall be such, as the Director-General shall require, and such bill of entry when signed by

the Director-General, or person authorised by him, and transmitted to the proper officer, shall be the warrant to him for the examination and delivery of such goods; but if such goods shall not agree with the particulars in the bill of entry the same shall be forfeited, and such forfeiture shall include all other goods which shall be entered or packed with them as well as the packages in which they are contained.

[S 47 subs by s 27 of Act 83 of 1988.]

#### **48. Delivery of goods prior to entry.**

Notwithstanding anything contained in section 47, it shall be lawful for the Director-General, on application made and subject to such regulations as the Director-General of Customs may from time to time issue, to allow the delivery of goods with or without examination, prior to the presentation of the bill of entry:

Provided that—

- (a) any mis-description or under-valuation appearing in the application shall render the importer liable to the penalties imposed by this Ordinance for mis-description or undervaluation in the bill of entry;
- (b) such delivery shall not in any way be construed as a waiver of the Director-General's right to order forfeiture of the goods for any breach of this Ordinance committed in respect to such goods by the importer thereof, or relieve such importer from any penalty or liability to which he would have been subject had delivery been claimed on the presentation of the bill of entry;
- (c) if any sum of money imposed as a penalty be not duly paid, it shall be lawful for the officers of Customs to refuse to pass any other goods imported by that importer until the said sum of money is paid.

#### **49. Entry by bill of sight. Perfect entry to be made within three days. In default goods to be sold after one month.**

The importer of any goods, or his agent, if unable, for want of full information, to make perfect entry of such goods, may on making and subscribing a declaration to that effect before the Director-General, or other proper officer of Customs, make an entry by bill of sight for the packages or parcels of such goods, in order that the same may be seen and examined by the proper officer, and within three days after the goods shall have been so examined the importer shall make a perfect entry thereof, either for payment of duty or for warehousing, as the case may be; but if the importer shall neglect to pass such perfect entry within one month after the date of the examination, such goods shall be sold for the payment of duties, warehouse rent, and other charges due thereon, and the overplus, if any, shall be paid to the proprietor of the goods.

#### **50. Entry to agree with manifest Goods not duly entered forfeited.**

No entry nor any warrant for the delivery of any goods, or for the taking of any goods out of any warehouse, shall be valid unless the particulars of the goods and packages in such entry shall correspond with the particulars of the goods and packages purporting to be the same in the report of the ship, and in the manifest, where a manifest is required, and in the certificate or document, where any is required, by which the importation or entry of such goods is authorised, nor unless the goods shall have been properly described in such entry by the denominations, and with the characters and circumstances according to which such goods are charged with duty, or may be imported, either to be used in Sri Lanka, or to be warehoused for exportation only; and any goods taken or delivered out of any ship, or out of any warehouse, or for the delivery of which, or for any order for the delivery of which, from any warehouse, demand shall have been made, not having been duly entered, shall be forfeited.

#### **50A. Action applicable to goods exempted from Customs duties and other dues conditionally.**

(1) Where any goods imported Sri Lanka have been—

- (a) exempted from the payment of Customs duties or other dues chargeable on their importation or charged with Customs duty at reduced rate, subject to any conditions stipulated in that behalf; or
- (b) allowed into Sri Lanka, under any other law subject to any conditions to be fulfilled after their importation,

and where such conditions are not complied with, then such goods shall be forfeited.

(2) If such goods are not at the time of forfeiture in the possession of the person in whose name such goods were imported, then such person shall forfeit a sum not exceeding three times the value of such goods as at the time of their importation.

(3) The provisions of this section shall apply whether or not any undertaking or security has been given under any other provisions of this Ordinance for compliance with the conditions stipulated or for the payment of the duty payable and the forfeiture of any goods under this section shall not affect any liability of any person who has given any such undertaking or security.

[50A ins by s 28 of Act 83 of 1988.]

#### **51. Value of goods for the purpose of ad valorem duties.**

In all cases when the duties imposed upon the importation of articles are charged according to the value thereof, the respective value of each such article shall be stated in the entry together with the description and quantity of the same, and duly affirmed by a declaration made by the importer or his agent on a form of such size and colour as may be specified by the Director-General by notification published in the *Gazette*, and such value shall be determined in accordance with the provisions of Schedule E, and duties shall be paid on a value so determined.

[S 51 subs by s 29 of Act 83 of 1988; am by s 2 of Act 2 of 2003.]

#### **51A. When officer in doubt he may call for further information.**

(1) —

(a) Whenever an officer of Customs has reason to doubt the truth or accuracy of any particulars contained in a bill of entry or a declaration made under section 51 or the documents presented to him in support of a bill of entry under section 47, the officer of Customs may require the importer or his agent or any other party connected with the importation of goods, to furnish such other information, including documentary or other evidence in proof of the fact that the declared Customs value represents the total amount actually paid or is payable for the imported goods as adjusted in accordance with Article 8 of Schedule E.

(b) After the receipt of further information or in the absence of any response, if the officer of Customs still has reasonable doubt as to the truth or accuracy of the declared Customs value, it shall be deemed that the Customs value of the imported goods in question cannot be determined under the provisions of Article 1 of Schedule E and the importer, if so requests, shall be informed by the officer in writing of the grounds for such doubt and be afforded an opportunity to be heard.

(c) The officer of Customs may thereafter proceed to determine the Customs value in accordance with the other provisions of Schedule E and amend the value as appropriate.

(2) If an officer of Customs is satisfied as a result of an examination or investigation, or an audit carried out under section 128A, at any time prior to or after the clearance of the goods that the value declared by the importer or his agent under an Article of Schedule E under which the value was initially accepted, is not appropriate the officer of Customs may amend the value in accordance with the appropriate Article of Schedule E.

(3) For the purpose of this Ordinance, the Customs value shall be the amended value under subsection (1) or (2).

(4) Upon a written request, an explanation shall be given in writing to the importer, on how the Customs value of the importers goods was determined under subsection (2).

(5) Subsection (2) shall apply to goods whether or not such goods have been released from the control of the Customs or any duty assessed on them has been paid.

(6) An importer who is dissatisfied with a decision of the officer, under this section may, within ten working days after the date on which notice of the decision is given, appeal to the Director-General against that decision. The right of appeal shall be available to an importer whether or not the imported goods have been released to him and whether or not any part of the Custom duty has been paid. The decision of the Director-General on the appeal and the reasons for such a decision shall be in writing.

(7) Where the importer desires to clear the goods pending the determination of his appeal the Director-General may, except in case where fraud is suspected, allow the clearance of the goods upon furnishing security for the payment of the Customs duties and other levies for which the goods may be liable.

[S 51A ins by s 3 of Act 2 of 2003.]

**51B. Importer to keep records for three years.**

(1) Every importer, agent or others concerned in the importation, movement and years storage of imported goods shall keep or cause to be kept in Sri Lanka such records for a period of three years from the date of importation as may be prescribed.

(2) Every such person shall whenever required by an officer of Customs—

- (a) make the records available to such officer;
- (b) provide copies of the records as required; and
- (c) answer any questions relating to mailers arising under the Ordinance.

[S 51B ins by s 3 of Act 2 of 2003.]

**51C. Confidentially to be strictly maintained.**

All information which are confidential in nature or are provided in confidence for the purpose of Customs valuation shall be so treated by the officer of Customs and shall not be disclosed without the written permission of the persons or government providing such information, except to the extent that it may be required to be disclosed in the course of judicial proceedings.

[S 51C ins by s 3 of Act 2 of 2003.]

**52. Forfeiture for non-compliance or false declaration. Forfeiture of value where goods not recoverable.**

Where it shall appear to the officers of the Customs that the value declared in respect of any goods according to section 51 is a false declaration, the goods in respect of which such declaration has been made shall be forfeited together with the package in which they are contained. Where such goods are not recoverable, the person making such false declaration shall forfeit either treble the value of such goods or be liable to a penalty of one hundred thousand rupees, at the election of the Director-General of Customs.

[S 52 subs by s 30 of Act 83 of 1988; am by s 4 of Act 24 of 1991; Act 2 of 2003.]

**52A. Penalty failing to keep destroying or altering records.**

Every person who in contravention of the provisions of the Ordinance, fails to keep records which are required to be kept under section 51 or destroys, alters or conceals a book register, record or other document required to be kept under this Ordinance or sends or attempts to send out of Sri Lanka any such book register, record or document commits an offence and shall be liable to a penalty not exceeding five hundred thousand rupees.

[S 52A ins by s 5 of Act 2 of 2003.]

**PART V**

**ENTRY OF GOODS REIMPORTED**

**53. Entry of re-imported, goods by bill of stores.**

All goods, the produce or manufacture of Sri Lanka, shall reimported be deemed and taken to be, and be entered as foreign produce or manufacture, and shall be liable to the same duties, rules, regulations, and restrictions as such goods of foreign produce and manufacture would be liable to on importation thereof, unless the same shall be reimported within two years after the exportation thereof, and unless it be proved to the satisfaction of the proper officers that the property in such goods has continued and still remains in the person by whom or on whose account the same have been exported, in which case the same may be entered as goods, the produce or manufacture of Sri Lanka, by bill of store containing such particulars, and in such form and manner as the Director-General may direct.

**54. Bill of store may be issued by the proper officer. Agent to declare name of employer. Consignee to declare who is proprietor. Proprietor to declare to identity and proprietor unchanged. The entry by bill of store to be granted. Conditions for grant of will of store.**

The person in whose name any goods re-imported were entered for exportation shall deliver to the proper officer of Customs an exact account signed by him of the particulars of such goods referring to the entry and clearance outwards, and to the return inwards of the same, with the marks and numbers of the packages, both inwards and outwards; and thereupon the officer finding that such goods had been legally exported shall grant a bill of store for the same and if the person in whose name such goods were entered for exportation was not the proprietor thereof, but his agent, he shall declare in such bill of store the name of the person by whom he was employed as such agent, and if the person to whom such returned goods are consigned shall not be such proprietor and exporter, he shall make and subscribe a declaration in such bill of store of the name of the person for whose use such goods have been consigned to him, and the real proprietor ascertained to be such shall make and subscribe a declaration upon such bill of store to the identity of the goods so exported and so returned, and that he was at the time of exportation and of re-importation the proprietor of such goods, and that the same had not during such time been sold or disposed of to any other person, and such declaration shall be made before the Director-General and thereupon the Director-General, shall admit such goods to entry by bill of store, and grant his warrant accordingly:

Provided that in any case where at the time of exportation of the goods, drawback or rebate of any Customs duty levied was allowed or where the goods were exported from bond without payment of the Customs duty upon first entry, the Customs duty equal to the amount of such drawback or rebate and the duty if any that would have been payable on such goods or such part of the goods as may have been used in the manufacture of the article imported shall have to be paid.

[S 54 subs by s 31 of Act 83 of 1988.]

## PART VI

### REMOVAL OF GOODS BY SEA OR INLAND CARRIAGE

#### **55. Goods may be removed by land, or from one sea port to another in Sri Lanka.**

Goods may be removed or carried from one port of Sri Lanka to any other port there in by sea or inland carriage previous to payment of duties, on the owner or his agent duly entering the same, and giving bond to the satisfaction of the Director-General for the due delivery thereof at the Custom house of the port to which such goods are to be removed; and if the seals of office attached to such packages be broken, or if the contents shall not be found to agree with the particulars of entry and advice from the port of removal, such packages, with their contents, shall be forfeited, and the bond given for the safe and due delivery of the goods enforced. The Minister may from time to time direct and appoint rules, regulations, and restrictions in respect of the said removal of goods, and all goods carried or removed contrary thereto shall be forfeited.

## PART VII

### REGULATIONS OUTWARDS

#### **56. Ship to be entered and goods cleared before shipment.**

And whereas it is expedient that the officers of Customs should have full cognisance of all ships departing from any port or place in Sri Lanka and of all goods taken out of Sri Lanka; it is enacted that the master of every ship shall, before any goods be laden therein, deliver to the Director-General a certificate from the proper officer of the due landing of the inward cargo of such ship, of her last voyage, and also an entry outwards under his hand, stating her name, country, and tonnage, the port of registry, the name of the master and of the owners, and the number of the crew and passengers, and the destination of such ship. If any goods be laden on board any ship before such entry be made, the master of such ship shall forfeit a sum not exceeding ten thousand rupees.

[S 56 am by s 32 of Act 83 of 1988.]

#### **57. Exporter to deliver bill of entry.**

The person exporting any goods whether liable to the payment of duty or free of duty shall deliver to the Director-General a bill of entry of such goods, on a form of such size and colour as may be specified in that behalf by the Director-General by notification published in the *Gazette*, and fairly written in words at length expressing the name of the ship in which the goods are to be exported and of the port to which they are to be taken, and containing an accurate specification of the quantity, quality, and value of such goods, and the number, denomination, dimensions, and description of the

respective packages containing the goods and such other particulars as the Director-General by that or a subsequent notification may require him to furnish, and in the margin of such bill of entry shall delineate the respective marks and numbers of such packages.

If such person fails to deliver a bill of entry prepared as aforesaid, he shall be liable to a penalty of one thousand rupees. Such person shall pay any duties and dues which may be payable on the goods mentioned in such entry, and such person shall also deliver at the same time two or more duplicates of such bill in which all sums and numbers shall be expressed in figures, and the particulars to be contained in such bill shall be legibly written and arranged in such form and manner and the number of such duplicates shall be such as the Director-General shall require, and such bill of entry when signed by the Director-General or person authorised by him and transmitted to the proper officer shall be the warrant to him for the examination of and delivery for shipment of such goods, and if such goods shall not agree with the particulars in the bill of entry, or if such goods are removed from the warehouse or other place appointed for shipment before such entry is passed and all duties and dues paid, and in the absence of any explanation to the satisfaction of the Director-General the same shall be forfeited, and such forfeiture shall include all other goods which shall be entered or packed with them as well as the packages in which they are contained.

[S 57 am by s 33 of Act 83 of 1988.]

#### **58. Exportation prior to the presentation of the bill of entry**

Notwithstanding anything contained in section 57, it shall be lawful for the Director-General, on application made in that behalf by an exporter of goods and subject to such conditions as may be imposed by the Director-General and notified in the *Gazette*, to permit the exportation of such goods prior to the presentation of the bill of entry for such goods:

Provided that—

(a) any mis-description or under-valuation appearing in the application shall render the exporter liable to the penalties imposed by this Ordinance for mis-description or undervaluation in the bill of entry;

(b) such permission to export shall not in any way be construed as a waiver of the Director-General's right to order forfeiture of the goods, if the goods have not already been shipped out of Sri Lanka, for any breach of this Ordinance committed in respect of the goods by the exporter, or shall not relieve the exporter from any penalty or liability to which he would have been subject had the goods been exported after the presentation of the bill of entry; and

(c) if any sum of money imposed as a penalty be not duly paid, it shall be lawful for the officers of Customs to refuse to pass any other goods brought for exportation by the exporter until the said sum of money is paid.

#### **59. Boat-notes to accompany goods laden for export.**

No goods shall be laden, put off, or waterborne to be shipped for exportation or coastwise, or shipped on board any ship, boat, or lighter, outside such hours as the Director-General with the sanction of the Minister may, from time to time, prescribe, or on any day when the Custom-house is closed for business, without permission from the Director-General, nor from any place except some legal quay or other place duly appointed by the Director-General, nor without the presence or authority of the proper officer of Customs, nor before due entry outwards of the vessel on which the goods are to be shipped, nor before such goods shall have been duly entered and duly cleared for shipment by such officer, who may open all packages and fully examine all goods brought and intended for shipment; and all goods laden, put off, or water-borne, in any ship, boat, or lighter shall be accompanied by a boat-note signed by the locker or other officer of Customs and specifying the number of packages and the marks and numbers and other descriptions of the goods, and all goods shut out for any reason shall be immediately re-conveyed to the place of lading; and the Director-General shall have power, with the approval of the Minister, to make regulations from time to time relating to the shipping of goods and to the re-landing of shut-out cargo, and all goods which are laden, put off, water-borne, or shipped contrary to the provisions of this section or of any regulations made hereunder, or which are found in a boat without a boat-note, or in excess of the quantity specified in the boat-note, or in excess of the quantity shut out, or which are shipped on board any vessel not duly entered outwards may be re-landed by the proper officer of Customs, and, in the absence of any explanation to the satisfaction of the Director-General, shall be forfeited together with the means of conveyance.

Every person knowingly concerned in the lading, putting off or carrying of such goods, or into whose hands and possession such goods shall knowingly come, contrary to the provisions of this section or

of any such regulation, shall forfeit and pay a sum not exceeding one hundred thousand rupees, or treble the value of such goods, at the election of the Director-General.

[S 59 am by s 34 of Act 83 of 1988.]

#### **59A. Goods to be examined at expenses of exporter.**

All such steps as are deemed necessary by the Director-General or proper officer of Customs for the purpose of the examination of any goods brought and intended for shipment shall be performed by and at the expense and risk of the exporter or his agent.

[S 59A ins by s 13 of Law 35 of 1974.]

#### **560. Stiffening order.**

When it shall become necessary to lade heavy goods on board any ship before the whole of the inward cargo is discharged, the Director-General may, previous to the entry outwards of the ship, issue a stiffening order, sanctioning the shipment of the goods.

#### **61. Stores.**

On due requisition by the master the Director-General may allow for the use of such ship such stores as may appear necessary according to the voyage upon which she is about to depart, but no articles taken on board any ship shall be deemed to be stores unless duly shipped as such by entry or by permit of the Director-General or other proper officer.

#### **562. Director-General may grant general sufferance for the shipping of goods.**

On the entry outwards of any ship the Director-General shall grant a general sufferance for the shipment and lading of any sort of goods, the produce or manufacture of Sri Lanka, except such as shall be expressly excepted therein: Provided always that before the clearing outwards of such ship, the exporter of any goods on board the same shall deliver to the Director-General an entry, containing an accurate specification of the quantity, quality, and value of such goods; and if such declaration be false, or if he fails to make such entry before the content of the ship is delivered in by the master, he shall forfeit a sum not exceeding five thousand rupees; and the Director-General may refuse to certify such shipment on the clearance of such ship.

[S 62 subs by s 14 of Law 35 of 1974; am by s 35 of Act 83 of 1988.]

#### **63. Master to deliver content answer questions, and produce bills of lading Certificate of clearance.**

Before any ship, whether laden or in ballast, shall be cleared outwards at any port in Sri Lanka, the master shall deliver a content of such ship, setting forth the name and tonnage of such ship and the place or places of her destination, and the name of the master, the number of passengers, also, if laden, an account of the goods shipped on board, and of the packages containing such goods, and of the marks and numbers upon such packages, and a like account of the goods on board, if any, which had been reported inwards for exportation in such ship, so far as any of such particulars can be known by him, and the master of the ship shall furnish such content in duplicate, and shall make and sign a declaration before the Director-General to the truth of such content, and shall also answer such questions concerning the ship, the cargo and the intended voyage, as the Director-General shall demand of him, and, if required by the Director-General, shall produce to him any bill or bills of lading, or a true copy thereof, for any and every part of the cargo laden on board, and thereupon the Director-General or other proper officer shall make out and give to the master a certificate of the clearance of such ship for her intended voyage, containing an account of the total quantities of the several sorts of goods laden therein, or a certificate of her clearance in ballast, as the case may be; and if the ship shall depart without such clearance, or if the master shall deliver a false content, he shall forfeit a sum not exceeding one hundred thousand rupees.

[S 63 am by s 36 of Act 83 of 1988.]

#### **64. Officers may board vessels after clearance.**

It shall be lawful for the officers of the Customs to go on board any ship before and after clearance outwards within the limits of any port in Sri Lanka, or within the territorial waters of Sri Lanka, and to demand the certificate of clearance and the victualling bill, and if there be any goods on board subject

to duty and not duly entered outwards, such goods shall be re-landed and forfeited; and if any goods contained in such clearance or victualling bill be not on board, the master shall forfeit a sum not exceeding five thousand rupees for every package or parcel of goods contained in such clearance or victualling bill and not on board.

[S 64 subs by s 15 of Law 35 of 1974; am by s 37 of Act 83 of 1988.]

#### **PART VIII**

##### **TRADE BY VESSELS OF LESS THAN 15 TONS BURTHEN**

#### **65. No goods to be imported or exported in vessel of less than 15 tons.**

No goods shall be imported into or exported from Sri Lanka from or to parts beyond the seas in any ship of less burthen than fifteen tons, and any goods so imported or exported shall be forfeited:

Unless allowed by Order of the Ministers.

Provided that it shall be lawful for the Minister, by any Order to be by him issued and published in the *Gazette*, to allow ships or boats under fifteen tons burthen to import or export any goods from or to parts beyond the seas, at such ports or places, and during such periods or times and in such manner as may be deemed expedient, upon any pearl fishery or other occasion appearing to require the same.

#### **PART IX**

##### **REGULATIONS COASTWISE**

#### **66. Coastwise trade.**

All ships conveying goods coastwise, and all goods imported or exported coastwise, shall be liable to the like cognisance of the Customs, and be subject to the same prohibitions, restrictions, regulations, fines, forfeitures, and penalties as goods imported from or exported to parts beyond the seas, and it shall be lawful for the Minister to make and appoint such other regulations, by any Order to be by him issued and published in the *Gazette*, for the carrying coastwise of any goods, as to him shall appear expedient, and such Order shall have the same effect in law as if it had formed part of this Ordinance.

#### **67. What goods shall be carried coastwise.**

No goods shall be carried in any coasting ship except such as shall be laden to be so carried at some port or place in Sri Lanka, and if any goods shall be taken into or put out of any coasting ship at sea, or over the sea, or if any coasting ship shall touch at any place over the sea, or deviate from her voyage, unless forced by unavoidable circumstances, or if the master of any coasting ship which shall have touched at any place over the seas shall not declare the same in writing under his hand to the Director-General at the port in Sri Lanka where such ship shall afterwards first arrive, the master of such ship shall be liable to forfeit a sum not exceeding one hundred thousand rupees.

[S 67 am by s 38 of Act 83 of 1988.]

#### **PART X**

##### **REGULATION OF MOVEMENTS OF SHIPS UNDER 250 TONS TONNAGE**

#### **68. Regulation of movements of ships under 250 tons tonnage.**

(1) The Minister in charge of the subject of Finance may make any such regulations as may appear to him expedient for the purpose of enabling the officers of Customs to have full cognisance of the movements, to or from any port or place in Sri Lanka, of ships not exceeding 250 tons tonnage, and generally for the purpose of the prevention of the smuggling of goods into or from Sri Lanka or of the importation or exportation of goods contrary to any such prohibitions or restrictions as may be applicable by virtue of any other written law.

(2) Without prejudice to the generality of the powers conferred by subsection (1), regulations made under that subsection may provide for all or any of the following matters—

(a) the registration by the Director-General of Customs of ships ordinarily based or stationed at any port or place in Sri Lanka, and the prohibition of the use of ships or of the making of voyages or the conveyance of goods by ships which are not duly registered;

(b) the limits within which ships may be used or make voyage, the places at which they may be stationed or anchored, the mode of navigation thereof, the purposes for which and the manner in which they may be employed, and the marking of ships with their names or with numbers assigned to them by the Director-General;

(c) the prohibition of the employment or engagement on ships, whether as master or member of the crew, of any person who has at any time been convicted of any offence mentioned in section 129 or section 130 or any other specified section of this Ordinance;

(d) the issue of licenses by the Director-General of Customs exempting ships from the operation of any regulation made in respect of any matter referred to in the preceding paragraph (b), and the circumstances in which, and the conditions and restrictions subject to which, such licenses may be issued.

(3) Any regulation made under the preceding provisions of this section may be limited in its application to ships of any specified tonnage, build or description or to ships ordinarily based at or departing from or arriving at, any port or place in any specified area in Sri Lanka; and any such regulation may provide different requirements in respect of ships of different tonnage, build or description or ordinarily based or stationed at ports or places in different areas.

(4) Every regulation made by the Minister under the preceding provisions of this section shall be brought before Parliament for approval, and if so approved shall come into force on the date of its publication in the *Gazette* or on such later date as may be specified in such regulation.

(5) Every ship which is used or employed or makes voyage in any manner contrary to any regulation made under the preceding provisions of this section which may be applicable to such ship, and any goods which are unlawfully carried therein or any goods which having been unlawfully carried therein are jettisoned therefrom, shall be liable to forfeiture.

(6) Any person who knowingly or willfully contravenes or fails to comply with any provision of any regulation made under the preceding provisions of this section shall be liable to a penalty not exceeding ten thousand rupees.

[S 68(6) am by s 39 of Act 83 of 1988.]

## PART XI

### WAREHOUSING OF GOODS

#### **69. Power to appoint warehouses for warehousing of goods.**

The Director-General may, from time to time by notice in writing under his hand, appoint warehouses or places of security for the purposes of this Ordinance and direct in what different parts or divisions of such warehouse or places, and in what manner, and under what regulations, any and what sort of goods may be warehoused, kept, and secured without payment of duty upon the first entry thereof, and may having regard to the nature and the value of the goods to be warehoused also direct in what cases, and with what sureties, and to what amount, security by bond or such other security shall be required in respect of any warehouse so appointed as aforesaid, or in respect of any goods deposited therein, or for the security of the duties due thereon; and the Director-General, may having regard to the safety and the security of the goods to be warehoused therein, by a like notice revoke or alter any such appointments or declarations; but every such notice of the appointment of warehouses, or of the revocation thereof, shall be subject to the Minister's approval and shall be published in such manner as he may direct:

Appointment of warehouses in specified ports.

Provided however that the appointment of any warehouse or place of security within a specified port as defined in the Sri Lanka Ports Authority Act, No. 51 of 1979, or within an airport shall be with the concurrence of the Sri Lanka Ports Authority established by the Sri Lanka Ports Authority Act or of the authority in charge of such airport, as the case may be.

[S 69 subs by s 40 of Act 83 of 1988.]

#### **70. Warehouse Keeper to give security as required by the Director-General.**

The proprietor or occupier of every warehouse approved of and appointed as aforesaid, or someone on his behalf, shall give or procure to be given security by bond with or without sureties, or such other security as the Director-General may approve, for the payment of the full duties of importation on or

for the due entry for exportation or for exportation after any process of manufacture or assembly as provided for in section 84 of all such goods as shall at any time be warehoused therein and no goods shall be warehoused in any such warehouse until such security shall have been given.

[S 70 subs by s 41 of Act 83 of 1988.]

**71. Importer under certain restrictions may warehouse the goods.**

The importer of any goods into any warehousing port may warehouse the same in warehouses appointed as aforesaid, or in any public warehouse, without payment of any duty on the first entry thereof, subject to the regulations, restrictions, and conditions hereinafter mentioned and from time to time directed by the Director-General; but nothing herein contained shall be construed to render it incumbent on Government to provide accommodation for the warehousing of goods, or for the deposit of salt, which shall be warehoused only in private warehouses.

**72. Entry for the warehouse. Particulars. Warrant for warehousing. Bond upon entry of goods for the warehouse.**

The importer of any goods intended to be warehoused without payment of duty on the first entry thereof, or his agent, shall deliver to the Director-General a bill of entry of such goods in the same manner and form and containing the same particulars as are hereinbefore required on the entry of goods to be delivered for home use, as far as the same shall be applicable, and the name and description of the warehouse in which such goods are intended to be warehoused, and the name of the person in whose name they are to be so warehoused, and such bill of entry when signed by the Director-General or other authorised officer shall be transmitted to the proper officer of Customs and be the warrant for the examination and due warehousing of such goods, and all goods not duly entered shall be liable to forfeiture; but the Director-General may, if he see fit in any case so to do, require bond to be given by the importer or consignee in treble the amount of duties due thereon for the safe deposit and due clearance of such goods.

**73. Power of lessee of Customs premises in certain cases to cause warehousing entry to be passed for goods.**

If at any time a portion of the Customs premises has been or shall be leased for the purpose of landing, shipping, and warehousing goods to any company constituted for these purposes, it shall be lawful for such company, if the owners of any goods landed within such premises shall fail to make entry thereof and remove the same within ten clear days, to cause a warehousing entry to be passed for such goods under the general description of merchandise without the particulars required by section 72 and to remove the same to their warehouse, and the reasonable expenses of such entry, removal, and warehousing shall be reimbursed to such company by the owner or consignee of the goods so entered as aforesaid, and shall be recoverable by the said company: Provided that no goods entered by such company as aforesaid shall be liable to seizure by reason of any inaccuracy in the passing of any such entry, if it shall appear to the Director-General of Customs that such inaccuracy was not intentional or occasioned by willful or culpable negligence; Provided, further, that in the case of any goods removed under this section no warehouse warrant shall issue, and that, if after the expiry of three months, such goods shall not have been cleared, they shall be sold in accordance with the provisions of section 109 of this Ordinance.

**74. Goods warehoused to be marked and numbered Storage of goods warehoused. Penalty. Locking and opening warehouses. Carrying goods to and from warehouses.**

All goods so entered to be warehoused shall before deposit in any warehouse be properly marked and numbered by the importer in legible characters with the initials of the owner, importer or consignee or other distinguishing marks, and the goods shall be stowed so as to afford easy access thereto, and to every package or parcel in such parts or division of the warehouse, and in such manner as the Director-General or the proper officer shall direct, and if the stowage be broken the goods shall be re-piled by the person breaking such stowage in such manner as the Director-General may require, and the neglect or refusal to stow or re-pile them as hereinbefore directed shall subject the occupier of the warehouse, or the person so contravening, to a penalty not exceeding ten thousand rupees. The warehouse shall be locked and secured in such manner, and shall be opened on such days and during such hours as the Director-General may from time to time prescribe, and visited only at such times and in the presence of such officers, and under such regulations as the Director-General shall direct and all such goods shall, after being landed upon importation, be carried

to the warehouse, or shall after being taken out of the warehouse for exportation or for stores, be carried to be shipped, under such regulations as the Director-General shall direct.

[S 74 subs by s 42 of Act 83 of 1988.]

**75. Goods not duly warehoused or fraudulently concealed or removed, forfeited.**

If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or being duly warehoused shall be fraudulently concealed in or removed from the warehouse, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment, they shall be forfeited, together with the goods with which they shall have been so packed, and the packages in which they shall have been concealed.

**76. Warehouse keeper neglecting to produce goods deposited, when required, to forfeit one hundred rupees.**

If the warehouse keeper of any warehouse shall not produce to any authorised officer of Customs on his request any goods deposited in such warehouse which shall not have been duly cleared and delivered therefrom, such warehouse keeper shall for every such neglect forfeit the sum of five thousand rupees in respect of every package or parcel not so produced.

[S 76 am by s 43 of Act 83 of 1988.]

**77. Importer or proprietor clandestinely gaining access to warehoused goods to forfeit one hundred thousand rupees.**

If the warehouse keeper of any warehouse, or the importer or proprietor of any goods warehoused therein, or any person in his employ, shall clandestinely open the warehouse or gain access to the goods except in the presence of the proper officer of Customs acting in the execution of his duty, such warehouse keeper, importer, or proprietor shall for every such offence forfeit a sum not exceeding one hundred thousand rupees.

[S 77 am by s 44 of Act 83 of 1988.]

**78. Duty on goods taken out of warehouse without entry to be paid by warehouse keeper. Persons taking out of or destroying goods in warehouse to be deemed guilty of an offence. Importer or consignee defrauded by officers to be indemnified.**

If any goods shall be taken out of any warehouse without due entry of the same with the proper officer of Customs, the warehouse keeper of such warehouse shall forthwith pay the duties due upon such goods, and every person so taking out any goods without payment of duty, or who shall aid, assist, or be concerned therein, and every person who shall willfully destroy or commit criminal breach of trust of any goods duly warehoused, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred thousand rupees or to imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment; but if such person shall be an officer of Customs not acting in the due execution of his duty, and shall be prosecuted to conviction by the importer, consignee, or proprietor of such goods, no duty shall be payable for or in respect of such goods, and the damage occasioned by such waste, spoil or criminal breach of trust shall, with the sanction of the Minister, be repaid or made good to such importer, consignee, or proprietor by the Director-General of Customs.

[S 78 am by s 45 of Act 83 of 1988.]

**79. Director-General may remit duties on warehoused, goods lost or destroyed.**

If any goods entered to be warehoused, warehoused, or entered to be delivered from the warehouse, shall be lost, damaged, or destroyed by unavoidable accident, either in receiving into the warehouse or in the warehouse, the Director-General may remit the duties due thereon.

**80. Landing account to be taken of goods for the warehouse. Contents to be marked on packages and in landing book.**

Upon the entry and landing of any goods to be warehoused, the proper officer of Customs shall take a particular account of such goods at the quay, wharf, or warehouse at which they shall be so landed, and shall enter in a book prepared for that purpose the name of the importing ship, and of the person in whose name they are entered, the marks, numbers, and contents of every such package, the

description of the goods, and the warehouse in which the same shall be deposited, and when the same shall have been so deposited with the authority of such officer, he shall certify that the entry and warehousing of such goods is complete, and such goods shall from that time be considered goods warehoused; and if any such goods shall be delivered, withheld, or removed from the proper place of examination before the same shall have been duly examined and certified by such officer, such goods shall be deemed to be goods not duly entered or warehoused, and shall be liable to be forfeited.

**81. Goods to be entered and duties paid according to landing account.**

The account of goods so taken as aforesaid shall be the account upon which the duties payable upon such goods shall be ascertained, when the same shall ultimately come to be delivered upon due entry for that purpose, and the same shall be entered and the full duties due thereon be paid, according to the quantity taken in such account, without any abatement for any deficiency except as hereinafter provided.

**82. Goods to be cleared within two years. Duties to be paid upon deficiencies.**

All warehoused goods shall be cleared either for home use or exportation within two years from the date on which the same were warehoused, or within such further period as the Director-General shall allow, in which case the goods shall be examined by the proper officers, and the duties due upon any deficiency or difference between the quantity ascertained on landing, and the quantity found to exist on such examination, together with the warehouse rent and necessary expenses attendant thereon shall, subject to such allowances as are by law permitted in respect thereof, be paid down, and the quantity so found shall be re-warehoused in the name of the then owner or proprietor thereof, in the same manner as on first importation: Provided that the Director-General may require any goods to be cleared at any time within the period of two years, if he considers that the goods are likely to deteriorate, or for any other reason.

[S 82 subs by s 16 of Law 35 of 1974.]

**83. Goods not cleared or re-warehoused or duties paid on deficiencies after two years to be sold. Proceeds of sale how to be applied. Goods not worth the duty same may be exported or destroyed.**

If any warehoused goods shall not be duly cleared, exported, or re-warehoused, and the duties ascertained to be due on the deficiencies as aforesaid shall not be paid at the expiration of two years from the previous entry and warehousing thereof, or within such further period as shall be permitted by the Director-General, the same, if worth the duty due thereon, shall after one month's notice to the warehouse keeper, importer or consignee, be sold either for home use or exportation with or without the consent of the warehouse keeper, importer, or consignee; and the proceeds thereof shall be applied to the payment of the duties, warehouse rent, and charges, and the surplus, if any, shall be paid to the owner or proprietor of such goods, if known; but if such owner or proprietor cannot be found, such surplus shall be carried to the account of Government to abide the claim of such owner or proprietor on his appearing and making good his claim thereto within one year from the date of sale; and if such goods shall not be worth the duty, then the after such one month's notice as aforesaid may be exported or may be destroyed, with or without the concurrence of the owner thereof, or the warehouse keeper of the warehouse in which the same were so warehoused, as the Director-General shall see fit; and the duties due upon any deficiency thereof, not allowed by law, shall, if required by the Director-General, be forthwith paid by the warehouse keeper.

**84. Goods in warehouse may be repacked. Damaged parts may be destroyed.**

With the sanction of the Director-General, and after such notice given by the respective importers or proprietors and at such times and under such regulations and restrictions as the Director-General shall from time to time require and direct, it shall be lawful in the warehouse to sort, separate, pack, and repack any goods, and to make such alterations therein as may be necessary for the preservation, sale, shipment, or disposal thereof; provided that such goods be repacked in the packages in which they were imported, or in such other packages as the Director-General shall permit; and also to draw off any wine or any spirits into reputed quart or pint bottles for exportation only; and also to fill up any cask of wine, beer, or spirits from any other casks of the same, respectively secured in the same warehouse, and also to take such moderate samples of goods as may be allowed by the Director-General with or without entry, and with or without payment of duty,

except as the same may eventually become payable as on a deficiency of the original quantity; and the duty on the surplus, if any, of such goods as may be delivered for home use shall be immediately paid, and such surplus shall thereupon be delivered for home use accordingly; and after such goods have been so separated and repacked in proper or approved packages, the Director-General may, at the request of the importer or proprietor of such goods, cause or permit any refuse, damage, or surplus goods occasioned by such separation or repacking, or at the like request, any goods which may not be worth the duty, to be destroyed, and may remit the duty payable thereon.

**84A. Processing including manufacture or assembly of goods in warehouses.**

(1) It shall be lawful for the Director-General in the interest of economic development of the country to permit the processing including manufacture or assembly of goods in any warehouse appointed under section 69 of this Ordinance.

(2) No goods which have undergone any processing including manufacture or assembly in such warehouse may be released for home use or for export without the prior approval of the Director-General.

(3) Where such goods are released from such warehouse for home use the duties there on shall be calculated and paid on that as if such goods had been imported at the time of such release.

(4) Treatment of waste, refuse of goods consumed in manufacture.

Where goods liable to duties have been wasted or have become refuse or have been consumed in the course of processing permitted under subsection (1), the Director-General may remit duties in respect of such part of the goods as represent such waste, refuse or goods consumed as the case may be:

Provided that if such waste or refuse is destroyed subject to such conditions as the Director-General may impose, no duty shall be charged or duty is paid on such waste or refuse, as if it had been imported in that form if taken for home use. Provided that if such waste or refuse is destroyed subject to such conditions as the Director-General may impose, no duty shall be charged or duty is paid on such waste or refuse, as if it had been imported in that form if taken for home use.

(5) Conditions, fees and charges.

The Minister may make regulations with regard to the conditions under which a permit to a manufacturer or a sub-contractor referred to in section 84B is to be granted and the fees and charges leviable for such permit.

[S 84A ins by s 46 of Act 83 of 1988.]

**84B. Manufacturer permitted to sub-contract under certain conditions.**

(1) Any manufacturer permitted to process including manufacture or assembly of goods in any warehouse appointed under section 69 of this Ordinance may sub-contract with another person to process including manufacture or assembly in any work shop or premises which is not appointed a warehouse under this Ordinance if the Director-General is satisfied—

(i) that the said workshop or premises is registered with him for the purpose of such work;

(ii) that the workshop or premises has the capacity to undertake the required sub-contracting work;

(iii) that there is a written agreement between the manufacturer and the person with whom the sub-contracting has been made, and that the agreement has been approved by him.

(2) Where any manufacturer is permitted to process by means of sub-contracting as provided for in subsection (1), the provisions of section 84A shall, *mutatis mutandis*, apply to any goods so processed.

(3) Notwithstanding that the manufacturer sub-contracts as aforesaid, the manufacturer shall be liable, in addition to any other liabilities under this Ordinance including forfeitures and penalties, for any duties or other charges which may occur due to loss or damage of the material or finished products outside the warehouse of the manufacturer during such sub-contracting operations.

[S 84B ins by s 46 of Act 83 of 1988.]

**85. Entry for exportation re-warehousing or home use.**

No warehouse goods shall be taken or delivered from the warehouse, except upon due entry, for exportation, or to be shipped as stores, or to be removed from one warehouse to another, or on payment of the full duties thereon for home use subject to such conditions as the Director-General may prescribe.

[S 85 subs by s 47 of Act 83 of 1988.]

**86. Bill of entry for warehoused goods delivered for home use. Duties to be paid according to landing account, except in certain cases when duties are to be charged on ascertained quantity on delivery, unless deficiency has been caused by improper means.**

Upon the entry of any goods to be cleared from the warehouse for home use, the person entering such goods shall deliver a bill of entry, and duplicates thereof in like manner and form and containing the same particulars as hereinbefore required on the entry of goods to be delivered for home use on the landing thereof, as far as the same may be applicable, and shall at the same time pay down to the proper officer of Customs the full duties payable thereon, not being less in amount than according to the account of the quantity taken by the landing waiter or other proper officer on the first entry and landing thereof, except as to the following goods, namely:-rice, wine, beer, spirits, and sugar, the duties whereon when cleared from the warehouse for home use shall be charged upon the quantity of such goods ascertained by weight, measure, or gauge at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of the deficiency or difference between the weight, measure, or gauge ascertained on landing and first examination of any such last-mentioned goods and that ascertained at the time of actual delivery has been caused by illegal or improper means, in which case the proper officer of Customs shall make such allowance only for loss as he may consider fairly to have arisen from natural evaporation or other legitimate cause.

**87. Value of goods for allowance on deficiencies to be estimated by officers of Customs.**

When any deficiency occurs in goods chargeable to pay duty according to the value thereof, the value thereof shall be the value of the like sort of goods, estimated by the officers of Customs.

[S 87 subs by s 17 of Law 35 of 1974.]

**88. Deficiencies on goods exported not to be charged with duty unless fraudulent.**

No duty shall be charged in respect of any deficiency in goods entered and cleared from the warehouse for exportation, unless the officers of Customs have reasonable ground to suppose that such deficiency, or any part thereof, has arisen from illegal abstraction.

**89. On entry outward, bond for due shipment and landing to be given when required.**

Before any warehoused goods subject to duties of Customs shall be permitted to be exported, the exporter or his agent shall where required by the Director-General having regard to the demand for, and the value of, goods to be exported, give security by bond in such sum as may be determined by him subject to such conditions as may be prescribed by such Director-General having regard to the nature and the value of the goods to be shipped and exported that such goods shall be duly shipped and exported, and shall be landed at the place for which they are entered outwards or otherwise accounted for, to the satisfaction of the Director-General, and shall, if required, produce a certificate under the hands of the proper officers at the port of landing, of the due landing of the goods at such port as aforesaid.

[S 89 subs by s 48 of Act 83 of 1988.]

**90. General bond for warehoused goods exported.**

The Director-General may, in such instances as he shall deem advisable, accept, in lieu of separate bonds as aforesaid, from the known resident exporters and shippers of goods, general bonds with one or two sufficient securities or such other security as the Director-General may approve of, to such an amount as shall be necessary for the due shipment, exportation, and landing at the place for which they are entered outwards of all warehoused goods exported by such persons, but such general bonds shall only be in force for two years and may be revoked and cancelled whenever the Director-General shall see fit.

**91. Minister may close bonded warehouse.**

It shall be lawful for the Minister, after notice published in the *Gazette*, to direct that after the expiration of twelve months from the date of such notice no goods or merchandise shall be warehoused in any public warehouse or premises, and to convert all or any of such warehouses or premises in use as bonding warehouses at the time of such notice to other purposes of Customs accommodation, and any goods not cleared from such public warehouse by removal to other approved bonding warehouse, or by entry for home consumption or exportation, at the expiration of such notice aforesaid, shall be sold by the Director-General in like manner as is provided for the sale of unclaimed goods.

**92. Director-General may issue warrants.**

The Director-General of Customs may, upon an application in writing by the owner, importer, or consignee of any goods duly warehoused in any warehouse of the Republic, or other place of deposit provided by Government, issue to such owner, importer, or consignee, warrants, under his hand substantially in the form in Schedule D4.

**93. Goods transferable by endorsement and deliverable to the holders of warrants.**

Such warrants shall be transferable once or oftener by the endorsement of the owner, importer, or consignee of the goods or of the holders of the said warrants, and the right and title to the goods enumerated in such warrants shall vest in the possessors thereof without any endorsement save that of the original grantee. The Director-General shall, upon production and surrender of such warrants, but not otherwise, deliver the goods to the holders of the warrants, on due entry of the goods for home consumption or exportation, and upon payment of all duties and charges due on the said goods.

**94. Warrants by private warehouse keepers.**

It shall be lawful for the keeper of any bonded warehouse to issue to the owner, importer, or consignee of any goods duly warehoused in his bonded warehouse, warrants substantially in the form in Schedule D4. Such warrants shall be transferable, once or oftener, by the endorsement of the owner, importer, or consignee of the goods, or of the holders of the said warrants; and the right and title to the goods enumerated in such warrants shall vest in the possessors thereof without any endorsement save that of the original grantee. The keeper of such warehouse shall, upon production and surrender of such warrants but not otherwise, deliver the goods to the holders of the warrants on due entry of the goods for home consumption or exportation, and upon payment of all duties and charges due on the said goods: Provided that it shall not be lawful for the keeper of any bonded warehouse to issue warrants for goods in which he has any share or interest as owner, importer, or consignee.

**95. No goods warehoused in Government or bonded warehouses to be delivered save on surrender of the warrant, and no warrant once surrendered to be reissued.**

No goods warehoused in any warehouse of the Republic or other place of deposit provided by Government, or in any bonded warehouse, shall be delivered out of such warehouse of the Republic or other place of deposit provided by Government, or bonded warehouse, except upon surrender of the warrant in which such goods are enumerated, to the Director-General of Customs or to the keeper of such bonded warehouse, as the case may be; every such warrant after being so surrendered, shall be defaced, and no such warrant after being so surrendered, shall be reissued:

But where partial delivery taken, a new warrant may be issued in respect of the goods remaining undelivered:

Provided that whenever the holder or holders of any warrant issued under section 92 or section 94 or under this section, shall be desirous of obtaining delivery of a part only of the goods enumerated in such warrant, it shall be lawful for the Director-General of Customs or keeper of the bonded warehouse, as the case may be, upon the surrender of such warrant, to issue to the holder or holders by whom the same was surrendered a new warrant in respect of the goods remaining undelivered.

**96. Penalty on infringement of section 95.**

Any person who shall deliver any goods warehoused as mentioned in section 95, out of the place in which the same shall have been so warehoused, except upon the surrender, as therein mentioned, of the warrant in which such goods are enumerated, and any person who shall reissue any warrant

surrendered as aforesaid, shall be deemed guilty of an offence, and liable on conviction to a fine not exceeding one hundred thousand rupees.

[S 96 am by s 49 of Act 83 of 1988.]

**97. Stamp duty on warehouse warrants fixed at fifty cents.**

Every warrant, whether issued by a Director-General of Customs or by the keeper of a bonded warehouse, shall bear a stamp duty of fifty cents, and such duty shall be denoted by adhesive stamps. Such warrants shall be liable, in all matters relating to stamp duty, to the provisions of the enactments relating to stamp duties, so far as the same shall be applicable thereto.

**98. State when liable to make compensation for loss in any warehouse of the Republic.**

Provided that the holder of any warrant issued by the Director-General of Customs shall have no claim on the State to compensation for loss of any goods by fire, theft, damage, or other cause, except such loss be caused by the willful waste, spoil, destruction or criminal breach of trust, on the part of any officer of Customs, and such officer shall have been prosecuted to conviction within one year from the date of such willful waste, spoil, destruction or criminal breach of trust. The holder of a State not liable warrant issued by a bonded warehouse for loss in any keeper shall have no claim on the State to warehouse compensation on any ground or pretext whatsoever.

**99. Goods otherwise liable to Customs laws and regulations.**

Provided, further, that the Director-General of Customs shall be in no way answerable for the correctness of the particulars of the contents or value of the goods specified in any warrant issued as aforesaid, and that the said goods shall be in every respect liable to the provisions of the laws and regulations relating to the Customs in force at the time such goods shall be in deposit at the warehouse of the Republic or other place of deposit provided by Government.

**100. Penalties.**

Any keeper of a bonded warehouse who shall fraudulently issue a warrant for goods not in his warehouse, or who shall fraudulently issue two or more warrants for the same goods, or who shall fraudulently issue warrants for goods in which he has any share or interest as owner, importer, or consignee, or who shall aid and assist any other person to do so, and any keeper of such warehouse or other person who shall in any way use any warrant granted under the provisions of this Ordinance for the purposes of defrauding or injuring any person, company, or corporation, shall be guilty of an offence, and be liable to imprisonment with or without hard labour not exceeding three years, and in addition thereto, at the discretion of the Judge, to a fine not exceeding one hundred thousand rupees.

[S 100 am by s 50 of Act 83 of 1988.]

**100A. Warehousing of duty paid goods and goods of local origin.**

(1) Notwithstanding the provisions of Part II of this Ordinance, it shall be lawful for the Director-General to permit in any warehouses appointed under section 69 and in which processing has been permitted under section 84A of this Ordinance warehousing of goods imported and upon which duty had been previously paid or goods of local origin, for use, along with goods warehoused without payment of duty on first entry, for the purpose of processing including manufacture, assembly or packing of goods under such regulations as may be prescribed by the Director-General.

(2) Any goods found in any such warehouse which is not duly accounted for by the owner of such goods to the satisfaction of the Director-General shall be forfeited.

(3) The provisions of sections 69 to 100 of this Ordinance shall, *mutatis mutandis*, apply to all goods referred to in subsection (1).

[S 100A ins by s 51 of Act 83 of 1988.]

**PART XII**

**GENERAL REGULATIONS**

**101. Regulations.**

(1) The Minister may make regulations in respect of any matter required by this Ordinance to be prescribed or in respect of which regulations are required to be made under this Ordinance and in particular for any of the following purposes:

(a) for preventing accidents by fire, and as to the lighting or using of candles, fires, and lamps, and as to the smoking of tobacco or herbs within the Customs premises;

(b) for governing and regulating porters, labourers, cartmen and others carrying goods, or using or driving any animal or vehicle within the Customs premises;

(c) for preventing damage being done to any goods or property within the Customs premises;

(d) for prohibiting or regulating the admission of persons to the Customs premises, and for excluding persons therefrom;

(e) for regulating the conduct of persons within the Customs premises;

(ee) for prohibiting of importation and exportation of counterfeit trade mark goods or pirated copyright goods or any other goods in contravention of the provisions of the Intellectual Property Act, No. 36 of 2003.

[S 101(1)(ee) ins by s 206 of Act 36 of 2003.]

(f) for prescribing documents that should be furnished for the computation of Customs duties for any goods and for regulating the examination of such goods for the levy of Customs duties;

[S 101(1)(f) am by s 6(a) of Act 2 of 2003.]

(g) for prescribing new forms for the warrants issued under sections 92 to 100, both inclusive, and the manner in which such warrants are to be defaced; and

[S 101(1)(g) am by s 6(b) of Act 2 of 2003.]

(h) for assessment of value for the Customs purposes under section 51.

[S 101(1)(h) ins by s 6(c) of Act 2 of 2003.]

and such regulations shall be published in the *Gazette*. Any person who shall disobey the same shall be guilty of an offence and shall on conviction after summary trial by a Magistrate be liable to a fine, not exceeding twenty five thousand rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment. The Director-General may, having regard to the circumstances in which the offence was committed, compound an offence under this section on payment of an amount equal to one fifth of the fine imposable for such offence. The compounding of an offence under this section shall have the effect of an acquittal.

(2) In this section and in any regulation made thereunder, "Customs premises" means the Customs premises as defined from time to time by the Director-General by Notification in the *Gazette*.

[S 101 subs by s 52 of Act 83 of 1988.]

## **102. Goods of dangerous quality.**

If the owner, consignee, or person having charge of any tar, pitch, spirituous liquor, turpentine, oil, aqua fortis, lucifer matches, or any other article- of a combustible or dangerous nature whatsoever, shall suffer the same to remain in the Customs premises beyond the space of five hours after he shall have been required by any officer of Customs to remove the same therefrom, then and in every such case every person so offending shall for every such offence be liable to a fine not exceeding fifty rupees and not less than ten rupees for every hour that any of the said articles or goods shall be or remain in the place aforesaid after the expiration of the said five hours.

## **103. Special regulations for ships.**

(1) Whereas it is desirable to facilitate the dispatch of ships, it shall be lawful for the Minister to make special regulations from time to time relating to the entry inwards and outwards of such ships, and the landing, shipping, and transhipping of goods by them, and such regulations when duly published, shall have the same effect in law as if they formed part of this Ordinance.

(2) The regulations made under the foregoing subsection may, amongst other matters—

(a) prescribe the fees and charges payable by persons requiring the services of any officer of Customs outside such hours as the Director-General with the sanction of the Minister may from time to time prescribe, or on any day when the Custom-house is closed for business;

(b) provide for the collection or summary recovery of such fees and charges and the disposal thereof upon collection or recovery; and

(c) require the furnishing of security in money for the payment of any duties, dues, fees or charges payable in respect of goods imported or exported before the presentation of the bills of entry for such goods.

## **103A. Container Freight Stations or Inland Clearing Depots for Customs clearance of cargo.**

(1) The Director-General may, with the approval of the Minister, by order made from time to time, for such periods and subject to such terms and conditions as may be prescribed, establish Container Freight Stations and Inland Clearance Depots for the purposes of this Ordinance.

(2) The Director-General may prescribe having regard to the nature and value of the goods to be stored therein the amount of security to be furnished by the owner of a Container Freight Station or Inland Clearance Depot established under this section.

(3) The Director-General may, with similar approval and subject to the terms and conditions referred to in subsection (1), at any time for reasonable cause revoke any order made under subsection (1) or vary the terms and conditions of any such order.

[S 103A ins by s 53 of Act 83 of 1988.]

#### **103B. Regulation of the movement of containers, containerised cargo, cargo intended for containerisation and security to be furnished.**

(1) The Minister may make regulations relating to—

(a) documentation, storage, movement, examination, sealing, security and all other matters pertaining to containers, containerised cargo and cargo intended for containerisation;

(b) the amount of security to be furnished by persons engaged in the transport of containers, containerised cargo, and cargo intended for containerisation.

(2) Penalties for violation of conditions.

If any person contravenes or fails to comply with any regulations made under subsection (1) or any requirement imposed by or under such regulations, that person and the person for the time being in charge of the goods shall in each case forfeit either treble the value of the goods or be liable to a penalty not exceeding twenty-five thousand rupees at the election of the Director-General.

(3) All other provisions of the Customs to apply.

All other provisions of this Ordinance and the rules and regulations made there under in regard to the landing and clearance inwards or shipment and clearance outwards of cargo, shall, *mutatis mutandis*, apply to containers, containerised cargo and cargo intended for containerisation.

[S 103B ins by s 53 of Act 83 of 1988.]

#### **104. Transport of goods overland under band.**

(1) No goods imported or to be exported from any container freight station, bonded warehouse or Customs premises after the goods have been sealed by Customs, which are liable to duties and other charges under this Ordinance and on which such duties and other charges have not been paid to the Customs, shall be transported over land from one point to another, other than by a transporter registered with the Director-General and who has furnished security by bond for the payment of such duties and other charges.

(2) Any person who transports goods in contravention of the provisions of this section shall be guilty of an offence and be liable to a penalty not exceeding one hundred thousand rupees.

[S 104 subs by s 54 of Act 83 of 1988.]

#### **105. Goods lodged in warehouse of the Republic liable to claims for freight.**

(1) All goods or merchandise which shall be lodged in any warehouse of the Republic under the provisions of this Ordinance, not being goods seized as forfeited, shall, when landed, continue and be subject and liable to such and the same claim for freight and general average in favour of the master, owner, or agent of the respective ship, or of any other person interested in the freight or general average from which such goods or merchandise shall have been so landed, as such goods or merchandise respectively were subject and liable to before the landing thereof.

(2) Director-General required to detain goods freight.

The Director-General is hereby authorised and required, upon due notice in writing given to him by such master, owner, agent, or other person as aforesaid, specifying the particulars of the goods and requiring the goods or any portion thereof to remain subject to a lien for freight, primage, general average, or other charges, to detain and keep in the warehouse of the Republic the whole or such

portion of such goods, not being seized as forfeited, until he receives notice in writing that the said charges are paid.

(3) Director-General not bound to see to validity of any lien.

The Director-General shall not be bound to see to the validity of any lien claimed by any master, owner, agent, or other person as aforesaid.

(4) Power to sell goods not cleared in thirty days.

If any goods or merchandise deposited as aforesaid be left in any Customhouse or warehouse of the Republic for a longer period than thirty days from the date of landing, such goods shall, after public advertisement, be sold by public auction either for home use or exportation, and the proceeds thereof applied first to the payment of the duties due thereon, the warehouse rent, and expenses of sale, then to the payment of the freight, primage, general average, and charges claimed as aforesaid, and the overplus, if any, shall be paid to the proprietor of the goods; but if there be no such proprietor, such overplus shall be paid into the Treasury, and if not claimed within one year from the date of the sale of such goods, such overplus shall be brought to account as revenue:

Perishable goods may be sold at once.

Provided that goods of a perishable nature or in a damaged condition may, after public advertisement, be sold forthwith, and if not saleable may be destroyed, and neither the proprietor nor the claimant of the freight, primage, general average, and charges as aforesaid, due on any goods sold or destroyed as aforesaid, shall have any claim on the Director-General for or on account thereof.

(5) The Director-General shall not be required to Livestock. detain for freight, primage, general average, or charges as aforesaid horses, cattle, or other livestock, unless proper provision be made by the person detaining the same for the feeding, care, and housing of such livestock.

#### **106. Bonds to be taken by Director-General.**

All bonds relating to the Customs, required to be given in respect of goods or ships shall be taken by the Director-General for the use of the State, and after the expiration of three years from the date thereof, or from the time, if any, limited therein for the performance of the condition thereof, every such bond upon which no prosecution or suit shall have been commenced shall be void, and may be cancelled and destroyed.

#### **107. Goods being moved out of any ship or to any ship or out of any warehouse if not duly entered to be forfeited.**

If any goods, packages, or parcels shall be landed, taken or passed out of any ship, or out of any warehouse, or be laden, taken on board or passed on to any ship, not having been duly entered, the same shall be forfeited: Provided always that no entry shall be required in respect of the baggage of passengers as denned by the regulations made under section 107A.

[S 107 subs by s 55 of Act 83 of 1988.]

#### **107A. Regulation of passengers' baggage inwards and outwards.**

(1) Any passenger arriving in Sri Lanka may be searched and his baggage landed, examined and delivered by such officers and in accordance with such regulations as the Minister may prescribe by Notification published in the *Gazette*; and if any prohibited, restricted or un Customed goods are found concealed in the baggage of any passenger arriving in Sri Lanka or upon his person or in any place in which they have been put by his direction or with his connivance either before or after landing, the same shall be forfeited, together with the contents of the packages and the packages containing the same.

(2) Any passenger leaving Sri Lanka may be searched and his baggage examined by such officers and in accordance with such regulations as the Minister may prescribe by Notification published in the *Gazette*, and if any prohibited, restricted or un Customed goods are found concealed in the baggage of any passenger leaving Sri Lanka or upon his person or in any place in which they have been put by his direction or with his connivance either before or after embarkation, the same shall be forfeited, together with the contents of the packages and the packages containing the same.

(3) No female passenger shall be searched by any person other than a female duly authorised in that behalf by the Director-General.

(4) Every regulation made by the Minister under this section shall as soon as convenient after its publication in the *Gazette*, be brought before Parliament for, approval. Any regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval, but without prejudice to anything previously done thereunder.

(5) Notification of the date on which any regulation made by the Minister is so deemed to be rescinded shall be published in the *Gazette*.

[S 107A ins by s 56 of Act 83 of 1988.]

#### **108. Goods in any warehouse to be at risk of the owner.**

All goods lodged or deposited in any warehouse of the Republic or other place of deposit provided by Government shall be so deposited at the risk of the owner, importer, or consignee, who shall have no claim on the State to compensation for loss by fire, theft, damage, or other cause, except such loss be proved by the prosecution to conviction (within one year from the date at which such willful waste, spoil, destruction, or criminal breach of trust is alleged to have taken place) of the offending party to have been caused by the willful waste, spoil, destruction, or criminal breach of trust of any officer of Customs, and in which case no duty shall be leviable on such goods.

#### **109. Power to sell goods not cleared within thirty days.**

All goods left in any warehouse of the Republic or on the Customs premises for a longer period than thirty days, unless permitted to remain by the special permission of the Director-General, shall, after public advertisement, be sold either by auction or tender to answer the duties, warehouse rent, or other charges due thereon, and any overplus shall be paid, if claimed within twelve months from the date of sale, to the owner of such goods, who shall have no further claim touching the same, but if there be no claimant such overplus shall be brought to account as revenue;

Provided that any goods of a perishable nature which shall be left in the warehouse or Customs premises, or in any bonded warehouse, uncleared, may be sold forthwith, or if not saleable may be destroyed, and the proprietor of any goods sold or destroyed as aforesaid shall have no further claim for or on account thereof.

[S 109 am by s 5 of Act 24 of 1991.]

#### **110. Director-General to order removal of goods from one warehouse or Customs premises to another warehouse or place.**

(1) If the Director-General considers it expedient to do so for any of the purposes of this Ordinance he may by written order require any importer of goods to have them removed from the warehouse or other place in the Customs premises where they have been deposited to such other warehouse or place within the Customs premises as may be specified in the order, within the period specified therein, and to be present on the date and time, if any, specified in the order for the due examination of the goods.

(2) Any person who, without reasonable cause, fails to comply with an order issued to him under subsection (1) shall be liable to a penalty not exceeding ten thousand rupees.

[S 110 subs by s 57 of Act 83 of 1988.]

#### **111. Government may appoint ports and quays and alter or annul the same. Existing ports to continue.**

The Minister may by Order appoint any place to be a haven, creek, port, or warehousing port in Sri Lanka and declare the limits thereof, and appoint proper places within the same to be legal quays for the lading and unloading of goods, and declare the bounds and extent of any such quays, or annul the limits of any port, haven, creek, or legal quay already appointed, or to be hereafter appointed, and declare the same to be no longer a port, warehousing port, haven, creek, or legal quay; and all ports, warehousing ports, havens, and creeks, and the respective limits thereof, and all legal quays appointed, set out, and existing as such at the time of the passing of this Ordinance shall continue to be such ports, havens, creeks, and quays until annulled or altered as aforesaid.

#### **112. Director-General to appoint wharves**

The Director-General may from time to time, by any order under his hand, and under such restrictions and regulations as he shall see fit, appoint proper places for the lading and unloading of goods.

**113. Officers may refuse any person to do any act as master of ship, unless his name is endorsed on registry.**

The officers of Customs may refuse to allow any person to do any act as master of any British ship, unless his name is inserted in or endorsed upon the certificate of registry of such ship as being the master thereof.

**114. When ship's agent may act for master.**

Anything which a master is required or empowered to do under this Ordinance may, with the express or implied consent of such master and with the approval of the Director-General of Customs, be done by a ship's agent.

**115. Director-General to grant licences to Customs House Agents.**

(1) The Director-General may and he is hereby authorised to grant on payment of the prescribed fee, licences in such form and manner and subject to such terms and conditions as are specified in Schedule G to this Ordinance to such person who satisfy the requirements set out in that Schedule, to act as Customs House Agents for transacting business which shall relate to the entry or clearance of any ship, or of any goods, or of any baggage, in any of the port's or places in Sri Lanka and only persons so licensed shall act as agents as aforesaid, and the Director-General may cancel or revoke for fraud or misconduct or for breach of any terms and conditions of any licence so granted to any such person.

(2) Every licence granted under this section shall be valid for a period of one year and may be renewed by the Director-General, at the end of the period on payment of the prescribed fee.

(3) Employees deemed to be agents.

Any employee of an importer or exporter shall be deemed to be a Customs House Agent for the purposes of this section, and shall not be permitted to transact business as aforesaid, unless he holds a licence under subsection (1).

[S 115 subs by s 58 of Act 83 of 1988.]

**115A. Importers and exporters to be registered with Customs.**

(1) It shall be lawful for the Director-General for the purpose of facilitating the discharge of his functions under this Ordinance to require every importer and exporter of goods to register with the Customs, giving such particulars as may be required by him.

(2) No goods shall be imported into or exported out of Sri Lanka except by a registered importer or exporter.

(3) In this section, importer shall mean a person who imports goods either for himself or on behalf of another for a commercial purpose and exporter shall mean a person who exports goods either in his name or on behalf of another for a commercial purpose.

[S 115A ins by s 59 of Act 83 of 1988.]

**4116. No vessel to be hauled on shore without permission. Boat to be removed from wharf when directed. Penalty.**

No ship or boat shall be hauled on shore at any public wharf, quay, beach, or landing place in Sri Lanka, for the purpose of repairs or otherwise, without permission from the Director-General, and no boat shall remain alongside of any wharf or landing place after the owner or person in charge shall be directed to remove the same by the proper officer of Customs; and any person hauling any ship or boat on shore without such permission as aforesaid, and the owner or person in charge of any boat refusing or neglecting to remove the same when ordered as aforesaid shall be liable to a fine not exceeding one hundred rupees, and such ship or boat may be detained by the Director-General until payment of the fine imposed.

[S 116 am by s 2 of Law 35 of 1974.]

**117. No timber to be left on wharf for more than one day.**

If any timber or other heavy or bulky articles be left on any public quay, jetty, wharf, beach, or landing place in Sri Lanka for more than one day, so as to interrupt or hinder the free use thereof, it shall be lawful for the Director-General, after twelve hours notice in writing given to the owner thereof or to his agent, to remove the same; and such owner shall be liable to a penalty not exceeding one hundred rupees and such goods shall not be delivered up to the owner thereof until after payment of the said penalty, together with the charges attending the removal of the same; and if such goods shall not be removed within six days after notice given as aforesaid, it shall be lawful for the Director-General to sell the same by public auction, and to deduct from the proceeds the amount of such penalty and all charges which may have been incurred on account of such goods, and the surplus, if any, shall be paid to the owner.

[S 117 am by s 2 of Law 35 of 1974.]

**118. Officers may board ships hovering within territorial waters and bring them into port.**

It shall be lawful for the officers of Customs to go on board any ship in any port or place in Sri Lanka or hovering within the territorial waters of Sri Lanka and to rummage and search all parts of such ship for prohibited and un Customed goods, and freely to stay on board such ship so long as such ship remains in such port or place or within such territorial waters; and if any such ship is bound elsewhere, and continues so hovering for the space of twenty-four hours after the master has been required to depart, it shall be lawful for the officers of Customs to bring such ship into port and to search and examine her cargo, and to examine the master touching the cargo and voyage; and if there are any goods on board prohibited to be imported into Sri Lanka, and if the master does not truly answer the questions which are demanded of him on such examination, he shall forfeit a sum not exceeding one hundred thousand rupees.

[S 118 subs by s 18 of Law 35 of 1974; am by s 60 of Act 83 of 1988.]

**119. Making false declaration. Signing false documents and untruly answering questions. Counterfeiting and using false documents.**

If any person shall make and subscribe any declaration, certificate, or other instrument required by this Ordinance to be verified by signature only, the name being false in any particular; or if any person shall make or sign any declaration made for the consideration of the Director-General or the proper officer of Customs on any application presented to him the same being untrue in any particular; or if any person required by this Ordinance or any other enactment relating to the Customs to answer questions put to him by the officers of Customs shall not truly answer such questions; or if any person shall counterfeit, falsify, or wilfully use when counterfeited or falsified, any document required by this Ordinance or any enactment relating to the Customs, or by or under the directions of the Director-General or any instrument used in the transaction of any business or matter relating to the Customs, or shall fraudulently alter any document or instrument, or counterfeit the stamp, seal, signature, initials, or other mark of, or used by the officers of the Customs for the verification of any such document or instrument, or for the security of goods, or any other purpose, in the conduct of business relating to the Customs, every person so contravening shall be liable to forfeit a sum not exceeding one hundred thousand rupees, and any goods; including currency in any form, in relation to which the document or statement was made shall be liable to forfeiture:

Provided always that this penalty shall not attach to any particular contravention for which any other penalty shall be expressly imposed by any law in force for the time being.

[S 119 subs by s 61 of Act 83 of 1988.]

**120. Bond entered into with the Director-General for the due performance of anything relating to the Customs, to be valid in law.**

And whereas it frequently occurs that certain indulgences are granted to merchants and others by the Director-General of Customs on bond being given for the security of the revenue, and as doubts may arise whether such bonds would in law be valid:

It is therefore enacted and declared that in all cases where bonds shall be entered into with the Director-General of Customs for the due performance of any order, matter, or thing relative to the

Customs, such bonds shall be valid in law, and upon breach of any of the conditions thereof may be sued and proceeded upon in like manner as any other bond entered into by virtue of this Ordinance.

**121. Export of Naval, Military, and air stores may be prohibited.**

The Minister may by Order published in the *Gazette* prohibit either absolutely or subject to such restrictions and conditions as he may in his discretion determine, the exportation or the carriage coastwise of all or any of the following goods, namely—  
arms, ammunition and gunpowder, Naval, Military, and air stores and any articles which the Minister shall Judge capable of being converted into or made useful in increasing the quantity of Naval, Military or air stores, provisions, or any sort of victual which may be used as food by man; and if such goods shall be exported from Sri Lanka or carried coastwise in contravention of such prohibition or otherwise than in accordance with such restrictions and conditions, or be water-borne to be so exported or carried, such goods may be seized and shall be forfeited.

**122. Unauthorised persons not permitted to make entries.**

Every person who shall make or cause to be made an entry inwards or entry outwards of any goods, not being duly authorised thereto by the proprietor or consignee or exporter of such goods, shall for every such offence forfeit a sum not exceeding one hundred thousand rupees.

[S 122 am by s 62 of Act 83 of 1988.]

**123. Samples.**

It shall be lawful for the Director-General to authorise the officers of Customs to take samples of goods for the purpose of ascertaining the duties payable on such goods or for any other purpose relative to the Customs, and such samples shall be accounted for in such manner as the Director-General may direct.

**123A. Drawing of samples on goods cleared out of Customs control.**

Where goods imported have been cleared out of Customs, and the Director-General deems it necessary for any Customs purpose to examine samples of the said goods and authorises the drawing of samples thereof, the importer or the person for the time being in charge of the place or premises where the goods are kept or stored shall hand over to the Director-General or other Customs officer authorised in writing by the Director-General in that behalf a sample or samples proved to the satisfaction of the Director-General as being authentic and representative of the said goods, provided the sample or samples are demanded within thirty days from the date such goods have been cleared from the Customs. If the samples are not handed over within three working days of the demand therefor, the Director-General or other Customs officer authorised in writing by the Director-General in that behalf shall have the power to enter, and draw samples from, the premises where the goods may be stored.

[S 123A ins by s 63 of Act 83 of 1988.]

**124. Director-General may refuse clearance.**

The Director-General may refuse to grant clearance to any ship until the owner, agent, or master of that ship, or some other person, shall have paid all port dues, fees, fines, penalties, or charges to which such ship or the owner or master of such ship in respect thereof shall be liable under this Ordinance or any other enactment:

Provided such port dues, fees, fines, penalties, or charges shall have been incurred during her present voyage inwards or outwards.

**PART XIII**

**SMUGGLING, SEIZURES, AND PROSECUTIONS GENERALLY**

**125. Smuggling, seizures, and prosecutions generally. Forfeiture of ship to include tackle.**

All goods and all ships and boats which by this Ordinance are declared to be forfeited shall and may be seized by any officer of the Customs; and such forfeiture of any ship or boat shall include the guns, tackle, apparel, and furniture of the same, and such forfeiture of any goods shall include all other goods which shall be packed with them, as well as the packages in which they are contained;

and all carriages or other means of conveyance, together with all horses and all other animals, and all other things made use of in any way in the concealment or removal of any goods liable to forfeiture under this Ordinance, shall be forfeited.

#### **125A. Inclusion of prohibited goods in Schedule B of Customs Ordinance.**

(1) The importation of counterfeit trade mark goods or pirated copyright goods or any other goods in contravention of the provisions of the Intellectual Property Act, No. 36 of 2003 (hereinafter referred to as the "Act") shall be prohibited and such goods shall be included among the goods the importation of which, are prohibited under section 43 of the Ordinance and included in Schedule B of the Ordinance as prohibited goods.

(2) The exportation of the goods referred to in subsection (1) of this section shall be prohibited and such goods shall be included among the goods the exportation of which, are prohibited as if they were referred to in section 44 of the Ordinance and included in Schedule B of the Ordinance as prohibited goods.

(3) Notwithstanding anything to the contrary in any other law, prohibited goods referred to in subsections (1) and (2) of this section, shall be disposed of outside the channels of commerce or if such disposal damages the interests of the owner of any right protected under the Act, be destroyed.

(4) "Counterfeit trade mark goods" mean any goods including packaging, bearing without authorisation a trade mark which is identical to a trade mark validly registered in respect of such goods or which cannot be distinguished in its essential aspects from such a trade mark, and which thereby infringes the rights of the owner of the trade mark recognised by the Act.

(5) "Pirated copyright goods" mean any goods which are made without the consent of the copyright holder or person duly authorised by the copyright holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right by the Act.

[S 125A ins by s 207 of Act 36 of 2003.]

#### **125B. Suspension of certain goods by Customs Authorities.**

(1) A right holder, who has valid grounds to believe that the importation of counterfeit trade mark or pirated copyright goods or of any other goods in contravention of the right holder's rights under the Act is taking place, may make an application in writing to the Director-General of Customs requiring him to suspend of the release of such goods into free circulation.

(2) A right holder who makes an application under subsection (1) shall provide adequate evidence to satisfy the Director-General of Customs that there is a, *prima facie*, case of infringement of the right holder's rights under the Act and supply a sufficiently detailed description of the goods to make them readily recognisable by any officer of the Customs.

(3) —

(a) The Director-General of Customs shall have the power to require an applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent any abuse;

(b) Where pursuant to an application made under subsection (1), the Director-General of Customs suspends the release of any goods into free circulation, he shall forthwith cause the importer and the applicant to be promptly notified the suspension.

(4) If the Director-General of Customs fails to receive any notice regarding the institution of proceedings in respect of the of release of any goods suspended under subsection (3), within a period not exceeding ten working days after the applicant has been informed of the suspension as provided for in subsection (3), he shall cause the goods to be released, provided all other conditions for importation or exportation have been complied with.

(5) Where pursuant to an application made under subsection (1), the Director-General of Customs has suspended the release of any goods into free circulation and the period referred to in subsection (4) has expired without the granting of any provisional relief by a Court, and provided that all other conditions for importation have been complied with, the owner, importer or consignee of such goods shall be entitled to have such goods released.

(6) Notwithstanding anything contained in the preceding provisions of this section, where the suspension of the release of any goods is carried out or continued in accordance with an order of

court, the provisions of subsection 4 of section 170 of Intellectual Property Act, No. 36 of 2003, shall apply.

(7) The court shall have the power to order the applicant to pay the importer, the consignee and the owner of the goods, appropriate compensation for any harm caused to them through the wrongful detention of goods or through the detention of goods released pursuant to the preceding provisions of this section.

(8) Without prejudice to the protection of confidential information, the Court shall have power to give the right holder sufficient opportunity to have any goods detained by the Customs authorities inspected in order to substantiate the right holder's claims. The Court shall in addition have power to give the importer an equivalent opportunity to have any such goods inspected.

(9) Without prejudice to other rights of action open to the right holder and the defendant, the Court shall have the power to order the destruction or disposal of any infringing goods in accordance with the principals set out in section 170 of Intellectual Property Act, No. 36 of 2003. In regard to counterfeit trade mark goods, the Court shall not other than in exceptional circumstances allow the re-exportation of the infringing goods in an unrelated state or subject them to a different Customs procedure.

(10) The provisions of sections 125A and 125B shall not apply to small quantities of goods of a non-commercial nature contained in a traveller's personal luggage or forwarded in small consignments.

(11) In this section, the expressions "counterfeit trade mark goods" and "pirated copyright goods" shall have the same meanings as are assigned to them in section 125A.

[S 125B ins by s 207 of Act 36 of 2003.]

#### **126. Stoppage, inspection, and search of vehicles suspected to be transporting smuggled goods.**

(1) Where any officer of Customs, or any peace officer or excise officer acting in aid or assistance of any officer of Customs, has reason to suspect that smuggled goods are being transported or removed in any vehicle of any description whatsoever, it shall be lawful for such officer—

(a) to give such orders, directions or signals, or to use such devices, or to take such other measures, as may be necessary to stop the vehicle or to cause it to be halted; and

(b) to inspect and search the vehicle.

(2) Where the Director-General of Customs has reason to suspect that any road is being used by vehicles which transport or remove smuggled goods, he may erect or cause to be erected across the road or any part thereof a barrier or barriers of such nature and description as to him may seem necessary for the purpose of stopping vehicles using that road or causing such vehicles to be halted.

(3) Where any barrier has been erected under subsection (2) across any road or any part thereof, it shall be lawful for any officer of Customs or for any peace officer or excise officer acting in his aid or assistance—

(a) to give such orders, directions or signals as may be necessary to cause any vehicle of any description whatsoever using such road to stop or to be halted at such barrier; and

(b) to inspect and search every vehicle stopped or halted at such barrier, for the purpose of ascertaining whether any smuggled goods are being transported or removed in such vehicle.

(4) Where any order, direction or signal is given under any of the preceding provisions of this section for the purpose of stopping any vehicle, the driver or other person for the time being in charge of such vehicle shall forthwith stop the vehicle or cause it to be halted in accordance with such order, direction or signal; and any driver or other person who fails or refuses to comply with such order, direction or signal shall be guilty of an offence and liable on conviction thereof to a fine not exceeding one hundred thousand rupees.

[S 126(4) am by s 64 of Act 83 of 1988.]

(5) Neither the Director-General of Customs, nor any other officer of Customs, nor any peace officer or excise officer acting in aid or assistance of any officer of Customs, shall be liable to any action or prosecution, whether civil or criminal, by reason of the erection of any barrier, or the stoppage, inspection or search of any vehicle, or of any other act or thing done in pursuance of the powers

conferred by the preceding provisions of this section, notwithstanding that smuggled goods may not in fact be found in any vehicle which is stopped, inspected or searched as hereinbefore provided.

(6) In this section—

- (a) "peace officer" has the same meaning as in the Code of Criminal Procedure Act;
- (b) "excise officer" has the same meaning as in the Excise Ordinance.

**127. Arrest of persons reasonably suspected of an offence under the Ordinance.**

Every offence under this Ordinance shall be deemed to be cognisable within the meaning of the Code of Criminal Procedure Act, and any person against whom a reasonable suspicion exists that he has been guilty of any such offence may be arrested in any place either upon land or water by any officer of Customs or other person duly employed for the prevention of smuggling. Every person so arrested shall with all convenient dispatch, be taken before the nearest Director-General of Customs to be dealt with according to law.

**127A. Persons arrested to be produced before a Magistrate under certain circumstances.**

Where a Director-General is of opinion that a person arrested and produced before him in terms of section 127 for an offence under this Ordinance is a person capable of interfering with the investigation or that the nature of the offence is such that it is desirable to keep that person in custody for the proper investigation of the offence for more than twenty four hours, he shall produce such person before a Magistrate.

[S 127A ins by s 65 of Act 83 of 1988.]

**127B. Access to persons in custody for purpose of investigations.**

Notwithstanding anything in any other law, a Customs officer conducting an investigation under this Ordinance in respect of any person arrested under section 127 and kept in custody under section 127A, shall have the right to access to such person and the right to take such person during reasonable hours, to any place for the purpose of investigation.

[S 127B ins by s 65 of Act 83 of 1988.]

**127C. Power to release on bail to be vested in High Court.**

No person suspected or accused of an offence under this Ordinance in respect of any goods the value of which exceeds one million rupees, shall be released on bail except by the High Court, in exceptional circumstances. The power conferred on the High Court by this section shall be exercised by the Judge of the High Court holden in the Zone within which the accused resides or the Judge of the High Court holden in the Zone within which the offence is alleged to have been committed.

[S 127C ins by s 6 of Act 24 of 1991.]

**128. Power to enter and search certain premises and seize certain goods and documents.**

(1) The Director-General or any officer of Customs authorised in that behalf in writing by the Director-General may—

- (a) at all reasonable hours by day or night enter and search any building or place in which he suspects there are—
  - (i) any un Customed goods,
  - (ii) any goods enumerated in the table of prohibitions and restrictions in Schedule B1 and imported or brought into the Island contrary to the prohibitions and restrictions referred to in that Schedule, or
  - (iii) any books of accounts or other documents containing any evidence relating to an offence under this Ordinance which, or which he suspects, has been or is being committed;
- (b) break open any door, vault, chest, trunk, package or other place of storage which he may consider reasonably necessary to break for the purpose of exercising his powers under the preceding provisions of this subsection; and
- (c) where he discovers any such goods, books or documents, seize and store them in a place of security selected by the Director-General.

(2) The Director-General or any officer of Customs referred to in subsection (1) may request any person in charge or occupation of any building or place specified in paragraph (a) of that subsection to assist the Director-General or such officer to enter and search that building or place in the exercise of the powers of the Director-General or such officer under that subsection, and if such person when so requested fails to assist the Director-General or such officer, he shall be guilty of an offence.

(3) If any person obstructs the Director-General or an officer of Customs referred to in subsection (1) in exercising any power under that subsection, he shall be guilty of an offence.

(4) A person who is guilty of an offence under subsection (2) or subsection (3) shall be liable on conviction to a fine not exceeding one hundred thousand rupees.

[S 128 subs by s 2 of Act 25 of 1958; 128(4) am by s 66 of Act 83 of 1988.]

#### **128A. Power to enter for the purpose of audit or examination or records.**

(1) The Director-General or any officer of Customs authorised in that behalf in writing by the Director-General may—

(a) at all reasonable, hours of the day or night enter any building or palace where records are kept in accordance with section 51B in audit of examine such records on any matter pertaining to Customs either in relation to specific transactions or to the adequacy and integrity of the manual or electronic systems by which such records are created and stored;

(b) open and examine any receptacle where any book of account register, record or any other document may be found for the purposes of the preceding provisions of this Ordinance;

(c) examine and take copies of or make extracts from or take possession of any book of account register, other document found in such place or building;

(d) operate any computer found in any building and make copies or take printouts of the whole or part of any entries recorded or stored therein.

(2) Where an officer authorised by the Director-General under subsection (1) of this section takes into his possession any book of account, register, record or other documents from any person, such officer shall issue to that person a memorandum specifying the book, register, record or document he has taken into his possession.

(3) Any book of account, register, record or other document taken into his possession under subsection (1) by any officer may be retained in the possession of such officer for the examination of such book, register, record or document or for the institution of legal proceedings against the person to whom such book, register, record or other document belongs.

(4) The Director-General or any authorised officer of Customs may request any person in charge or occupation of any building or place to assist the Director-General or such officer to enter and search that building or place and if such person when so requested fails to assist the Director-General or such officer he shall be guilty of an offence.

(5) Any person who obstructs the Director-General or an officer of Customs in exercising any of his powers under this section shall be guilty of an offence.

(6) A person who is guilty of an offence under subsection (4) or (5) shall be liable to a penalty not exceeding one hundred thousand rupees.

[S 128A ins by s 7 of Act 2 of 2003.]

#### **129. Persons concerned in importing prohibited or restricted goods, whether unshipped or not, and persons unshipping, harbouring or having custody of such goods, to forfeit treble the value, or one hundred thousand rupees.**

Every person who shall be concerned in importing or bringing into Sri Lanka any prohibited goods, or any goods the importation of which is restricted, contrary to such prohibition or restriction, and whether the same be unshipped or not, and every person who shall unship or assist, or be otherwise concerned in the unshipping of any goods which are prohibited, or of any goods which are restricted and imported contrary to such restriction, or of any goods liable to duty the duties for which have not been paid or secured, or who shall knowingly harbour, keep, or conceal, or shall knowingly permit, or suffer, or cause, or procure to be harboured, kept, or concealed, any such goods, or any goods which have been illegally removed without payment of duty from any warehouse or place of security in which they may have been deposited, or into whose hands and possession any such goods shall

knowingly come, or who shall assist or be concerned in the illegal removal of any goods from any warehouse or place of security in which they shall have been deposited as aforesaid, or who shall be in any way knowingly concerned in conveying, removing, depositing, concealing, or in any manner dealing with any goods liable to duties of Customs with intent to defraud the revenue of such duties or any part thereof, or who shall be in any way knowingly concerned in any fraudulent evasion or attempt at evasion of such duties or any part thereof, shall in each and every of the foregoing cases forfeit either treble the value of the goods, or be liable to a penalty of one hundred thousand rupees, at the election of the Director-General.

[S 129 subs by s 19 of Law 35 of 1974; am by s 67 of Act 83 of 1988.]

### **130. Persons concerned in, exporting prohibited or restricted goods.**

Every person who shall be concerned in exporting or taking out of Sri Lanka or attempting to export or take out of Sri Lanka any prohibited goods or any goods the exportation of which is restricted contrary to such prohibition or restriction, whether the same be laden for shipment or not and every person who shall export or attempt to export any goods liable to duty the duties for which have not been paid or secured, or in any manner deal with any goods liable to duties of Customs with intent to defraud the revenue of such duties or any part thereof, or who shall be knowingly concerned in any fraudulent evasion or attempt at evasion of such duties or any part thereof, shall in each and every of the foregoing cases forfeit either treble the value of the goods, or be liable to a penalty of one hundred thousand rupees at the election of the Director-General.

[S 130 subs by s 20 of Law 35 of 1974; am by s 68 of Act 83 of 1988.]

### **131. Forfeited ships.**

(1) Any ship not exceeding 250 tons tonnage, knowingly used in the importation or exportation of any goods prohibited of import or export, or in the importation, exportation or conveyance, or in the attempted importation, exportation or conveyance, of any goods with intent to defraud the revenue, shall be forfeited.

(2) The owner or master of any ship exceeding 250 tons tonnage, which would be liable to forfeiture under this section if the ship were of less than 250 tons tonnage, shall forfeit a sum not exceeding one hundred thousand rupees, and the ship may be detained on the orders of the Director-General until such sum is paid or until security for its payment is given to the satisfaction of the Director-General.

[S 131(2) am by s 69 of Act 83 of 1988.]

### **132. If goods removed prior to examination, penalty upon parties concerned in the removal.**

Every person who shall remove any goods imported into Sri Lanka from any ship, quay, wharf, or other place previous to the examination thereof by the proper officer of Customs, unless under the care or authority of such officer, or who shall remove or withdraw from any quay, wharf, or other place any goods entered to be warehoused after the landing thereof, so that no sufficient account is taken thereof by the proper officer, or so that the same are not duly warehoused, and every person who shall assist or be otherwise concerned in such removal or withdrawal, or shall knowingly harbour, keep or conceal or shall knowingly permit or suffer, or cause or procure to be harboured, kept, or concealed, any such goods, or into whose possession any such goods shall knowingly come, every such person shall forfeit either treble the value thereof, or be liable to a penalty of one hundred thousand rupees, at the election of the Director-General of Customs.

[S 132 subs by s 21 of Law 35 of 1974; am by s 70 of Act 83 of 1988.]

### **133. Persons assisting in unshipping or harbouring such goods liable to treble the value or one hundred thousand rupees.**

Every person who shall assist or be otherwise concerned in the unshipping, landing, or removal, or in the harbouring of such goods, or into whose hands or possession the same shall knowingly come, shall forfeit treble the value thereof, or the penalty of one hundred thousand rupees, at the election of the Director-General of Customs; and the averment in any information to be exhibited for the recovery of such penalty that the Director-General has elected to sue for the sum mentioned in the information shall be deemed sufficient proof of such election, without any other or further evidence of such fact.

[S 133 subs by s 22 of Law 35 of 1974; am by s 71 of Act 83 of 1988.]

**134. How value to be ascertained.**

In all cases where any penalty, the amount of which is at any time to be determined by the value of any goods, is directed to be sued for under this Ordinance, such value shall be deemed and taken to be according to the rate and price which goods of the like sort or denomination, and of the best quality, bear at such time at the place of importation, and upon which the duties due upon importation have been paid.

**135. Goods, vessels liable to forfeiture may be seized by officers. Persons resisting officers or rescuing or destroying goods to prevent seizure, to forfeit one hundred thousand rupees.**

All goods, and all ships and boats, and all carriages and all cattle, liable to forfeiture under this Ordinance, shall and may be seized in any place, either by land or water, by any officer of the Customs or police, or by any Grama Seva Niladhari, or by any person employed for that purpose, by or with the concurrence of the Minister, and every person who shall in any way hinder, oppose, molest, or obstruct any officer of the Customs or police, or any Grama Seva Niladhari, or any person so employed as aforesaid in the exercise of his office, or any person acting in his aid or assistance, or shall rescue, or cause to be rescued, any goods which have been seized, or shall attempt or endeavour to do so, or shall before or at or after any seizure stave, break, or otherwise destroy any goods to prevent the seizure thereof, or shall rescue the same, then and in any such case the party so offending shall be guilty of an offence, and shall for every such offence forfeit a sum not exceeding one hundred thousand rupees.

[S 135 am by s 72 of Act 83 of 1988.]

**136. Goods stopped or taken by Police Officer.**

If any goods liable to forfeiture under this Ordinance shall be stopped taken by any Police Officer or Grama Seva Niladhari, such goods shall be conveyed to the Customhouse nearest to the place where the goods were stopped or taken, and there delivered to the proper officer appointed to receive the same, within a reasonable time after the said goods were stopped and taken; and in case any Police Officer or Grama Seva Niladhari stopping such goods shall neglect to have the same conveyed to such Custom-house within a reasonable time, such Police Officer or Grama Seva Niladhari shall forfeit a sum not exceeding one hundred thousand rupees.

[S 136 subs by s 23 of Law 35 of 1974; am by s 73 of Act 83 of 1988.]

**137. Officers making collusive seizures, or taking bribes, and persons giving bribes, subject to penalties.**

If any officer of the Customs, or any person employed for the protection of the revenue, shall make any collusive seizure, or deliver up, or make any agreement to deliver up, or not to seize any ship, boat, or goods liable to forfeiture under this Ordinance, or shall take any bribe, gratuity, recompense, or reward for the neglect or non-performance of his duty, every such officer or other person shall forfeit for every such offence a sum not exceeding one thousand rupees, and be rendered incapable of serving the Government of Sri Lanka in any office whatever; and every person who shall give or offer, or promise to give or procure to be given any bribe, recompense, or reward to, or shall make any collusive agreement with, any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to do, conceal, or connive at anything whereby the provisions of this Ordinance may be evaded, shall forfeit a sum not exceeding one hundred thousand rupees.

[S 137 am by s 74 of Act 83 of 1988.]

**138. Officers may search persons on board or on shore in certain cases.**

It shall be lawful for any officer of Customs to go on board any ship which shall be within the limits of any port or airport in Sri Lanka, and search any person on board, and his baggage or other belongings and it shall be lawful for him to search any person who shall have landed from any ship or any person passing or having passed through the Custom house and the baggage or other belongings of such person, provided such officer shall have good reason to suppose that such person shall have any un-customed, restricted or prohibited goods secreted about his person or in his baggage or other belongings; and if any person shall obstruct any such officer in the performance of any such duty, every such person shall be guilty of an offence, and shall be liable on conviction

thereof to a fine not exceeding one hundred thousand rupees or to imprisonment of either description for a term not exceeding five years or to both such fine and imprisonment.

[S 138 subs by s 75 of Act 83 of 1988.]

**139. Prohibition against the throwing overboard of goods.**

If any person throws overboard any goods from a ship for the purpose of guilty of an offence and liable to a fine not exceeding one hundred thousand rupees; and if, in a prosecution for any such offence, it is proved to the satisfaction of the court that goods were thrown overboard while any officer of Customs was on board in exercise of the powers conferred by section 64 or section 118 or section 138 of this Ordinance or in the course of an attempt by an officer of Customs to seize the goods, it shall be presumed unless the contrary is proved that they were so thrown overboard for the purpose of preventing seizure.

[S 139 am by s 76 of Act 83 of 1988.]

**140. Before such search the person may require to be taken before a Magistrate or a superior officer of the Customs.**

Before any person shall be searched by any such officer as aforesaid it shall be lawful for such person to require such officer to take him before a Magistrate, or before the Director-General or other superior officer of Customs, who shall determine whether there is reasonable ground to suppose that such person has any un Customed or prohibited goods about his person; and if it shall appear to such Magistrate, Director-General, or other superior officer of Customs that there is reasonable ground to suppose that such person has any un Customed or prohibited goods about his person, then such Magistrate, Director-General, or other superior officer of Customs shall direct such person to be searched in such manner as he shall think fit; but if it shall appear to such Magistrate, Director-General, or other superior officer of Customs that there is not reasonable ground to suppose that such person has any un Customed or prohibited goods about his person, then such Magistrate, Director-General, or other superior officer of Customs shall forthwith discharge such person, who shall not in such case be liable to be searched; and every such officer as aforesaid is hereby authorised and required to take such person, upon demand, before any such Magistrate, Director-General, or other superior officer of Customs, detaining him in the meantime:

Provided that no person being a female shall be searched by any other person than a female duly authorised for that purpose by the Director-General of Customs.

**141. Penalty on officers for misconduct with respect to search.**

If any such officer shall not take such person with reasonable dispatch before such Magistrate, Director-General, or other superior officer of Customs when so required, or shall require any person to submit to be searched by him, not having reasonable ground to suppose that such person has any un Customed or prohibited goods about his person, such officer shall forfeit and pay a sum not exceeding two hundred rupees.

[S 141 subs by s 24 of Law 35 of 1974.]

**142. Penalty on persons on board falsely denying having foreign goods about them.**

If any passenger or other person on board any ship or boat, or after landing therefrom, shall upon being questioned by any officer of the Customs whether he has any foreign goods upon his person or in his possession, deny the same, and any such goods shall, after such denial, be discovered upon his person or in his possession, such goods shall be forfeited, and such person shall forfeit treble the value of such goods.

**143. Power to fire at vessels failing to bring to when required.**

(1) If any ship or boat which is liable to seizure or examination under this Ordinance, or which officers of Customs are empowered by this Ordinance to board, shall not bring to when required so to do—

- (a) the master of such ship or boat shall forfeit the sum of five hundred rupees; and
- (b) it shall be lawful for the officer of Customs having the charge or command of any vessel flying the Sri Lanka Customs Flag, having first caused a gun to be fired as a signal, to fire at or into such ship or boat;

and such officer of Customs or any other person acting in his aid or assistance or by his direction shall be and is hereby indemnified and discharged from any action or prosecution, whether civil or criminal, in respect of any act done in pursuance of the powers conferred by this section:

Provided, however, that the powers conferred on any officer of Customs by the preceding provisions of this section shall not be exercised except in relation to a ship or boat which is for the time being within the territorial waters of Sri Lanka.

(2) Where any vessel, other than a vessel duly authorised by the Director-General in that behalf, flies the Sri Lanka Customs Flag, the master or person in charge of the vessel shall be guilty of an offence and liable to a fine not exceeding two hundred rupees.

(3) In this section, "Sri Lanka Customs Flag" means a flag of such design or description as may be specified by the Director-General by notice published in the *Gazette* to be the Sri Lanka Customs Flag.  
[S 143 subs by s 25 of Law 35 of 1974.]

#### **144. Goods not to be passed if incurred penalty is not paid.**

If any person fails to pay any sum of money which he, under this Ordinance, has forfeited, or becomes liable to forfeit or to pay as a penalty, the officers of Customs may refuse to pass any goods which that person imports or brings into or is seeking to export or take out of Sri Lanka until that sum is paid:

Provided that nothing in the preceding provisions of this section shall be deemed to prohibit the recovery of such sum by the Director-General under any other provision of law.

#### **145. Recovery of penalties.**

(1) Every penalty and forfeiture in a sum of money incurred under this Ordinance shall carry such rate of interest as may be prescribed by regulations made under this Act from the date on which such penalty or forfeiture is incurred to the date of payment.

(2) All penalties and forfeitures incurred under this Ordinance and any interest thereon may be sued for and recovered by an action instituted in the name of the Attorney-General in the District Court within the local limits of whose jurisdiction the party liable to such penalty or forfeiture resides. Sections 3, 4, 5, 6, 7, 8, 12, 13, 14, 15 and 23 of the Debt Recovery (Special Provisions) Act, No. 2 of 1990 shall, *mutatis mutandis*, apply to the institution and hearing of every such action.

(3) Where an action is instituted in a District Court under subsection (2) the Court shall give priority to hearing and disposal of such, action, except where circumstances render it necessary for such other business to be disposed of earlier.

[S 145 subs by s 7 of Act 24 of 1991.]

#### **146. Persons liable to forfeiture or penalty under any section of the Ordinance to be guilty of an offence.**

If any person by reason of any act or omission becomes liable, under the provisions of any section of this Ordinance to forfeit any goods or any sum of money, or to any penalty other than a fine, such person shall, in addition, be guilty of an offence and shall, on conviction after summary trial before a Magistrate—

(a) if the act or omission by reason of which he becomes liable to the forfeiture or penalty, relates to the importation or exportation of any goods set out in Column I of Schedule F to this Ordinance and in excess of the amount set out in the corresponding entry in Column II of that Schedule, be liable to the penalty set out in the corresponding entry in Column III of that Schedule;

(b) if the act or omission by means of which he becomes liable to forfeiture or penalty relates to the importation or exportation of any goods which are not set out in Schedule F and the value of such goods exceeds two hundred and fifty thousand rupees, be liable to imprisonment of either description for a term not less than three months and not more than two years or to a fine not exceeding twenty five thousand rupees or to both such imprisonment and fine; and

(c) if the act or omission does not relate to such importation or exportation, be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding ten thousand rupees or to both such imprisonment and fine:

Provided, however, that no prosecution shall be instituted against any person under this section, unless the Director-General is of opinion that the forfeiture or penalty, as the case may be, whether imposed or not cannot or is not likely to be recovered from such person.

[S 146 subs by s 77 of Act 83 of 1988.]

**147. Prosecutions for offences and application of fines.**

- (1) Every offence under this Ordinance shall be summarily triable by a Magistrate.
- (2) No prosecution for any offence under this Ordinance shall be instituted except by, or with the written sanction of, the Director-General or a Director of Customs hereinafter referred to as "Director".
- (3) The Director-General may at any time compound any offence under this Ordinance:

Provided that where a prosecution has been entered against any person for any offence under this Ordinance, the Director-General may compound such offence at any time before judgment and may withdraw such prosecution.

- (4) Notwithstanding the provisions of any written law to the contrary, all fine recovered in respect of offences under this Ordinance shall be paid into the hands of the Director-General at the port or place where or nearest to which the same shall have been recovered, and applied in the manner provided in section 153.

**147A. Magistrates to have jurisdiction to impose any punishment prescribed for offences under this Ordinance.**

Notwithstanding the provisions of any written law to the contrary, a Magistrate shall have jurisdiction to impose on any person guilty of any offence under this Ordinance, any punishment prescribed for such offence.

[S 147A ins by s 27 of Law 35 of 1974.]

**148. Averment of offence.**

In any information or other proceeding for any offence against this Ordinance the averment that such offence was committed within the limits of any port or of the territorial waters of Sri Lanka shall be sufficient, without proof of such limits, unless the contrary be proved.

**149. Several persons concerned in the same offence jointly and severally liable to the penalty, and may be sued either by one or by separate informations.**

When any penalty is imposed upon any person committing or concerned in the act by which such penalty is incurred, and such offence shall have been committed by several persons jointly, or several persons shall have been concerned in the same, such several persons shall jointly and severally incur every such penalty; and it shall be lawful to proceed against such persons to recover such penalty jointly by one information or severally by separate informations, as the Attorney-General may deem expedient.

**150. Goods not specified in boat-note when found concealed in any boat to be presumed to have been stolen or unlawfully received by tindal and boatmen of such boat.**

Whenever goods not specified in the boat-note mentioned in section 38 have been concealed in any boat during the loading, transit, or unloading of such boat in any harbour or port of Sri Lanka, the discovery of such goods on board such boat shall be received in all courts of Sri Lanka as *prima facie* evidence that the goods have been either stolen by the tindal and boatmen employed in such boat or that the same have been unlawfully received on board by the tindal and boatmen employed on such boat with knowledge that the same have been stolen; and shall be conclusive thereof unless and until such tindal and boatmen or any of them shall satisfactorily account for the presence of such goods on board such boat.

**151. Goods not mentioned in boat-note when found in possession of any tindal or boatmen when on board of boat or on wharves to be presumed to have been stolen.**

Whenever goods not specified in the boat-note mentioned in section 38 shall be found in the possession of any tindal or boatman when on board the boat in which he is employed, or when on the quays or wharves of any port or harbour of Sri Lanka, such tindal or boatman, in whose possession

such goods are found, shall be presumed to have stolen the goods or to have unlawfully received the same knowing them to have been stolen; unless and until such tindal or boatman shall satisfactorily account for his possession thereof.

#### **152. Onus probandi to be on the party.**

(1) If any goods are seized for non-payment of duties or any other cause of forfeiture, and any question shall arise in any proceedings whether civil, criminal or otherwise, whether the duties have been paid for the same, or whether the same have been lawfully imported, or lawfully laden or exported, the proof thereof shall lie on the owner or claimer of such goods or on the person against whom any contravention of this Ordinance is alleged and not on the Attorney-General or the officer who seized or stopped such goods or on the prosecution.

(2) Where in any proceedings referred to in subsection (1), the question arises whether there has been an attempt to export or take out of Sri Lanka any goods, then, if such goods are found in any place on or near the sea-shore or the bank of any river in such quantities or packed in such manner as to suggest that such goods are intended to be exported or taken out of Sri Lanka, such goods shall be presumed to be goods in respect of which an attempt to export or take out of Sri Lanka has been made.

(3) In any proceedings referred to in subsection (1), a certificate purporting to be under the hand of the Director-General of Customs or a Deputy Director-General of Customs that the goods referred to in that certificate are in his opinion imported goods, shall be *prima facie* proof of such fact and shall be admitted in evidence without any further proof that it is so signed; and it shall not be competent for any court to require the Director-General or the Director to disclose the reasons upon which such opinion is expressed.

[S 152 subs by s 28 of Law 35 of 1974.]

#### **153. Disbursement of forfeitures and penalties recovered under this Ordinance.**

The amount—

(1) of all forfeitures and penalties recovered under this Ordinance or under this Ordinance read with the provisions of any other written law; and

(2) of the proceeds of all such goods as may be disposed of by the Director-General under section 162 of this Ordinance, or under this Ordinance read with the provisions of any other written law,

shall be paid into the hands of such Director-General and shall (after deducting any expenses incurred) be paid and applied as follows:

- (a) one half to the Deputy Secretary to the Treasury, out of which sixty *per centum* shall be credited to the Consolidated Fund and the balance forty *per centum* to the Customs Officers Management and Compensation Fund (hereinafter in this Ordinance referred to as "the Fund"; and
- (b) the other half into a reward fund under the control of the Director-General for distribution, in accordance with a scheme to be approved by the Minister, among Customs officers concerned and the informers.

[S 153 subs by s 78 of Act 83 of 1988.]

#### **153A. Purposes to which the Fund may be applied.**

(1) The sum of money in the Fund shall be utilised for the following purposes:

(a) providing such facilities as appear to the Director-General to enhance the effectiveness of the management of Customs; and

(b) granting compensation to any Customs officer who is permanently, totally or partially disabled or temporarily incapacitated, or in the event of death of any Customs officer, to the legal heirs, in any case where such disablement, incapacitation or death, as the case may be, is due to an injury—

(i) received by such officer while on duty; or

(ii) received by such officer while on a journey—

(a) from his place of residence to his place of work to report for duty; or

(b) from his place of work to his place of residence after duty, or

(iii) received by such officer, while not on duty in the performance of some act which is within the scope of his ordinary duties; or

(iv) received by such officer in consequence of any act performed in the execution of his duties; or

(v) received by such officer as a result of any act of reprisal occasioned by, or arising out of, any action taken by him in the execution of his duties.

(2) The Director-General may with the approval of the Minister by regulation provide for the principles and conditions subject to which such compensation will be granted and for all other matters necessary or expedient for the establishment and operation of such a Fund.

(3) Any compensation granted in accordance with regulations made under the preceding provisions of this section in respect of the disablement, incapacitation or death of a Customs officer shall be in addition to any pension, gratuity, compensation, allowance, or other benefit granted in respect of such disablement, incapacitation or death under the Minutes on Pensions, or any other written law.

[S 153A ins by s 79 of Act 83 of 1988.]

#### **154. Seized goods, if unclaimed for a month, to be condemned and dealt with accordingly.**

(1) All ships, boats, goods, and other things which shall have been or shall hereafter be seized as forfeited under this Ordinance, shall be deemed and taken to be condemned, and may be dealt with in the manner directed by law in respect to ships, boats, goods, and other things seized and condemned for breach of such Ordinance, unless the person from whom such ships, boats, goods and other things shall have been seized, or the owner of them, or some person authorised by him, shall, within one month from the date of seizure of the same, give notice in writing to the Director-General or other chief officer of Customs at the nearest port that he intends to enter a claim to the ship, boat, goods, or other things seized as aforesaid, and shall further give cash security to prosecute such claim before the court having jurisdiction to entertain the same and otherwise to satisfy the judgment of the court and to pay costs in such sum as the Director-General or proper officer of Customs at the port where or nearest to which the seizure was made shall consider sufficient.

If proceedings for the recovery of the ship, boat, goods or other things so claimed be not instituted in the proper court within thirty days from the date of notice and security as aforesaid, the ship, boat, goods, or other things seized shall be deemed to be forfeited, and shall be dealt with accordingly by the Director-General or other proper officer of Customs.

[S 154(1) subs by s 29 of Law 35 of 1974.]

(2) If after the institution of proceedings in the proper court, the claimant shall give cash security to restore the things seized or their value in such sum as the Director-General or proper officer of Customs at the port where or nearest to which the seizure made shall consider sufficient, the ship, boat, goods or other things seized may, if required, be delivered up to the claimant at the discretion of the Director-General of Customs or a Deputy Director-General of Customs.

[S 154(2) subs by s 29 of Law 35 of 1974.]

(3) After institution of proceedings in the proper court in respect of any ships, boats, goods or other things the court, may, on the application of the Director-General of Customs and if the claimants do not object thereto, authorise such Director-General to dispose of such ships, boats, goods or other things and deposit the proceeds of sale in court. Where the claimants object to the disposal of such ships, boats, goods or other things the court may require the claimants to deposit cash security, equal to the market value (as assessed by such Director-General) of such ships, boats, goods or other things, in court.

[S 154(3) ins by s 8 of Act 24 of 1991.]

#### **155. Claim to thing seized to be entered in the name of the owner.**

No claim to anything seized under this Ordinance shall be admitted by such court, unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner, or by his attorney or agent, by whom such claim shall be entered, to the best of his knowledge and belief, nor unless the claimant shall at the time of filing

his libel or plaint to establish his claim satisfy the court that he has given notice and security as in section 154 enacted.

**156. Notice to be given to officers.**

No summons shall be sued out against, nor a copy of any process served upon, any officer of the Customs or other person as aforesaid, for anything done in the exercise of his office, until one month after notice in writing shall have been delivered to him, or left at his usual place of abode, by the party who intends to sue out such summons or process, his attorney or agent, in which notice shall be clearly and explicitly stated the cause of the action, the name and place of the abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of the cause of such action shall be produced except of such as shall be stated in such notice; and no judgment shall be given for the plaintiff unless he shall prove on the trial that such notice was given; and in default of such proof the defendant shall receive in such action a judgment and costs.

**157. Actions to be brought within two months of the cause of them.**

Every such action as in section 156 referred to shall be brought within two months after the cause thereof, and shall be laid and tried in the district where the facts were committed; and if the plaintiff shall become non-suited, or shall discontinue the action, or if judgment shall be given against the plaintiff, the defendant shall receive the costs of suit.

**158. Officer may tender amends.**

It shall be lawful for such officer or other person as aforesaid, within one month after such notice, to tender amends to the party complaining, or to his agent, and to plead such tender in bar to any action, together with other pleas; and if the court shall find the amends sufficient, it shall give judgment for the defendant; and in such case, or in case the plaintiff shall become non-suited, or shall discontinue his action, or judgment shall be given for the defendant, such defendant shall be entitled to costs as in section 157 mentioned:

Provided always that it shall be lawful for such defendant, by leave of the court where such action shall be brought at any time before issue joined, to pay money into court as in other actions.

**159. Judge may certify probable cause of seizure**

In case any information shall be brought to trial on account of any seizure made under this Ordinance, and a Judgment shall be given for the claimant thereof, and the court before which the cause shall have been tried shall certify on the record that there was probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action or prosecution on account of such seizure; and if any action shall be brought to trial against any person on account of such seizure, wherein a judgment shall be given against the defendant, if the court before which such information shall have been tried shall have certified on the said record that there was a probable cause for such seizure, the plaintiff shall only be entitled to a judgment for the things seized, or the value thereof, and not to any damages, nor to any costs of suit.

**160. .**

[S 160 rep by s 9 of Act 24 of 1991.]

**161. Persons employed for the protection of the revenue to be deemed to be duly employed.**

All persons employed for the protection of the revenue under the direction of the Minister or of the Director-General shall be deemed and taken to be duly employed for the protection of the revenue; and the averment in any information that such person was so duly employed shall be sufficient proof thereof, unless the defendant in such information shall prove to the contrary.

**162. Vessels and goods seized and condemned may be disposed of as the Director-General shall direct.**

All ships and boats, and all goods whatsoever, which shall have been seized and condemned for a breach of this Ordinance, shall be disposed of as soon as conveniently may be after the condemnation thereof, in such manner as the Director-General or other proper officer of Customs shall direct; Provided that all horses, cattle, or goods of a perishable nature may be sold forthwith.

**6163. Director-General in certain cases may mitigate forfeiture or penalty.**

In all cases in which under this Ordinance any ships, boats, conveyances, goods, or other things have become liable to forfeiture, or shall have been forfeited, and in all cases in which any person shall have incurred or become liable to any penalty, it shall be lawful for the Director-General, should he deem such forfeiture or penalty unduly severe, to mitigate the same; but all cases so determined by the Director-General shall nevertheless be liable to revision by the Minister.

**164. Restoration of seized goods, ships.**

In case any goods, ships, or boats shall be seized as forfeited, or detained as undervalued, by virtue of this Ordinance, it shall be lawful for the Minister to order the same to be restored in such manner and on such terms and conditions as he shall think fit to direct; and if the proprietor of the same shall accept the terms and conditions prescribed by the Minister, he shall not have or maintain any action for recompense or damage on account of such seizure or detention and the person making such seizure shall not proceed in any manner for the purpose of obtaining the condemnation thereof.

**165. The Minister may restore seizures, and mitigate or remit punishments and penalties.**

The Minister may, by any order made for that purpose, direct any ship, boat, goods, or other commodities whatever, seized under this Ordinance, to be delivered to the proprietor thereof, whether condemnation shall have taken place or not, and may also mitigate or remit any penalty or fine or any part of any penalty or fine incurred under this Ordinance, or may release from confinement any person committed under this Ordinance, on such terms and conditions as to him shall appear to be proper:

Provided always that no person shall be entitled to the benefit of any order for such delivery, mitigation, remission, or release, unless such terms and conditions are fully and effectually complied with.

**166. Possession of articles suspected to have been stolen.**

(1) Any person who, within the limits of any port, is found, or is proved to have been, in possession or in charge of any article which is suspected to have been stolen from any ship, boat, quay, warehouse, or wharf of any port of Sri Lanka, may be charged with being, or having been, in possession of property which is reasonably suspected to have been stolen; and if such person does not give an account to the satisfaction of the Magistrate as to how he came by such article, and the Magistrate is satisfied that, having regard to all the circumstances of the case, there are reasonable grounds for suspecting such article to have been stolen, such person shall be guilty of an offence, and shall be liable on conviction before a Magistrate to a fine not exceeding ten thousand rupees, or to imprisonment of either description for a period not exceeding six months.

[S 166(1) am by s 10 of Act 24 of 1991.]

(2) Where any officer of Customs or any Police Officer finds any person in possession or charge of any article which he suspects to have been stolen, he may seize such article and bring or cause to be brought such person before a Magistrate and charged as aforesaid.

**166A. Where the offence is concerned with goods, the value of which exceeds five hundred thousand rupees such offence to be deemed a non-bailable offence.**

Where a person is suspected to be concerned with an offence under section 129 or section 130 of this Ordinance and the value of the goods in respect of which the offence is alleged to have been committed exceeds five hundred thousand rupees, then notwithstanding anything in this Ordinance or in any other written law such offence shall be deemed to be a non-bailable offence.

[S 166A ins by s 80 of Act 83 of 1988.]

**166B. Guidelines for imposing penalty or ordering forfeiture.**

In imposing a penalty or ordering a forfeiture under sections 27, 28, 29, 30, 31, 32, 38, 47, 52, 56, 57, 59, 62, 63, 64, 67, 68, 74, 76, 77, 110, 119, 129, 130, 131, 132, 133, 135, 136 and 137, the Director-General shall have regard to the following:

- (a) the gravity of the contravention giving rise to the penalty or forfeiture;
- (b) the amount of revenue lost as a result of such contravention;

(c) the availability or shortage, as the case may be, of the goods with respect to which such contravention has been committed.

[S 166B ins by s 80 of Act 83 of 1988.]

## PART XIV

### INTERPRETATION OF TERMS USED IN THIS ORDINANCE

#### 167. Interpretation.

Whenever the several terms or expressions following shall occur in this Ordinance, or in any other enactment relating to the Customs, the same shall be construed respectively in the manner hereinafter directed, unless there is anything in the context repugnant to such construction, that is to say—

"bonded warehouse" shall mean any place approved of by the Minister in which goods entered to be warehoused may be lodged, kept, and secured without payment of duty, although prohibited to be used in Sri Lanka;

"coastwise" shall mean the trade by sea from any one part of Sri Lanka to any other part thereof;

"Director-General" shall mean the Director-General of Customs, Director, Assistant Director of Customs, Superintendent of Customs, or other principal acting officer of Customs of any port or place;

"Container Freight Station" or "Inland Clearance Depot" shall mean a place designated by the Director-General—

(a) for the storage and clearance of goods under Customs control after they have been de-stuffed from containers or when they are to be stuffed into containers;

(b) for the storage of containers which have goods therein; and

(c) for the storage of empty containers;

[Ins by s 81 of Act 83 of 1988.]

"Customs house" shall mean any place for the transaction of Customs business;

[Ins by s 81 of Act 83 of 1988.]

"document" includes any information contained in an electronic record, printed on a paper stored, recorded or copied on optical or magnetic media and produced by whatever means;

[Ins by s 8 of Act 2 of 2003.]

"flashing point" shall mean "flashing point" as defined in the Petroleum Ordinance, or in any enactment that may hereafter be substituted therefor;

"foreign" shall mean the trade by sea to or from any part or place beyond the limits of Sri Lanka;

"kerosene oil" shall include the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosene, petroleum, paraffin oil, mineral oil, petrol, gasoline, benzol, benzoline, benzine, and any liquid that is made from petroleum, coal, schist, peat, or any other bituminous substance, or from any products of petroleum with a flashing point of less than 150°F., and any inflammable hydrocarbon (including any mixture of hydrocarbon, and any liquid containing hydrocarbon) which is capable of being used for providing reasonably efficient motive power for a motor car;

"warehouse of the Republic" shall mean any place provided by the Government for lodging goods therein for the security of the Customs;

"mail steamers" shall mean steamers running under contract with the United Kingdom, Indian, or Burmese, or any colonial or foreign Government;

"master" of any ship shall mean the person having or taking the charge or command of such ship;

"officer of Customs" shall mean any person acting as such for the time being;

"owner" shall alike mean one owner if there be only one, and any or all the owners if there be more than one;

"port or harbor" shall include a Customs aerodrome;

[Ins by s 81 of Act 83 of 1988.]

"seamen" shall include mate, mariner, sailor, or lands-man, being one of the crew of the ship;

"ship or vessel" shall mean ship or vessel of every description and shall include an aircraft;

[Subs by s 81 of Act 83 of 1988.]

"shipment" with its grammatical variations and cognate expressions shall include loading into an aircraft;

[Ins by s 81 of Act 83 of 1988.]

"value", in relation to imported goods, whether such goods were imported lawfully, or otherwise means the price of such goods as determined in accordance with Schedule E.

[Subs by s 81 of Act 83 of 1988.]

"warehouse" shall mean any place provided for the deposit of goods on the landing or for the shipment thereof for the security of the Customs.