Mauritius

# Customs Act

Act 47 of 1988

Legislation as at 30 June 2017

FRBR URI: /akn/mu/act/1988/47/eng@2017-06-30

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# Mauritius

# Customs Act

## Act 47 of 1988

**Commenced on 1 January 1989**

*[This is the version of this document at 30 June 2017.]*

*[EDITORIAL NOTE: The words "Comptroller" and "Government" wherever they appear have been deleted and replaced by the words "Director-General" and "Authority", respectively, by section 27 (3) (s) of the Mauritius Revenue Authority Act w.e.f. 1 July 2006.]*

## Part I – Introduction

### 1. Short title

This Act may be cited as the Customs Act.

### 2. Interpretation

In this Act and in any other Act relating to customs—

"**abandoned goods**" means goods which are not claimed or removed from customs control within the period specified in section 61;

"**agent**"—

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

(aa) includes a person holding a postal service licence or a courier service licence under the Postal Services Act, appointed as freight forwarding agent under this Act; and

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

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

"**airport**" means such airport as may be prescribed;

"**approved place of loading**" or "approved place of unloading" means a place approved by the Director-General to be a place where goods may be loaded or unloaded, as the case may be;

"**Authority**" means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act;

"**bonded vehicle**" has the same meaning as in regulation 14A (2) of the Customs Regulations 1989;

"**bonded warehouse**"—

(a) means a place, whether building, store, shed, yard, dock, storage tank, showroom or other premises, approved by the Director-General, in which goods entered to be warehoused may be lodged, kept or secured pending payment of duty, excise duty or taxes; and

(b) includes a central bonded warehouse;

"**broker**" means a licensed customs house broker appointed under this Act;

"**by authority**" means by the authority of the Director-General;

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

"**clearance**", in relation to goods, means release of goods from Customs by the Director-General pursuant to the purpose for which such goods were entered;

"**coastwise trade**" means trade by air or sea from any one part of Mauritius to any other part;

"**commission agent**" means a licensed person appointed under this Act;

"**container**"—

(a) means an article of transport equipment—

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

(ii) specially designed to facilitate the carriage of goods by one or more modes of transport without intermediate reloading;

(iii) fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another;

(iv) so designed as to be easy to fill and empty;

(v) having an internal volume of one cubic metre or more; and

(b) includes the normal accessories and equipment of the container when imported with the container;

(c) excludes vehicles and conventional packing;

"**country of export**" means the country from which goods are—

(a) shipped directly to Mauritius; or

(b) exported to Mauritius and passing through any other country on their voyage to Mauritius, whether transhipped in that other country or not;

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

"**Customs**" means the Customs and Excise Department;

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

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

"**customs laws**"—

(a) means this Act; and

(b) includes—

(i) the Customs Tariff Act;

(ii) the Excise Act; and

(iii) any other enactment relating to customs control or a tax;

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

"**Deferred Duty and Tax Scheme**" means such scheme as may be prescribed, whereby any shop under that scheme may—

(a) export goods without payment of duty, excise duty and taxes; and

(b) sell goods—

(i) mainly to visitors, a duty-free shop or another shop under that scheme or to a master or member of a crew leaving for a foreign port or airport, without payment of duty, excise duty or taxes; and

(ii) to other persons on payment of duty, excise duty or taxes;

"**Director-General**" means the Director-General of the Authority;

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

"**dutiable goods**" includes all goods subject to any duty, excise duty, taxes or related charges;

"**duty**"—

(a) means any duty leviable under this Act and the Customs Tariff Act; and

(b) includes any—

(i) special duty or surcharge;

(ii) penalty and interest;

"**duty-free shop**" means a shop, at a port or an airport, approved by the Director-General, for the sale of goods, free of duty, excise duty or taxes, to—

(a) a passenger leaving for, or arriving from, a foreign port or an airport;

(b) a master or member of a crew leaving for a foreign port or an airport;

(c) another duty-free shop; or

(d) a shop under the Deferred Duty and Tax Scheme;

"**eligible vessel**" means any—

(a) fishing vessel bound for a fishing expedition on the high seas;

(b) vessel bound for a foreign port;

(c) vessel bound for any island comprised in the State of Mauritius;

(d) vessel which, for such reasons as the Director-General of the Mauritius Ports Authority and the Director-General may consider appropriate, remains within the limits of the port; or

(e) vessel involved in the supply of bunker fuel;

"**excise duty**" means the excise duty chargeable under the Excise Act on the excisable goods specified in Part I of the First Schedule to that Act;

"**export**" means to take or cause to be taken out of Mauritius;

"**exporter**"—

(a) means any person by whom any goods, whether previously imported or not, are exported; and

(b) includes the owner of such goods or any person acting on his behalf;

"**foreign port**" means any place in a country, other than Mauritius, to which aircrafts or ships may have access;

"**freeport zone**" has the same meaning as in the Freeport Act;

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

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

"**import**" means to bring or cause to be brought into Mauritius from any country;

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

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

"**master**", in relation to any aircraft or ship—

(a) means the person in charge or in command of such aircraft or ship; but

(b) does not include a person appointed for the conduct of ships into or out of a port;

"**Mauritius Ports Authority**" means the Mauritius Ports Authority established under the Ports Act;

"**Minister**" means the Minister to whom responsibility for the subject of finance is assigned;

"**name**", in respect of any aircraft or ship, includes the registration mark of the aircraft or ship;

"**objection directorate**" means a directorate set up by the Director-General within the Authority for the purpose of dealing with objections made under sections 15, 19, 20, 23, 24 and 24A;

"**occupier**", in relation to a bonded warehouse, means any person licensed and authorised to warehouse goods in such approved bonded warehouse;

"**officer**" has the same meaning as in the Mauritius Revenue Authority Act;

"**owner**"—

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

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

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

"**parcel**" means any postal packet which is posted in Mauritius and accepted by Mauritius Post Limited as a parcel in accordance with any enactment relating to postal services, or which is received in Mauritius from abroad by parcel post;

"**pleasure boat**" means any ship used for pleasure, sports and leisure activities;

"**port**" means such port as may be prescribed;

"**produce**" means to grow, manufacture or mine;

"**prohibited goods**"—

(a) means any goods, the import or export of which is prohibited by law; and

(b) includes any restricted goods;

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

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

"**public notice**" means a notice published in the *Gazette*, in a newspaper, in electronic form or through any other technological means or in such other manner as the Director-General may determine;

"**quay**" means such quay as may be prescribed;

"**restricted goods**" means any goods, the import or export of which is restricted by law;

"**revenue**" means any amount payable in accordance with any law applicable in Mauritius;

"**Rs**" means Mauritian rupees;

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

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

"**showroom**", in relation to a bonded warehouse, means any fenced yard, building or part of a building approved by the Director-General for the display of imported motor vehicles;

"**SITA**" means Société Internationale de Transports Aéronautiques;

"**smuggling**" means any import, introduction, export or attempted import, introduction or export of goods with the intent to—

(a) defraud or evade the payment of duty, excise duty, taxes and other payable charges, as the case may be; or

(b) evade any prohibition of, restriction on, or regulation as to, the import, introduction or export of any goods;

"**taxes**" includes—

(a) VAT on import levied under any enactment relating to value added tax; and

(b) any other tax or levy, the collection of which is the responsibility of Customs;

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

"**time**", in relation to import or export respectively, means—

(a) the time at which an aircraft or ship actually lands in Mauritius or any such ship or aircraft enters Mauritius;

(b) the time at which goods are loaded on board an exporting aircraft or ship;

"**TradeNet**" means the Electronic Data Interchange network system or such other electronic system operated by an organisation as the Minister may approve for the secured transmission of electronic declarations, trade documentation and related transactions in connection with the import or export of goods under this Act and with the making of entries in respect of excisable goods under the Excise Act, and for payment of duty, excise duty and taxes;

"**transaction value**", in relation to imported goods, means the transaction value as determined in accordance with section 18A;

"**transhipment**" means the transfer of goods under customs control from the importing means of transport to the exporting means of transport;

"**value**"—

(a) in respect of the computation of any duty, means the value as determined in accordance with section 18 of this Act;

(b) in respect of any penalty or forfeiture imposed under this Act and based on the value of any goods, means the duty, excise duty and taxes underpaid, if any, on those goods at the time and place of the commission of the offence by which the penalty or forfeiture is incurred;

"**VAT**" means VAT referred to in section 9 (5) of the Value Added Tax Act;

"**vehicle**"—

(a) means any means of conveyance of any kind, whether drawn or propelled by hand, animal, power or steam; but

(b) does not include any aircraft or ship;

"**visitor**" means a person holding—

(a) a foreign passport; and

(b) a valid ticket for travel by air and sea to a foreign port or airport;

"**wharf**" means such wharf as may be prescribed.

*[S. 2 amended by s. 12 (4) of Act 23 of 1990 w.e.f. 1 July 1990; s. 7 of Act 23 of 1992 w.e.f. 1 July 1992; s. 3 (c) of Act 25 of 1994 w.e.f. 21 June 1994; s. 74 (3) of Act 2 of 1998 w.e.f. 1 July 1998; s. 6 (2) of Act 10 of 1998 w.e.f. 1 July 1999; s. 5 (a) of Act 18 of 1999 w.e.f. 1 January 2000; s. 5 (a) of Act 28 of 2004 w.e.f. 1 March 2006; s. 5 (a) (II) of Act 28 of 2004 w.e.f. 26 August 2004; s. 27 (3) (a) of Act 33 of 2004 w.e.f. 1 July 2006; s. 8 (a) (i) of Act 15 of 2006 w.e.f. 7 August 2006; s. 8 (a) (II) of Act 15 of 2006 w.e.f. 1 October 2006; s. 9 (a) of Act 17 of 2007 w.e.f. 27 August 2007; s. 4 (a) of Act 10 of 2010 w.e.f. 24 December 2010; s. 4 (a) of Act 37 of 2011 w.e.f. 15 December 2011; s. 5 (a) of Act 26 of 2012 w.e.f. 1 July 2012, 22 December 2012; s. 4 (a) of Act 26 of 2013 w.e.f. 29 April 2013 and 21 December 2013; s. 12 (a) of Act 9 of 2015 w.e.f. 14 May 2015; s. 11 (a) of Act 18 of 2016 w.e.f. 7 September 2016.]*

## Part II – Administration

### 3. ***

*[S. 3 repealed by s. 27 (3) (b) of Act 33 of 2004 w.e.f. 1 July 2006.]*

### 4. Oaths

The Director-General shall be entitled to administer any oath required by law in any matter relating to customs.

### 5. Power to hold inquiries

(1) The Director-General may hold any inquiry or may direct an inquiry to be held into any matter under his responsibility and management, or into the conduct of any officer.

(2) Where the Director-General thinks it necessary or desirable so to do for the purpose of this Act, he may, by Order, require any person to attend as a witness and give evidence, produce any document in his possession or power or otherwise furnish information, which relates to any matter relevant to the inquiry.

(3) Where any document is produced pursuant to subsection (2), the Director-General may take copies of, or extracts from, it or require the person producing it, or any connected person, to provide an explanation of any such document.

(4) Where a person is unable to produce a document, he may be required to state, to the best of his knowledge, where the document is.

(5) Any person who fails to comply with an Order under subsection (2) or with subsection (3) or (4), shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees.

(6) Any person who, when heard as a witness in any such inquiry, gives false evidence shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 2 years.

*[S. 5 amended by s. 27 (3) (c) of Act 33 of 2004 w.e.f. 1 July 2006.]*

### 6. Working days and hours

The working days and hours of Customs shall be such as may be prescribed and, except with the permission of the Director-General, no work connected with the discharge, landing, loading or receipt of any cargo shall be performed outside the prescribed working days and hours.

### 7. Overtime charges

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

### 7A. Act or thing in respect of a validated bill of entry passed before 3 years

(1) Notwithstanding section 24A and any other customs law, the Director-General shall not, in relation to the liability of a person to pay any amount of duty, excise duty and taxes—

(a) require any information or return; or

(b) make any assessment or claim,

under the customs laws in respect of a validated bill of entry passed before a period of 3 years, unless the Director-General applies ex parte for and obtains the authorisation of the Independent Tax Panel under the Mauritius Revenue Authority Act.

(2) An authorisation under subsection (1) shall be granted where the Director-General establishes to the satisfaction of the Independent Tax Panel that there is prima facie evidence of fraud.

(3) In an application under subsection (1), the Director-General shall specify the period in respect of which he proposes to do the act or thing referred to in subsection (1).

*[S. 7A inserted by s. 12 (b) of Act 9 of 2015 w.e.f. 1 June 2016.]*

## Part III – Collection and management of duty, excise duty and taxes

## I – Computation, payment and recovery of duty, excise duty and taxes

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

(1) All duty, excise duty and taxes shall, subject to section 9A, be paid at the rate specified on all goods entered unless such goods are entered to be warehoused in a bonded warehouse or are free of duty, excise duty and taxes.

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

*[S. 8 amended by s. 3 (d) of Act 25 of 1994 w.e.f. 21 June 1994; s. 5 (b) of Act 28 of 2004 w.e.f. 26 August 2004.]*

## 9. Duty rate

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

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

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

*[S. 9 amended by s. 5 (b) of Act 18 of 1999 w.e.f. 14 June 1999; s. 4 (b) of Act 10 of 2010 w.e.f. 24 December 2010.]*

## 9A. Time limit for proceeding with validated bill of entry

(1) Subject to this section, a declarant shall proceed with a bill of entry which has been validated pursuant to section 9 (2), and shall, within 14 days of the date of validation, pay any duty, excise duty and taxes in respect of that bill of entry.

(1A) (a) Where goods are entered and cleared by an SME or a VAT registered person, the duty, excise duty and taxes on the goods cleared shall be paid—

(i) in the month of June, not later than 2 working days before the end of that month; and

(ii) in any other month, not later than 7 working days after the end of that month,

provided that the SME or VAT registered person gives a security, by bond under sections 39 and 42, to cover the deferred payment and the SME or VAT registered person is in compliance with the Revenue Law under the Mauritius Revenue Authority Act.

(b) In this subsection—

"SME" has the same meaning as in the Small and Medium Enterprises Development Authority Act;

"VAT registered person" means a person registered under the Value Added Tax Act.

(2) Where a bill of entry is not proceeded with under subsection (1), the declarant shall, not later than 14 days after the date of validation, apply in writing to the Director-General for cancellation of that bill of entry, stating precisely the grounds for cancellation.

(3) Where, on an application under subsection (2), the Director-General is satisfied that the bill of entry needs to be cancelled, he shall cancel the bill of entry.

(3A) Where the declarant fails to make an application under subsection (2) within the time limit specified in that subsection, the Director-General shall cancel the bill of entry referred to in subsection (2).

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

*[S. 9A amended by s. 27 (3) (d) of Act 33 of 2004 w.e.f. 1 July 2006; s. 6 (a) of Act 18 of 2008 w.e.f. 19 July 2008; s. 7 (a) of Act 20 of 2009 w.e.f. 19 December 2009; s. 12 (d) of Act 9 of 2015 w.e.f. 1 July 2015; s. 11 (b) of Act 18 of 2016 w.e.f. 1 October 2016.]*

## 10. Weights and measures

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

## 11. Tare allowance

Any allowance for tare shall be made as may be prescribed.

## 12. Derelict goods dutiable

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

## 13. Payment of duty, excise duty and taxes on manifested goods

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

*[S. 13 amended by s. 3 (d) of Act 25 of 1994 w.e.f. 21 June 1994.]*

## 14. Recovery of duty, excise duty and taxes

(1) The correct amount of duty, excise duty, taxes and charges payable in respect of any goods shall, from the time when they should have been paid, constitute a debt due to the Authority at import or export, as the case may be, and shall be recoverable under subsection (2A) or in a Court of competent jurisdiction by proceedings in the name of the Director-General.

(1A) The amount underpaid under subsection (1) shall be recovered together with a penalty not exceeding 50 per cent of the amount underpaid and interest at the rate of 0.5 per cent per month or part of the month on the amount underpaid from the time the unpaid amount should have been paid up to the date of payment.

(1B) —

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

(2A) Part IX of the Value Added Tax Act shall apply to any duty, excise duty, taxes and charges remaining unpaid under the customs laws, after determination of any objection or representation before the Assessment Review Committee established under section 18 of the Mauritius Revenue Authority Act, with such modifications, adaptations and exceptions as may be necessary.

(3) For the purpose of subsection (2)—

"right of retention" means the right conferred on the Director-General under article 2150-1 of the Code Civil Mauricien to retain possession of the goods until the debt due to the Authority is paid;

"special privilege" has the same meaning as in articles 2143 and 2150 of the Code Civil Mauricien.

*[S. 14 amended by s. 3 (d) of Act 25 of 1994 w.e.f. 21 June 1994; s. 27 (3) (s) of Act 33 of 2004 w.e.f. 1 July 2006; s. 8 (b) of Act 15 of 2006 w.e.f. 7 August 2006; s. 8 (a) of Act 14 of 2009 w.e.f. 30 July 2009; s. 5 (b) of Act 26 of 2012 w.e.f. 1 January 2013; s. 4 (b) of Act 26 of 2013 w.e.f. 21 December 2013; s. 12 (e) of Act 9 of 2015 w.e.f. 14 May 2015.]*

## 14A. Penalty for late payment of unpaid duty, excise duty and taxes

(1) A person who fails to pay duty, excise duty and taxes under this Act shall, in addition to the unpaid duty, excise duty and taxes, pay to the Director-General a late payment penalty.

(2) The late payment penalty under subsection (1) shall be 5 per cent of the unpaid duty, excise duty and taxes.

*[S. 14A inserted by s. 11 (c) of Act 18 of 2016 w.e.f. 1 October 2016.]*

## 14B. Interest on late payment of unpaid duty, excise duty and taxes

(1) A person who fails to pay duty, excise duty and taxes due shall, in addition to the unpaid duty, excise duty and taxes, pay to the Director-General, interest for the period during which the unpaid duty, excise duty and taxes remain unpaid.

(2) The interest under subsection (1) shall be charged at the rate of 0.5 per cent of the unpaid duty, excise duty and taxes for each or part of each month for which the duty, excise duty and taxes remain unpaid.

*[S. 14B inserted by s. 11 (c) of Act 18 of 2016 w.e.f. 1 October 2016.]*

## 15. Payment under protest

(1) Subject to this section, where, in respect of goods declared in a validated bill of entry, a dispute arises as to—

(a) the amount or rate of duty, excise duty, taxes or charges; or

(b) the liability of the goods to duty, excise duty, taxes or charges,

and the owner of the goods wishes to clear them from Customs, he shall pay under protest, the sum demanded by the Director-General and the sum so paid shall, as against the owner of the goods, be taken to be the proper amount of duty, excise duty, taxes or charges on those goods.

(1A) (a) Where duty, excise duty, taxes or charges have been paid in the manner specified in subsection (1), the Director-General shall—

(i) on payment, clear the goods; and

(ii) not later than 5 working days from the date of payment, issue to the owner of the goods, by registered post, a notice of assessment claiming the sum demanded under subsection (1) together with a penalty not exceeding 50 per cent of the difference between the sum demanded and the amount of duty, excise duty, taxes or charges specified in the validated bill of entry in respect of those goods.

(b) The penalty claimed under paragraph (a)(ii) shall, subject to subsection (2) (a), be paid to the Director-General not later than 28 days from the date of the notice of assessment.

(1B) (a) Where a dispute referred to in subsection (1) is in respect of goods already cleared by Customs, the Director-General shall, not later than 3 years from the date of the validated bill of entry, issue to the owner of the goods, by registered post, a notice of assessment claiming —

(i) the amount of duty, excise duty, taxes or charges underpaid;

(ii) a penalty not exceeding 50 per cent of the amount underpaid referred to in subparagraph (i); and

(iii) interest on the amount underpaid at the rate of 0.5 per cent per month or part of a month from the date of the validated bill of entry to the date of payment.

(b) The amount claimed under paragraph (a) shall, subject to subsection (2) (a), be paid to the Director-General not later than 28 days from the date of the notice of assessment.

(2) (a) Where the owner of the goods is dissatisfied with a notice of assessment under subsection (1A) or (1B), he may, within 28 days of the date of the notice, object, in such form as the Director-General may approve, to the sum demanded or claimed, as the case may be, and send the form duly filled in to the Director-General by registered post.

(b) Where the owner of the goods makes an objection under paragraph (a), he shall specify in the form the detailed grounds of the objection.

(c) Where it is proved to the satisfaction of the Director-General that, due to illness or other reasonable cause, the owner of the goods has been prevented from making an objection within the time limit specified in paragraph (a), the Director-General may consider the objection.

(ca) Where the Director-General refuses to consider an objection made after the time limit specified in paragraph (a), he shall, within 28 days of the date of receipt of the letter of objection, give notice of the refusal to the person.

(d) Any objection under this subsection shall be dealt with independently by an objection directorate.

(e) The burden of proving that any sum demanded under subsection (1A) or any amount claimed under subsection (1B) is incorrect shall lie on the owner of the goods.

(2A) (a) The objection directorate shall consider an objection under subsection (2) and may—

(i) review the sum demanded or amount claimed;

(ii) disallow or allow it in whole or in part; and

(iii) where appropriate, amend the sum demanded or amount claimed to conform with its determination.

(b) The Director-General shall, within 4 months of the date of receipt of the objection under subsection (2), give notice of the determination to the owner of the goods.

(c) Where the objection is not determined within 4 months under paragraph (b), it shall be considered to have been allowed by the Director-General.

(2B) Where the owner of the goods is aggrieved by a determination under subsection (2A) (a) or a decision under subsection (2) (ca), he may, within 28 days of the date of the determination, lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

(3) Where duty or excise duty has been paid in the manner specified in subsection (1) or (1B) and as a result of the determination of an objection under subsection (2A) (a), any amount of duty or excise duty underpaid, or paid in excess, of the amount determined to be properly payable, shall, subject to subsection (2B), be claimed or refunded, as the case may be.

(4) Where taxes have been paid in the manner specified in subsection (1) or (1B) and as a result of the determination of an objection under subsection (2A) (a), any amount of taxes underpaid or paid in excess of the amount determined to be properly payable, shall, subject to subsection (2B), be claimed, refunded or adjusted, as the case may be.

(5) Any refund under this section shall carry interest, free of income tax, at the prevailing Repo rate determined by the Bank of Mauritius.

*[S. 15 amended by s. 3 (d) of Act 25 of 1994 w.e.f. 21 June 1994; s. 4 (a) of Act 23 of 2001 w.e.f. 11 August 2001; s. 27 (3) (e) of Act 33 of 2004 w.e.f. 1 July 2006; s. 9 (b) of Act 17 of 2007 w.e.f. 22 August 2007; s. 5 (c) of Act 26 of 2012 w.e.f. 1 January 2013; s. 4 (c) of Act 26 of 2013 w.e.f. 21 December 2013; s. 12 (f) of Act 9 of 2015 w.e.f. 14 May 2015.]*

## II – Valuation and invoices

### 16. Delivery of documents with entry

(1) With the entry of any goods, there shall be delivered, subject to section 16B, to the Director-General the original invoices, bills of lading, airway bills, seaway bills or other documents of title acceptable to the Director-General, bills of parcels, price lists, policies of insurance, letters and

other documents showing the value of the goods at the place at which they were purchased together with the freight, insurance and other charges on the goods.

(2) (a) Where a document is required to be delivered under subsection (1), it shall not be submitted with the entry of the goods but shall, subject to paragraph (b), be kept by the person in accordance with section 43A.

(b) Where, in respect of the entry of any goods, a document specified in the Third Schedule is required, it shall, unless otherwise authorised by the Director-General, be scanned and sent to him.

(c) The Director-General shall save the scanned document in the Customs Management System operated by the Customs Department of the Authority.

(3) Every invoice and certification shall contain such particulars as may be prescribed, and the Director-General may refuse to accept any invoice or certification which does not comply with the prescribed requirements.

*[S. 16 amended by s. 5 (a) of Act 20 of 2002 w.e.f. 10 August 2002; repealed and replaced by s. 8 (c) of Act 15 of 2006 w.e.f. 7 August 2006; amended by s. 4 (b) of Act 37 of 2011 w.e.f. 15 December 2011; s. 11 (d) of Act 18 of 2016 w.e.f. 7 September 2016.]*

## 16A. Use of computer system

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

(a) the import or export of goods under this Act or an entry in relation to excisable goods under the Excise Act;

(b) the submission of advance information inbound, outbound or in transit relating to cargo or container shipments;

(c) the payment of duty, excise duty and taxes;

(d) any act or thing which is required to be done under the customs laws,

to be made, submitted or done electronically through such computer system as the Director-General may approve.

*[S. 16A inserted by s. 3 (d) of Act 25 of 1994 w.e.f. 21 June 1994; amended by s. 5 (b) of Act 20 of 2002 w.e.f. 10 August 2002; s. 9 (c) of Act 17 of 2007 w.e.f. 22 August 2007; s. 12 (g) of Act 9 of 2015 w.e.f. 14 May 2015.]*

## 16B. Facilities to qualified TradeNet users

(1) Subject to this section, where a TradeNet user satisfies the prescribed conditions, he shall be a qualified TradeNet user.

(2) A qualified TradeNet user—

(a) may not, after the prescribed period with the entry of any goods, deliver to the Director-General the hard copy of the electronic declaration and the documents referred to in section 16 in respect of those goods; but

(b) shall, in respect of those goods, keep, at his business premises, in such form and manner as may be prescribed, the documents referred to in paragraph (a).

(3) Subsection (1) shall not apply where, in respect of an electronic declaration, the goods are subject to examination before delivery.

(4) Subject to this section, where, in respect of the entry of any goods, a permit or authorisation is required under any enactment for health, phytosanitary or security reasons, a qualified TradeNet user shall, unless otherwise authorised, forward to the Director-General with the entry of those

goods, the scanned copy of the required document referred to in the Third Schedule, which shall be saved in the Customs Management System operated by the Customs Department of the Authority.

(5) Every qualified TradeNet user shall, at all reasonable times, allow a proper officer to have access to his business premises for the purpose of examining the documents referred to in subsection (2).

(6) Where a qualified TradeNet user fails to—

(a) satisfy the prescribed conditions pursuant to subsection (1); or

(b) comply with subsection (5),

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

(7) Where the facilities have been withdrawn pursuant to subsection (6), such facilities shall not again be given to the TradeNet user before the expiry of a period of 12 months as from the date specified in the written notification by the Director-General.

(8) In this section—

"TradeNet user" has the same meaning as in the Customs (Use of Computer) Regulations 1997.

*[S. 16B inserted by s. 5 (b) of Act 20 of 2002 w.e.f. 10 August 2002; s. 9 (d) of Act 17 of 2007 w.e.f. 22 August 2007; amended by s. 4 (c) of Act 37 of 2011 w.e.f. 1 5 December 2011.]*

## 16C. Agency cooperation

(1) Notwithstanding any other enactment, the Director-General may, through an electronic system or in such other appropriate manner, share with another public sector agency or parastatal body, such information as may be mutually agreed upon and which the public sector agency or parastatal body may require for the discharge of its functions in respect of—

(a) goods, persons or crafts;

(b) import or export transactions;

(c) importers or exporters; or

(d) data or information which is required for border protection purpose.

(2) No public sector agency or parastatal body shall disclose any information obtained pursuant to subsection (1) to a third party.

(3) In this section—

"border protection purpose" means any lawful purpose relating to, or connected with, the performance of—

(a) a Government-related border management function;

(b) a Customs-related border management function.

*[S. 16C inserted by s. 11 (e) of Act 18 of 2016 w.e.f. 7 September 2016.]*

## 17. Powers of Director-General over documents

(1) (a) Where information has been received by the Director-General, or the Director-General has reason to believe, that goods have been smuggled, under-declared, unlawfully entered or illegally dealt with, or that it is intended to smuggle, under-deciare, unlawfully enter or deal illegally with any goods, or where any goods have been seized or detained, the importer or exporter shall, immediately on being requested so to do by the Director-General, produce and hand over to the Director-General all books, invoices and documents relating to those

goods or to any other goods imported or exported by him at any time within the 3 years immediately preceding the date of such request.

(b) The importer or exporter shall also produce for the inspection of the Director-General, and permit him to make copies of, or take extracts from, all books or documents of any kind, including price lists, bank drafts, orders, letters of credit, invoices, wherein any entry or memorandum appears, in any way, to relate to any such goods.

(2) Any person, not being the importer or exporter, who has in his possession or custody any books, invoices or documents referred to in subsection (1) shall produce such books, invoices or documents to the Director-General on demand.

(3) Notwithstanding any other enactment, subsection (2) shall apply to brokers, commission agents, manufacturers' representatives, commodity syndicates, and to other commercial enterprises and parastatal bodies, as the case may be.

(4) Any person who refuses or neglects to comply with a request of the Director-General under this section, and any person who produces any false book, invoice or document or makes any false representation in regard to the country in which any goods were grown, produced or manufactured or processed, or makes any false representation with the intent to contravene this section, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 4 years.

(5) For the purpose of subsection (4), an invoice which is drawn in a fictitious name or in the name of a person other than the specified importer of the goods shall be deemed to be a false invoice.

*[S. 17 amended by s. 6 (b) of Act 10 of 1998 w.e.f. 21 July 1998; s. 5 (c) of Act 18 of 1999 w.e.f. 31 July 1999; s. 8 (b) of Act 14 of 2009 w.e.f. 30 July 2009; s. 11 (f) of Act 18 of 2016 - w.e.f. 7 September 2016.]*

## 18. Mode of ascertaining ad valorem duties

(1) Where duty is leviable on goods by reference to their value, the value of the goods shall be the transaction value of the goods as determined in accordance with section 18A.

(2) Subject to subsections (3) and (4), where the value of the goods cannot be determined in accordance with section 18A, the value of those goods shall be determined in accordance with any of the paragraphs (a), (b), (c) or (d) in the sequential order in which they appear—

(a) the transaction value of identical goods in accordance with section 18B;

(b) the transaction value of similar goods in accordance with section 18C;

(c) the deductive method of valuation in accordance with section 18D; or

(d) the computed method of valuation in accordance with section 18E.

(3) The importer may, by notice in writing to the Director-General, opt for the sequence of subsection (2) (c) and (d) to be reversed.

(4) Where the value of the goods cannot be determined in accordance with section 18A, 18B, 18C, 18D or 18E, the value of those goods shall be determined in accordance with the fall back method of valuation under section 18F.

*[S. 18 amended by s. 5 (d) of Act 18 of 1999 w.e.f. 1 January 2000.]*

## 18A. Transaction value of goods

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

(a) all costs, charges and expenses incidental to the sale contract and delivery of those goods; and

(b) the loading charges, freight, insurance and such other charges and expenses in respect of those goods as may be prescribed,

provided that the prescribed conditions are satisfied.

*[S. 18A inserted by s. 5 (d) of Act 18 of 1999 w.e.f. 1 January 2000.]*

## 18B. Transaction value of identical goods

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

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

(a) means goods which—

(i) are the same in all respects, including physical characteristics, quality and reputation, as the goods being valued, except for minor differences in appearance that do not affect the value of the goods;

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

(iii) are produced by, or on behalf of, the person who produces the goods being valued; but

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

*[S. 18B inserted by Act 18 of 1999.]*

## 18C. Transaction value of similar goods

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

(2) For the purpose of this section, "similar goods"—

(a) means goods which—

(i) closely resemble the goods being valued in respect of component materials, parts and characteristics and are functionally and commercially interchangeable with the goods being valued, having regard to the quality and reputation of the goods and the goods being valued;

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

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

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

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

*[S. 18C inserted by Act 18 of 1999.]*

## 18D. Deductive method of valuation

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

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

*[S. 18D inserted by Act 18 of 1999.]*

## 18E. Computed method of valuation

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

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

*[S. 18E inserted by Act 18 of 1999.]*

## 18F. Fall back method of valuation

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

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

(3) The value of the goods being valued under subsection (2) shall not be determined on the basis of—

(a) the selling price in Mauritius of those goods produced in Mauritius;

(b) a system which provides for the acceptance for duty purpose of the higher of 2 alternative values;

(c) the price of those goods on the domestic market of the country of export;

(d) the costs of production, other than the computed method of valuation under section 18E;

(e) the price of the goods for export to a country other than Mauritius; or

(f) minimum customs values or arbitrary or fictitious values.

*[S. 18F inserted by s. 5 (d) of Act 18 of 1999 w.e.f. 1 January 2000; amended by s. 7 (b) of Act 20 of 2009 w.e.f. 19 December 2009.]*

## 19. Under or over valuation of goods

(1) Where the Director-General finds that goods have been declared at a value different from their true value, he may, on the basis of the information provided by the importer and on such other information as is available to him, determine the value of those goods and the importer shall pay duty, excise duty and taxes, if any, on the values so determined.

(1A) —

(2) Without prejudice to any legal proceedings that may be initiated by the Director-General but subject to section 127A, section 15 shall apply to the determination of the value and payment of duty, excise duty and taxes, if any, under subsection (1), with such modifications, adaptations and exceptions as may be necessary.

(2A) Where, in the course of determining the value of any goods, the Director-General finds that it is necessary to delay the final determination, he may, subject to subsection (2B), authorise in writing delivery of the goods provided that—

(a) the duty, excise duty and taxes on those goods as declared on the entry are paid;

(b) a deposit is made or a bank guarantee is furnished for an amount representing the difference between the amount of duty, excise duty and taxes computed by the Director-General and the amount paid; and

(c) such samples of the goods as may be required are produced to the Director-General.

(2B) Where the Director-General authorises the delivery of goods pursuant to subsection (2A), the importer shall, not later than 28 days after the date of authorisation, submit to the Director-General in respect of those goods, such documents as may be required in writing by the Director-General, including sales contracts, bank transfers, orders, letters of credit and pro forma invoices.

(2C) The Director-General shall, within 14 days of the receipt of the documents required under subsection (2B), make the final determination of the value of the goods and notify the importer in writing of the determination and the additional amount of duty, excise duty and taxes payable, if any, on those goods.

(2D) Where the Director-General issues a notice under subsection (2C) requiring payment of an additional amount of duty, excise duty and taxes, the importer shall, not later than 7 days after the date of the notice, pass an amendment bill of entry and pay the additional amount due.

(2E) Where the additional amount due is paid, the Director-General shall, not later than 14 days after the date of payment, refund the deposit or release the bank guarantee made or furnished under subsection (2A) (b).

(2F) Where the importer does not submit the documents required under subsection (2B) within the time limit specified in that subsection—

(a) the value of the goods on which the amount of duty, excise duty and taxes has been computed under subsection (2A) (b) shall be deemed to have been determined as the final determination of the value of the goods;

(b) the deposit or the bank guarantee made or furnished under subsection (2A) (b) shall be forfeited or realised, as the case may be; and

(c) the importer shall be notified in writing by the Director-General of the final determination.

(3) —

(3A) —

(3B) —

(3C) —

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

*[S. 19 amended by s. 5 (e) of Act 18 of 1999 w.e.f. 1 January 2000; s. 5 (a) of Act 18 of 2003 w.e.f. 21 July 2003; s. 27 (3) (f) of Act 33 of 2004 w.e.f. 1 July 2006; s. 5 (d) of Act 26 of 2012 w.e.f. 1 January 2013; s. 4 (d) of Act 26 of 2013 w.e.f. 21 December 2013.]*

## 19A. Confidentiality

(1) Except for the purpose of administering customs laws or for the purpose of any judicial proceedings, no officer shall communicate to any person any matter relating to the valuation of any goods.

(2) Any officer who, without lawful excuse, contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 2 years.

*[S. 19A amended by s. 5 (e) of Act 18 of 1999 w.e.f. 1 January 2000.]*

## 19B. Rulings

(1) Any person may make an application to the Director-General for a ruling on the classification or origin of goods.

(2) An application under subsection (1) shall be in writing and shall—

(a) include the full description of the goods, the production process, their composition and in the case of an application for a ruling on the origin of goods, the country from which the goods are imported, the country in which the goods are manufactured, a certificate of costing, together with all documents relevant to the goods;

(b) specify precisely the question as to which the ruling is required;

(c) give a full statement setting out the opinion of that person on the goods as to the application of the customs laws relating to classification or origin of goods; and

(d) be accompanied by such fee as may be prescribed.

(3) The Director-General shall, in respect of an application under subsection (1), in the case of—

(a) classification of goods, within 45 days; or

(b) origin of goods, within 150 days,

of the date of receipt of the application, give a ruling, in writing, on the question to the applicant.

(4) Subject to subsection (5), a ruling under this section shall be binding on the Director-General.

(5) Where there is any material difference between the actual facts relating to the goods and the details contained in the application, the ruling shall not be binding on the Director-General.

(6) A ruling under this section shall be published by the Director-General in such manner as he may determine, except that the identity of the person to whom the ruling relates shall not be indicated in the publication.

(7) Subject to subsection (8), any person may rely on a ruling published under subsection (6) as a statement binding on the Director-General with respect to the application of this Act to the facts set out in that ruling.

(8) The Director-General may publish a notice in the *Gazette* to the effect that a ruling which he has previously published shall cease to be binding with effect from a date which shall not be earlier than the date of the notice.

*[S. 19B inserted by s. 5 (e) of Act 26 of 2012 w.e.f. 1 January 2013.]*

## 20. Disputes relating to classification or origin of goods

(1) Where, in respect of an entry of any goods, the Director-General is not satisfied with the classification or origin of the goods, he shall, on the basis of such information as is available to him

and on such information as is provided by the importer or exporter, determine the classification or origin of those goods and the duty, excise duty and taxes payable.

(2) Section 15 shall, subject to section 127A, apply to the determination of the classification or origin of the goods and the duty, excise duty and taxes payable, if any, under subsection (1) with such modifications, adaptations and exceptions as may be necessary.

(3) —

(3A) —

(3B) —

(4) —

*[S. 20 amended by s. 4 (b) of Act 23 of 2001 w.e.f. 11 August 2001; s. 5 (b) of Act 18 of 2003 w.e.f. 21 July 2003; s. 27 (3) (g) of Act 33 of 2004 w.e.f. 1 July 2006; s. 5 (f) of Act 26 of 2012 w.e.f. 1 January 2013; s. 4 (e) of Act 26 of 2013 w.e.f. 21 December 2013.]*

## III – Temporary admission, duty-free shops and refunds

### 21. Conditions for temporary admission of goods

(1) Subject to this section, the Director-General may, for a period of 6 months, which may be extended by another period of 6 months, or such other period as the Director-General may consider necessary, depending on the duration of the implementation of a project and provided that the period shall not exceed 3 years, authorise the temporary admission of goods where the importer furnishes adequate security to cover the duty, excise duty and taxes which would otherwise be payable.

(2) The Director-General may exempt an importer of any goods from furnishing security if the goods are covered by documents for temporary admission issued under any international convention and if so approved by the Minister.

(3) The Director-General may, for the purpose of identifying the goods for temporary admission, affix Customs marks, seals, stamps, perforations or other devices to such goods or may take a sample of such goods or such other steps as he may consider necessary.

(4) Subject to any other enactment relating to the import of goods or protection of revenue, the Director-General may allow goods imported under subsection (1) to remain in Mauritius on payment of duty, excise duty and taxes, and interest computed on the basis of duty, excise duty and taxes payable on such goods, at the rate of 0.5 per cent per month or part of the month, for the period for which payment of duty, excise duty and taxes has been deferred.

(5) The Director-General may terminate temporary admission, at the request of the importer, if the goods are abandoned, destroyed or rendered commercially valueless under his supervision.

(6) Where the Director-General is satisfied that any goods imported under subsection (1) have been destroyed or lost by accident or force majeure, no duty shall be payable on such goods.

(7) Any waste or scrap remaining after the destruction of any goods under subsection (5) or (6) shall, if put to any use in Mauritius, be liable to any applicable duty, excise duty and taxes.

(8) Except where goods have been allowed to remain in Mauritius under subsection (4)—

(a) any importer who fails to export temporarily admitted goods at the end of the period specified under subsection (1);

(b) any person who sells or purchases any temporarily admitted goods; and

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

shall commit an offence and shall, on conviction, be liable to a fine which shall not be less than 3 times the amount of duty, excise duty and taxes underpaid on the goods, and any goods which are the subject matter of the offence shall be seized by the Director-General and forfeited by the Court, or where no proceedings can be instituted by reason of the death or absence from Mauritius of the offender, by the Director-General.

(9) Notwithstanding the rules of temporary admission as described under this Act, the Director-General may authorise, for such period as he may determine, the temporary admission of goods for the purpose of processing and re-exporting such goods.

*[S. 21 amended by s. 6 (1) of Act 17 of 1 991 w.e.f. 1 July 1991; s. 3 (f) of Act 25 of 1994 w.e.f. 1 July 1994; s. 4 (d) of Act 37 of 2011 w.e.f. 15 December 2011; s. 5 (g) of Act 26 of 2012 w.e.f. 22 December 2012; s. 12 (h) of Act 9 of 2015 w.e.f. 14 May 2015.]*

## 22. Goods imported for sale to visitors

(1) Any goods which are intended for sale—

(a) in a duty-free shop shall be exempted from payment of any duty, excise duty or taxes; or

(b) in a shop or any place, other than at the port or airport, approved under the Deferred Duty and Tax Scheme shall be entered on which payment of any duty, excise duty or taxes is deferred.

(2) The conditions under which goods referred to in subsection (1) may be imported, exported or otherwise dealt with shall be as prescribed.

(3) —

*[S. 22 amended by s. 3 (f) of Act 25 of 1994 w.e.f. 21 June 1994; repealed and replaced by s. 8 (d) of Act 15 of 2006 w.e.f. 1 October 2006; amended by s. 5 (h) of Act 26 of 2012 w.e.f. 22 December 2012.]*

## 22A. Accounting of goods to be warehoused in duty-free shop or shop under Deferred Duty and Tax Scheme

Sections 71 and 71A shall apply to goods warehoused in a duty-free shop or a shop under the Deferred Duty and Tax Scheme with such modifications, adaptations and exceptions as may be necessary.

*[S. 22A inserted by s. 11 (g) of Act 18 of 2016 w.e.f. 1 February 2017.]*

## 23. Refunds

(1) Where goods have been damaged, pilfered, lost or destroyed during the voyage or duty or excise duty has been paid through an error of fact or erroneous construction of the law or where any goods have been ordered to be destroyed as being unfit for consumption, the Director-General, on request, may refund or adjust the amount of duty or excise duty payable accordingly.

(1A) Where goods have been cleared from Customs and are found to be defective, obsolete or not according to specifications and are returned to the seller, the Director-General may, on request, refund the amount of duty or excise duty originally paid on such conditions as may be prescribed.

(2) Where, in the case of a provisional entry, any sum paid by the person under section 37 of this Act is in excess of the correct amount of duty, a refund shall be made.

(3) Where any duty, excise duty or charge has been paid and repayment of such duty, excise duty or any portion thereof, is claimed by the person on the ground that the duty, excise duty or charge was paid under an erroneous construction of the law or by other error, no repayment of such duty and excise duty or charge, or any portion thereof, shall be made by the Director-General where such claim is made after 3 years from the date of the payment.

(3A) No claim or refund of duty and excise duty shall be made where the amount is less than 250 rupees or such other amount as may be prescribed.

(4) Where a claim for refund of duty or excise duty is made and the Director-General is not satisfied that the person is entitled to a refund, he shall, give written notice to the person of his decision.

(5) (a) Where the person is dissatisfied with a decision of the Director-General under subsection (4), the person may, within 28 days of the date of the decision, object to the decision in a form approved by the Director-General and send the form duly filled in to the Director-General by registered post.

(b) Where a person makes an objection under paragraph (a), he shall specify, in the form, the detailed grounds of the objection.

(c) Where it is proved to the satisfaction of the Director-General that, due to illness or other reasonable cause, a person has been prevented from making an objection within the time limit specified in paragraph (a), the Director-General may consider the objection.

(ca) Where the Director-General refuses to consider an objection made after the time limit specified in paragraph (a), he shall, within 28 days of the date of receipt of the letter of objection, give notice of the refusal to the person.

(d) Any objection under this subsection shall be dealt with independently by an objection directorate.

(e) The burden of proving that the decision of the Director-General is incorrect, or what the decision should be, shall lie on the person.

(6) (a) The objection directorate shall consider an objection under subsection (5) and review the decision, and may—

(i) disallow or allow it in whole or in part; and

(ii) where appropriate, amend the decision to conform with its determination.

(b) The Director-General shall, within 4 months of the date of receipt of the objection under subsection (5), give notice of the determination to the person.

(c) Where the objection is not determined within 4 months under paragraph (b), it shall be considered to have been allowed by the Director-General.

(7) Where a person is aggrieved by a decision under subsection (5) (ca) or a determination under subsection (6), he may, within 28 days of the date of the determination, lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

(8) Where, as a result of the determination of an objection under subsection (6), the person is entitled to a refund, the Director-General shall, subject to subsection (7), refund the amount of duty or excise duty at the time the notice of determination is given under subsection (6) (b).

(9) Any refund under this section shall carry interest, free of income tax, at the prevailing Repo rate determined by the Bank of Mauritius.

*[S. 23 amended by s. 3 of Act 2 of 1991 w.e.f. 1 July 1991; s. 4 (c) of Act 23 of 2001 w.e.f. 11 August 2001; s. 27 (3) (h) of Act 33 of 2004 w.e.f. 1 July 2006; s. 8 (e) of Act 15 of 2006 w.e.f. 7 August 2006; s. 5 (i) of Act 26 of 2012 w.e.f. 1 January 2013; s. 4 (f) of Act 26 of 2013 w.e.f. 21 December 2013; s. 12 (I) of Act 9 of 2015 w.e.f. 14 May 2015.]*

## 24. Erroneous refund or reduction

(1) Where an importer has benefited through error from a refund or reduction of duty, excise duty or taxes, he shall be liable to pay the amount of duty, excise duty or taxes which has been erroneously

refunded or reduced on a demand being made by the Director-General within 3 years from the date of the duty, excise duty or taxes having been erroneously refunded or reduced.

(2) Where a demand is made under subsection (1), the importer shall pay the amount of duty, excise duty and taxes within 28 days of the days of the demand.

(3) Where payment of the amount is not paid within the time limit referred to in subsection (2), the unpaid amount shall carry interest at the rate of 0.5 per cent per month or part of the month up to the date of payment.

(4) (a) Where an importer is dissatisfied with a demand of the Director-General under subsection (1), the importer may, within 28 days of the date of the demand, object to the demand in such form as the Director-General may approve and send the form duly filled into the Director-General by registered post.

(b) Where an importer makes an objection under paragraph (a), he shall specify in the form the detailed grounds of the objection.

(c) Where it is proved to the satisfaction of the Director-General that, due to illness or other reasonable cause, an importer has been prevented from making an objection within the time limit specified in paragraph (a), the Director-General may consider the objection.

(ca) Where the Director-General refuses to consider an objection made after the time limit specified in paragraph (a), he shall, within 28 days of the date of receipt of the letter of objection, give notice of the refusal to the person.

(d) Any objection under this subsection shall be dealt with independently by an objection directorate.

(e) The burden of proving that the demand of the Director-General is incorrect, or what the demand should be, shall lie on the importer.

(5) (a) The objection directorate shall consider an objection under subsection (4) and review the demand, and may—

(i) disallow or allow it in whole or in part; and

(ii) where appropriate, amend the demand to conform with its determination.

(b) The Director-General shall, within 4 months of the date of receipt of the objection under subsection (4), give notice of the determination to the importer and shall, at the same time, claim any duty, excise duty or taxes erroneously refunded or reduced.

(c) Where the objection is not determined within 4 months under paragraph (b), it shall be considered to have been allowed by the Director-General.

(6) Where an importer is aggrieved by a decision under subsection (4) (ca) or a determination under subsection (5), he may, within 28 days of the date of the determination, lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

*[S. 24 amended by s. 8 (f) of Act 15 of 2006 w.e.f. 7 August 2006; s. 5 (j) of Act 26 of 2012 w.e.f. 1 January 2013; s. 12 (j) of Act 9 of 201 5 w.e.f. 14 May 2015.]*

## 24A. Non-payment or underpayment of duty, excise duty and taxes

(1) Subject to this section and to section 15, 19, 20 or 24 of this Act, section 5 of the Customs Tariff Act or section 5, 22 or 52 of the Excise Act, where the Director-General has reason to believe that duty, excise duty or taxes has not been paid or has been underpaid, he may, by notice in writing, require the importer or the person referred to in section 162 (1) (b), as the case may be—

(a) to make an entry, if any, in respect of the goods being the subject matter of the non-payment or underpayment; and

(b) to pay the amount of duty, excise duty and taxes specified in the notice, together with a penalty not exceeding 50 per cent of the amount of duty, excise duty and taxes and interest at the rate of 0.5 per cent per month or part of the month from the date of the original validation of the bill of entry to the date of payment,

not later than 28 days of the date of the notice.

(2) The Director-General shall not issue a notice under subsection (1) where the non-payment or underpayment of duty, excise duty and taxes relates to a validated bill of entry passed before a period of 3 years or such longer period as may be applicable under section 7A.

(3) (a) Where an importer is dissatisfied with a notice under subsection (1), the importer may, within 28 days of the date of the notice, object to the notice in a form approved by the Director-General and send the form duly filled in to the Director-General by registered post.

(b) Where an importer makes an objection under paragraph (a), he shall specify, in the form, the detailed grounds of the objection.

(c) Where it is proved to the satisfaction of the Director-General that, due to illness or other reasonable cause, an importer has been prevented from making an objection within the time limit specified in paragraph (a), the Director-General may consider the objection.

(ca) Where the Director-General refuses to consider an objection made after the time limit specified in paragraph (a), he shall, within 28 days of the date of receipt of the letter of objection, give notice of the refusal to the person.

(d) Any objection under this subsection shall be dealt with independently by an objection directorate.

(e) The burden of proving that the notice of the Director-General is incorrect, or what the amount of duty, excise duty and taxes should be, shall lie on the importer.

(4) (a) The objection directorate shall consider an objection under subsection (3) and review the notice, and may—

(i) disallow or allow it in whole or in part; and

(ii) where appropriate, amend the notice to conform with its determination.

(b) The Director-General shall, within 4 months of the date of receipt of the objection under subsection (3), give notice of the determination to the importer and shall, at the same time, claim any duty, excise duty or taxes.

(c) Where the objection is not determined within 4 months under paragraph (b), it shall be considered to have been allowed by the Director-General.

(5) Where an importer is aggrieved by a decision under subsection (3) (ca) or a determination under subsection (4), he may, within 28 days of the date of the determination, lodge written representations with the Clerk to the Assessment Review Committee in accordance with section 19 of the Mauritius Revenue Authority Act.

*[S. 24A inserted by s. 5 (k) of Act 26 of 2012 w.e.f. 1 January 2013; s. 4 (g) of Act 26 of 2013 w.e.f. 21 December 2013; s. 12 (k) of Act 9 of 2015 w.e.f. 14 May 2015.]*

## Part IV – Control, examination, entries and securities

### 25. Customs control of goods

(1) Goods shall be subject to the control of Customs in the case of goods—

(a) imported, from the time of import until removal for home consumption, or until the time of export, whichever shall first happen;

(b) under drawback, from the time of the claim for drawback until the time of export;

(c) for export, from the time when the goods are brought to an approved place of loading for export until the time of export.

(2) (a) Except as otherwise provided by this Act, no goods subject to customs control shall be moved, altered or interfered with.

(b) Except with the written authorisation of the Director-General, no goods subject to customs control shall be removed from Customs or delivered to any person.

## 26. Minimum size of ships

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

## 27. Rights of examination and cost

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

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

## 28. No Customs liability

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

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

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

*[S. 29 amended by s. 27 (3) (i) of Act 33 of 2004 w.e.f. 1 July 2006; repealed and replaced by s. 8 (g) of Act 15 of 2006 w.e.f. 7 August 2006.]*

## 30. Entries for import

(1) Every entry in respect of imported goods shall be made in the form prescribed in respect of goods for—

(a) home consumption;

(b) warehousing; or

(c) transhipment.

(2) Notwithstanding subsection (1), newspapers and magazines for sale in Mauritius, imported by airfreight and airmail, may, subject to any prescribed condition, be delivered at the time of arrival to importers without previous entry having been made.

(3) Notwithstanding subsection (1), the Director-General may, at any time, release, free of duty, excise duty and taxes, relief consignments or such other goods imported as aid to those affected by a

disaster in Mauritius in such manner and on such conditions as he may determine in the circumstances.

*[S. 30 amended by Act 25 of 2000; s. 8 (h) of Act 15 of 2006 w.e.f. 7 August 2006; s. 4 (e) of Act 37 of 2011 w.e.f. 15 December 2011; s. 5 (I) of Act 26 of 2012 w.e.f. 22 December 2012; s. 44 (1) of Act 2 of 2016 w.e.f. 1 July 2016.]*

## 31. Form prescribed for export

Every entry in respect of exported goods shall be made in the form prescribed in respect of goods exported.

## 32. Passengers' and crew's luggage

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

## 33. Holder of a draft

(1) The holder of a draft with a bill of lading in guarantee of the payment thereof may give notice in writing to the Director-General that he holds those documents and, thereupon, the Director-General shall not allow the passing of entry of such goods without the written consent of the holder of those documents.

(2) Where goods have been entered but have not been taken delivery of by the importer, the Director-General may, at any time before such goods are disposed of as unclaimed, deliver such goods to any person holding a draft with a bill of lading or other documents of title to such goods in guarantee of the payment thereof, notwithstanding that an entry has already been made by the importer, and such goods as described under subsection (2) shall be dealt with in accordance with the bill of entry presented and the importer shall have no claim against the Director-General for any expenses or other costs incurred by him in connection with the entering of the goods.

## 34. Particulars of bill of entry

(1) The person entering any good, whether for himself or on behalf of any importer or exporter, shall deliver to the Director-General the bill of entry in the prescribed form in respect of such goods.

(2) The particulars required to be given on such bill of entry shall be written and arranged in such form and manner as the Director-General shall require.

*[S. 34 amended by s. 4 (f) of Act 37 of 2011 w.e.f. 15 December 2011.]*

## 35. Making of entries

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

## 36. Passing of entries

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

## 37. Provisional entry

(1) Where the importer of any goods is unable immediately to supply the full particulars required for making an entry and makes a declaration to that effect before the Director-General, he may be authorised to make a provisional entry as prescribed.

(2) In a case referred to in subsection (1), such importer shall pay any estimated duty, excise duty and taxes, and make such deposit as may be required by the Director-General.

## 38. Perfect entry

(1) Within 3 months from the passing of the provisional entry, or within such further period not exceeding 3 months as the Director-General may determine to allow, the importer of the goods shall make complete entry, failing which the deposit described under section 39 shall be forfeited.

(2) A complete entry of the goods included in a provisional entry shall be made in such manner as if the provisional entry had not been made.

(3) Where an importer is in possession of all particulars required by the Director-General, the importer shall complete such perfect entry immediately.

(4) An importer who fails to comply with subsection (3) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 3 times the amount of duty, excise duty and taxes involved.

## 39. Power to require security

(1) The Director-General may require and take security for compliance with this Act and generally for the protection of the revenue and, pending the giving of the required security in relation to any goods subject to the control of Customs, the Director-General may refuse to deliver the goods or pass any entry relating to them.

(2) Every security in the nature of a bond which is issued by a company or a partnership shall, in the absence of fraud, be binding on the company and partners of the partnership, as the case may be.

(3) Where any security is required to be given, such security shall be given by bond, bank guarantee or cash deposit or all or any of those methods and, in every case, the security shall be subject to acceptance by the Director-General.

(4) The forms of security specified by the Director-General shall be sufficient for all purposes of a bond or guarantee under this Act and shall bind the subscribers thereto jointly and severally for the full amount.

(5) Every security shall be valid for such period as may be specified in the bond or guarantee and, subject to section 41, may be reviewed.

## 40. Production of security

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

*[S. 40 amended by s. 9 (e) of Act 17 of 2007 w.e.f. 22 August 2007.]*

## 41. Fresh security

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

## 42. General bonds

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

### 43. Cancellation of security

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

### 43A. Record

(1) Every person who, in the course of his business, imports or exports goods shall, for the purpose of any customs laws, keep, at his business premises, a full and true written record, whether on computer or otherwise, in the English or French language, of every transaction he makes.

(2) Every person referred to in subsection (1) shall, in respect of any goods, keep in chronological order a copy of the entry he makes, either electronically through the TradeNet or otherwise, together with —

(a) the original of the documents, where the documents have been scanned and forwarded to the Director-General; or

(b) a copy of the documents, where the documents have been delivered to the Director-General.

(3) Every record under subsections (1) and (2) shall be kept for a period of at least 5 years after the completion of the transaction to which it relates and made available on demand by the proper officer.

(4) —

(5) Any person who fails to keep, or to make available to the proper officer, any record required to be kept under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 3 years.

*[S. 43A inserted by s. 5 (f) of Act 18 of 1999 w.e.f. 31 July 1999; amended by s. 5 (c) of Act 18 of 2003 w.e.f. 21 July 2003; s. 4 (g) of Act 37 of 2011 w.e.f. 15 December 2011; s. 5 (m) of Act 26 of 2012 w.e.f. 22 December 2012; s. 4 (h) of Act 26 of 2013 w.e.f. 21 December 2013.]*

## Part V – Report of aircraft and ships and import of goods

## I – Boarding of aircraft and ships

### 44. Ship to enter ports

(1) The master of a ship from parts beyond the seas shall not permit his ship to enter any place in Mauritius other than a port unless from stress of weather or other reasonable cause.

(2) Subject to section 48, the Director-General may authorise pleasure boats to proceed to any place other than a port in Mauritius.

### 45. Ship to bring to on being signalled

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

*[S. 45 amended by s. 9 (f) of Act 17 of 2007 w.e.f. 22 August 2007.]*

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

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

### 47. Unauthorised boarding

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

### 48. Declaration by owner of pleasure boat

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

(2) The owner or master of such pleasure boat shall notify the Director-General immediately of any change in the content of the declaration required under subsection (1).

(3) Subsection (1) shall be without prejudice to any duty, excise duty or taxes which may be payable in respect of the boat or any cargo or stores in the boat.

*[S. 48 amended by Act 25 of 1994.]*

## II – Report of cargo

### 49. Cargo report

(1) The master, owner or duly authorised agent of every ship or aircraft arriving from ports or airports beyond the seas shall make a report to the Director-General by delivering an inward manifest, in electronic form or in any other manner acceptable to the Director-General, in respect of the ship or aircraft, its cargo and passengers—

(a) in the case of a ship—

(i) arriving from Reunion Island or the Republic of Madagascar, not later than 5 hours before arrival; or

(ii) arriving from any other port, not later than 24 hours after loading in the last port of departure;

(b) in the case of an aircraft, where the flight duration—

(i) does not exceed 4 hours, at the time the wheels of the aircraft reach its body after take-off;

(ii) exceeds 4 hours, not later than 4 hours before arrival.

(1A) The master, owner or duly authorised agent of every aircraft or ship arriving from airports or ports beyond the seas shall submit to the Director-General a full and complete inward manifest under this section within the time specified in subsection (1) (a) and (b).

(1B) Where an inward manifest under subsection (1) is received in electronic form by the Director-General through SITA or such other electronic system or manner as the Director General may approve, it shall be deemed to have been submitted by the owner or duly authorised agent of the aircraft and all the provisions of customs laws relating to submission of manifest shall apply.

(2) (a) Except where otherwise especially allowed by the Director-General, every report under subsection (1) shall be made before bulk is broken.

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

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

*[S. 49 amended by s. 6 (c) of Act 10 of 1998 w.e.f. 21 July 1999; s. 5 (d) of Act 18 of 2003 w.e.f. 21 July 2003; s. 27 (3) (j) of Act 33 of 2004 w.e.f. 1 July 2006; s. 8 (i) of Act 15 of 2006 w.e.f. 7 August 2006; s. 5 (n) of Act 26 of 2012 w.e.f. 22 December 2012; s. 11 (h) of Act 18 of 2016 w.e.f. 1 December 2016.]*

### 50. Manifest for other ports

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

(2) The manifest shall be returned to the master on the clearing of his ship or aircraft outwards.

### 51. Master of wrecked ship to report

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

### 52. Tonnage of ships

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

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

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

## III – Landing, entry and examination of goods

### 54. Landing of goods

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

(a) landed at such place as the Director-General may direct; or

(b) transhipped or removed direct to the ship or aircraft into which they are to be transhipped or removed, as the case may be, or after conveyance thereto.

### 55. Loading and unloading of goods

(1) Except with the written authorisation of the Director-General, no person shall load goods onto, or unload goods from, a ship or aircraft except at a port or at a quay or wharf or airport.

(2) The Director-General may, for the purpose of ensuring compliance with this Act, by written direction to the master of a ship or aircraft, prohibit the loading and unloading or delivery of goods to or from the ship or aircraft, as the case may be.

## 56. Accommodation at ports and airports

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

*[S. 56 amended by s. 5 (o) of Act 26 of 2012 w.e.f. 22 December 2012.]*

## 57. Return by Mauritius Ports Authority

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

(a) manifested and unloaded;

(b) manifested but not unloaded;

(c) unloaded but not manifested.

## 58. Return for landing aircraft

(1) Subject to subsection (2), where an aircraft lands at an airport, the agent shall submit to the Director-General a return showing the cargo which has been—

(a) manifested and unloaded;

(b) manifested but not unloaded; or

(c) unloaded but not manifested.

(2) Where an aircraft lands in an airport which is under the management of any competent authority, such authority shall submit to the Director-General a return as specified in subsection (1).

*[S. 58 amended by s. 204 (3) of Act 28 of 1986 w.e.f. 15 January 1991; s. 7 (c) of Act 20 of 2009 w.e.f. 19 December 2009.]*

## 59. Removal of goods landed from aircraft

(1) Where the importer of goods landed from an aircraft has not taken delivery of the goods, the agent of the aircraft shall, not later than the day following the day of the report inwards of the aircraft, cause the goods to be stored in such place as the Director-General may approve.

(2) The Director-General shall not incur liability for any loss or damage to goods stored in accordance with subsection (1).

## 60. Re-packing of goods

Except with the written authorisation of the Director-General, no person other than the Mauritius Ports Authority or any other competent authority, as the case may be, shall re pack or re-arrange the contents of any packages landed from an aircraft or ship.

## 61. Disposal of goods

(1) Where any goods are landed and are not claimed or removed within 2 months of being landed, the Director-General may cause the goods to be sold by public auction or public tender, as the Director-General may determine, after giving public notice of the sale.

(2) Subsection (1) shall apply to goods which are dealt with in accordance with section 69 (2) or 77 (1).

(2A) For the purpose of subsection (1), bidding documents for goods to be sold by public tender shall be submitted electronically through the Customs e-auction system, or in exceptional or unforeseen circumstances, in such other manner as the Director-General may determine.

(3) —

(4) The proceeds of any sale of goods under subsection (1) shall be applied to the payment of—

(a) duty on the goods;

(b) excise duty and taxes;

(c) penalties and charges incurred; and

(d) freight and other charges.

(5) (a) Subject to paragraph (b), the balance of the proceeds of any sale under subsection (1) shall be paid into the Consolidated Fund.

(b) Where the balance of the proceeds of a sale has been paid into the Consolidated Fund, any person who is entitled to it may, not later than one year after the day of the sale, apply to the Director-General for a refund.

(6) (a) Where goods other than seized goods cannot be sold for a sufficient price to cover duty, excise duty and taxes, the Director-General may direct that, in lieu of being sold, the goods shall be destroyed or reserved for a Ministry, a Government department, a local authority, a statutory body, the Rodrigues Regional Assembly, a foreign government or a charitable institution.

(b) In this subsection—

"charitable institution" has the same meaning as in the Income Tax Act.

(7) Where the duty, excise duty and taxes on any goods on sale at any Customs sale is ad valorem, the value of such goods shall, if approved by the Director-General, be taken to be the price that may be fetched by the sale.

(8) Notwithstanding this Act, where the Director-General is of the opinion that any goods specified in subsection (1) are of a perishable nature or that it is otherwise desirable to do so, he may direct that the goods be forthwith sold by public auction or public tender, or be destroyed where the goods have not been sold.

(9) Where the Director-General is satisfied that goods have been damaged or outmoded or have deteriorated in value or have a short expiry date, he may revalue those goods for the purpose of sale under this section.

*[S. 61 amended by s. 3 (d) of Act 25 of 1 994 w.e.f. 21 January 2004; s. 5 (c) of Act 28 of 2004 w.e.f. 26 August 2004; s. 8 (j) of Act 15 of 2006 w.e.f. 7 August 2006; s. 12 (l) of Act 9 of 2015 w.e.f. 14 May 2015; s. 11 (i) of Act 18 of 2016 w.e.f. 29 September 2015, 7 September 2016 and 1 October 2016.]*

## Part VI – Prohibited goods

### 62. Prohibition of certain imports and exports

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

### 63. Prohibited imports

The import of—

(a) base or counterfeit coin;

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

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

is prohibited.

### 64. Exports subject to restriction

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

*[S. 64 amended by s. 4 (i) of Act 26 of 2013 w.e.f. 21 December 2013.]*

### 65. Prohibited imports consigned to other places

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

### 66. Restricted imports

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

*[S. 66 amended by s. 4 (j) of Act 26 of 2013 w.e.f. 21 December 2013.]*

## Part VIA – Infringement of patent, industrial design, collective mark, mark or copyright

*[Part VIA inserted by s. 5 (d) of Act 28 of 2004 w.e.f. 26 August 2004; amended by s. 6 (b) of Act 18 of 2008 w.e.f. 19 July 2008.]*

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

(1) Any owner or authorised user of a patent, industrial design, collective mark or mark or copyright may apply in writing to the Director-General to suspend the clearance of any goods imported or being exported on the grounds that his patent, industrial design, collective mark or mark or copyright is being or is likely to be infringed.

(1A) (a) Notwithstanding subsection (1), where the Director-General has reason to believe that the right of the owner or authorised user of a patent, industrial design, collective mark or mark or copyright has been infringed or is likely to be infringed, he may, on his own initiative—

(i) suspend the clearance of the goods for 21 working days;

(ii) at the same time, give notice, electronically or otherwise, to the owner or authorised user, of the suspension and invite the owner or the authorised user, as the case may be, to lodge, within 21 working days, an application under subsection (1).

(b) Where an application is not lodged within 21 working days, the Director-General shall immediately waive the suspension and clear the goods.

(2) An application made under subsection (1) shall specify a period not exceeding 2 years during which the Director-General may suspend the clearance of such goods.

(3) An application under subsection (1) shall be accompanied by—

(a) any evidence that the applicant is the owner or the authorised user of the patent, industrial design, collective mark or mark, or of the copyright;

(b) a statement of the grounds for the application, and in particular, the prima facie evidence showing that his right has been or is likely to be infringed; and

(c) particulars relating to the description of the goods making them readily recognisable by Customs, and the place where such goods are to be found.

(4) The applicant shall furnish adequate security to protect the Director-General from any loss or damage that may result from the suspension of the clearance of the goods and to cover any reasonable expenses likely to be incurred as a result of such suspension.

(5) This section shall not apply to small quantities of goods of a non-commercial nature, intended for personal use, sent in small consignments or contained in the luggage of a passenger, master or crew.

*[S. 66A inserted by s. 5 (d) of Act 28 of 2004 w.e.f. 26 August 2004; amended by s. 6 (c) of Act 18 of 2008 w.e.f. 19 July 2008; s. 12 (m) of Act 9 of 2015 w.e.f. 1 July 2015; s. 11 (j) of Act 18 of 2016 w.e.f. 7 September 2016.]*

## 66B. Decision in respect of application

(1) On receipt of an application under section 66A, the Director-General shall, within 7 days of the date of receipt of the application—

(a) grant or reject the application; and

(b) notify the applicant in writing of his decision.

(2) The Director-General shall reject an application where the applicant fails to comply with section 66A (4).

(3) Where the application is granted, the Director-General shall notify in writing the applicant, importer, exporter or his agent of the suspension of the clearance of the goods.

*[S. 66B inserted by s. 5 (d) of Act 28 of 2004 w.e.f. 26 August 2004; amended by s. 6 (d) of Act 18 of 2008 w.e.f. 19 July 2008.]*

## 66C. Duration of suspension

(1) Where, within a period of not more than 10 working days after the applicant is served notice of the suspension under section 66B (3), the Director-General is not informed in writing that legal proceedings have been initiated by the applicant, the goods shall be released, provided that all other conditions for importation or exportation have been complied with.

(1A) Notwithstanding subsection (1), where the suspension relates to refrigerated goods, the period to release the goods shall be 3 working days.

(2) The Director-General may, in appropriate cases and on the applicant's request, extend the time limit referred to in subsection (1) by another period of not more than 10 working days.

(3) The Director-General shall forthwith release the goods where he is informed by the registered owner or authorised user referred to in section 66A that the collective mark, mark or copyright registered in the name of the owner has ceased to be valid provided that all other conditions for importation or exportation have been complied with.

*[S. 66C inserted by s. 5 (d) of Act 28 of 2004 w.e.f. 26 August 2004; amended by s. 6 (e) of Act 18 of 2008 w.e.f. 19 July 2008.]*

### 66D. Inspection and taking of samples

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

(a) inspect the goods of which the clearance has been suspended;

(b) remove samples for examination, testing and analysis.

*[S. 66D inserted by s. 5 (d) of Act 28 of 2004 w.e.f. 26 August 2004.]*

### 66E. Interpretation of this Part

In this Part—

"**owner**"—

(a) means the registered owner of a collective mark or mark under the Patents, Industrial Designs and Trademarks Act or the copyright owner under the Copyright Act; and

(b) includes the owner of a collective mark or mark or copyright, registered with a competent authority outside Mauritius as approved by the Director-General.

*[S. 66E inserted by s. 5 (d) of Act 28 of 2004 w.e.f. 26 August 2004.]*

## Part VII – Bonded warehouses

### 67. Appointment of warehouses by Director-General

(1) The Director-General may, on application, by notice in writing, appoint such buildings, places or surfaces he may approve for the warehousing and securing of goods therein without payment of duty, excise duty and taxes upon first entry thereof.

(2) The Director-General may direct in what different parts or divisions of such warehouses, and in what manner, any goods or any species of goods may be warehoused, kept and secured without payment of duty, excise duty and taxes upon the first entry thereof.

(2A) —

(3) The Director-General may, by notice in writing, revoke or alter any such appointment where it is established that—

(a) the warehouse has not been in operation for a continuous period of 6 months; or

(b) the proprietor or occupier has committed any act of misconduct, dishonesty, malpractice or fraud.

(4) Any notice pertaining to the appointment or revocation of a warehouse shall be published in the *Gazette*.

*[S. 67 amended by s. 5 (c) of Act 20 of 2002 w.e.f. 10 August 2002; s. 8 (k) of Act 15 of 2006 w.e.f. 7 August 2006; s. 12 (n) of Act 9 of 2015 w.e.f. 15 February 2016.]*

### 67A. Obligations of proprietor or occupier of bonded warehouse

(1) Subject to this section, the proprietor or occupier of a bonded warehouse may—

(a) without Customs locks, manage the operations of the bonded warehouse; and

b) without the presence of a Customs officer, enter into or remove from the bonded warehouse, goods, on payment of duty, excise duty and taxes, if any, in compliance with any applicable enactment, other than goods for re-export.

(2) —

(3) —

(4) —

*[S. 67A inserted by s. 5 (d) of Act 20 of 2002 w.e.f. 10 August 2002; amended by s. 12 (o) of Act 9 of 2015 w.e.f. 15 February 2016.]*

## 68. Appointment of central bonded warehouse

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

## 69. Goods to be cleared on revocation

(1) Where the Director-General, by notice in writing, revokes any order approving any warehouse—

(a) the proprietor or occupier of the warehouse shall pay the duty, excise duty and taxes on all the warehoused goods, including those which are not accounted for to the satisfaction of the Director-General;

(b) the owner of the goods shall remove the goods to another approved warehouse or export the goods within one month of the date of revocation.

(2) Where goods are not dealt with in accordance with subsection (1), the Director-General may cause the goods to be transferred to a customs warehouse or such warehouse as the Director-General may approve for the purpose of auction sales and sold in accordance with section 61.

(3) Any person who fails to comply with subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

*[S. 69 amended by s. 5 (e) of Act 28 of 2004 w.e.f. 26 August 2004.]*

## 70. Bond by proprietor or occupier

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

*[S. 70 amended by s. 4 (k) of Act 26 of 2013 w.e.f. 1 January 2014.]*

## 71. Account of goods to be warehoused

(1) (a) The proprietor or occupier of every approved bonded warehouse shall take a particular account of—

(i) goods entering his bonded warehouse cleared without verification; or

(ii) goods entering his bonded warehouse based on the outcome of the verification by the proper officer.

(b) The particular account shall be taken in a computer system or in such other manner as the Director-General may approve.

(c) Where the verification is carried out by a proper officer, the proper officer shall enter the outcome of the verification in the Customs Management System operated by the Customs Department of the Authority.

(2) Except where otherwise provided, the account referred to in subsection (1) shall be that on which the duty, excise duty and taxes shall be ascertained and paid.

*[S. 71 amended by s. 12 (p) of Act 9 of 2015 w.e.f. 15 February 2016.]*

## 71A. Accounting of goods removed from bonded warehouse

(1) Upon release of goods by the Director-General from a bonded warehouse, the proprietor or occupier, as the case may be, of the bonded warehouse shall forthwith record the release in his computer system or in such other manner as the Director-General may determine.

(2) The proprietor or occupier, as the case may be, shall ensure the reconciliation of the records in his computer system of the goods removed from, and the balance of the goods in, the bonded warehouse, with the records in the Customs Management System operated by the Customs Department of the Authority.

(3) Any proper officer shall at all times have online access to the computerised records of the goods in the bonded warehouse, kept and maintained by the proprietor or occupier.

*[S. 71A inserted by s. 12 (q) of Act 9 of 2015 w.e.f. 15 February 2016.]*

## 72. Duty of proprietor or occupier

The proprietor or occupier of every warehouse shall—

(a) stack and arrange the goods in the warehouse in such manner that reasonable access to the goods for the purpose of examination of the packages may, at all times, be provided;

(b) provide sufficient lights and accurate scales and weights for use by Customs;

(c) find and provide all labour and materials required for the storing, examination, packing, marking, coopering, weighing and taking stock of the warehoused goods whenever the Director-General so desires;

(d) pay the duty, excise duty and taxes due on all warehoused goods removed from his warehouse, except on goods removed by authority of the Director-General, and on all warehoused goods not produced to the officer on demand, unless such goods are otherwise accounted for the satisfaction of the Director-General.

*[S. 72 amended by s. 3 (f) of Act 25 of 1994 w.e.f. 21 June 1994.]*

## 73. ***

*[S. 73 repealed by s. 12 (r) of Act 9 of 2015 w.e.f. 15 February 2016.]*

## 74. Entry of warehoused goods

Warehoused goods may be entered for—

(a) home consumption;

(b) export;

(c) —

(d) export as ship's stores.

*[S. 74 amended by s. 3 (b) of Act 25 of 2000 w.e.f. 11 August 2000; s. 8 (I) of Act 15 of 2006 w.e.f. 7 August 2006; s. 4 (I) of Act 26 of 2013 w.e.f. 1 January 2014.]*

## 74A. Goods in bonded warehouse when sold or transferred

Where goods in a place deemed to be a bonded warehouse under section 7 (3) (bb) (i) of the Freeport Act are sold or transferred to any operator in a freeport zone, those goods shall be removed from that bonded warehouse and shall not enter into any other bonded warehouse, whether in or outside a freeport zone.

*[S. 74A inserted by s. 5 (p) of Act 26 of 2012 w.e.f. 22 December 2012.]*

## 75. ***

*[S. 75 repealed by s. 5 (q) of Act 26 of 2012 w.e.f. 13 July 2012.]*

## 76. Period of warehousing

Goods may be warehoused from the date of their entry for warehousing for a period of—

(a) 42 months, for goods in a bonded warehouse on or before 31 October 2016;

(b) 33 months, for goods entered as from 1 November 2016; or

(c) 24 months, for goods entered as from 1 November 2017.

*[S. 76 amended by s. 9 (1) of Act 22 of 1989 w.e.f. 15 July 1989; s. 3 (f) of Act 25 of 1994 w.e.f. 21 June 1 994; s. 4 (d) of Act 23 of 2001 w.e.f. 11 August 2001; repealed and replaced by s. 8 (m) of Act 15 of 2006 w.e.f. 7 August 2006; amended by s. 8 (c) of Act 14 of 2009 w.e.f. 30 July 2009; s. 4 (h) of Act 37 of 2011 w.e.f. 15 December 2011; s. 5 (r) of Act 26 of 2012 w.e.f. 1 October 2012; repealed and replaced by s. 4 (m) of Act 26 of 2013 w.e.f. 1 January 2014; s. 11 (k) of Act 18 of 201 6 w.e.f. 1 November 2016.]*

## 77. Failure to clear warehoused goods

(1) Where any warehoused goods are not cleared within the period specified in section 76, the Director-General may, without prejudice to any action he may take under this Act, on giving 15 days' notice in writing to the owner of the goods, cause the goods to be transferred to a customs warehouse or such warehouse as he may approve for the purpose of auction sales and sold in accordance with section 61.

(2) Any person who fails to clear any warehoused goods within the period specified in section 76 shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

*[S. 77 amended by s. 9 (2) of Act 22 of 1989 w.e.f. 15 July 1999; s. 4 (e) of Act 23 of 2001 w.e.f. 11 August 2001; s. 5 (f) of Act 28 of 2004 w.e.f. August 2004; repealed and replaced by s. 8 (m) of Act 15 of 2006 w.e.f. 7 August 2006; amended by s. 4 (i) of Act 37 of 2011 w.e.f. 15 December 2011; s. 5 (r) of Act 26 of 2012 w.e.f. 1 October 2012; repealed and replaced by s. 4 (n) of Act 26 of 2013 w.e.f. 1 January 2014.]*

## 78. ***

*[S. 78 amended by s. 3 (f) of Act 25 of 1994 w.e.f. 21 June 1994; repealed by s. 4 (o) of Act 26 of 2013 w.e.f. 1 January 2014.]*

## 79. Director-General to have access to warehouse

(1) (a) The Director-General shall have access, at all hours of the day and night, to every part of any warehouse and have power to examine the goods therein.

(b) The Director-General may, for the purpose of paragraph (a), break open the warehouse.

(2) No liability of the Director-General shall result from any action described in subsection (1).

## 80. Re-examination of goods

(1) Warehoused goods may be regauged, remeasured, reweighed or examined by an officer by direction of the Director-General or at the request and expense of the owner and duty, excise duty and taxes on the goods shall be payable according to the result, unless the Director-General is of opinion that any loss shown is excessive, in which case the duty, excise duty and taxes shall be paid on the original entry with any reduction which the Director-General may determine to allow.

(2) No allowance shall be made for any deficiency on wines or spirits in bottles.

## 81. Revaluation

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

## 82. Goods may be sorted and repacked

(1) The Director-General may authorise any person having control over any warehoused goods to sort, separate, pack and repack any goods in the warehouse and make any such lawful alterations therein, or arrangements and assortments thereof, as may be necessary for the preservation, sale, shipment, or legal disposal of those goods.

(2) After the warehoused goods referred to in subsection (1) have been so sorted, separated or repacked in proper or approved packages, the Director-General may—

(a) at the request of the owner of such goods, cause or permit any refuse, or damaged or surplus goods, (being the result of such sorting, separation, packing or repacking), or any goods which may not be worth the duty, excise duty and taxes to be destroyed; and

(b) remit the duty, excise duty and taxes payable thereon.

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

(1) The Director-General may, after giving the owner one month written notice, cause any warehoused goods which are not, to his satisfaction, worth the duty, excise duty and taxes payable to be destroyed, and he may also remit the duty, excise duty and taxes thereon.

(2) The destruction of warehoused goods under subsection (1) shall not affect any liability of the owner of the goods to pay any rent or other charges due in respect of such goods.

(3) Notwithstanding subsections (1) and (2), any person who—

(a) removes any goods from any bonded warehouse without paying the duty, excise duty and taxes; or

(b) wilfully destroys any goods duly warehoused,

shall commit an offence.

## 84. Constructive warehousing

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

*[S. 84 amended by s. 4 (p) of Act 26 of 2013 w.e.f. 1 January 2014.]*

## Part VIII – Customs warehouses

### 85. Appointment of customs warehouse

The customs warehouse shall be appointed by the Director-General and such appointment shall be published in the *Gazette*.

### 86. Goods lodged in customs warehouse

The following goods shall be deposited in the customs warehouse—

(a) abandoned goods, other than goods under the control of the Mauritius Ports Authority;

(b) seized goods pending investigation, the decision of the Director-General or the decision of the Court;

(c) goods forfeited by the Director-General's decision in a compounding or the Court's decision, until the disposal of such goods;

(d) passengers' dutiable goods pending payment of duty, excise duty and taxes or pending reshipment; and

(e) such other goods as the Director-General may authorise.

### 87. Rent to be charged

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

*[S. 87 amended by Act 25 of 1994.]*

### 88. Combustible or inflammable goods

(1) No goods of a combustible or inflammable nature shall be deposited in the customs warehouse except with the authorisation of the Director-General.

(2) Where any goods described under subsection (1) are landed, they may be deposited in any other available place approved by the Director-General.

(3) Whilst deposited in any such other place, the goods shall be deemed to be in the customs warehouse, unless duly cleared or warehoused in some approved place in the meantime, and such charges shall be made for securing, watching and guarding the goods until sold, cleared or warehoused as the Director-General thinks reasonable.

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

### 89. Control of customs warehouse

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

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### 90. Compensation

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

## Part IX – Export of goods and clearance of aircraft and ships

### 91. Landing place of goods for export

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

### 92. Conditions of export

(1) No goods other than passengers' baggage shall be taken on board an aircraft or ship for export unless the exporter or his agent has previously made an electronic declaration in respect of a bill of entry, in the prescribed form, and has paid all duty, excise duty and taxes, if any, upon the goods.

(2) Notwithstanding subsection (1), with the authorisation of the Director-General, goods produced in Mauritius and liable to export duty may be shipped prior to the delivery by the exporter or his agent of a perfect entry for the same.

(3) Notwithstanding section 8 (1) and subsections (1) and (2), with the authorisation of the Minister, sugar produced in Mauritius and liable to export duty may be shipped prior to the delivery by the exporter or his agent of a perfect entry.

*[S. 92 amended by Act 25 of 1994; s. 5 (s) of Act 26 of 2012 w.e.f. 22 December 2012.]*

### 93. Short shipped goods

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

### 94. Clearance certificate

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

### 95. Requisites for obtaining clearance

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

(a) delivered to the Director-General any outward manifest as may be required by the Director-General;

(b) furnished such information and documents relating to the aircraft or ship, the voyage and the cargo as may be required by the Director-General; and

(c) complied with all legal requirements in regard to such aircraft or ship and the inward and outward cargo.

*[S. 95 amended by s. 4 (j) of Act 37 of 2011 w.e.f. 15 December 2011.]*

### 96. Missing goods to be accounted for

Where required by the Director-General, the master of every aircraft or ship shall, after clearance—

(a) produce the certificate of clearance when required to do so by the proper officer; and

(b) account, to the satisfaction of the Director-General, for any goods specified or referred to in the outward manifest and not on board his aircraft or ship, as the case may be.

## Part X – Ship's stores

### 97. Stores subject to seal

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

(a) unconsumed stores of the aircraft or ship; or

(b) personal property in the possession of the master or any member of the crew or of any passenger in transit for another port outside Mauritius.

(2) Any seal placed in accordance with subsection (1) shall not be broken, disturbed or tampered with except with the permission of the Director-General while the aircraft or ship remains in port or the airport.

(3) (a) On boarding of the proper officer, the master of any ship or aircraft shall make a full disclosure of any dutiable goods being unconsumed stores on board the aircraft or ship.

(b) Any member of the crew or the master of any aircraft or ship shall make a full disclosure of any dutiable goods being unconsumed stores of the aircraft or ship in his possession.

(4) Where the master or any member of the crew of any aircraft or ship fails to disclose, when required by an officer, any dutiable goods being the property of, or in the possession of, the master or such member of the crew, as the case may be, such master or member of the crew shall commit an offence and shall, on conviction, be liable to a fine which shall—

(a) where the value of the goods does not exceed 1,500 rupees, be 4,000 rupees;

(b) where the value of the goods exceeds 1,500 rupees, be 3 times the amount of duty, excise duty and taxes on those goods or 20,000 rupees, whichever is the higher,

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

*[S. 97 amended by s. 6 (d) of Act 10 of 1998 w.e.f 1 July 1999; s. 5 (t) of Act 26 of 2012 w.e.f. 22 December 2012.]*

### 97A. Customs-approved storeroom

(1) The Director-General may, by notice in writing, approve any building or place for the warehousing and securing therein of aircraft supplies without payment of duty, excise duty and taxes, to be used by passengers and crew or sold to passengers on aircraft leaving for a foreign port.

(2) A building or place approved under subsection (1) shall be known as a Customs-Approved Storeroom.

(3) The conditions under which the supplies referred to in subsection (1) may be imported, exported or otherwise dealt with and the procedure for the supplies entering and leaving the Customs-Approved Storeroom shall be such as may be prescribed.

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

*[S. 97A inserted by s. 7 (d) of Act 20 of 2009 w.e.f. 19 December 2009.]*

## 98. Use of ship's stores

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

## 99. Surplus stores

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

## 100. Shipment of stores

(1) (a) Upon an application made in that behalf in the prescribed form by the master of an aircraft or ship bound for a port beyond the seas or by the master of a fishing vessel bound for a fishing expedition on the high seas, the Director-General may allow, for the use of the aircraft or ship or fishing vessel, such stores as may appear to him necessary for the voyage upon which the aircraft or ship is about to depart.

(b) No goods taken on any aircraft or ship shall be deemed to be stores unless duly shipped as such and duly listed in the prescribed form.

(2) Stores shipped, otherwise than in accordance with this section, shall be deemed to be goods not entered and shall be liable to forfeiture.

(3) Where an aircraft, a ship or a fishing vessel does not reach its destination due to unforeseen circumstances and has to return to a port or an airport in Mauritius and it is found on its arrival that there is a deficiency in its stores in excess of what the Director-General considers reasonable, the master shall commit an offence and shall, on conviction, be liable to a fine which shall—

(a) where the value of the deficiency in excess does not exceed 1,500 rupees, be 4,000 rupees; or

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

*[S. 100 amended by s. 7 (e) of Act 20 of 2009 w.e.f. 19 December 2009; s. 5 (u) of Act 26 of 2012 w.e.f. 22 December 2012.]*

## 101. Duty on stores

(1) Where stores are *bona fide* required for the master, crew or passengers of any aircraft or ship leaving Mauritius, they shall, if taken from any bonded warehouse, be allowed to be exported free of duty, excise duty and taxes.

(2) Notwithstanding subsection (1), where stores are *bona fide* required for the master, crew or passengers of any aircraft or ship leaving Mauritius, such stores shall, whether taken from any bonded warehouse for export or not, be liable to export duty, if any, as prescribed in the Customs Tariff Act.

*[S. 101 amended by s. 3 (f) of Act 25 of 1994 w.e.f. 21 June 1994.]*

## 102. Amount of stores may be restricted

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

*[S. 102 amended by s. 204 (3) of Act 28 of 1986 w.e.f. 15 January 1991; s. 3 (f) of Act 25 of 1994 w.e.f. 21 June 1994; repealed by s. 7 (f) of Act 20 of 2009 w.e.f. 19 December 2009.]*

## 103. ***

*[S. 103 amended by s. 3 (f) of Act 25 of 1994 w.e.f. 21 June 1994; s. 4 (k) of Act 37 of 2011 w.e.f. 15 December 2011; repealed by s. 5 (q) of Act 26 of 201 2 w.e.f. 13 July 2012.]*

## 104. Stores under seal

Any stores taken on board any aircraft or ship free of duty, excise duty and taxes—

(a) in the case of tobacco in any form, cigars, cigarettes, spirits, wine, ale or beer, shall be placed under seal by an officer and remain under seal until the aircraft or ship has left Mauritius on the outward voyage;

(b) in the case of any other stores, including anti fowling paint, ships spares and accessories, marine oil and lubricants, may be placed on the aircraft or ship without seal, where the Director-General is satisfied that the stores are to be used solely for the servicing or maintenance of the aircraft or ship.

*[S. 104 amended by s. 3 (f) of Act 25 of 1994 w.e.f. 21 June 1994 repealed and replaced by s. 4 (q) of Act 26 of 2013 w.e.f. 21 December 2013.]*

## 105. Penalty for breaking the seal

(1) Where such lock, mark or seal is unlawfully opened, altered or broken, the master shall commit an offence and shall, on conviction, be liable to a fine which shall—

(a) where the value of the goods does not exceed 1,500 rupees, be 4,000 rupees;

(b) where the value of the goods exceeds 1,500 rupees, be 3 times the amount of duty, excise duty and taxes underpaid on those goods or 20,000 rupees,

whichever is the higher.

(2) Where stores are unlawfully conveyed away before the departure of such aircraft or ship on the outward voyage, the master shall commit an offence and shall, on conviction, be liable to a fine which shall—

(a) where the value of the goods does not exceed 1,500 rupees, be 4,000 rupees;

(b) where the value of the goods exceeds 1,500 rupees, be 3 times the amount of duty, excise duty and taxes underpaid on those goods or 20,000 rupees, whichever is the higher.

*[S. 105 amended by s. 6 (e) of Act 10 of 1998 w.e.f. 21 July 1998; s 5 (v) of Act 26 of 2012 w.e.f. 22 December 2012; s. 4 (r) of Act 26 of 2013 w.e.f. 21 December 2013.]*

## 105A. Bunker fuel

(1) Every master of an eligible vessel shall, at the time of boarding of the proper officer, make a declaration, in such form and manner as may be determined by the Director-General, of the remaining volume of bunker fuel on the vessel.

(2) Where bunker fuel is required by an eligible vessel, the master or agent of the vessel shall make an application to the Director-General to receive the fuel, free of duty, excise duty and taxes, in such form and manner as may be determined by the Director-General.

(3) The Director-General shall, on an application being made by the master or agent of an eligible vessel, authorise for use by the eligible vessel such quantity of bunker fuel as may be necessary to be loaded on the eligible vessel from a fuel tank, on such terms and conditions as may be determined by the Director-General.

(4) The master or agent of an eligible vessel shall, prior to the loading of the bunker fuel on the vessel under subsection (3), give to the Director-General a written undertaking to the effect that such bunker fuel shall not be unloaded in Mauritius waters without the prior written authorisation of the Director-General.

(5) No bunker fuel loaded on an eligible vessel under subsection (3) shall be unloaded in any manner without the prior written authorisation of the Director-General.

(6) —

(7) Any master or agent of an eligible vessel who fails to comply with any provision of this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees.

*[S. 105A inserted by s. 4 (c) of Act 10 of 2010 w.e.f. 24 December 2010; amended by s. 4 (s) of Act 26 of 2013 w.e.f. 21 December 2013.]*

## Part XI – Drawback

### 106. Drawback allowed on re-export

(1) Where goods have been imported for the purpose of undergoing processing, including repacking, sorting and grading, manufacturing or repair and are thereafter exported, duty and excise duty paid at the time of import of such goods may be repaid as drawback on such conditions as may be prescribed.

(2) Where goods have been imported and subsequently re-exported without having undergone any processing and without having been put to use, duty and excise duty paid at the time of import of such goods may be repaid as drawback on such conditions as may be prescribed.

(3) No payment of drawback shall be made until the aircraft or ship carrying such goods has left Mauritius.

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

*[S. 106 amended by s. 3 (f) of Act 25 of 1994 w.e.f. 21 June 1994; s. 2 of Act 17 of 1995 w.e.f. 12 August 1995.]*

### 107. Application by actual exporters

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

### 108. When no drawback allowed

Where any goods which have been entered for export under drawback are brought to any quay, wharf or other place to be shipped for export and are, upon examination by the proper officer found not to be of the description on the bill of entry or other documents for the allowance of drawback, or where any goods upon which drawback has been claimed or allowed after shipment and are subsequently found not to have been shipped, all such goods and the packages containing them with all other contents, shall be liable to

forfeiture, as the case may be, and the person entering such goods and claiming the drawback thereon shall in every case commit an offence and shall, on conviction, be liable to a fine which shall—

(a) when the value of such goods does not exceed 1,500 rupees, be 4,000 rupees;

(b) where the value of such goods exceeds 1,500 rupees, be 3 times the amount of duty, excise duty and taxes claimed as drawback on those goods or 20,000 rupees, whichever is the higher.

*[S. 108 amended by s. 6 (f) of Act 10 of 1998 w.e.f. 21 July 1998; s. 8 (n) of Act 15 of 2006 w.e.f. 7 August 2006; s. 5 (w) of Act 26 of 2012 w.e.f. 22 December 2012.]*

### 109. Standard drawback rates

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

*[S. 109 amended by s. 6 (3) of Act 25 of 1994 w.e.f. 21 June 1994.]*

## Part XII – Goods for transit or transhipment

### 110. Transit or transhipment

(1) On the entry inwards of any aircraft or ship, the Director-General may, on the application of the owner of any imported goods which have been specifically manifested at the time of import as being for transit or transhipment, permit the transit or transhipment of such goods without payment of duty, excise duty and taxes, if any, leviable thereon.

(2) Any transit or transhipment shall take place after the passing of the appropriate entry in respect of the goods.

(3) Where goods under subsection (1) for any reason have to leave the customs area prior to their transit or transhipment, the Director-General may—

(a) require and take appropriate security to cover the duty, excise duty and taxes payable;

(b) require that the goods be placed or transported under seal affixed by Customs.

(4) Any person who, without the prior authorisation of the Director-General—

(a) transhipps or attempts to tranship any goods from an aircraft or ship to another aircraft or ship; or

(b) attempts to take out of Customs control any goods entered for transit or transhipment,

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

*[S. 110 amended by s. 3 (c) of Act 25 of 1994 w.e.f. 21 June 1994; Part XII (section 110) repealed and replaced by s. 5 (g) of Act 28 of 2004 w.e.f. 26 August 2004.]*

## Part XIII – Coasting trade

### 111. Coasting aircraft or ship

(1) No goods, being carried coastwise, shall be taken into or put out of any coasting aircraft or ship at sea or in parts beyond the seas, and no coasting aircraft or ship shall touch at any port beyond the seas, or deviate from its flight or voyage, unless forced so to do by unavoidable circumstances.

(2) Where the master (or his agent) of any coasting aircraft or ship, which has touched at any port beyond the seas or deviated from its flight or voyage does not declare such fact in writing to the

Director-General on the arrival of the aircraft or ship in Mauritius, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2 million rupees.

*[S. 111 amended by Act 10 of 1998.]*

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

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

### 113. Officers may board

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

### 114. Goods entered outwards without landing

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

*[S. 114 amended by Act 25 of 1994.]*

### 115. Bond for stores

(1) The master of every aircraft or ship bound for any island (other than the Island of Mauritius) which is under the jurisdiction of the State of Mauritius, shall furnish bond that only such stores as the Director-General may consider necessary for the use of the master, crew and passengers of the said aircraft or ship during its flight or voyage to that island and back again, shall be carried for the purpose to and from the island.

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

*[S. 115 amended by Act 25 of 1994; s. 11 (I) of Act 18 of 2016 w.e.f. 7 September 2016.]*

### 116. Goods to be carried coastwise

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

*[S. 116 amended by Act 25 of 1994.]*

## Part XIIIA – Rodrigues Development Zone

### 116A.Application of Part XIIIA

(1) This Part shall apply to specified goods entering or leaving the Island of Rodrigues from or to the Island of Mauritius.

(2) Any specified goods shall be transported from the Island of Mauritius to the Island of Rodrigues under Customs control.

(3) For the purpose of this Part—

"specified goods" means any goods subject to duty, other than those specified in the First Schedule, destined for the Island of Rodrigues, which are—

(a) imported;

(b) removed from a bonded warehouse;

(c) —

(d) removed from a freeport zone.

*[S. 116A inserted by Act 25 of 2000; s. 8 (o) of Act 15 of 2006 w.e.f. 7 August 2006.]*

## 116B.Specified goods entering Island of Rodrigues

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

*[S. 116B inserted by Act 25 of 2000.]*

## 116C.Specified goods leaving Island of Rodrigues

(1) Subject to the other provisions of this section, any specified goods which have entered the Island of Rodrigues free of duty shall, when entering the Island of Mauritius as merchandise for sale or as accompanied or unaccompanied luggage, be deemed to be goods imported into the Island of Mauritius and shall be entered on payment of duty and value added tax.

(2) The value added tax referred to in subsection (1) shall be calculated on the amount of duty payable on those goods.

(3) Subject to subsection (4), where a passenger travels from the Island of Rodrigues to the Island of Mauritius, he shall, on presentation to a proper officer, of his passport, National Identity Card, or travel document, as the case may be, be entitled—

(a) where he is under the age of 12 years, to a duty-free allowance of 5,000 rupees; or

(b) in any other case, to a duty-free allowance of 10,000 rupees; or

(c) such other amounts as may be prescribed,

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

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

*[S. 116C inserted by Act 25 of 2000.]*

## 116D.Report of ship or aircraft

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

*[S. 116D inserted by Act 25 of 2000.]*

### 116E. Offences and penalties

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

*[S. 116E inserted by Act 25 of 2000.]*

## Part XIV – Agents and brokers

### 117. Authorised persons

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

*[S. 117 amended by s. 27 (3) (k) of Act 33 of 2004 w.e.f. 1 July 2006.]*

### 118. Execution of bond

(1) Every broker and agent shall subscribe and execute a bond with 2 sureties for the proper compliance by such broker and agent, and their customs clerks, with the customs laws.

(2) In the case of brokers, the bond shall be in the sum of 250,000 rupees.

(3) In the case of freight forwarding agents, the bond shall be in the sum of not less than one million rupees.

(4) The Director-General may, at all times, call for the renewal of a bond for any valid reason, including the replacement of sureties who have ceased to be acceptable as sureties.

*[S. 118 amended by s. 5 (h) of Act 28 of 2004 w.e.f. 1 March 2006.]*

### 119. Requisites for agents and brokers

(1) No person shall be authorised by the Director-General to act as agent or broker unless he is satisfied that such person has the necessary ability or the equipment and storage facilities for the handling and safe custody of cargo to effectively transact his business.

(1A) A freight forwarding agent shall apply to the Director-General for any of its employees to be authorised to act as customs agent to transact business, on his behalf, relating to the entry of any goods.

(1B) (a) The Director-General may, subject to paragraph (b), grant the application and authorise the employee referred to in the application to act as customs agent.

(b) No employee of a freight forwarding agent shall be authorised to act as customs agent unless the Director-General is satisfied that such employee has the necessary ability to transact business referred to in subsection (1A).

(1C) Where the Director-General is of opinion that any customs agent has, in the discharge of his duties as customs agent, committed any act of misconduct, dishonesty or fraud, he shall, by notice in writing, suspend, for such period as he may determine, or cancel, his authorisation.

(1D) Where a customs agent ceases to be in the employment of a freight forwarding agent, the freight forwarding agent shall immediately notify in writing the Director-General thereof and the Director-General shall cancel the authorisation of the customs agent.

(2) The storage facilities of an agent or broker shall, for the purpose of section 55, be deemed to form part of a quay, wharf or airport.

(3) The Minister may prescribe the maximum number of persons to be authorised under subsection (1).

(4) The Director-General may, by notice in writing, suspend for such period as he may determine, or revoke the authority given to any person to act as agent or broker where—

(a) that person has been guilty of an offence involving fraud or other dishonesty or been guilty of any crime or misconduct;

(b) findings of fraud or misconduct in the exercise of such person's function as broker or agent have been established;

(c) that person is unable efficiently to act as agent or broker by reason of mental or physical incapacity;

(d) that person fails to execute or renew the bond required by section 118, or fails to take out or renew the prescribed licence; or

(e) that person has not, on a continual basis, practised as agent or broker for a period of one year.

(5) Where a notice in writing made under subsection (4) specifying the reason or reasons for which the authority is revoked has been given to that person or to his clerk or at his usual place of abode or business, such authority shall cease to have effect.

(5A) While an authorisation is suspended, the agent or broker shall not, during the period of suspension, carry out his duties as agent or broker.

(6) For the purpose of this Part—

"agents or brokers" does not include shipping or aircraft agents entering or clearing the aircraft or ship, or their principals, in the discharge of their duties as agents or proxies.

*[S. 119 amended by s. 5 (i) of Act 28 of 2004 w.e.f. 1 March 2006; s. 27 (3) (I) of Act 33 of 2004 w.e.f. 1 July 2006; s. 8 (p) of Act 15 of 2006 w.e.f. 7 August 2006; s. 9 (g) of Act 17 of 2007 w.e.f. 22 August 2007; s. 12 (s) of Act 9 of 201 5 w.e.f. 14 May 2015.]*

## 119A. Duties and obligations of freight forwarding agent or broker

In addition to the duties and obligations under this Act, a freight forwarding agent or broker shall comply with such duties and obligations relating to the entry of goods as may be prescribed.

*[S. 119A inserted by s. 11 (m) of Act 18 of 2016 w.e.f. 7 September 2016.]*

## 120. Appointment and revocation of customs clerks

(1) (a) An agent, broker, importer or exporter shall apply to the Director-General for such person as may be designated by him to assist him in transacting his business at customs, to be registered as customs clerk.

(b) An application under paragraph (a) shall be made in such form and manner as the Director-General may approve.

(2) The Director-General may register a customs clerk on such terms and conditions as he may determine.

(3) No person shall act as customs clerk unless he is registered with the Director-General.

(4) Where the Director-General is of opinion that any customs clerk has, in the discharge of his duties as customs clerk, committed any act of misconduct, dishonesty or fraud, he shall, by notice in

writing, suspend for such period as he may determine, or cancel, the registration of the customs clerk.

(5) The Director-General shall give an opportunity to a customs clerk to answer in writing any charge of misconduct, dishonesty or fraud before a notice under subsection (4) is given.

*[S. 20 repealed and replaced by s. 5 (j) of Act 28 of 2004 w.e.f. 1 March 2006.]*

## 121. No entry of goods by unauthorised persons

Where—

(a) any person not authorised to act as agent or broker for transacting business relative to the clearance of any aircraft or ship, goods or baggage;

(b) any person not being the designated clerk to any duly authorised agent, broker, importer, exporter or consignee;

(c) any person, whether so authorised or designated or not,

makes or causes to be made entry of any goods without being duly authorised for the purpose by the importer, exporter or consignee of these goods, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 20,000 rupees.

*[S. 121 amended by Act 10 of 1998.]*

## 122. Authority may be required

(1) Where any person makes an application to the Director-General to transact business on behalf of any other person, the Director-General may require the person so applying to produce a written authority from the person on whose behalf the application is made and, in default of the production of such authority, reject such application.

(2) The Director-General may require the authority to specify the business and such other reasonable information as he may determine.

## 123. Liability of agents and brokers

(1) Subject to subsection (2), an agent, broker or person who performs any act on behalf of the owner of any goods shall, for the purpose of this Act, be deemed to be the owner of such goods and shall accordingly be personally liable for the payment of any duty, excise duty and taxes to which such goods are liable and for the performance of all acts in respect of such goods which the owner thereof is required to perform under this Act.

(2) The liability of the agent, broker or other person under this section shall not extend to the payment of any such duty, excise duty and taxes which become payable, or the performance of any such act which falls to be performed, after the agent, broker or other person has ceased, in respect of such goods, to be the agent of the owner unless he has undertaken a personal liability.

(3) Nothing contained in this section shall relieve the owner of such goods from any such liability.

*[S. 123 amended by Act 25 of 1994.]*

## 124. Liability of owner for acts of agent or his own employee

(1) Unless otherwise established to the satisfaction of the Director-General, an owner of goods shall be liable for the acts and declarations of his duly authorised agent or designated clerk and may accordingly be prosecuted for an offence committed by such agent or designated clerk in relation to any such goods as if such owner had himself committed the offence.

(2) No owner shall be sentenced to imprisonment for any offence committed by his duly authorised agent or designated clerk unless such owner actually consented to the commission of the offence.

(3) This section shall not relieve the duly authorised agent or designated clerk from any liability to prosecution in respect of any such offence.

## Part XV – Powers of officers

## I – General

### 125. Power of Director-General to enforce customs laws

(1) The Director-General shall have, within the customs area, exclusive power to enforce customs laws and any other enactment insofar as import or export of goods is concerned, including the power to question, detain and search passengers and search their luggage and goods.

(2) The Director-General shall have power to enforce, anywhere in Mauritius, customs laws and any other enactment insofar as import or export of goods is concerned.

(3) The Director-General may request the assistance of the police in enforcing customs laws within the customs area.

(4) This section shall also apply in the case where the amount of currency or bearer negotiable instruments may involve money laundering or the financing of terrorism referred to in section 131A.

*[S. 125 amended by s. 5 (x) of Act 26 of 2012 w.e.f. 22 December 2012.]*

### 125A. Power to waive penalty, interest, surcharge or rent

(1) The Director-General may, in accordance with guidelines issued by the Independent Tax Panel under the Mauritius Revenue Authority Act, waive the whole or part of any penalty, interest, surcharge or rent imposed under any customs law where failure to comply with the customs law was attributable to a just or reasonable cause.

(2) In the exercise of his power under subsection (1), the Director-General shall, in writing, record the reason for waiving the penalty, interest, surcharge or rent.

*[S. 125A inserted by s. 4 (t) of Act 26 of 2013 w.e.f. 21 December 2013; s. 12 (t) of Act 9 of 2015 w.e.f. 1 June 2016.]*

### 125B. Statements of Practice

The Director-General shall, from time to time, issue and publish Statements of Practice in relation to the application of specific provisions of the customs laws.

*[S. 125B inserted by s. 11 (n) of Act 18 of 2016 w.e.f.7 September 2016.]*

### 126. Power of officers to enforce laws relating to customs

Every officer shall be empowered to enforce this Act and the Customs Tariff Act and any other enactment insofar as import or export is concerned and the assistance of Customs is required for the implementation of such enactments.

### 126A. ***

*[S. 126A inserted by s. 6 (f) of Act 18 of 2008 w.e.f. 19 July 2008; repealed by s. 8 (d) of Act 14 of 2009 w.e.f. 1 July 2009.]*

### 126B.***

*[S. 126B inserted by s. 6 (f) of Act 18 of 2008 w.e.f. 19 July 2008; repealed by s. 8 (d) of Act 14 of 2009 w.e.f. 1 July 2009.]*

### 126C.***

*[S. 126C inserted by s. 6 (f) of Act 18 of 2008 w.e.f. 19 July 2008; repealed by s. 8 (d) of Act 14 of 2009 w.e.f. 1 July 2009].*

### 126D.***

*[S. 126D inserted by s. 6 (f) of Act 18 of 2008 w.e.f. 19 July 2008; repealed by s. 8 (d) of Act 14 of 2009 w.e.f. 1 July 2009.]*

### 127. Power to examine all goods

(1) Any officer may, subject to the control of Customs, at the risk of the owner, open any package and examine, weigh, mark and seal any goods.

(1A) Any examination under subsection (1) may include the physical or chemical testing of, drilling into, or dismantling of, the goods and may be facilitated by any means, including the use of chemical substances, detector dogs, x-ray scanning or other imaging equipment, or other mechanical, electrical or electronic device.

(2) The expenses of the examination, including the cost of removal to and from the place of examination, shall be borne by the owner.

*[S. 127 amended by s. 8 (a) of Act 14 of 2005 w.e.f. 21 April 2005.]*

### 127A.Production of books and records

(1) The Director-General or a proper officer may, in respect of the entry of any goods, require the importer, exporter, agent or broker of those goods to—

(a) produce, at such time and place as the Director-General may specify, for—

(i) examination, books, records, invoices, bank statements, documents in respect of financial transactions or other documents of any kind relating to those goods, whether on computer or otherwise, which—

(A) the Director-General or the proper officer considers necessary; and

(B) are in the possession or custody or under the control of that importer, exporter, agent, or broker;

(ii) retention, for a period not exceeding 2 months by the Director-General, of any record or document specified in subparagraph (i) or for taking copies of or extracts there-from;

(b) give reasonable assistance and answer all proper questions, orally or in writing.

(2) Any person who, when so required, fails to comply with subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 2 years.

*[S. 127A amended by s. 6 of Act 10 of 1998 w.e.f. 1 July 1999; s. 5 (e) of Act 18 of 2003 w.e.f. 21 July 2003; s. 9 (h) of Act 17 of 2007 w.e.f. 22 August 2007; s. 5 (y) of Act 26 of 2012 w.e.f. 22 December 2012; s. 12 (u) of Act 9 of 2015 w.e.f. 14 May 2015.]*

### 127B. Power to access computers and other electronic devices

For the purpose of section 127A, the Director-General may, at any reasonable time—

(a) have access to—

(i) any computer, computer software, whether installed in the computer or otherwise, electronic till or any other device, used in connection with any document which the person is required to produce; or

(ii) any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained or available to such computers or devices into readable and comprehensive format or text;

(b) inspect and check the operation of any such computer or other device and make extracts of any computer software, computer output or such other document used in connection therewith;

(c) require any person by whom or on whose behalf the computer or other electronic device is operated, or any person concerned with the operation of the equipment, to give such assistance as may be necessary for the purpose of this section; and

(d) require any person in possession of decryption information to grant him access to such decryption information necessary to decrypt data required for the purpose of this section.

*[S. 127B inserted by s. 8 (e) of Act 14 of 2009 w.e.f. 30 July 2009.]*

### 128. Power to board and search aircraft or ship

(1) Any proper officer may, within the borders of Mauritius, including its territorial waters and air space—

(a) board any aircraft or ship;

(b) search any aircraft or ship; and

(c) secure any goods on any aircraft or ship.

(2) (a) The power of an officer to board shall extend to staying on board any aircraft or ship in or for the performance of his duties.

(b) The Director-General may station an officer on board any ship and the master shall provide suitable accommodation and suitable and sufficient food for that officer.

(3) The power of an officer to search shall—

(a) extend to every part of any aircraft or ship; and

(b) include the power to open any package, locker or place and to examine all goods.

(4) The power of an officer to secure any good shall include the power to—

(a) fasten down hatchways and other openings into the hold;

(b) lock up, seal, mark or otherwise secure any goods; and

(c) remove any goods to the customs warehouse.

(5) No person shall, so long as the goods on which the fastening, lock, mark or seal is placed, or which are intended to be secured, remain subject to the control of Customs, open, alter, break or erase any fastening, mark, lock or seal placed by an officer on any goods or door, hatchway, opening or place on any aircraft or ship unless the Director-General so authorises.

## 129. Patrol of coasts

Any officer in the course of his duty, and any person or persons assisting him, may patrol on and pass freely along and over any part of the coast or shores, banks or beaches of any port, bay or harbour.

## 130. Boats to be moored in any place

The officer in charge, for the time being, of any vessel or boat employed in the service of Customs may—

(a) haul that vessel or boat on any part of the coast or shores, banks, or beaches of any port, bay or harbour; and

(b) moor that vessel or boat there and keep it so moored for such time as he may consider necessary.

## 131. Power to question

(1) Any person who has landed from or got out of, or is about to embark on, any aircraft or ship may be questioned by any officer whether he has any dutiable or other goods or any prohibited goods in his possession.

(2) In the course of any questioning as specified under subsection (1), such officer may inspect such person's travel documents, including passport or laissez-passer and tickets and make a scanned copy thereof, which shall be saved in the Customs Management System operated by the Customs Department of the Authority.

*[S. 131 amended by s. 12 (v) of Act 9 of 2015 w.e.f. 14 May 2015.]*

## 131A. Physical cross-border transportation

(1) Any person making a physical cross-border transportation of currency or bearer negotiable instruments of an amount exceeding 500,000 rupees or such other amount as may be prescribed or its equivalent in any foreign currency shall make a declaration to the proper officer, in such manner as may be prescribed, of the amount of the currency or bearer negotiable instruments in his possession, their origin and intended use.

(1A) (a) Where a person makes a declaration under subsection (1), the proper officer shall forthwith forward a copy of the declaration to the FIU.

(b) Where a person does not make a declaration under subsection (1) and the proper officer reasonably suspects that the amount of currency or bearer negotiable instruments in the possession of the person—

(i) is more than the amount referred to in subsection (1);

(ii) may involve money laundering or financing of terrorism,

he shall require the person to make a declaration to him, in such manner as may be prescribed, of the amount of the currency or bearer negotiable instruments in his possession, its origin and intended use.

(1B) For the purpose of ascertaining the amount of foreign currency referred to in subsections (1) and (1A), the rate of exchange applicable shall be determined in accordance with section 7 of the Customs Tariff Act.

(2) Any person making a declaration under subsection (1) or (1A) or who refuses to make a declaration when required to do so under subsection (1A) (b) may be questioned by an officer on the particulars of the declaration and in the course of any questioning, the officer may inspect the person's travel documents including passport or laissez-passer and tickets.

(3) Where—

(a) a person refuses to make a declaration when required to do so under subsection (1A)(b); or

(b) a proper officer has reasonable cause to believe that the declaration made by a person under subsection (1) or (1A) is false or misleading in any material particular,

the proper officer may detain and search the person in accordance with section 132.

(4) Where a proper officer reasonably suspects that the amount of currency or bearer negotiable instruments declared under subsection (1) or (1A) and detected, if any, pursuant to subsection (3), may involve money laundering or the financing of terrorism, he shall forthwith refer the matter to the Police and, at the same time, pass on the relevant information to the FIU.

(5) Any person who—

(a) fails to make a declaration under subsection (1) or (1A);

(b) when so required, refuses to make a declaration under subsection (1A);

(c) makes a disclosure under subsection (1) which is false or misleading in any material particular; or

(d) without reasonable excuse, refuses to answer questions under subsection (2),

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 3 years.

(6) In this section—

"bearer negotiable instruments"—

(a) means monetary instruments in bearer form; and

(b) includes—

(i) bearer traveller's cheques;

(ii) cheques, promissory notes and money orders, that are in bearer form, endorsed without restriction, made out to a fictitious payee, or, otherwise, in such form that title thereto passes upon delivery; or

(iii) incomplete instruments, including cheques, promissory notes and money orders, signed, but with the payee's name omitted;

"currency" means banknotes and coins that are in circulation as a medium of exchange;

"financing of terrorism" has the meaning assigned to it in section 4 of the Convention for the Suppression of the Financing of Terrorism Act;

"FIU" has the same meaning as in the Financial Intelligence and AntiMoney Laundering Act;

"money laundering" means money laundering referred to in section 3 of the Financial Intelligence and Anti-Money Laundering Act;

"person" includes any person in transit in Mauritius;

"physical cross-border transportation"—

(a) means any inbound or outbound or in transit physical transportation of currency or bearer negotiable instruments from one country to another country; and

(b) includes—

(i) physical transportation by a natural person, or in that person's accompanying luggage;

(ii) shipment of currency through containerized cargo; or

(iii) the mailing of currency or bearer negotiable instruments by a natural or legal person.

*[S. 131A inserted by s. 8 (q) of Act 15 of 2006 w.e.f. 7 August 2006; amended by s. 7 (g) of Act 20 of 2009 w.e.f. 19 December 2009; s. 8 (f) of Act 14 of 2009 w.e.f. 1 October 2009; s. 5 (z) of Act 26 of 2012 w.e.f. 22 December 2012; s. 4 (u) of Act 26 of 2013 w.e.f. 21 December 2013.]*

## 132. Detention and search of suspected persons

(1) Where any officer has reasonable cause to believe that any person is unlawfully carrying, whether concealed or secreted about his person or not, any goods subject to the control of Customs or any prohibited goods, that officer may detain and search the suspected person.

(2) A female shall not be searched except by a female officer.

## 133. Power to stop vehicles within customs area

(1) Any officer may, upon reasonable suspicion, stop and search any vehicle within the customs area for the purpose of ascertaining whether any dutiable goods, or any prohibited or restricted imports or exports, are contained therein.

(2) The driver of any vehicle who fails to stop or permit such search whenever required by any such officer shall commit an offence.

## 134. Power to stop vehicles outside customs area

(1) Any officer or police officer may, upon reasonable suspicion, stop and search any vehicle for the purpose of ascertaining whether any dutiable goods, or any prohibited or restricted imports or exports, are contained therein.

(2) The driver of any vehicle who fails to stop or permit that search whenever required by any such officer shall commit an offence.

## 135. Search warrant

(1) Where the Director-General reasonably suspects that an offence against this Act has been, is being or is likely to be committed, he may issue to an officer a warrant in the form set out in the Second Schedule for the search of any premises.

(2) Notwithstanding subsection (1), licensed premises may be searched without warrant.

(3) For the purpose of subsections (1) and (2), an officer may—

(a) question the owner of, or any person found on, the premises;

(b) inspect and take copies of any material document, or of any material information stored in a computer or other electronic device found on the premises;

(c) detain and remove any suspected goods or place them under Customs locks and seals at the premises, pending their removal to a customs warehouse.

(4) The Director-General may, at the request of the owner or custodian of detained goods, allow the release of the goods, other than prohibited goods, subject to—

(a) the submission of a bank guarantee covering the duty, excise duty and taxes underpaid on the goods which shall be liable to forfeiture on a final conviction by a competent Court;

(b) the retention of appropriate samples as exhibits.

*[S. 135 amended by Act 25 of 2000; s. 5 (k) of Act 28 of 2004 w.e.f. 26 August 2004; s. 5 (za) of Act 26 of 2012 w.e.f. 22 December 2012.]*

## 136. Power to take assistance

Any officer acting under a warrant issued under section 135 of this Act may be assisted by any police officer and such other persons as he thinks necessary.

## 137. Arrest of persons

(1) Any officer may, without warrant, arrest any person whom he has reasonable ground to believe is involved in the commission or attempted commission of any of the following offences—

(a) smuggling;

(b) importing any prohibited goods;

(c) exporting any prohibited goods;

(d) unlawfully conveying or having in his possession any smuggled goods or prohibited goods;

(da) money laundering or financing of terrorism pursuant to section 131 (4); or

(e) striking, obstructing, molesting or assaulting any officer in the execution of his duty.

(2) Every person arrested shall, as soon as practicable and at any rate not later than within 24 hours of his arrest, be referred to the police.

(3) The police shall make an appropriate entry of the referrant in the occurrence book of the police station where an arrested person is brought by an officer.

(4) Any such officer may use reasonable force to make the arrest.

*[S. 137 amended by s. 5 (zb) of Act 26 of 2012 w.e.f. 22 December 2012.]*

## 138. Impounding of documents

(1) The Director-General may impound or retain any document presented in connection with any entry or required to be produced under this Act and the person otherwise entitled to such document shall, on his application, be given in lieu thereof a copy of the document duly certified by the Director-General.

(2) Such certified copy shall be admissible in evidence at any trial to the same extent and in the same manner as the original.

## 139. Further proof of proper entry

The Director-General may detain or require from the importer or exporter of any goods proof by declaration, or by the production of documents, that the goods are owned as claimed and are properly described, valued or rated for duty and, failing such proof, the Director-General may refuse to deliver the goods or allow the exporter to pass any entry relating thereto.

*[S. 139 amended by s. 5 (1) of Act 28 of 2004 w.e.f. 26 August 2004.]*

## 140. Translation of foreign documents

Where any document in a language other than English is presented to any officer for any purpose connected with the business of Customs, the Director-General may require a translation in the English language to be made at the expense of the owner by such person as the Director-General may approve.

## 141. Customs samples

Samples of any goods under the control of Customs may, for any purpose the Director-General may consider necessary, be taken, utilised and disposed of by him in the prescribed manner.

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### 142. Officers may board ships hovering on coast

(1) Any officer, in the course of his duty, may require the master of any ship hovering within the territorial waters of Mauritius to depart and, if the ship fails to depart accordingly within 24 hours thereafter, any officer may, in the course of his duty, board such ship and have it brought into port and searched.

(2) (a) Any officer, in the course of his duty, may examine every person on board that ship.

(b) Every person on board the ship shall answer questions relative to the ship and its cargo, crew, passengers, stores and voyage and produce documents relative to the ship and its cargo.

(3) For the purpose of subsections (1) and (2), such officer may request the assistance of the National Coast Guard.

## II – Legal proceedings

### 143. Notice of seizure to be given

(1) Where any goods have been seized under this Act, the Director-General shall serve notice, in writing, of the seizure and the cause thereof to the owner of the goods or his agent.

(2) All goods which have been seized shall be deemed to be condemned by the Director-General and may be sold as specified in section 144 unless the person from whom such goods were seized, or the owner thereof, gives notice in writing to the Director-General, within one month from the date of seizure or service of the notice of such seizure, as the case may be, that he claims such goods and enters an action claiming the goods before the competent Court within 3 months from the date of his notice to the Director-General.

(3) Where any goods so seized are of a perishable nature or are living animals, they may forthwith be sold by the Director-General in accordance with section 144 of this Act and the proceeds of the sale shall be retained by the Director-General and be subject to the same conditions as other seized goods.

### 144. Seized goods to be sold by public auction or public tender

(1) All goods which are seized under this Act shall be delivered into the custody of the Director-General who shall, subject to section 143 (2) or to the order of a Court, cause them to be sold by public auction or public tender, as he may determine.

(2) Notwithstanding subsection (1), the Minister may direct that, in lieu of being sold, such goods shall be destroyed or reserved for a Ministry, Government department, local authority, statutory body, the Rodrigues Regional Assembly, a foreign government or a charitable institution.

(3) In this section—

"charitable institution" has the same meaning as in the Income Tax Act.

*[S. 144 amended by s. 8 (g) of Act 14 of 2009 w.e.f. 30 July 2009; s. 12 (w) of Act 9 of 2015 w.e.f. 14 May 2015; s. 11 (o) of Act 18 of 2016 w.e.f. 29 September 2015.]*

### 145. Value of goods seized

(1) The value of goods seized shall be the value at the time of seizure.

(2) Notwithstanding subsection (1), where any penalty or fine, the amount of which is to be determined in relation to the value of any goods, is incurred under any customs laws, the goods shall not be

deemed to be of less value by reason of any damage or injury they may have sustained in the course of any attempt to destroy or make away with them by any person.

### 146. Security may be required for goods seized

(1) Where any goods have been seized under this Act, the Judge may, unless the Director-General objects to a delivery, order the delivery thereof on the provision of security and with 2 such sufficient sureties as the Director-General may approve.

(2) The security referred in subsection (1) shall be given for twice the value of the goods and delivered to the Director-General.

*[S. 146 amended by s. 9 of Act 22 of 1989 w.e.f. 15 July 1989.]*

### 147. Burden of proof

In any action or proceedings arising out of the seizure of any goods on the ground that the duty, excise duty and taxes thereon have not been paid or on any other ground, the burden of proving that the seizure was illegal shall lie on the person making the allegation.

*[S. 147 amended by s. 3 (f) of Act 25 of 1994 w.e.f. 1 July 1994.]*

### 148. Proceedings for recovery of duty, excise duty and taxes

(1) Subject to section 24A, proceedings for the recovery of duty excise duty and taxes imposed or for the forfeiture of goods under customs laws shall be instituted in the name of the Director-General.

(2) No law relating to the limitation of action shall bar or affect any action or remedy for the recovery of duty, excise duty and taxes under the customs laws.

*[S. 148 repealed and replaced by s. 6 (j) of Act 10 of 1998 w.e.f. 1 July 1999; s. 11 (p) of Act 18 of 2016 w.e.f. 7 September 2016.]*

### 149. Security to abide by decree of Court

(1) Where in any proceedings, the Court delivers judgment ordering the return of any goods to the owner or claimant, the execution of the judgment shall not be stayed pending the appeal where the party to whom the goods are ordered to be returned furnishes security to the satisfaction of the Court for the restitution of the goods, or the payment of the full value thereof in case the judgment is reversed on appeal.

(2) For the purpose of subsection (1), the full value of the goods, shall be ascertained by agreement between the parties or, where the parties cannot agree, by appraisement under the authority of the court.

## III

### 150. ***

*[S. 150 repealed by s. 27 (3) (m) of Act 33 of 2004 w.e.f. 1 July 2006.]*

# Part XVI – Penal provisions

## I – Seizures and forfeitures

### 151. Seizure of goods

(1) The following goods may be seized by an officer—

(a) goods imported into Mauritius, including but not limited to those listed below, in relation to which an offence under the customs laws is reasonably suspected to have been committed by any person;

(b) goods which have been smuggled into Mauritius;

(c) goods which are not claimed by any person or which are disclaimed by any person on any ground;

(d) goods which are imported while being prohibited or restricted;

(e) prohibited or restricted goods put on any aircraft or ship or brought to any wharf, port or place for export;

(f) goods in respect of which bulk is unlawfully broken;

(g) dutiable goods concealed in any manner in respect of which applicable duty, excise duty and taxes have not been paid;

(h) dangerous drugs specified in the Dangerous Drugs Act, which are unlawfully imported or unlawfully in the possession of any person;

(i) goods which are not properly classified or described in an import entry or which are classified or described in a manner likely to deceive an officer in the discharge of his duties, unless the same does not appear to have been done wilfully or deliberately;

(j) goods which are imported in a name, including a purported trade name, which is fictitious, false or misleading;

(k) goods which are consigned to an address which is fictitious, false or misleading or an address which is designed to conceal the true name or identity of the importer or consignee;

(l) goods which are imported in the name of a corporate body which is not registered or not registered under that name;

(m) goods which, being required under this Act to be removed or dealt with in any particular way, are not removed or dealt with accordingly;

(n) goods, other than baggage belonging to any crew, master or passenger, which are found in any aircraft or ship after reporting inward or outward, as the case may be, in a port or airport and which are not specified in the inward or outward manifest or parcel list;

(o) dutiable goods found in the possession or in the baggage of any person who has landed from any aircraft or ship and who has denied that he has any such goods in his possession or in his baggage or who, when questioned by an officer, does not fully disclose such goods;

(p) dutiable, prohibited or restricted goods which are found to be unlawfully in any aircraft or ship;

(q) goods which are falsely or incorrectly described in the manifest of an aircraft or ship or in any document relating to the import thereof;

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(r) cargo of any aircraft or ship which hovers in the vicinity of the coast and does not depart within 24 hours after being required to depart in accordance with section 142 of this Act.

(2) Any goods seized by an officer under subsection (1) shall be liable to forfeiture.

*[S. 151 amended by Act 25 of 1994.]*

### 152. Seizure of modes of transport

The power to seize goods as described under section 151 of this Act shall extend to any vehicle, aircraft or ship knowingly used or permitted to be used by the owner thereof in the conveyance of such goods.

### 153. Seizure of goods and packages

(1) The seizure of any goods shall extend to the seizure of the packages in which such goods are contained.

(2) Where a ship, aircraft, vehicle or container, or any part thereof, has been specially constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that ship, aircraft, vehicle or container may be seized and shall be liable to forfeiture.

## II – Various offences and penalties

### 154. Penalties applicable to owner of aircraft or ship

(1) The owner of any aircraft or ship—

(a) used in smuggling or used in the unlawful import, export, or conveyance of any prohibited or restricted goods;

(b) found within the territorial waters or air space of Mauritius, as the case may be, and failing to bring to for boarding upon being lawfully requested to do so;

(c) hovering within the territorial waters or air space of Mauritius, as the case may be, and not departing within 24 hours after being requested to depart by an officer;

(d) from which any goods are thrown overboard, staved or destroyed, to prevent seizure by Customs;

(e) found within any port or airport with cargo on board, and afterwards found light or in ballast or with the cargo deficient, and the master of which is unable lawfully to account for the deficiency to the satisfaction of the Director-General;

(f) found within Mauritius including its territorial waters or the air space, as the case may be, having false bulkheads, false bows, sides or bottoms, or any secret or disguised place adapted for the purpose of concealing goods or having any hole, pipe or other device adapted for the purpose of smuggling goods;

(g) found within any port or airport having on board or in any manner attached thereto, or conveying or having conveyed any goods in a manner such as to be in contravention of customs laws or any other laws of Mauritius, whenever a responsible officer of such aircraft or ship is involved, even by neglect;

(h) engaged in coasting trade in violation of section 116,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2 million rupees and the aircraft or ship may be detained until the penalty is paid or until security, to the satisfaction of the Court, is given for payment of such penalty.

(2) For the purpose of subsection (1) (g)—

"neglect" includes cases where goods not claimed, or owned by any of the crew are discovered in a place in which they could not reasonably have been put if the responsible officer or officers having supervision of such place had exercised care at the time of the loading of the aircraft or ship or of the coming on board the aircraft or ship of the crew or subsequently;

"responsible officers" means the master, mates and engineers of any aircraft or ship, and in the case of an aircraft or ship, carrying passengers, the purser or chief steward.

*[S. 154 amended by s. 6 (k) of Act 10 of 1998 w.e.f. 21 July 1998.]*

## 155. Collusion

Any person who, being an officer or police officer—

(a) makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any aircraft or ship or goods liable to forfeiture;

(b) conspires or connives with any person to import or export, or is in any way concerned in the import or export, of any goods for the purpose of seizing or causing the seizure of any aircraft or ship or goods and the police officer obtaining any reward for such seizure;

(c) rescues any goods which have been seized;

(d) before, at or after any seizure, staves in or destroys any such goods or destroys any documents relating thereto to prevent the seizure thereof,

shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 5 years.

*[S. 155 amended by s. 8 (h) of Act 14 of 2009 w.e.f. 30 July 2009.]*

## 156. Smuggling and other prohibited activities

(1) Any person who—

(a) smuggles into Mauritius any goods;

(b) imports any prohibited or restricted goods;

(c) unlawfully conveys or has in his possession—

(i) any goods on which any duty, excise duty and taxes payable have not been paid; or

(ii) any goods, whether dutiable or not, which cannot be accounted for to the satisfaction of the Director-General; or

(iii) any smuggled goods, prohibited goods or restricted goods,

shall commit an offence.

(2) Any person who commits an offence under subsection (1) shall, on conviction, be liable to—

(a) a fine which shall—

(i) where the value of the goods does not exceed 1,500 rupees, be 4,000 rupees;

(ii) where the value of the goods exceeds 1,500 rupees, be 3 times the amount of duty, excise duty and taxes on those goods or 20,000 rupees, whichever is the higher; and

(b) imprisonment for a term not exceeding 8 years, and the goods, the subject matter of the offence, shall be liable to forfeiture.

*[S. 156 amended by s. 6 (l) of Act 10 of 1998 w.e.f. 1 July 1999; s. 5 (zc) of Act 26 of 2012 w.e.f. 22 December 2012.]*

## 157. Shooting offences

Any person who—

(a) shoots at any ship in the service of Customs;

(b) shoots at any officer;

(c) wounds or maims any officer,

shall commit an offence and shall, on conviction, be liable to penal servitude.

## 158. Customs offences

(1) Every person who—

(a) evades or attempts to evade payment of any duty, excise duty or taxes which are payable;

(b) in relation to the entry of any goods, declares a value which he knows to be false or below their true value;

(c) —

(d) smuggles out of Mauritius any goods or exports any prohibited or restricted goods; or

(e) unlawfully removes any goods from, or who cannot satisfactorily account for goods in, a bonded warehouse, duty-free shop or shop under the Deferred Duty and Tax Scheme referred to in section 22 or Customs-Approved Storeroom referred to in section 97A,

shall commit an offence.

(2) Every person who, on board any aircraft or ship in a port or airport, as the case may be, has in his possession for sale or for any other commercial dealing or sells or attempts to sell any goods without the prior authorisation in writing of the Director-General shall commit an offence.

(3) Every person who, for any purpose under this Act—

(a) prepares, passes or presents any document purporting to be a genuine invoice which is not, in fact, a genuine invoice;

(b) makes any entry which is false in any particular;

(c) makes, produces or delivers to any officer any certificate, document or declaration which is false in any particular;

(d) misleads any officer in any particular likely to affect the discharge of his duty;

(e) refuses or fails to answer any question or to produce any document; or

(f) unlawfully opens, alters or breaks any lock or seal on any premises, container or bonded vehicle,

shall commit an offence.

(4) For the purpose of subsection (3), a certificate, document, invoice, declaration, entry, statement or a statement contained in a document produced by a computer in accordance with section 16A and subject to section 158A shall be deemed to be false if it is incorrect or misleading in any material particular.

(5) (a) For the avoidance of doubt and notwithstanding any other provision of this Act, the expression "Every person" in subsection (3) shall be construed as including an agent or a broker acting as such on behalf of an importer or exporter.

(b) Where an agent or a broker is prosecuted for an offence under subsection (3), he shall, on conviction, be liable to a fine not exceeding 200,000 rupees.

*[S. 158 amended by s. 5 (f) of Act 25 of 1994 w.e.f. 21 June 1994; s. 6 (m) of Act 10 of 1998 w.e.f. 21 July 1998; s. 5 (f) of Act 18 of 2003 w.e.f. 21 July 2003; s. 5 (m) of Act 28 of 2004 w.e.f. 26 August 2004; s. 8 (r) (i) of Act 15 of 2006 w.e.f. 1 October 2006; s. 8 (r) (ii) of Act 15 of 2006 w.e.f. 7 August 2006; s. 7 (h) of Act 20 of 2009 w.e.f. 19 December 2009.]*

## 158A.Admissibility of documents produced by computers

(1) In any legal proceedings under this Act, a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated therein of which direct oral evidence would be admissible if it is shown that the prescribed conditions have been satisfied.

(2) In any proceedings, the Court may for special cause require oral evidence to be given of any matter under this section.

(3) Any person giving any information under this section which is false or misleading in any material particular shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 3 years and to a fine not exceeding 20,000 rupees.

*[S. 158A amended by s. 3 (f) of Act 25 of 1994 w.e.f. 1 July 1994; s. 6 (m) of Act 10 of 1998 w.e.f. 21 July 1998.]*

## 159. Joint and several liability to penalties

Where a pecuniary penalty is jointly and severally incurred by any number of persons, each and every one of them shall be liable to pay such penalty in full.

## 160. Other penalties

(1) Any person who, in relation to any import, commits an offence under this Act for which no specific penalty is provided or who otherwise contravenes this Act shall, on conviction, be liable to a fine which shall—

(a) where the value of the goods which are the subject matter of the offence does not exceed 1,500 rupees, be 4,000 rupees;

(b) where the value of the goods which are the subject matter of the offence exceeds 1,500 rupees, be 3 times the amount of duty, excise duty and taxes underpaid on those goods or 20,000 rupees, whichever is the higher,

and the goods shall be liable to forfeiture.

(2) Without prejudice to any other enactment, any person who, in relation to any export, commits an offence under this Act for which no specific penalty is provided or who otherwise contravenes this Act shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

*[S. 160 amended by s. 6 (o) of Act 10 of 1998 w.e.f. 21 July 1998; s. 8 (b) of Act 14 of 2005 w.e.f. 21 April 2005; s. 5 (zd) of Act 26 of 2012 w.e.f. 22 December 2012.]*

## 161. Jurisdiction

(1) Notwithstanding—

(a) section 114 of the Courts Act; and

(b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall, subject to subsection (2), have jurisdiction to try all offences under this Act other than an offence under section 157, and may impose any penalty provided under this Act.

(2) The prosecution of an offence under any of the sections of this Act specified in the Fourth Schedule to the Mauritius Revenue Authority Act shall take place, at the discretion of the Director of Public Prosecutions, before a Judge sitting without a jury, the Intermediate Court or a District Court.

*[S. 161 amended by 8 (2) of Act 17 of 2003 w.e.f. 21 July 2003; s. 27 (3) (n) of Act 33 of 2004 w.e.f. 1 July 2006; s. 8 (s) of Act 15 of 2006 w.e.f. 1 July 2006.]*

## Part XVII – Settlement of cases by Director-General

### 162. Compounding of offences

(1) Where the question of compounding an offence committed by a person under the customs laws arises, the Director-General shall set up a committee consisting of himself as Chairperson and 3 other officers of the management team of the Authority to examine the question.

(2) Where the committee under subsection (1) recommends compounding, the Director-General may, with the consent of the Director of Public Prosecutions, compound any offence committed by a person under the customs laws, where such person agrees in writing to pay such amount acceptable to the Director-General representing—

(a) any duty, excise duty and taxes unpaid; and

(b) an amount not exceeding the maximum pecuniary penalty imposable under the customs laws for such offence.

(3) Every agreement under subsection (2) shall be made in writing by the Director-General and the person, and witnessed by an officer.

(4) Every agreement under this section shall be final and conclusive and a copy thereof shall be delivered to the person.

(5) Where the Director-General compounds an offence in accordance with this section—

(a) the amount for which the offence is compounded shall be deemed to be duty, excise duty and taxes assessed or claimed under the customs laws and shall be recoverable as duty, excise duty and taxes; and

(b) no further proceedings shall be initiated in respect of the offence so compounded against the person.

(6) Where the Director of Public Prosecutions does not give his consent to compound the offence or a person does not agree to compound the offence, the Director-General may, with the consent of the Director of Public Prosecutions—

(a) proceed in accordance with section 24A; or

(b) refer the case to the Police for legal proceedings.

*[S. 162 amended by s. 16 of Act 33 of 1991 w.e.f. 13 July 1991; s. 21 (2) of Act 35 of 1992 w.e.f. 13 February 1993; s. 3 (f) of Act 25 of 1994 w.e.f. 21 June 1994; s. 6 (p) of Act 10 of 1998 w.e.f. 1 July 1999; s. 3 of Act 25 of 2000 w.e.f. 11 August 2000; s. 40 of Act 17 of 2001 w.e.f. 15 October 2001; s. 4 (f) of Act 23 of 2001 w.e.f. 11 August 2001; s. 27 (3) (o) of Act 33 of 2004 w.e.f. 1 July 2006; s. 8 (t) of Act 15 of 2006 w.e.f. 1 October 2006; s. 5 (ze) of Act 26 of 2012 w.e.f. 1 January 2013; s. 12 (x) of Act 9 of 2015 w.e.f. 1 September 2015; repealed and replaced by s. 11 (q) of Act 18 of 2016 w.e.f. 11 November 2016.]*

## Part XVIII – Powers of Minister

### 163. Regulations

(1) The Minister may—

(a) make such regulations as he thinks fit for—

(i) the purpose of this Act and generally for the better carrying out of the objects and purpose of this Act;

(ii) the proper implementation of any international convention, treaty or agreement to which Mauritius is a contracting party;

(b) by regulations, amend the Schedules.

(2) Any regulations made under subsection (1) may provide that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years and that goods which are the subject matter of the contravention shall be liable to forfeiture.

(3) Any regulations made under subsection (1) may provide for the method of assessing ad valorem duty on exported sugar.

(4) Any regulations made under subsection (1) may provide for the regulation of exports of goods to the European Union and the issue of movement certificates EUR 1 and invoice declarations in connection herewith.

(5) Any regulations made under this section may provide—

(a) for the levying of fees and charges;

(b) on the recommendation of the Authority, for the licensing of persons transacting business with Customs.

*[S. 163 amended by Act 17 of 1991; Act 10 of 1998; Act 25 of 2000; s. 8 (c) of Act 14 of 2005 w.e.f. 21 April 2005; s. 8 (u) of Act 15 of 2006 w.e.f. 7 August 2006.]*

### 164. ***

*[S. 164 repealed by 27 (3) (p) of Act 33 of 2004 w.e.f. 1 July 2006.]*

## Part XIX – Miscellaneous

### 165. Commissioned aircraft or ships

(1) The person in command of any aircraft or ship holding commission from any foreign State and having on board any goods, other than aircraft or ship's stores, laden in parts beyond the seas shall —

(a) deliver an account in writing of the quantity of such goods, the marks and numbers thereof, and the names of the shippers and consignees, and declare to the truth thereof; and

(b) answer questions relating to such goods.

(2) An aircraft or ship under commission from any foreign State having on board any goods, other than ship's stores laden in parts beyond the seas, may be boarded and searched by any proper officer in the same manner as other aircraft or ships, and such officer may bring any such goods ashore and place them in a customs warehouse.

### 166. ***

*[S. 166 amended by 27 (3) (q) of Act 33 of 2004 w.e.f. 1 July 2006; repealed by s. 8 (i) of Act 14 of 2009 w.e.f. 30 July 2009.]*

### 167. Application of penalties

All penalties recovered under this Act shall, after deduction of all costs and expenses, be paid into the Consolidated Fund.

### 168. Transitional provisions

(1) Notwithstanding any customs laws, any holder of an investment certificate in respect of an export enterprise or a pioneer status enterprise issued under the Investment Promotion Act and in force as at 30 September 2006 shall, not later than 15 October 2006, submit to the Director-General, a certified statement of materials imported during the period 1 June 2006 to 30 September 2006 exempted from payment of duty, excise duty and taxes and not yet used in production as at 30 September 2006, showing—

(a) brief description of the materials and their value;

(b) separately, the amount of duty, excise duty and taxes, that would otherwise be payable, on the materials; and

(c) such other particulars as may be prescribed,

and pay any duty, excise duty and taxes within such time as may be prescribed.

(2) Any person operating a duty-free shop at a place, other than at the port or airport, may, by irrevocable notice in writing to the Director-General, not later than 30 September 2006, elect to operate under the Deferred Duty and Tax Scheme referred to in section 22.

(3) Any person who does not make an election under subsection (2) shall—

(a) continue to be governed by the provisions of section 22 in force immediately before 1 October 2006; and

(b) be authorised, as from 1 October 2006, to sell goods to visitors only.

*[ S. 168 inserted by s. 8 (v) of Act 15 of 2006 w.e.f. 7 August 2006.]*

### 169. ***

### 170. ***

## First Schedule (Section 116A (3) (d))

## List of goods

For the purpose of this Schedule—

(1) The heading numbers specified in the first column refer to the heading numbers of Part I of the First Schedule to the Customs Tariff Act.

(2) Any goods specified in the second column shall mean the goods which fall under the corresponding heading number specified in the first column.

| Heading No. | Description |
|---|---|
| 22.03 | Beer made from malt. |
| 22.04 | Wine of fresh grapes, including fortified wines; grape must be other than that of heading No. 20.09. |
| 22.05 | Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances. |
| 22.06 | Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included. |
| 22.07 | Undenatured ethyl alcohol of an alcoholic strength by volume of 80 per cent vol. or higher; ethyl alcohol and other spirits, denatured, of any strength. |
| 22.08 | Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent vol., spirits, liqueurs and other spirituous beverages. |
| 24.01 | Unmanufactured tobacco; tobacco refuse. |
| 24.02 | Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes. |
| 24.03 | Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences. |
| 36.01 | Propellant powders. |
| 36.02 | Prepared explosives, other than propellant powders. |
| 36.03 | Safety fuses; detonating fuses; percussion or detonating caps; igniters; electric detonators. |
| 71.13 | Articles or jewellery and parts thereof, of precious metal or of metal clad with precious metal. |

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| | |
|---|---|
| 71.14 | Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metal. |
| 71.15 | Other articles of precious metal or of metal clad with precious metal. |
| 71.16 | Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed). |
| 89.03 | Yachts and other vessels for pleasure or sports; rowing boats and canoes. |
| 89.06 | Other vessels, including warships and lifeboats other than rowing boats. |
| 91.13 | Watch straps, watch bands and watch bracelets, and parts thereof, of precious metal or of metal clad with precious metal. |
| 93.01 | Military weapons, other than revolvers, pistols and the arms of heading No. 93.07. |
| 93.02 | Revolvers and pistols, other than those of heading No. 93.03 or 93.04. |
| 93.04 | Other arms (for example, spring, air or gas guns and pistols, truncheons), excluding those of heading No. 93.07. |
| 93.05 | Parts and accessories of articles of headings Nos. 93.01 to 93.04. |
| 93.06 | Bombs, grenades, torpedoes, mines, missiles, and similar munitions of war and parts thereof; cartridges and other ammunition and projectiles and parts thereof, including shot and cartridge wads. |
| 93.07 | Swords, cutlasses, bayonets, lances and similar arms and parts thereof and scabbards and sheaths therefor. |
| 94.01 | Seats (other than those of heading No. 94.02), whether or not convertible into beds, and parts thereof. |

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| | |
|---|---|
| 94.03 | Other furniture and parts thereof. |

*[First Sch. added by Act 25 of 2000; amended by GN 200 of 2000 w.e.f. 29 December 2000.]*

## Second Schedule (Section 135)

### Search warrant

In the discharge of my functions under the Customs Act, I hereby authorise you, the officers named hereunder, to enter the premises occupied by _____ and situated at _____ and to search and inspect any goods and documents found therein and to seize such of those goods and documents as you may reasonably require for any examination, investigation or trial under that Act.

Name of officers _____

_____

Director-General

*[Second Sch. amended by Act 25 of 2000; s. 27 (3) (r) of Act 33 of 2004 w.e.f. 1 July 2006.]*

## Third Schedule (Sections 16 (2) (b) and 16B (4))

### Documents relating to entry of any goods

Bill of lading

Certificate of origin

Import permit under the Consumer Protection (Control of Imports) Regulations 1999

Invoice

Permit or authorisation under any enactment for health, phytosanitary or security reasons

*[Third Sch. added by s. 4 (I) of Act 37 of 2011 w.e.f. 15 December 2011; amended by s. 5 (zf) of Act 26 of 2012 w.e.f. 22 December 2012.]*