2019-05-10

OBJECTS AND REASONS

This Bill would

(a) provide for a Customs Automated Control System, an electronic information declaration system used by the Comptroller for the reporting of cargo and the collection and processing of data;

(b) modernize the customs system; and

(c) provide for related matters.

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Customs Appeal Tribunal Summons

BARBADOS

A Bill entitled

An Act relating to Customs.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Customs Act, 2019*.

Interpretation

2. In this Act,

"access code" means a log-in identifier and password or any other individual security credential other than an authorization code that allows an authorised user to access the System;

"advance cargo information" means a manifest, airway bill or bill of lading information or data as set out in the *Third Schedule* in respect of

(a) cargo and stores including all imports, exports in transit and transshipment of goods;

(b) any package of which there is no bill of lading or airway bill on board an aircraft or vessel;

"advance passenger information" means the information in respect of a passenger, crew member or other person transported in an aircraft or vessel**;**

"agent" means a person who is authorised in writing by another person to perform any act, and acts on his behalf for the purpose of conducting customs business;

"aircraft" includes any machine that is capable of deriving support in the atmosphere from reactions of the air, other than a machine designed to derive support in the atmosphere from reactions against the earth's surface and refers to civilian aircraft**,** but does not include aircraft used for military or police services;

"airline designator" means a code assigned to an airline by the International Air Transport Association or the International Civil Aviation Organisation;

"airport" means any area of land or water used, designed, prepared equipped or set apart for use or designate either in whole or in part for the arrival or departure of aircraft;

"approved wharf" has the meaning assigned to it in section **27**(3);

"assessment" means, in relation to duty, a determination of the amount of duty due;

"assigned matter" means a matter in relation to which the Comptroller is required, in pursuance of a written law, to perform a duty;

"audit" means the measures used by the Comptroller to satisfy the requirements concerning the accuracy and authenticity of a declaration;

"authentication code" means in relation to an authorised user, a unique security credential or personal identifier issued to an authorised user;

"authorised user" means a person authorised to use the System including an authorised employee and the agent of an authorised user;

"boarding station" means any place so designated under section **27**(4);

"break bulk" means cargo that must be loaded individually and not in intermodal containers;

"bulk" means cargo that is transported unpackaged in large quantities;

"cargo" means goods, mail, stores, crew members' effects and passengers accompanied baggage carried on board an aircraft or vessel for consideration;

"cargo information" means statements required under the Act relating to a consignment of cargo;

"cargo reporter"includes a freight forwarder or a consolidator;

"CARICOM" means the Caribbean Community established by the Treaty;

"carrier" means a person who transports goods or is in charge of or responsible for the operation of the means of transport;

"clearance" means the completion of customs formalities required for vehicles, aircraft and vessels used for the carriage of transportation of persons or goods or for goods to be imported or exported or to be placed under another customs procedure applicable to imported or exported goods;

"coasting trade" means the carriage of goods by sea or by air from one part of Barbados to another part of Barbados;

"code sharing information" means an arrangement between two or more airlines to publish and market a flight under

(a) a flight number;

(b) an airline designator,

of the airline as part of the timetable or schedule of the airline:

"commander" means in relation to an aircraft, a person having or taking charge or command of the aircraft;

"Comptroller" means the Comptroller of Customs;

"consolidator" means a person or firm that combines cargo from multiple shippers into a single shipment providing consolidation services;

"container" means

(a) 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 transportation with intermediate reloading;

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

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

(b) the normal accessories and equipment of the container when imported with the container and does not include a vehicle [or conventional packing];

"containerised" means packaged (freight) in a uniform sealed container for shipment;

"COTED" means the Council for Trade and Economic Development;

"crew" means a person employed on board a vessel or aircraft during a voyage or flight, whether or not that person is on the crew list;

"customs airport" means a place designated for the landing or departure of aircraft, the loading or departure of aircraft, the loading and unloading of goods, the embarkation and disembarkation of passengers and which customs services are provided;

"customs broker" means a person who holds a valid broker's licence, and in relation to a place means a person who holds a valid broker's licence to act as a customs broker at the place;

"customs controlled area" means a place appointed or approved as such under Part V;

"customs declaration" means a statement in such form as may be permitted or prescribed under this Act, indicating the type and quantity of goods being imported or exported and the customs procedure to be applied to such goods and except where otherwise specified in this Act or in the regulations, includes an assessment with respect to the value of and rate of duty applicable to such goods or any other matter to be declared or determined by the person responsible for the importation or exportation of the goods;

"customs direction" means a lawful request, order, command or instruction given by a proper officer to a person to perform or refrain from performing an act or to submit to a procedure for the purposes of this Act, and includes any notice, poster, or sign publicly displayed in a customs controlled area and a direction contained in a form prescribed under this Act;

"customs duty" refers to a duty imposed on imports or exports;

"customs enactment" includes this Act and any subsidiary legislation made hereunder and any other enactment that relates to an assigned matter in relation to which the Comptroller is for the time being required in pursuance of that enactment to perform any duties;

"customs officer" means a person appointed as such under the *Public Service Act*, Cap. 29, and includes the Comptroller;

"customs place" means a port or airport;

"customs port" means a place appointed as such under section **27(1)**;

"customs services" means the services provided by the Customs Department;

"Customs Tariff" means the Customs Tariff of Barbados made under section 102;

"customs value" means the value of the goods as determined in accordance with the *Fifth Schedule*;

"data message" means a messaging standard (including a document, correspondence, memorandum, report or other information) for the electronic communication between cargo stakeholders and customs and security agencies;

"declaration" means a verbal, written or an electronic statement that indicates

(a) that goods are being imported or exported and the duty that is to be applied; and

(b) any other information required by the Comptroller;

"document" includes

(a) any paper or other material on which there is writing;

(b) a map, plan, drawing or photographic image;

(c) any written information relating directly or indirectly to goods which are imported, exported or are in-transit;

(d) any written declaration required by the Comptroller; and

(e) any information recorded or stored by means of any tape recorder, computer or other device and any material subsequently derived from the information so recorded or stored;

(f) any information in digital or electronic format,

(g) any paper or other material on which there are marks, figures, symbols, or perforations having a meaning for persons qualified to interpret them;

and also includes a part of a document and a copy, reproduction or duplicate of a document or part thereof;

"domestic space" means the countries listed in the *First Schedule*;

"drawback" means a refund on exportation of all or part of any customs duty paid on importation;

"drawback goods" means goods in the case of which a claim for drawback has been or is to be made;

"driver" means a person in charge or command of a vehicle;

"dutiable goods" means goods of a class or description subject to duty whether or not such goods are chargeable with that duty and whether or not that duty has been paid;

"duty" includes any tax, surtax or other charge of equivalent effect which is imposed on imports or exports as well as any other charges, penalties and interest that Customs is authorized to collect;

"entered" means that goods have been properly accounted for to the satisfaction of Customs;

"entry" means the customs procedure that commences with the submission of a customs declaration and ends when the goods are entered;

"entry by bill of sight" means an entry made in accordance with section **70**;

"examination station" means any place approved as such under section **29**;

"export" means to take or cause goods to be taken outside of Barbados or the territorial waters of Barbados or to be loaded on a vessel or aircraft for use as stores;

"exporter" means, in relation to goods, the owner or other person beneficially interested in the goods that are exported or supplied for use as stores or an agent acting on behalf of that person;

"freight forwarder" means a person who specialises in arranging storage and shipping or merchandise on behalf of shippers;

"goods" includes any tangible property, livestock, stores, personal property, baggage, documents in physical and electronic form, currency, mail, bearer negotiable instruments and packets imported by post and includes prohibited or restricted goods, aircraft and vessels;

"home use" means goods that have completed the required customs clearance formalities, are no longer subject to customs control and are therefore available for free circulation in Barbados;

"IMPACS" means the CARICOM Implementing Agency for Crime and Security establishing under the *Agreement Establishing the CARICOM Implementation Agency for Crime and Security, 2006*;

"import" means to bring goods or cause goods to be brought into Barbados or within the territorial waters of Barbados;

"importer" means in relation to the importation of goods, the person including the owner or consignee or other person beneficially interested in the goods or an agent acting on behalf of that person;

"intelligence agency" means a law enforcement agency which is established to share information and intelligence and to collaborate and cooperate with any other law enforcement agency on matters of mutual interest;

"JRCC" means the Joint Regional Communication Centre which is a sub-agency of IMPACS and which receives advance passenger information data and advance cargo information data;

"land" includes in relation to the landing of aircraft, alighting on water;

"long haul flight" means a flight with a duration of more than 8 hours;

"master" means in relation to a vessel a person having or taking charge or command of the vessel;

"non-prosecutable breach"means a contravention of this Act that is not prosecutable as an offence but which is subject to an administrative penalty under section **218**;

"occupier" means a person who signs as principal any bond in respect of any building or place used as a warehouse for the deposit of goods;

"officer" means the Comptroller and any person who is employed, either on a full time or part time basis, in the Customs Department;

"owner" in relation to a vessel, aircraft or vehicle means a master, captain or driver respectively and in relation to goods includes a person who is entitled as owner or agent of the owner to the possession of those goods;

"participating country" means any country which enters into an agreement with JRCC to share advance passenger information data or advance cargo information data;

"passenger" means a person other than a crew member travelling on, arriving on or departing from a vessel or aircraft;

"passenger's baggage" means property including currency carried for a passenger on an aircraft, in a vessel or vehicle whether in the passenger's personal possession or not;

"pleasure craft" means a vessel that

(a) at the time of its arrival at a place in Barbados is being used for private recreational purposes only; or

(b) the proper officer after application is made to him in writing permits to be treated as a pleasure craft;

"PNR" means passenger name record;

"police officer" means a member of the Royal Barbados Police Force;

"prohibited or restricted goods" means goods of a class or description of which the importation, exportation or carriage coastwise is prohibited or restricted under this Act;

"proper officer" means a customs officer or a person authorised by the Comptroller for the discharge of any duty related to an assigned matter;

"Queen's warehouse" means a place provided by the Crown for the deposit of unentered, unexamined, detained or seized goods or for goods required by the customs laws to be deposited therein for the security of the goods and for the duty due in respect of them;

"Representative" means a person who is authorised in writing by an importer, exporter, freight forwarder or master to transact business under this Act;

"short haul flight" means a flight with a duration of less than 8 hours;

"split or divided PNR information" means the division of PNR where one or more passengers is moved from an existing reservation on an aircraft or vessel and is given a new reservation on an aircraft or vessel;

"stave" means to break a hole in, to crush or knock out of shape;

"stores" means goods for use in a vessel or aircraft and includes fuel, spare parts and other articles or equipment whether or not for immediate fitting;

"System" means the Customs Automated Control System established under section **15**;

"tainted property" means

(a) property used in or in connection with, the commission of an offence; or

(b) property derived, obtained or realised, directly or indirectly from the commission of an offence;

"territorial waters" has the meaning assigned by section 3 of the *Barbados Territorial Waters Act,*, Cap. 386;

"transit" means the customs procedure under which imported goods are transferred under customs control from the port of entry to another port for exportation;

"transhipment" means the customs procedure under which goods are transferred under customs control from the importing means of transport to the exporting means of transport within one customs area office which is the area of both importation and exportation;

"transit shed" means a building or place approved as such by the Comptroller under section **31** for the temporary deposit of goods that are imported or are to be exported;

"Treaty" means the *Revised Treaty of Chaguaramas Establishing the Caribbean Community, including the CARICOM Single Market and Economy*, that was signed in the Bahamas on 5th July, 2001;

"Tribunal" means the Barbados Revenue Authority Appeals Tribunal established under section 24 of the *Barbados Revenue Authority Act, 2014* (Act 2014-1);

"vehicle" has the meaning assigned to it by the *Road Traffic Act*, Cap. 295;

"vessel" includes any ship, boat, hovercraft or submersible;

"warehouse" except for the Queen's warehouse, means a place of security approved by the Comptroller under section **106** and "warehoused" shall be construed accordingly;

"watchlist" means a list which is compiled by an intelligence agency and which is used to watch or track the activities of criminals, criminal deportees, other persons of interest, suspicious or prohibited cargo and cargo of interest to the Caribbean Community.

PART II

ADMINISTRATION

Comptroller of Customs

3.(1) The Comptroller is responsible for the general management and administration of this Act.

(2) Notwithstanding subsection (1), the Comptroller shall, for the proper and efficient management and administration of Customs and Excise Department, and subject to the director of the Minister

(a) establish and maintain administrative, financial, communicative and other systems as may be necessary for the administration and enforcement of this Act;

(b) implement the electronic system referred to in Part III and such other system as the Comptroller thinks fit;

(c) arrange for the design and implementation of training and other programmes as may be necessary for the guidance of persons to whom access to such electronic systems or other systems may be granted, or who are otherwise required under this Act to routinely engage in customs procedures; and

(d) determine, and on an on going basis inform the public of the level of training or certification required for the grant of licences or permits to access the electronic systems or other systems of Customs.

(3) The Comptroller may, in the exercise of his functions execute any document or agreement required under this Act to be entered into between the Comptroller and any other person.

(4) The Comptroller may issue guidelines in accordance with section **68**(3).

(5) All sums collected under this Act and any customs enactment, other than the prescribed fees payable on the exportation of such marine fuels as may be

prescribed, shall, as soon as practicable, be paid by the Comptroller into the Consolidated Fund.

Duties and responsibilities of customs officers and proper officers

4.(1) A customs officer shall perform the duties

(a) assigned by, or on behalf of the Comptroller; or

(b) delegated by the Comptroller under subsection (3).

(2) A customs officer shall preform his duties in accordance with

(a) any instructions issued by the Comptroller, subject to any limitations, and in accordance with any procedures prescribed by the Comptroller; and

(b) the hierarchical or other system of customs management determined by the Comptroller to be appropriate whereby customs officers are entrusted with responsibilities according to rank or other specified basis.

(3) The Comptroller may delegate to any customs officer, any power or duty imposed on him by this Act except the power of delegation.

(4) A customs officer may, subject to subsection (2), perform any enforcement function at any time and place and may when performing an enforcement function

(a) be accompanied and assisted by one or more members of the Police Force or such other persons as may reasonably be required for the performance of that function; or

(b) use any aids, including any equipment or device, subject to compliance with any applicable law regarding the use of the aids.

(5) A person who assists a customs officer under subsection (4) shall for the purpose of such assistance be deemed to be a customs officer working under the supervision of the customs officer being assisted.

(6) The Comptroller may authorise a person who is not a customs officer to perform or exercise a function or power that may be exercised by a customs officer under this Act.

(7) The authorisation referred to in subsection (6) shall be in writing, including any writing in electronic form, and shall specify

(a) the function or power that may be performed or exercised by the person authorised under subsection (6); and

(b) the terms of the authorisation which shall be for a period not exceeding 3 years or such period as the Comptroller may determine.

(8) The Comptroller may renew an authorisation given under this section.

(9) A person who is authorised under this section shall be deemed to be a proper officer for the purposes of this Act and any other customs enactment for the duration of the term of the authorisation.

(10) The Comptroller may revoke an authorisation in the following circumstances

(a) for incapacity, neglect of duty or misconduct;

(b) where the proper officer gives written notice to the Comptroller that the authorised person wishes the authorisation to be revoked; or

(c) in circumstances where in the opinion of the Comptroller, the authorisation is no longer necessary.

(11) Where a person ceases to be authorised under this section, that person shall surrender all articles and documents received in relation to the authorisation, to the Comptroller.

(12) An act required or authorised by this Act to be performed by the Comptroller may be performed by any customs officer authorised by the Comptroller to perform such acts.

(13) The Comptroller shall issue to every customs officer and proper officer an identification card.

(14) Whenever a customs officer or proper officer exercises any power under this Act the officer shall, on request, produce the identification card for inspection.

Obligations of a customs officer

5.(1) A customs officer shall avoid acts

(a) that may give rise to a conflict between his private interest and his duties and responsibilities; or

(b) in which his private interests could improperly influence the performance of his duties and responsibilities

under this Act.

(2) A customs officer shall upon appointment submit to the Comptroller a declaration of interest in the prescribed form, specifying whether he has any material, financial or other interest in, or stands to benefit materially from any business activity relating to

(a) the clearance of goods or other customs procedures;

(b) the import or export of goods; or

(c) the [production], processing, sale, handling, storage, manufacturing or transport of goods

to which this Act applies.

(3) Notwithstanding subsection (2), a customs officer shall as soon as may be practicable, notify the Comptroller of any situation or circumstance which may give rise to a conflict of interest under subsection (1) or in relation to which he stands to benefit materially under subsection (2).

(4) A declaration of interest under subsection (2) and notification under subsection (3) shall in the case of the Comptroller be submitted to [ ] of the Integrity Commission.

(5) Failure of a customs officer to comply with subsections (2) or (3) constitutes misconduct within the *Public Service Act*, Cap. 29.

(6) A customs officer who fails to comply with subsection (3) is guilty of an offence and is liable on summary conviction to a fine of [$] and any interest or benefit acquired as a result of the conflict of interest shall be forfeited.

(7) A form of declaration for the purpose of subsection (2) and the form of notice for the purpose of subsection (3) shall be prescribed.

Failure to surrender written authority

6. A person, to whom any written authority has been issued by the Comptroller under section 4 and who is required by the Comptroller to deliver up or account for the authority and fails to comply within such period as may be specified in the requirement, is liable to pay to the Comptroller a penalty of $100 for everyday on which the failure continues.

Deeming of place of acts

7. Where an act is required by this enactment to be performed in a particular place within a customs controlled area, it shall be deemed to be performed in such a place if performed in a place authorised by the Comptroller for that purpose.

Confidentiality

8.(1) The information contained in a customs declaration, supporting documents and any information obtained from an owner, importer or exporter or about an importer or exporter in the course of duty collection, audit, investigation or enforcement process is confidential information.

(2) Every person having an official duty under this Act or being employed in the administration of this Act shall regard as secret and confidential all documents and information relating to the valuation or assessment of customs duties in respect of imported goods or the mitigation of a penalty.

(3) A person who has in his possession or has control over any confidential information or any document that contains confidential information shall not disclose the information or anything contained in such document to any person.

(4) A person exercising power under this Act or in relation to an assigned matter shall not communicate to any unauthorised person either directly or indirectly, any information or document obtained

(a) in the exercise of any power under this Act; or

(b) in relation to an assigned matter.

(5) A person exercising power under this Act or in relation to an assigned matter who, having possession of or control over any information or document obtained as described in subsection (**4**),

(a) communicates such information or anything contained in such document to an unauthorised person; or

(b) permits an unauthorised person to have access to the document or information

is guilty of an offence and is liable on summary conviction to a fine of $10 000.

(6) Nothing in subsection (5) prevents the disclosure of any document or information where that disclosure is authorised by the Comptroller in accordance with subsection (7).

(7) The Comptroller may disclose or authorise the disclosure of any document or information pursuant to any law, treaty, agreement or arrangement concluded by the Crown for the purpose of administering any customs enactment.

(8) The information that may be disclosed pursuant to subsection (**7**) includes, but is not limited to, information about

(a) the movement of vessels and aircraft including passenger and crew lists;

(b) past travel movements, general history and *modus operandi* of specified people;

(c) currency and documents relating to other relevant financial transactions including money laundering;

(d) intelligence analysis, assessments and reports; and

(e) the details of persons who are known or suspected to be involved in illicit activities.

(9) Notwithstanding sections (2) and (3) nothing in this section prevents the disclosure of confidential information or production of any document containing confidential information to

(a) any person for the purposes of this Act;

(b) the tax authorities of Barbados in the course of and for the purpose of carrying out their official duties in accordance with a signed Memorandum of Understanding with the Customs and Excise Department;

(c) a law enforcement agency for the purpose of carrying out its official duties;

(d) a court of competent jurisdiction, in proceedings regarding liability under this Act, or the responsibility of any person for tax violations or offences, or in a criminal or civil matter;

(e) the competent authority of a foreign country in accordance with a treaty or other agreement to which Barbados is a party;

(f) any other Government authority of another country for the purpose of carrying out their official duties in accordance with a signed Memorandum with the Customs and Excise Department; or

(g) any person with the consent of the owner, importer or exporter, as the case may be.

(10) A person who receives information under subsection (9) shall maintain the confidentiality of the information, except to the minimum extent necessary to achieve the purpose or objective for which disclosure is permitted.

(11) A person who discloses confidential information contrary to this section is guilty of an offence and is liable on summary conviction to a fine of [$] or to a term of imprisonment of [ ] or to both.

Police powers of officers and assistance to be rendered by police

9. For the purpose of carrying out the provisions of customs enactments

(a) all officers shall have the same powers, authorities and privileges as are given by law to members of the Police Force; and

(b) it shall be the duty of every member of the Police Force and of every Island Constable to assist in the enforcement of the law relating to any assigned matter.

Request to extend hours beyond regular working hours

10.(1) Every request by a person for the services of a customs officer outside of regular working hours shall be made in writing to the Comptroller in the prescribed form.

(2) The Comptroller may grant the request made pursuant to subsection (1) subject to any regulations relating to the provision of those services and on payment of the prescribed fee.

Fees and charges

11. The Minister may by Order published in the *Official Gazette* impose such fees and charges as the Minister considers necessary for the provision of customs services.

Comptroller to provide information to the public

12. For the purpose of providing the public with up-to-date information relating to the operation of the Customs and Excise Department, the Comptroller shall publish through any medium he determines information concerning

(a) the policies, services and activities of the Customs and Excise Department;

(b) customs procedures relating to imports, exports and passenger's accompanied baggage; and

(c) other information as determined by the Comptroller.

Comptroller to keep registers, records and information

13. The Comptroller shall keep such registers, records and information as the Comptroller considers adequate for the proper and efficient administration of this Act.

Certificate of Comptroller

14. In any proceedings in which the Comptroller issues a certificate indicating that a person has paid or has not paid the charges or duties in respect of goods, the certificate shall, in the absence of evidence to the contrary, be sufficient proof of the facts stated in the certificate.

PART III

CUSTOMS AUTOMATED CONTROL SYSTEM

Establishment of the System

15.(1) There is established a Customs Automated Control System, an electronic information declaration and clearing system, which shall be used by the Comptroller for the purpose of

(a) automatic and real time reporting of cargo;

(b) the processing of customs declarations and entries; and

(c) the collecting and processing of data; and

(d) such other functions and procedures of customs as the Comptroller thinks necessary.

(2) The Comptroller shall designate and register

(a) customs officers; and

(b) other persons

as authorised users of the System.

Registration as authorised user

16.(1) A person may apply to the Comptroller to be registered as an authorised user where that person is

(a) an importer, exporter or owner of goods to be imported or exported;

(b) any government regulatory agency;

(c) a licensed customs broker;

(d) the master of a vessel or commander of an aircraft;

(e) the authorised employee of a person referred to in paragraphs *(c)* or *(d)*; or

(f) the agent of the owner of a vessel or aircraft.

(2) An application for registration shall be in the Form I set out in the *Second Schedule* and shall be accompanied by a declaration from the applicant stating that the applicant will comply with all security standards respecting access to the System.

Consideration of an application

17.(1) The Comptroller shall within 5 days from the date of receipt of an application, consider the application.

(2) Where the Comptroller has reason to believe that the applicant has not provided sufficient information, the Comptroller shall by electronic means or otherwise, send the applicant a notice requiring the applicant

(a) to provide such additional information as the Comptroller specifies; or

(b) to make a representation in respect of the application for registration

within 5 days of the date of receipt of the notice.

(3) The Comptroller may after giving consideration to an application made under subsection (2), approve the application and register the applicant or decline the application.

(4) Where the Comptroller approves the application and registers the applicant as an authorised user of the System, the Comptroller shall by electronic means or otherwise promptly inform the applicant of the decision and the procedure for obtaining an authorisation code.

Refusal of application

18.(1) The Comptroller shall after considering an application made under section **17** refuse to register an applicant as an authorised user of the System

where the Comptroller is satisfied that the person has not met the requirements for registration set out in section **16**.

(2) The Comptroller shall, before refusing to register an applicant, issue the applicant with a notice by electronic means or otherwise

(a) specifying the requirements for registration as an authorised user;

(b) informing the applicant of the intention to refuse to register him; and

(c) informing the applicant to satisfy the requirements for registration as an authorised user within 14 days of the date of the notice.

(3) Where the time period stated in subsection (2)*(c)* passes, the Comptroller shall within 5 days of making the decision notify the applicant in writing of

(a) the reason for the refusal; and

(b) the applicant's right of appeal under Part XVIII.

Suspension or cancellation of registration of authorised user

19. The Comptroller may by electronic means or otherwise notify an authorised user of the suspension or cancellation of the registration of the user where the Comptroller is satisfied that the authorised user

(a) has failed to comply with any conditions imposed by the Comptroller in respect of the use and security of an authentication code issued to the authorised user; or

(b) is convicted of an offence relating to the improper use of or interference with the System.

Authentication Code

20.(1) Where the Comptroller registers a person as an authorised user of the System, the Comptroller shall

(a) issue to the authorised user a unique personal identifier in the form of an authentication code; and

(b) assign to the authorised user such access and editing privileges as the Comptroller specifies.

(2) Pursuant to section **16**(1), the Comptroller

(a) shall issue a person who is registered as an authorised user with a primary authentication code;

(b) may issue a person who is registered as an authorised employee with a secondary authentication code that is linked to the primary authentication code.

Comptroller may impose conditions respecting authentication code

21.(1) The Comptroller may impose such conditions as he considers necessary on authorised users of the System in relation to

(a) the use and security of the authentication code; and

(b) the use of the System.

(2) Every authorised user shall comply with the conditions imposed by the Comptroller with respect to the use and security of the authentication code.

(3) An authorised user who contravenes subsection (2) is liable to a penalty of $5 000.

Prohibition respecting use of authentication code

22.(1) A person shall not use an authentication code issued under section **20** unless the person is

(a) an authorised user of the System; or

(b) the holder of the authentication code.

(2) A holder of an authentication code shall not make

(a) any unauthorised copies of any record or information stored in or processed by the System; or

(b) any duplicate tape, disc or medium on which information obtained from the System is stored.

(3) A person who is

(a) a registered authorised user of the System; or

(b) the holder of an authentication code,

shall not use the authentication code of any other authorised user or permit another person to use the authentication code issued to him.

(4) A person who contravenes this section is liable to a penalty of $5 000.

Requirements respecting authorisation

23.(1) An owner, exporter or importer of goods who is registered as an authorised user may

(a) submit customs declarations, pay duties, charges and taxes to the Comptroller or carry out other procedures in respect of imports and exports for and on his own behalf; or

(b) use a licensed customs broker or another agent for the purpose of submitting customs declarations, paying duties, charges and taxes or carrying out other procedures to the Comptroller in respect of imports and exports for or on behalf of the owner, exporter or importer of goods.

(2) Where an owner, exporter or importer of goods intends to authorise an agent or employee to submit customs declarations, pay duties, charges and taxes or carry out other procedures in respect of imports and exports for and on behalf of the owner, exporter or importer of goods, the owner, exporter or importer of goods shall in the Form 2 set out in the *Second Schedule* or in such form as the Comptroller may specify provide the proper officer with

(a) a written authorisation from the importer or exporter; and

(b) the name, contact particulars and specimen signature of the agent or employee.

(3) Where a licensed customs broker intends to authorise an employee to submit customs declarations, pay duties, charges and taxes or carry out other procedures on behalf of a client, the licensed customs broker shall in the form set out in Form 3 of the *Second Schedule* or in such form as the Comptroller may specify, provide the proper officer with

(a) a written authorisation from the licensed customs broker; and

(b) the name, contact particulars and specimen signature of the employee.

(4) Where a licensed customs broker authorises an employee to submit customs declarations, pay duties, charges and taxes or carry out other procedures at Customs in respect of imports and exports for and on behalf of a client, the employee shall carry out the procedures in accordance with the *Customs Regulations, 1963* (L.N. 1963 No. 61) and the conditions established in accordance with the licence granted to the customs broker.

Security and control measures

24.(1) The Comptroller shall take such security and control measures as are reasonably practicable to

(a) safeguard the integrity of any data message processed by the System is protected against any loss, misuse or unauthorised access or disclosure;

(b) prevent unauthorised access to and disclosure of any record or information stored or otherwise processed in the System;

(c) prevent illegal interception or interruption of any data message or information transmitted to or processed by the System during the transmission or processing of the data or information;

(d) prevent loss, destruction, alteration, modification or disclosure of any record or information stored in the System; or

(e) prevent other misuse regarding a record or information stored in the System including misuse by a person with authorised access to the record or information stored in the System.

(2) The Comptroller shall in respect of the System

(a) utilize procedures that are secure in respect of authentication codes and user names; and

(b) keep and maintain

(i) a register of the authentication codes, user names and any other information issued to each authorised user; and

(ii) an access log regarding access to the System by each authorised user, including the record and information stored in the System and the procedures performed by each authorised user.

Data messages

25.(1) Where a data message is transmitted to the System using an authentication code issued to an authorised user by the Comptroller, the transmission of the data message is evidence that the data message was transmitted by the authorised user to whom the authentication code was issued.

(2) An electronic record of a data message made to or from the System and retained by the Comptroller under section **26**

(a) is admissible in evidence; and

(b) shall be received as *prima facie* evidence,

that the person, whose authentication code was used for the purpose of the data message, made the statements contained in the data message.

Comptroller to keep records of data messages

26.(1) The Comptroller shall keep a record of every data message transmitted to or received from an authorised user of the System.

(2) A record kept under subsection (1) shall be retained for a period of not less than 7 years from the date that the message was sent or received, unless required in legal proceedings.

PART IV

CUSTOMS CONTROLLED AREAS

Appointment of customs ports, wharves and boarding stations

27.(1) The Minister may by Order published in the *Official Gazette* and subject to such conditions as may be imposed by the Minister and after consultation with the Comptroller, appoint any place as a customs port.

(2) The Minister may by Order published in the *Official Gazette* amend or revoke an Order published in accordance with subsection (1) after consultation with the Comptroller.

(3) The Comptroller may by notice published in the *Official Gazette* approve any place for such period and subject to such conditions or restrictions as he may think fit for

(a) the loading or unloading of any class or description of goods; or

(b) the embarkation and disembarkation of passengers,

and any place so approved shall be referred to as an approved wharf.

(4) The Comptroller may by notice published in the *Official Gazette* appoint boarding stations within a port for the purpose of the boarding of or disembarkation from vessels or vehicles by customs officers.

(5) The Comptroller may in such manner as he thinks at any reasonable time and for any reasonable cause, vary or revoke the terms of any approval given under this section.

(6) The Comptroller may by notice published in the *Official Gazette*, amend or revoke a notice published in accordance with subsection (3) or (4).

(7) A person in control of a customs port shall

(a) permit a proper officer at any time to enter upon and inspect the customs port and all buildings and goods in it; and

(b) where required by the Comptroller

(i) keep a record, in such form and manner and containing such particulars as the Comptroller may direct, of a vessel or vehicle arriving at or departing from that customs port;

(ii) keep the record available and produce it on demand to a proper officer, together with all other documents kept at the customs port relating to the movement of a vessel or vehicle; and

(iii) permit a proper officer to make copies of, take extracts from or remove for a reasonable period, any record or document.

(8) A person who contravenes or fails to comply with this section is guilty of an offence and is liable on summary conviction to a fine of $10 000.

Customs airport

28.(1) The Minister, after consultation with the Comptroller, may by Order published in the *Official Gazette*

(a) appoint an area in Barbados as a customs airport;

(b) revoke the appointment of an area as a customs airport; or

(c) impose or vary any condition or restriction imposed on the use of an area in Barbados as a customs airport.

(2) The Order published pursuant to subsection (1) shall be subject to such conditions as may be imposed by the Minister.

(3) A person in control of a customs airport shall

(a) permit a proper officer to enter and inspect the customs airport and all buildings and goods in it at any time; and

(b) where required by the Comptroller

(i) keep a record, in such form and manner and containing such particulars as the Comptroller may direct, of any aircraft arriving at and departing from that customs airport;

(ii) keep the record referred to in paragraph *(b)*(i) available and produce it to a proper officer on demand together with the other documents kept at the customs airport relating to the movement of the aircraft; and

(iii) permit a proper officer to make copies of or take extracts from any record or document or remove a record or document for a reasonable period.

(4) A person who contravenes or fails to comply with this section is guilty of an offence and is liable on summary conviction to a fine of $10 000.

Examination stations

29.(1) The Comptroller may approve

(a) any part of or place at a port or customs airport; or

(b) any other place,

as an examination station, for the loading or unloading or examination of goods and the embarkation or disembarkation of passengers.

(2) The approval given pursuant to subsection (1) may be for such period and subject to such conditions and restrictions as the Comptroller thinks fit.

(3) The Comptroller may at any time, and for reasonable cause, vary or revoke the terms of any approval given pursuant to subsection (1).

Customs controlled area

30.(1) The Comptroller may approve, for such periods and subject to such conditions, any place within Barbados as a customs controlled area.

(2) A customs controlled area referred to in subsection (1) shall be used for the entry, unloading, storage, removal and loading of goods and the report and clearance of vessels and aircraft in such form and manner as the Comptroller may direct to meet the exigencies of the case.

(3) The Comptroller may at any time for reasonable cause vary or revoke the conditions of any approval given by him pursuant to subsection (1).

(4) Any person who fails to comply with a condition imposed by the Comptroller pursuant to subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $10 000.

Transit shed

31.(1) The Comptroller may, approve any building or place in any customs controlled area as a transit shed for the deposit of goods to be imported or exported.

(2) An approval given pursuant to subsection (1) may be for such periods and subject to such conditions and restrictions as the Comptroller thinks fit.

(3) The Comptroller may at anytime and for reasonable cause, vary or revoke the conditions of any approval given pursuant to subsection (1).

(4) A person who fails to comply with any conditions or restrictions imposed under this section is guilty of an offence and is liable on summary conviction to a fine of $100 000.

Securing of transit shed

32. Where the owner of a transit shed or the agent of a vessel or aircraft is required to deposit goods in a transit shed, the owner or occupier of the transit

shed, as the case may be, shall secure the transit shed by locks or other fastenings to the satisfaction of a proper officer.

Alterations to transit sheds

33. The owner of a transit shed shall not make or cause to be made any alteration or addition to a transit shed unless the occupier first obtains the written permission of the Comptroller.

Access to customs controlled areas

34.(1) The owner of a customs controlled area or a vessel or aircraft within a customs controlled area shall on demand made by a proper officer grant immediate access to the proper officer to the customs controlled area or vessel or aircraft, as the case may be.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of [$] or to imprisonment for a term of [ ] or to both.

(3) Without prejudice to any action which may be instituted under subsection (2), where a person referred to in subsection (1) fails or refuses to grant a proper officer immediate access to a customs controlled area, vessel or aircraft

(a) the proper officer may cause the customs controlled area, vessel or aircraft to be opened by such means as the proper officer considers reasonable in the circumstances; and

(b) that person is liable for any expenses or damage incurred or sustained as a result of the action taken by the proper officer under paragraph *(a)*.

Responsibility for goods in customs controlled areas

35. Where goods are deposited in customs controller area

(a) the master of the vessel and the commander of the aircraft from which the goods were deposited; and

(b) the owner of the customs controlled area

are jointly and severally responsible for the goods during the period of storage in the customs controlled area.

Permission to enter a customs controlled area

36.(1) The Comptroller shall require any person who enters a customs controlled area to wear an identification card in the form prescribed.

(2) A person shall not enter a customs controlled area unless he

(a) obtains, by electronic means or otherwise, the permission of a proper officer;

(b) satisfies the proper officer referred to in paragraph *(a)* that he is entering the customs controlled area in relation to the business for which the permission was given by the proper officer;

(c) wears an official identification card issued by the Comptroller in accordance with section **4(13)**;

(d) is permitted to enter the customs controlled area under any other enactment.

(3) A person who contravenes subsection (2) commits a non-prosecutable breach.

PART V

ARRIVAL AND DEPARTURE

Notification of arrival

37.(1) This section shall apply to a vessel or aircraft that is expected to arrive in Barbados.

(2) The master of every vessel**,** the commander of every aircraft or the agent of the master or commander of the vessel or aircraft respectively and every cargo reporter, whether the vessel or aircraft is laden or not, shall at the time stated in subsection (4), provide the proper officer at the intended port of arrival in Barbados with the advance passenger and cargo information set out in Parts I and II of the *Third Schedule*.

(3) The **advance** passenger and cargo information referred to in subsection (2) shall consist of data in respect of

(a) the estimated time of arrival of the vessel or aircraft;

(b) a list of the names of all passengers and crew on board the vessel or aircraft in accordance with Part I of the *Third Schedule*;

(c) the customs place at which the vessel will arrive;

(d) a list of the vessel or aircraft's cargo for discharge within Barbados, whether commercial or non-commercial in accordance with Part II of the *Third Schedule*; and

(e) a list of the vessel or aircraft's commercial cargo which is not intended for discharge in Barbados in accordance with Part III of the *Third Schedule*.

(4) The master of the vessel, commander of the aircraft, **the** agent of the master or commander of the vessel or aircraft respectively and cargo reporter shall at such time as is provided in subsection (5) provide the Chief Operations Officer of the JRCC with the data set out in the *Third Schedule* in an electronic format or in the form of a report that is approved by the Chief Operations Officer.

(5) Where a vessel or aircraft is expected to arrive in Barbados, the data referred to in subsections (3) and (4) shall be provided, in the case of

(a) a commercial aircraft, no later than 40 minutes prior to the departure from the last port of call;

(b) a private aircraft, no later than 40 minutes prior to the departure from the last port of call;

(c) a vessel or aircraft arriving from outside the domestic space, no later than 24 hours prior to arrival; and

(d) a vessel or aircraft arriving from a destination within the domestic space, no later than one hour prior to arrival.

(5) The advance passenger and cargo information referred to in subsection (2) shall show separately any goods which are

(a) in transit; or

(b) to be transferred to another vessel or aircraft for re-exportation,

and shall state whether there are any goods which are to remain on board for exportation on the same vessel or aircraft and the information shall give an account of all goods remaining on board for exportation.

(7) On the arrival of a vessel or aircraft in Barbados the master or commander or his agent shall proceed to the customs place referred to in subsection 3*(c)*.

(9) The master of any vessel or the commander of any aircraft to which subsection (2) applies or the agent of that master or commander may, where specially allowed by the Comptroller, provide the advance passenger and cargo information as required by this section after arrival in Barbados and after bulk is broken.

(8) A master, commander or agent who fails to comply with subsections (2), (3), (4) or (6) is guilty of an offence and is liable on summary conviction to a fine of $50 000.

JRCC to share advance passenger and cargo information with intelligence agencies

38. Where data is provided to the Chief Operations Officer of JRCC pursuant to section 37(4), the Chief Operations Officer shall share that information with intelligence agencies.

Use of advance passenger and cargo information by JRCC

39.(1) Where the Chief Operations Officer of JRCC receives data pursuant to section 37(4), JRCC shall use the advance passenger and cargo information to conduct screening of persons and cargo on board a vessel or aircraft, which enters, departs from or travels within the domestic space.

(2) JRCC shall use the advance passenger and cargo information referred to in subsection (1) to conduct screening of persons against watch lists for the purposes of assisting participating countries or intelligence agencies in the furtherance of national, regional and international security.

(3) Where JRCC conducts screening of persons pursuant to subsection (2) and as a result of the screening suspects that a person on board a vessel or an aircraft is

(a) a criminal;

(b) a criminal deportee;

(c) involved in criminal activity; or

(d) a person of interest to an intelligence agency,

JRCC shall share the information with law enforcement agencies of participating countries and with intelligence agencies.

Waiver

40.(1) The Minister may by Order

(a) waive any requirements of subsection (2), (3) or (4) of section 37;

(b) modify any of the data referred to in the *Third Schedule*; or

(c) waive or modify any of the requirements of subsection (5) of section 37 with regard to the time required for the submission of data.

(2) An order made under subsection (1) is subject to negative resolution.

Penalty

41. Where the master of a vessel or the commander of an aircraft or the agent of the master or commander

(a) fails to provide the advance passenger and cargo information as required by subsection (2) of section 37; or

(b) transmits incomplete or false data,

the master, commander or agent is liable to pay to the Comptroller a penalty of [$10 000].

Seizure and detention

42.(1) Where a master of a vessel or a commander of an aircraft or the agent of the master or commander or a cargo reporter fails to comply with the provisions of subsection (2) of section 37, the Comptroller may seize and detain the vessel or aircraft to which the non-compliance relates.

(2) Notwithstanding subsection (1), in the case of a commercial vessel or aircraft, the vessel or aircraft shall be released on the lodgement of a bond in the sum of $1 000 000 or 3 times the value of the vessel or aircraft, whichever is greater.

(3) Where pursuant to subsection (1) a vessel or aircraft is seized or detained by the Comptroller, the Harbour Master or the Director of Civil Aviation shall not grant clearance to the vessel or aircraft to depart until so authorised by the Comptroller.

Release of bond

43. The Comptroller shall release the bond lodged under subsection (2) of section 42

(a) upon receipt of the data referred to in subsection (3) of section 37 and on payment of the penalty imposed under section 41; or

(b) in accordance with an order of the High Court.

Denial of clearance

44. Where the vessel or aircraft referred to in subsection (2) of section 37 is not a commercial vessel or aircraft, the proper officer may refuse to grant clearance to the vessel or aircraft to leave the port until

(a) the penalty imposed under section 41 has been paid; and

(b) the advance passenger and cargo information referred to in subsection (2) of section 37 has been received.

Questions to be answered

45.(1) The master or owner of a vessel, the commander or owner of an aircraft and any passenger or crew onboard a vessel or aircraft shall

(a) answer any questions that are put to the master, owner, commander, passenger or crew by the proper officer relating to

(i) the vessel or aircraft;

(ii) the goods and passengers conveyed in the vessel or aircraft; or

(iii) the crew, and voyage or flight; and

(b) at the request of the proper officer produce any books, and documents within the master, owner, commander, passenger or crew member's control.

(2) Subsection (1) shall apply to

(a) a vessel or aircraft that has arrived in Barbados from a place outside of Barbados;

(b) a vessel or aircraft that is departing Barbados for a place outside of Barbados;

(c) a vessel or aircraft that is in Barbados and is carrying international cargo, international crew or any international passengers, and whether or not the vessel or aircraft is also carrying domestic cargo;

(d) a vessel or aircraft that is in Barbados and is one that a proper officer has reasonable cause to suspect has been or [is about to be] involved in

(i) the commission of an offence under this Act; or

(ii) the importation or exportation of any dutiable, uncustomed, prohibited, restricted or forfeited goods.

(3) A person referred to in subsection (1) who

(a) refuses to answer any question put to him by a proper officer under subsection (1)*(a)*;

(b) knowingly gives a fake answer to any questing posed by a proper officer; or

(c) fails to comply with a request made under subsection 1*(b)*

is guilty of an offence and is liable on summary conviction to a fine of [$].

Request to stop a vessel or aircraft

46.(1) The master of a vessel or commander of an aircraft arriving in Barbados shall, on being so directed by a proper officer,

(a) stop the vessel or aircraft for boarding; and

(b) ensure that the vessel or aircraft remains stationary until the proper officer directs that the vessel or aircraft may proceed.

(2) When a proper officer is on board a vessel or aircraft, the proper officer shall identify himself to the master or commander or to a person designated by the master or commander by the production of the identification card issues pursuant to section **4(13)**.

(3) The master or commander shall, by all reasonable means, facilitate the boarding of the vessel or aircraft by the proper officer.

(4) The master or commander shall, if so directed by the proper officer, cause the vessel or aircraft to leave Barbados immediately or within such time as the proper officer directs.

(5) A proper officer who gives a direction pursuant to subsection (4) shall first obtain the approval of the Commissioner.

(6) A master or commander who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of [$] or to imprisonment for a term of [ ].

Vessel or aircraft to arrive at a designated place only

47.(1) Where a vessel or aircraft

(a) arrives in Barbados; and

(b) is carrying persons or goods subject to the control of the Comptroller from a place outside of Barbados,

the master, commander or agent shall ensure that the vessel or aircraft anchors or lands only at the place designated under this Act for the purpose or otherwise directed by the proper officer.

(2) On arrival at the designated place, the place directed to by the proper officer, or at a customs controlled area within that place and until an inward report in accordance with section 49 has been made, no person shall leave or board the vessel or aircraft unless authorised to do so by the proper officer.

(3) A person who contravenes either subsection (1) or (2) commits a non-prosecutable offence.

Vessel or aircraft arriving at a place other than a designated place

48.(1) Nothing in section **47** applies to a vessel or aircraft that anchors or lands at a place other than a place designated in **47**or place directed by the proper officer under section **47** if the arrival,

(a) is required by any statutory or other requirement relating to navigation;

(b) is compelled by accident, weather or other necessity; or

(c) is authorised by the Comptroller.

(2) The master, commander or agent

(a) shall immediately report the arrival of the vessel or aircraft to the proper officer or to a police officer;

(b) shall not without the consent of the proper officer, permit any goods carried in the vessel or aircraft to be unloaded from it, or any of the crew or passengers to depart from its vicinity; and

(c) shall comply with any customs direction given by the proper officer in respect of any goods, crew or passengers carried in the vessel or aircraft.

(3) Subject to any authorisation granted by the Comptroller, no member of the crew and no passenger on the vessel or aircraft shall, without the consent of the proper officer

(a) unload goods from the vessel or aircraft; or

(b) depart from on board the vessel or aircraft;

and those persons shall comply with any customs directions given by the proper officer.

(4) When a vessel or aircraft is directed by the proper officer to arrive at a place other than the place designated in accordance with section 47(1), no person shall depart from or board the vessel or aircraft unless authorised to do so by the proper officer.

(5) A person who contravenes this section commits a non-prosecuatble breach.

(6) Notwithstanding subsection (5),

(a) the departure of passengers or members of the crew from the vicinity of the vessel or aircraft; or

(b) the removal of goods from the vessel or aircraft

shall not constitute a contravention of this Act where the departure or removal is necessary for reasons of health, safety or preservation of life or property.

Report of arrival of a vessel or aircraft

49.(1) A report shall be made of the arrival of a vessel or aircraft in accordance with subsections (2), (3) and (4) of this section.

(2) Where a vessel arrives at a customs port

(a) from a place outside Barbados; and

(b) carrying passengers from a place outside of Barbados; and

(c) carrying goods from a place outside of Barbados that have not yet been cleared on importation,

the master shall within 24 hours of arrival, submit a report to the Comptroller in such form and manner containing the particulars specified by the Comptroller.

(3) Where an aircraft arrives at a customs airport

(a) from a place outside of Barbados; and

(b) carrying goods or passengers taken on board at a place outside of Barbados, being goods or passengers either

(i) bound for Barbados and not yet cleared at the customs airport; or

(ii) bound for a destination outside of Barbados,

the commander shall, upon arrival and before departure submit a report to the Comptroller in a form and containing such particulars as the Comptroller may specify.

(4) Where there is failure to make a report as required by thus section the master or commander commits a non-prosecuatble breach.

(5) Where a report submitted under this section is inaccurate, the maker of the report shall within 72 hours of making the report, or such longer period as the Comptroller may permit, be allowed to amend the report.

(6) Where goods appear on a clearance or manifest required to be produced but do not appear in the report submitted under this section then, unless the report is amended in accordance with subsection (5), the master, or commander

(a) commits a non-prosecutable breach; and

(b) shall pay the duty on the goods.

(7) Where a report made under this section is inaccurate and the maker of the inaccurate report satisfies the Comptroller that the error was not made knowingly or recklessly, then notwithstanding any other provision of any customs enactment

(a) that person does not commit a breach of this Act; and

(b) where the error consist of the omission or incorrect reporting of any goods, those goods are not liable to forfeiture.

(8) A master or commander submitting a report under this section shall

(a) answer all questions relating to the vessel or aircraft and its cargo, stores, baggage crew, passengers, voyage or flight, as may be put to him by a proper officer; and

(b) produce books and documents in his custody or control relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as the proper officer may require.

(9) A person who contravenes subsection (8) is guilty of an offence and is liable on summary conviction to a fine of $10 000.

(10) Where at any time after a vessel or aircraft carrying goods from a place outside of Barbados arrives at a customs port in Barbados and, before a report has been submitted

(a) bulk is broken;

(b) goods are unloaded from or taken on board the vessel or aircraft;

(c) any alteration is made in the stowage of any goods carried so as to facilitate the unloading of any part before the required report has been submitted; or

(d) goods are staved, destroyed or thrown overboard, or a container is opened

then, unless the matter is explained to the satisfaction of the Comptroller, the master, or commander is liable to pay the Comptroller a penalty of $50 000 or 3 times the value of the goods, whichever is the greater and the goods are liable to forfeiture.

(11) The Comptroller may require goods reported as stores on board a vessel or aircraft or any portion of the goods to be entered for warehousing, and for the purpose of this subsection, the master, or commander shall be deemed to be the importer of the goods.

Vessel or aircraft commissioned by the Crown

50.(1) Notwithstanding any other provisions of this Act, the master of a vessel or his agent, or the commander of an aircraft or his agent having a commission from the Crown, who has on board any goods other than stores laden at any port or place outside of Barbados, shall on arrival in Barbados or when called upon to do so by a proper officer, before any of the goods are unloaded,

(a) provide a written report of

(i) the goods;

(ii) the quality and quantity of every package or parcel of such goods;

(iii) the marks and numbers on the goods; and

(iv) the names of the respective consignors and consignees;

(b) make a declaration at the end of the report that the information provided is accurate to the best of his knowledge; and

(c) truthfully answer questions concerning the goods as asked by the proper officer.

(2) A master or commander who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of [$10 000].

(3) Every vessel or aircraft referred to in subsection (1) is subject to search as a non-commissioned vessel or aircraft.

(4) A proper officer may board a vessel or enter an aircraft referred to in subsection (1) and take from the vessel or aircraft or cause to be brought into a warehouse any goods found on board.

(5) The goods found on board a vessel or aircraft referred to in subsection (4) shall be taken to the Queen's Warehouse.

(6) Where there is a failure to provide a report as required in subsection (1), the master, commander or agent is guilty of an offence and is liable on summary conviction to a fine of $10 000.

(7) Where a report made under this section is inaccurate, the maker of the report shall within 72 hours of making the report or such longer period as the Comptroller may permit, be allowed to amend the report.

(8) Where goods appear on a clearance or manifest but do not appear in the report made under this section then unless the report is amended under subsection (7), the master, commander or agent

(a) shall pay the duty owed on the goods; and

(b) is guilty of an offence and is liable on summary conviction to a fine of $10 000.

(9) When a report made under this section is inaccurate and the maker of the report satisfies the Comptroller that the error was not made knowingly or recklessly, then notwithstanding any other provision of any customs enactment

(a) that person is not guilty of an offence; and

(b) where the error consists of an omission or incorrect reporting of any goods, those goods shall not be liable to forfeiture.

(10) A person who makes a report under this section shall

(a) answer all questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as may be put to him by the proper officer; and

(b) produce all books and documents in his custody or control relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as the proper officer may require.

(11) Notwithstanding the fine imposed in subsection (6), a person who contravenes subsection (10) is guilty of an offence and is liable on summary conviction to a fine of $10 000.

(12) Where, at any time after a vessel or aircraft carrying goods from a place outside of Barbados arrives in Barbados and before a report has been made in accordance with this section

(a) bulk is broken;

(b) goods are unloaded from or taken on board that vessel or aircraft;

(c) any alteration is made in the storage of any goods carried so as to facilitate the unloading of any part before the required report has been made; or

(d) goods are staved, destroyed or thrown overboard or any container is opened,

then unless the matter is explained to the satisfaction of the Comptroller, the master, commander or agent is guilty of an offence and is liable to pay the

Comptroller a penalty of $50 000 or 3 times the value of the goods, whichever is the greater, and the goods are liable to forfeiture.

(13) The Comptroller may require goods reported as stores on board any vessel or aircraft or any portion of such goods to be entered for warehousing and the master, commander or his agent shall be deemed to be the importer of these goods.

(14) Where

(a) a report submitted under this section is erroneous, misleading or defective in any material particular; or

(b) a document submitted in support of the report is not genuine, is erroneous or is misleading,

the master, commander or his agent is guilty of an offence and is liable on summary conviction to a fine of $100 000.

Disembarkation

51.(1) Subject to such exemptions as may be prescribed, a person who is on board a vessel or aircraft that has arrived in Barbados shall comply with every customs direction concerning disembarkation.

(2) For the purpose of this section and section 52 a customs direction includes a direction given by the person in charge of the vessel or aircraft or by a crew member at the direction of the proper officer.

(3) Every person who disembarks from a vessel or aircraft to which this section applies shall, unless otherwise directed by a proper officer,

(a) go to the designated customs controlled area; and

(b) remain in the customs controlled area for such reasonable time as the proper officer may require, for the purpose of enabling the proper officer to exercise any power under this Act, in relation to that person.

(4) The departure of a person from the customs controlled area does not constitute an offence where the departure is necessary for reasons of health, safety or the preservation of life.

(5) A person who fails to comply with this section is guilty of an offence and is liable on summary conviction to a fine of $5 000.

Baggage to be presented

52.(1) Subject to such exemptions as may be prescribed, every person who disembarks from a vessel or aircraft that has arrived in Barbados from a place outside of Barbados shall

(a) present his accompanying baggage to the proper officer for examination by the proper officer;

(b) comply with any customs direction relating to the movement of the baggage within the customs controlled area or from any vessel or aircraft to a customs controlled area; and

(c) answer all questions related to matters covered by this Act.

(2) A person moving or handling the baggage referred to in subsection (1) shall comply with every customs direction relating to the movement of the baggage within the customs controlled area or from any vessel or aircraft to a customs controlled area.

(3) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of $5 000.

Persons departing from Barbados to depart from a customs controlled area

53.(1) No person shall depart Barbados from a place other than a customs controlled area unless that person is authorised to do so by a proper officer.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $50 000.

Embarkation

54.(1) Every person preparing to board a vessel or aircraft for departure from Barbados shall comply with every customs direction given with respect to embarkation.

(2) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of $50 000 or a term of imprisonment for 3 years.

Outgoing baggage to be presented

55.(1) Subject to such exemptions as may be prescribed, every person who arrives at a customs controlled area for embarkation on a vessel or aircraft that has, as its destination, a place outside Barbados shall

(a) upon request by a proper officer, make his accompanying baggage available for examination by the proper officer; and

(b) comply with any customs direction relating to the movement of the baggage within the customs controlled area or from a customs controlled area to a vessel or an aircraft.

(2) A person who moves or handles the baggage referred to in subsection (1) shall comply with the customs directions relating to the movement of baggage within a customs controlled area or from a customs controlled area to a vessel or aircraft.

(3) A person who contravenes subsection (1) or (2) is liable to pay to the Comptroller a penalty of $10 000.

Certificate of clearance

56.(1) Unless otherwise approved by the Comptroller, before any certificate of clearance is granted to the master, commander or agent of a vessel or aircraft, the master, commander or agent shall

(a) submit to the proper officer within such time as may be prescribed, an outward report in such form and containing such particulars verified

by declarations as may be prescribed and accompanied by such supporting documents as the proper officer may require;

(b) answer any questions asked by the proper officer relating to the vessel or aircraft and its passengers, crew, cargo, stores and intended voyage or flight;

(c) submit to the proper officer an account of the cargo and stores taken on or remaining on board the vessel or aircraft in Barbados;

(d) produce all books and documents in the custody or control of the master or commander referred to in this subsection relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight;

(e) produce such other documents as may be required by the proper officer relating to the vessel or aircraft and its passengers, crew, cargo, stores and intended voyage or flight; and

(f) comply with all requirements of this or any other Act concerning the vessel or aircraft and its passengers, crew, cargo, stores and intended voyage or flight.

(2) Where clearance is sought for a vessel or aircraft that

(a) is in ballast;

(b) has on board only stores, passengers' baggage or empty containers upon which no freight or profit is earned

the proper officer granting clearance shall clear the vessel or aircraft as in ballast.

(3) Any master**,** commander or agent who

(a) fails to comply with subsection (1)*(a)*;

(b) refuses to answer any question put to that person by the proper officer pursuant to subsection (1)*(b)* or gives a false answer to a question; or

(c) fails to produce any documents required by the proper officer

is liable to pay to the Comptroller a penalty of $10 000.

(4) Where

(a) an outward report submitted pursuant to subsection (1) is erroneous, misleading or defective; or

(b) any document submitted in support of the report submitted in accordance with subsection (1) is erroneous or misleading

the master**,** commander or agent is guilty of an offence and is liable to pay the Comptroller a penalty of $10 000.

Master or commander to deliver content on clearance outwards

57.(1) This section shall apply to a vessel or aircraft that has left or is expected to leave Barbados.

(2) The master of a vessel and the commander of an aircraft or the agent of the master or the commander of the vessel or aircraft, whether the vessel or aircraft is laden or not, shall at such time as is provided in subsection (4) deliver a content to the proper officer at the intended port of departure in Barbados in either an electronic format or in the form approved by the Comptroller.

(3) The content referred to in subsection (2) shall consist of data in respect of

(a) the vessel or aircraft mentioned in that subsection and each passenger on board including every member of the crew on board the vessel or aircraft in accordance with Part I of the *Third Schedule*; and

(b) the cargo on board the vessel or aircraft in accordance with Part II of the *Third Schedule*.

(4) Where a vessel or aircraft has left or is expected to leave Barbados, the data referred to in subsection (3) shall be provided no later than 30 minutes prior to the departure from Barbados.

(5) The Comptroller may generally or in any particular case require the master, commander or the agent of either of them to furnish a list of the crew and each

passenger on board to the proper officer at least one hour before the scheduled time of departure.

Waiver

58.(1) The Minister may by order

(a) waive any of the requirements of subsection (2) or (3) of section 57;

(b) modify any of the data referred to in the *Third Schedule*; or

(c) waive or modify the requirement of subsection (4) of section 57 with regard to the time required for the submission of data.

(2) An order made under subsection (1) is subject to negative resolution.

Penalty for contravention of section 57

59. Where the master of a vessel or the commander of an aircraft or the agent of either of them intentionally or recklessly

(a) fails to make the due content as required by subsection (2) of section 57; or

(b) transmits incomplete or false data,

the master, commander or agent of either of them is liable to pay to the Comptroller a penalty of $200 000.

Clearance of aircraft and vessels

60. No vessel or aircraft shall depart from any port, customs airport or other place in Barbados to any place outside Barbados, either direct or via another port, customs airport or other place in Barbados, until the master of the vessel, the commander of an aircraft or the agent of the master or commander has satisfied the proper officer that the provisions of this Act have been fulfilled, whereupon, unless the proper officer has decided to withhold clearance in accordance with any other provisions of law, such officer shall issue to the master, the commander or the agent of the master or commander a certificate of

clearance in the prescribed form and the clearance shall be the authority for the departure of the vessel or aircraft.

Seizure and detention

61.(1) Where a master of a vessel or a commander of an aircraft or the agent of either of them fails to comply with the provisions of subsection (2) of section 66 the Comptroller may seize and detain the vessel or aircraft to which the non-compliance relates.

(2) Notwithstanding subsection (1), in the case of a commercial vessel or aircraft, the vessel or aircraft shall be released on the lodgement of a bond in the sum of $1 000 000 or 3 times the value of the vessel or aircraft, whichever is greater.

(3) Where pursuant to subsection (1) a vessel or aircraft is seized or detained by the Comptroller, the Harbour Master or the Director of Civil Aviation shall not grant clearance to the vessel or aircraft to depart until so authorised by the Comptroller.

Comptroller may give special directions as to clearance in particular cases

62. Notwithstanding sections 57 and 60, or any other provisions of this Act relating to the departure and clearance of vessels and aircraft, it shall be lawful for the Comptroller by directions addressed to the proper officer to permit any particular vessel or aircraft to be cleared in any manner specified in such directions, and where any vessel or aircraft departs contrary to the provisions of any such directions of which the master of such vessel or the commander of such aircraft or the agent of either of them has been informed by the Comptroller in writing, such master, commander or agent is liable to pay to the Comptroller a penalty of $200 000.

Clearance in ballast

63.(1) Where a vessel is departing in ballast from Barbados to any place outside Barbados and the vessel

(a) does not have any goods on board, except stores duly shipped as such; or

(b) does not have any goods reported inwards for exportation in such vessel

the proper officer shall, on the application of the master or his agent, clear the vessel in ballast and the master of that vessel or his agent shall comply with the provisions of this Act as if such vessel was not departing in ballast as aforesaid, except that the word "nil" shall be written on the prescribed form or "zero" inserted in the appropriate electronic data element.

(2) For the purposes of subsection (1), a vessel having only passengers with their *bona fide* baggage on board, in addition to stores as aforesaid, shall be deemed to be in ballast.

Questions to be answered

64.(1) The master of a vessel, the commander of an aircraft or the agent of either of them to which section 57 applies, shall

(a) answer immediately all questions relating to

(i) the vessel or aircraft;

(ii) the goods and passengers conveyed in the vessel or aircraft; or

(iii) the crew and voyage or flight

that are put to the master, commander or agent by the proper officer on board the vessel or aircraft; and

(b) produce the books and documents in his custody or control relating to the vessel or aircraft as the proper officer may require.

(2) Where the master, commander or agent fails to comply with the provisions of subsection (1), the Comptroller may

(a) exercise the powers of seizure and detention as provided in subsection (1) of section 61;

(b) impose a bond in the same manner as is specified in subsection (2) of section 61; and

(c) impose the penalty as specified in section 59.

Production of certificate of clearance

65.(1) The master, commander or agent of either of them to whom a certificate of clearance has been granted shall, on demand by the proper officer, produce the certificate of clearance for examination by the proper officer and answer any question that the proper officer may put to him concerning the vessel, aircraft or its passengers, cargo, crew, stores and intended voyage or journey.

(2) For the purposes of subsection (1), a proper officer may go on board a vessel or aircraft that has been cleared outward and demand the production of the certificate of clearance of the vessel or aircraft,

(a) in the case of a vessel, at any time while the vessel is within the limits of a port or within the territorial waters of Barbados; or

(b) in the case of an aircraft, at any time while the aircraft is at a customs airport.

(3) A master, commander or agent of either of them who

(a) fails to comply with a demand made by the proper officer under this section; or

(b) refuses to answer any question put to that person under this section or gives a false answer to a question,

is guilty of an offence and is liable on summary conviction to a fine of $50 000.

Power to refuse or revoke clearance

66.(1) For the purpose of securing the detention of a vessel or aircraft for the purpose of securing compliance with any provision of a customs enactment, the proper officer may

(a) at any time refuse clearance of the vessel or aircraft; or

(b) where clearance has been granted, at any time while

(i) the vessel is within the territorial waters of Barbados; or

(ii) the aircraft is at a customs airport;

revoke any clearance previously granted.

(2) Revocation of a clearance may be made either orally or in writing to the master, commander or agent of either of them and if made in writing may be served by

(a) delivering it to the master, commander or agent of either of them personally;

(b) leaving it at the last known place of abode or business in Barbados of the master, commander or agent of either of them;

(c) leaving it on board the vessel or aircraft with the person appearing to be in charge or command of the vessel or aircraft.

(3) A clearance becomes void upon revocation under subsection (2).

(4) Where revocation of a clearance is made under subsection (2) and that revocation is not complied with within 30 minutes, the master, commander or agent of either of them is guilty of an offence and is liable on summary conviction to a fine of $200 000.

Departure to be from customs controlled area

67.(1) A master, commander or agent of either of them shall not, except with the prior permission of the Comptroller

(a) cause a vessel or aircraft to depart for a place outside Barbados or from a place in Barbados other than from a customs controlled area; or

(b) having obtained clearance from a customs controlled area in Barbados to depart for any point outside Barbados, cause a vessel or aircraft

(i) to fail to depart immediately from that area; or

(ii) to go to any other place in Barbados.

(2) A master, commander or agent of either of them who contravenes this subsection is guilty of an offence and is liable on summary conviction to a fine of $500 000.

(3) Subsection (1) does not apply to a vessel or aircraft that is compelled by accident, bad weather or other necessity to return to a place in Barbados and the provisions of section 48 apply subject to any modification that may be necessary.

PART VI

IMPORTATION

Imported goods subject to customs control

68.(1) Goods are subject to the control of the Comptroller from the time of importation until the time the goods are lawfully removed from a customs controlled area

(a) for domestic use;

(b) for exportation from Barbados; or

(c) under a customs procedure allowed under this Act.

(2) For the purpose of subsection (1), goods that are removed from a customs controlled area to another customs controlled area are not removed for domestic use.

(3) The Comptroller may prescribe special guidelines with respect to the handling or processing of goods prior to entry, including requirements for the measurement or weighing of goods.

Submission of customs declaration

69.(1) Subject to subsection (2), the importer of the goods shall submit to the proper officer a customs declaration of the goods in such form and within such time period as may be prescribed in regulations.

(2) Subsection (1) shall not apply to

(a) fresh fish taken by any person who is legally permitted to fish in Barbadian waters and brought by that person in his vessel; and

(b) passenger accompanied baggage.

(3) Subject to this section, a customs declaration may be made under subsection (1) in respect of goods

(a) for warehousing, where so eligible;

(b) for domestic use, where so eligible;

(c) for transit or transhipment; or

(d) in such cases as the Comptroller may permit, for the purpose of temporary retention with a view to subsequent exportation.

(4) Nothing in this section prevents the processing of an entry of goods prior to the importation of the goods into Barbados.

(5) Where the entry of goods is processed in accordance with subsection (4), the entry may be subject to such conditions as may be prescribed.

(6) When an entry made under subsection (1) is inaccurate in any material particular, the importer shall, within 48 hours of the submission of the entry or

such longer period as the Comptroller may allow, submit to the proper officer a full and accurate account of the goods.

(7) When an inaccurate entry is submitted, and the Comptroller is satisfied that the inaccuracy was inadvertent and immaterial, except for statistical purposes, then notwithstanding any other provision of any customs enactment

(a) the importer shall not be guilty of an offence; and

(b) the goods shall not be liable to forfeiture,

by reason only of the inaccuracy of the entry.

(8) Notwithstanding that no customs declaration has been made under subsection (1), the Comptroller may permit the delivery of any

(a) bullion;

(b) currency;

(c) notes; or

(d) coins

imported into Barbados to the importer, but where the importer fails, within 48 hours after the bullion, currency, notes or coins have been delivered, to submit to the proper officer a full and true account, including weight and value of the bullion, currency, notes or coins, the importer commits a non-prosecutable breach and is liable to pay to the Comptroller a penalty of $25 000.

(9) Where

(a) no entry has been made; or

(b) goods have not been unloaded or produced for examination and clearance,

within the time specified in the regulations made pursuant to subsection (1), the master of the vessel, commander of the aircraft or agent of either of them in charge of the vessel or aircraft in which the goods were imported may enter, unload or produce the goods for examination and clearance.

(10) Where the importer enters goods subsequent to the filing of an entry under subsection (9), that entry shall be substituted for the entry made under subsection (1).

(11) A person who submits a customs declaration may, in accordance with any conditions that the proper officer may impose

(a) inspect the goods; or

(b) draw samples from the goods.

(12) Every person entering goods under this section shall

(a) answer any question asked by a proper officer with respect to the goods; and

(b) on the request of a proper officer,

(i) present the goods to the officer;

(ii) remove any covering from the goods;

(iii) unload any vessel or aircraft;

(iv) open any part of either of a vessel or aircraft; or

(v) open and unpack any package that the officer wishes to examine.

(13) Subject to subsection (7) a person who contravenes this section is liable to pay to the Comptroller a penalty of $10 000.

Entry by bill of sight

70.(1) Where an importer is unable for want of full information to submit a customs declaration in accordance with this Act, he may

(a) sign a declaration to that effect before the proper officer; and

(b) submit an entry of the goods by bill of sight to the proper officer.

(2) Where the Comptroller is satisfied that an importer is unable to obtain the required documents or information concerning goods to be cleared and a declaration under subsection (1) has been made, the Comptroller shall permit

(a) the importer to examine the goods; and

(b) the entry and delivery of the goods where

(i) the importer submits to the proper officer an a bill of sight, in such form and containing such particulars as the Comptroller may direct;

(ii) the description of the goods is correct for tariff and statistical purposes;

(iii) in the case of goods liable to ad-valorem duty, the value of the goods declared on the customs declaration is approximately correct; and

(iv) in the case of goods liable to duty according to weight or measurement such weight or measurement as declared on the bill of sight is correct.

Oral declaration

71.(1) The Comptroller may, subject to subsection (2) permit a customs declaration to be made orally where

(a) goods for private consumption below a value prescribed by regulations are imported by post or courier; or

(b) the circumstances in relation to the nature of the goods or their end-use are so compelling that it would not be expedient in the national interest to require the submission of a written customs declaration on bill of sight.

(2) Where the Comptroller permits a customs declaration to be made orally in accordance with subsection (1)*(b)*, the Comptroller shall make arrangements with

the importer or exporter for the later submission of the written customs declaration and the payment of any duty payable.

(3) The arrangements made by the Comptroller under subsection (2) may, where appropriate provide for the submission by the importer of security or other undertaking in such form as the Comptroller thinks necessary.

Provisional assessment

72.(1) Where the Comptroller is unable to make a proper assessment of the value of the goods to be entered due to the failure of the importer to produce satisfactory documentary evidence of the value of the goods, the Comptroller may direct that the goods

(a) be examined and a provisional assessment be made by the proper officer of the value of and duty payable on the goods; and

(b) be provisionally cleared based on the payment of the amount of duty calculated by the importer, such amount being brought to account as revenue.

(2) Pending final clearance of the goods, the importer shall, in addition to the amount paid under subsection (1)*(b)*, pay as a deposit to the Comptroller, an amount equal to 50 per cent of any additional duty provisionally assessed under subsection (1)*(a)*.

(3) The importer may, with the approval of the Comptroller, secure the deposit payable under subsection (2) by means of a bond.

(4) When goods are pending final clearance pursuant to subsection (2), the Comptroller shall give notice in writing, to the importer in such form as may be prescribed, indicating

(a) the provisional assessment made pursuant to subsection (1)*(a)*;

(b) the basis for the assessment; and

(c) the documents or other information relating to the value of the goods that the importer is required to produce within 30 days of the provisional entry.

(5) The amount of duty that was provisionally assessed under subsection (1) *(a)* shall be treated as the final assessment and the deposit paid shall be brought to account as revenue where

(a) the documents or other information required under subsection (4) have not been produced within the specified time; or

(b) the importer informs the Comptroller in writing before the expiration of the time specified that he is unable to produce any further documents or information,

unless the importer commences proceedings with the Tribunal within the required time period.

(6) The Comptroller shall notify the importer of a final assessment determined under subsection (5) within 2 weeks of the date of the assessment.

(7) Where the additional documents or other information required under subsection 4*(c)* have been provided to the satisfaction of the Comptroller and the duty assessed by the Comptroller is more than or less than the provisional assessment made under subsection (1)*(a)*, the difference in duty shall either be refunded to or paid by the importer and any bond secured for the payment of duties or charges shall be cancelled.

Removal of goods from a customs controlled area

73.(1) Imported goods shall not be delivered or removed from a customs controlled area except

(a) with the permission of the proper officer after entry has been made in the prescribed form and manner and is accepted;

(b) pursuant to a permit or other authorisation granted by the Comptroller in respect of those goods, subject to the conditions imposed by the Comptroller;

(c) by a proper officer in the performance of his duties;

(d) as otherwise provided by any other provision of this Act.

(2) Notwithstanding subsection (1)*(a)*, while goods remain subject to customs control, the Comptroller may revoke any notice of delivery given in respect of those goods.

(3) The Comptroller may, by notice in writing, vary or revoke any conditions under which a permit is granted under subsection (1).

(4) A person who is dissatisfied with a decision of the Comptroller under subsection (2) or (3) may, within 2 weeks after the date on which notice of the decision is given, request the Comptroller in writing, to reconsider the decision.

Removal of uncleared goods to customs warehouse

74.(1) When, in the case of imported goods

(a) clearance has not taken place

(i) within 7 days of importation by air;

(ii) within 14 days of importation by sea;

(iii) within 30 days of importation for transhipment; or

(iv) within 21 days from the date when report was made of the importation under section 49, or where no such report was made, the date where it should properly have been made; or

(b) the goods have been cleared, but they have not been unloaded from the importing vessel or aircraft by the expiration of the period referred to in subsection *(a)*,

then the proper officer may, subject to subsection (2), cause the goods to be deposited in the Queen's warehouse in accordance with the provisions of [Part X].

(2) Goods shall be deposited in the Queen's warehouse except where they are

(a) of a type set out in the [*Fourth Schedule*]; or

(b) in the opinion of the Comptroller, of a perishable nature, in which case the Comptroller may sell or otherwise dispose of them.

(3) The Comptroller shall notify the importer or his agent in writing within 7 days of the decision to remove the goods under subsection (1) or that the Comptroller shall sell or dispose of the goods under subsection (2).

(4) Where a restriction is placed upon the unloading of goods from a vessel or aircraft by virtue of an enactment relating to the prevention of an epidemic or infectious disease, then, in relation to the unloading of those goods, the date of the removal of the restriction will be deemed to be the date of importation.

Certain goods may be sold

75. Where goods are to be deposited in a warehouse under section 74 are of a perishable nature or are not permitted to be warehoused under this Act the Comptroller may, upon giving of such notice as may be prescribed by regulations, sell the same forthwith.

Control of movement of uncleared goods

76.(1) The Minister may make regulations and the Comptroller may give instructions as to the manner in which, and the conditions under which, goods subject to this section may be removed within any customs controlled area, between customs controlled areas or between a customs controlled area and any other place.

(2) This section applies to

(a) goods chargeable with duty that has not been paid;

(b) goods on which drawback has been paid; and

(c) any other goods that have not been cleared by the Comptroller.

(3) Regulations made under subsection (1) may require that goods referred to in subsection (2) be moved only

(a) by a person licensed by the Comptroller for that purpose; or

(b) by such means as may be approved by the Comptroller for that purpose.

(4) A licence or approval for the purposes of subsection (3) may be granted for such periods and be subject to such conditions and restrictions as the Comptroller thinks fit.

(5) The Comptroller may, at any time, for reasonable cause, revoke or vary the terms of the licence or approval granted under this section.

(6) The Comptroller shall not exercise the power conferred under subsection (5) without first giving the holder of the licence an adequate opportunity to be heard.

(7) A person who contravenes

(a) a regulation issued;

(b) a condition imposed; or

(c) a term of any licence or approval granted,

is guilty of an offence and liable on summary conviction to a fine of $100 000, and the licence shall be revoked.

Control of movement of goods

77.(1) The Comptroller may impose conditions and restrictions with respect to the movement of imported goods between the place of importation and

(a) a place designated by the Comptroller for the entry and clearance of those goods; or

(b) the place of exportation of those goods.

(2) Any condition or restriction imposed under subsection (1) may

(a) require the goods to be moved within such period and by such route as may be prescribed;

(b) require the goods to be carried in a vehicle or container of a specified type or dimension or secured in such manner as may be prescribed; and

(c) prohibit, except in such circumstances as may be prescribed under paragraph *(a)* or *(b)*, the unloading or loading of the vehicle or container or any interference with the security of the vehicle or the container.

(3) Any document required to be created or produced as a result of a condition given under subsection (1) shall be created or produced in such form and manner and shall contain such particulars as the Comptroller may direct, but the Comptroller may relax any requirements that any specific document be created or produced and if he does so may impose substituted requirements.

(4) A person who contravenes or fails to comply with any condition given under subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $500 000 and any goods in respect of which the offence was committed shall be liable to forfeiture.

Forfeiture of goods

78.(1) Subject to subsection (3), and notwithstanding any other provision of this or any other customs enactment, goods shall be liable to forfeiture where the goods are

(a) unloaded at any port, unloaded from an aircraft, removed from their place of importation or from any customs controlled area without payment of the duties due;

(b) imported, landed or unloaded contrary to any prohibition or restriction in force with respect to the goods by virtue of any other written law;

(c) prohibited or restricted goods by or under any written law and are found, whether before or after unloading to have been concealed in any manner on board a vessel or aircraft;

(d) chargeable with duty and are found, whether before or after unloading, to have been concealed in any manner on board a vessel or aircraft;

(e) imported or concealed in a container holding goods of a different description;

(f) found, whether before or after delivery not to correspond with the customs declaration made in respect of the goods;

(g) concealed or packed in any manner appearing to be intended to deceive a customs officer.

(2) Subsection (1)*(a)* does not apply where another enactment expressly provides otherwise.

(3) A person who

(a) imports goods or causes the goods to be imported

(i) concealed in a container holding goods of a different description; or

(ii) packed in a manner appearing to be intended to deceive a customs officer; or

(b) directly or indirectly imports or causes to be imported or entered goods found whether before or after delivery, not to correspond with the entry made in respect of them

is guilty of an offence and is liable on summary conviction to a fine of $100 000 or 3 times the value of the goods, whichever is greater and the consignment shall be forfeited.

(4) A person who staves, breaks or destroys goods to prevent their detention or seizure by a proper officer or another person authorised to detain or seize the

goods is liable to pay to the Comptroller a penalty of $2 500 or 3 times the value of the goods, whichever is greater.

Application of Act to postal packets, mail and goods by post or courier

79.(1) This Act applies to the importation and exportation of goods, postal packets and mail by post and courier, and

(a) **a person may be convicted of an offence under this Act;**

(b) goods, mail and postal packets may be examined, seized and forfeited; and

(c) in relation to any matter mentioned in paragraph *(a)* or *(b)* legal action may be taken.

(2) Where goods contained in a postal packet do not correspond with any customs declaration of contents made in respect of them, those goods are liable to forfeiture.

Time of importation and exportation of goods, mail and postal packets by post or courier

80.(1) The time of importation of goods, mail and postal packets shall be deemed to be where

(a) the goods are brought by sea, the time when the vessel carrying the goods, mail or postal packet comes within the territorial waters of Barbados; and

(b) the goods, mail or postal packet are brought by air, the time when the aircraft carrying them arrives in Barbados.

(2) The time of exportation of goods, mail or postal packets by post or courier is deemed to be the time when they are put on board the vessel or aircraft with the intention that they be exported in that vessel or aircraft at the time of leaving Barbados.

Production of postal packet declaration

81.(1) Any form of label affixed to a postal packet completed by the sender in respect of the goods contained therein, giving the description of the goods and value shall subject to section 79, be deemed to be a declaration of its contents for the purposes of this Act.

(2) The Comptroller may for the purposes of examination and duty assessment of goods contained in postal packets require any officer designated by the courier service provider of Post Master General, as the case may be, to verify the label affixed to a postal packet,

(a) at the customs port or place of arrival in Barbados; or

(b) at an examination station or such other customs port or place in Barbados, as the Comptroller directs.

(3) For the purposes of subsection (2), the officer so designated

(a) shall be described to be the agent of the importer or the exporter of the goods; and

(b) is authorised and empowered to open the postal packet for customs examination and duty assessment.

Declaration respecting postal packets

82. Where a proper officer is of the opinion that the goods contained in a postal packet

(a) are imported for commercial or trade purposes; or

(b) are of a value that exceeds any value prescribed by regulations

the proper officer shall require the owner of the goods to complete a customs declaration in respect of the goods.

Goods contained in postal packet contrary to law

83.(1) An officer of the Post Office may detain any incoming postal packet which he suspects of containing any

(a) letter;

(b) printed matter;

(c) document; or

(d) other thing whatsoever,

the carriage of which by post or courier is prohibited or restricted by law.

(2) Without prejudice to the exercise of any powers that an officer of the post office may exercise under any other enactment, that officer may deliver the postal packet referred to in subsection (1) to the proper officer who may open and examine it in the presence of the person to whom it is addressed.

(3) The postal packet referred to in subsection (2) may be opened in the absence of the person to whom it is addressed if after 14 days notice in writing from the proper officer, or such other shorter time as the Comptroller determines, the person fails to attend.

(4) Where the proper officer finds any goods in the postal packet or in any

(a) letter;

(b) printed matter;

(c) document; or

(d) other thing whatsoever

conveyed by post or imported contrary to any lawful prohibition or restriction, he may detain the packet and deal with it and its contents as goods imported contrary to this Act but where he finds no such goods, in the letters, printed matter, document or thing, he shall deliver the packet either to the person to whom it is addressed, or to his accredited representative, upon that person paying the postage

or other sum, if any, chargeable thereon, or where he is absent, forward the packet by post to the person to whom it is to be delivered.

Unclaimed postal packets

84.(1) Where

(a) the addresses of any postal packet addressed to any place in Barbados neglects to claim the postal packet; and

(b) any postal packet referred to in paragraph *(a)* is not delivered to an alternative addressed or returned to the sender within such time as may be specified in any law governing the conveyance of postal packets by post,

the Post Mast General shall send the postal packet to the Comptroller for deposit in a Queen's Warehouse.

(2) Where the addressee of any postal packet addressed to any place in Barbados refuses to pay any duties payable under any customs enactment in respect of the goods contained in the postal packets the Post Master General shall send the postal packet to the Comptroller for deposit in the Queen's Warehouse.

(3) Where any postal packet is deposited in a Queen's Warehouse under this Act goods contained in the postal packet may be sold or otherwise dealt with and any proceeds applied as if they were goods which might be sold or otherwise dealt with under this Act.

PART VII

EXPORTATION AND LOADING

Goods for export subject to customs control

85.(1) Goods to be exported are subject to customs control

(a) where the goods are in a package to which a customs seal has been applied, from the time when a customs seal is first applied to the package until the exportation of the goods to a place outside Barbados whether or not any other paragraph of this subsection applies to the goods;

(b) where the goods are to be exported under drawback, from the time of the claim for drawback or the time the goods are brought to a customs controlled area for exportation, if earlier, until the exportation of the goods to a place outside Barbados; and

(c) where the goods are to be exported otherwise than under drawback, from the time when the goods are brought to a customs controlled area for exportation, whether or not the goods are later transported from that area to any other location and where the goods are transported to another location, during the transportation, until their exportation to a place outside Barbados.

(2) For the purposes of subsection (1), goods that are removed from a customs controlled area to another customs controlled area are not removed for domestic use.

Entry of goods for exportation

86.(1) Subject to section 87, the exporter of goods, other than passengers' accompanied baggage, shall submit to the proper officer a customs declaration covering those goods

(a) in such form and accompanied by such supporting **and other** documents as may be prescribed; and

(b) within such time as may be prescribed or such further time as the Comptroller may allow.

(2) A person who submits a customs declaration **or supporting documents** to the Comptroller pursuant to this section shall ensure that the information given in the document is correct.

(3) Where a customs declaration made under subsection (1) is incorrect, the exporter shall, within 48 hours after the submission of the customs declaration or such longer period as the Comptroller may permit, be allowed to submit to the Comptroller a full and accurate customs declaration covering the goods.

(4) Where the original customs declaration involved a false declaration or a pattern of negligence within the meaning of section **243**, subsection (3) of that section will not apply.

(5) A person who submits a customs declaration under this section shall

(a) answer any question asked by the proper officer with respect to the goods; and

(b) at the request of the proper officer

(i) present the goods to the officer;

(ii) remove any covering from the goods;

(iii) unload any vessel or aircraft or open any part of it; or

(iv) open and unpack any package that the officer wishes to examine.

(6) Where goods that have been declared for exportation or for use as stores are

(a) not loaded on to the vessel or aircraft for which they are cleared; or

(b) not exported according to the customs declaration,

the goods are liable to forfeiture unless within 24 hours of departure of the vessel or aircraft the person who made the entry notifies the proper officer in writing of the failure and the reasons for it.

(7) Where the Comptroller receives notice in accordance with subsection (6), he

(a) shall cancel or amend the customs declaration; and

(b) may, where applicable, allow the goods to be released from the control of customs.

(8) Except as otherwise permitted by the Comptroller, where goods are put on board a vessel or aircraft for exportation or for use as stores before the customs declaration in respect of the goods has been made, those goods are liable to forfeiture.

(9) A person who places goods on board a vessel or aircraft pursuant to subsection (8), is guilty of an offence and is liable to pay to the Comptroller a penalty of $10 000.

Comptroller may waive conditions of shipment

87.(1) The Comptroller may waive any of the requirements imposed by section 86(1) in relation to any class or description of goods, subject to such conditions and restrictions as he may impose.

(2) The Comptroller may determine what goods need not be declared for export by the exporter until after the departure of the vessel or aircraft by which the goods are exported.

(3) Goods so permitted to be declared for export pursuant to subsection (2) after the departure of the vessel or aircraft by which they are exported shall be declared within 24 hours of the clearance of the vessel or aircraft or such further period as the Comptroller may allow.

(4) Where goods are permitted to be declared for export after the departure of the vessel or aircraft by which they are exported, the Comptroller shall require the exporter to give security for the payment of any export duties on goods liable to the duties, subject to the conditions imposed by the Comptroller.

(5) The exporter is guilty of an offence and is liable on summary conviction to a fine of $50 000 or 3 times the value of the goods, whichever is greater, where goods are not declared for export within the time provided by subsection (3).

Entry outwards

88.(1) Unless the Comptroller otherwise permits

(a) before goods for export or use as stores are loaded onto a vessel or aircraft; or

(b) where a vessel or aircraft carrying goods arrives at a customs port but it is intended that the vessel or aircraft will proceed to a destination outside Barbados,

the master of the vessel, commander of the aircraft or agent of either of them shall submit to the proper officer an entry outwards for the vessel or aircraft, in such form and containing such particulars as the Comptroller may direct.

(2) Where an entry outwards made under subsection (1) is incorrect, the person who made it shall within 48 hours of the making of the entry outwards or such longer period as the Comptroller may permit, be allowed to amend the entry.

(3) When an inaccurate entry is submitted and the Comptroller is satisfied that the inaccuracy was inadvertent and immaterial, except for statistical purposes, then notwithstanding any other provision of any customs enactment,

(a) the importer **commits a non-prosecutable breach**; and

(b) the goods shall not be liable to forfeiture by reason only of the inaccuracy of the entry.

(4) Where

(a) a person who is required by subsection (1) to make an entry outwards fails to do so, that person is guilty of an offence and is liable to pay to the Comptroller a penalty of $10 000; and

(b) goods are loaded on board a vessel or aircraft in contravention of subsection (1),

(i) those goods are liable to forfeiture; and

(ii) the master, commander, or agent of either of them is liable to pay to the Comptroller a penalty of $10 000.

Security for exportation of goods

89.(1) Where

(a) warehoused goods; or

(b) goods subject to drawback

are to be exported, the Comptroller may require the exporter to give security in the amount of the duty which would have been chargeable on those goods if they had been imported into Barbados for domestic use.

(2) The security under subsection (1) shall be forfeited, if within one month of the exportation of the goods or such longer period as the Comptroller may permit, the exporter does not

(a) produce to the Comptroller a certificate, signed by an authorised officer in the country to which the goods were exported, certifying that the goods have been imported into that country; or

(b) otherwise account for those goods to the satisfaction of the Comptroller.

Offences in relation to exportation

90.(1) Where goods that have been loaded or retained on board a vessel or aircraft for exportation or for use as stores, are not exported and discharged at a place outside Barbados or used as stores, but are unloaded in Barbados, then unless

(a) the unloading was authorised by the proper officer; and

(b) duty chargeable on those goods is paid and drawback or other allowance made in respect of those goods is repaid, except where the proper officer otherwise permits,

the master, commander or agent of either of them or any other person involved in the unloading of the goods from the vessel or aircraft is guilty of an offence.

(2) The Comptroller may impose conditions and restrictions with respect to goods covered under this section and any failure to comply with this subsection is an offence.

(3) Where after a vessel or aircraft has obtained clearance but before it leaves Barbados, it is discovered that the goods cleared for exportation or for use as stores are no longer on board, then, unless those goods

(a) have been unloaded with the permission of the proper officer; or

(b) are stores that could reasonably have been consumed since the granting of the clearance,

the master, commander or agent of either of them is liable to pay to the Comptroller a penalty of $10 000 and the duty that would have been payable on those goods if those goods had been for domestic use.

(4) Where a person

(a) exports or causes to be exported, goods that are

(i) concealed in a container holding goods of a different description; or

(ii) packed in a manner appearing to be intended to deceive a customs officer;

(b) goods found not to correspond with the export entry made in respect of them;

(c) exports or causes to be exported

(i) warehoused goods in a vessel of less than 5 tonnes burden;

(ii) goods that are chargeable to duty that have been transferred from an importing vessel or aircraft in a vessel of less than 5 tonnes burden; or

(iii) goods entitled to drawback on exportation in a vessel of less than [5 tonnes] burden; or

(d) contravenes any conditions or restrictions imposed under subsection (2),

that person is liable to pay to the Comptroller a penalty of $10 000 and the goods are liable to forfeiture.

PART VIII

COASTING TRADE

Coasting trade

91.(1) For the purpose of this Part

"coasting vessel" means any vessel engaged in the trade of carrying goods by sea between places in Barbados.

(2) Goods shall not be carried in a coasting vessel except those goods that are loaded to be carried coastwise at a customs port in Barbados.

(3) The Comptroller may determine and direct in what cases the trade by water from one customs port in Barbados to another customs port in Barbados shall be deemed a carriage by sea within the meaning of this Act.

Limits on coasting trade

92.(1) Subject to subsection (2),

(a) goods not yet entered on importation; and

(b) goods for exportation

shall not be carried coastwise in any vessel used for that purpose.

(2) The Comptroller may permit, subject to such conditions and restrictions as he may impose

(a) a coasting vessel to carry goods coastwise notwithstanding that the coasting vessel is carrying goods brought therein from some place outside of Barbados and not yet entered in Barbados, without being treated as a coasting vessel;

(b) goods brought by another vessel to a place in Barbados from a place outside Barbados that are consigned to and intended to be delivered to another place in Barbados, to be transferred before entry of the goods has been made to a coasting vessel for carriage coastwise to that other place; or

(c) a vessel that has begun to load goods for exportation or for use as stores on a voyage to a destination outside Barbados to carry goods coastwise until that loading has been completed.

(3) Where goods are

(a) carried coastwise in contravention of subsection (1); or

(b) loaded, unloaded, carried or otherwise dealt with contrary to any condition or restriction imposed by the Comptroller under subsection (2),

the master or agent of the coasting vessel is guilty of an offence and is liable on summary conviction to a fine of $100 000 or 3 times the value of the goods, whichever is greater and forfeiture of the goods.

Provisions relating to vessels from places outside Barbados

93.(1) Notwithstanding any provision in any customs enactment to the contrary, where a vessel arrives in Barbados from a place outside Barbados

(a) and has on board cargo that is intended to be delivered to more than one customs place in Barbados; or

(b) intending to load cargo for a foreign place onto the vessel at more than one customs place in Barbados,

a proper officer may permit the vessel to convey goods from any customs place at which the vessel partially discharges its cargo or loads cargo for a foreign place, to its place or places of destination within Barbados without the vessel being deemed a coasting vessel.

(2) Goods referred to in subsection (1) shall be completely separated from the inward cargo on board, to the satisfaction of the proper officer.

(3) A vessel engaged in conveying goods only from one customs controlled area within Barbados to another customs controlled area in Barbados shall not, by reason thereof, be deemed a coasting vessel within the meaning of this Act.

Clearance of coasting vessel

94.(1) Subject to this section and unless the Comptroller otherwise permits, a master, or agent shall not cause a coasting vessel to depart from a customs place in Barbados before the master, or agent of either of them has submitted to the proper officer an application for a coastwise permit in such form and containing such particulars as may be prescribed.

(2) The application referred to in subsection (1) shall, be in such form and contain the particulars the Comptroller may direct, and the application, when signed by the proper officer serves as the clearance of that coasting vessel.

(3) Where no officer is stationed at a customs place prior to the departure of a vessel, the vessel may depart from that place and the application shall be produced to a proper officer at the first customs place at which the coasting vessel arrives where a proper officer is stationed.

(4) On the application of the master, commander or agent of either of them, the Comptroller may grant, subject to such conditions and restrictions as he thinks fit to impose a general clearance for a coasting vessel and any goods carried on it.

(5) A general clearance granted under subsection (4) may be revoked at any time by the Comptroller by notice in writing delivered to the master, or owner of the coasting vessel them or to any member of the crew on board the vessel.

(6) Except as provided by this section, where a coasting vessel carrying goods departs from a place in Barbados

(a) without clearance; or

(b) in contravention of any condition or restriction imposed by the Comptroller upon a general clearance of that vessel under subsection (4),

the master, or agent is guilty of an offence and is liable to pay to the Comptroller a penalty of $10 000.

Comptroller may vary procedure

95. The Comptroller may permit

(a) the loading of goods and clearance of goods for export; and

(b) the entry and unloading of goods on a vessel

under such conditions as he may approve.

Coastwise passengers

96. The carriage of passengers, officers and crew coastwise, whether or not in a coasting vessel shall be subject to regulations made under this Act.

Cargo book

97.(1) The master of a coasting vessel shall keep a cargo book in such form and manner and containing such particulars as the Comptroller may approve.

(2) The master of a coasting vessel shall, upon a demand made by the proper officer, produce the cargo book of that coastingvessel for inspection.

(3) Subject to subsection (4), where

(a) goods have been loaded onto or unloaded from a coasting vessel at a place in Barbados, then, before that vessel departs from that place; or

(b) a coasting vessel arrives at a place in Barbados where goods are to be unloaded, then before any goods are unloaded,

the master, shall produce to the proper officer the cargo book of that coasting vessel.

(4) Where no customs officer is stationed at the place referred to in subsection (3), the vessel may unload or depart from that place and the cargo book shall be produced to a customs officer at the first place the vessel arrives where a customs officer is stationed.

(5) The master of a coasting vessel who fails to keep or produce a cargo book as required under subsection (1), is guilty of an offence and is liable on summary conviction to a fine of $50 000 or 3 times the value of the goods, whichever is greater, and the goods unloaded in contravention of subsection (3) are liable to forfeiture.

Examination of goods in coasting vessel

98.(1) The proper officer may examine goods carried or to be carried in a coasting vessel

(a) at any time while they are on board the vessel; or

(b) at any place in Barbados where the goods have been

(i) brought for shipment in a coasting vessel; or

(ii) unloaded from a coasting vessel.

(2) For the purposes of subsection (1), a proper officer may require any container to be opened or unpacked by or at the expense of the owner of the goods.

(3) The proper officer may

(a) board and search a coasting vessel at any time during its voyage; and

(b) at any time require any document that should properly be on board a coasting vessel to be produced or submitted to the proper officer for examination,

and the master or agent who does not allow boarding or fails to produce any document that should be on board the coasting vessel to the proper officer when required is guilty of an offence and is liable on summary conviction to a fine of $100 000 and to imprisonment for a term of 3 years.

Offences in relation to carriage of goods coastwise

99.(1) Where, in the case of a coasting vessel,

(a) goods are taken on board or unloaded at a place outside Barbados; or

(b) the vessel goes to a place outside of Barbados or deviates from its voyage and the master or agent does not report that fact in writing to the proper officer at the first place in the destination where the vessel arrives and where a proper officer is stationed,

those goods are liable to forfeiture and the master or agent is guilty of an offence and is liable on summary conviction to a fine of $100 000 or 3 times the value of the goods, whichever is greater.

(2) Where goods

(a) are carried by way of coasting trade or are shipped for use as stores on a coasting vessel contrary to any requirement in force with respect to those goods; or

(b) are brought to any place in Barbados for the purpose of being carried or shipped contrary to any requirement in force in respect of those goods,

any person who caused the goods to be so carried or shipped is guilty of an offence and is liable on summary conviction to a fine of $100 000 or 3 times the value of the goods, whichever is greater and the goods are liable to forfeiture.

PART IX

POST CLEARANCE AUDIT

Post release control

100.(1) The Comptroller or any person authorised by the Comptroller, after releasing the goods, may in order to ascertain the accuracy of the particulars contained in the customs declaration relating to those goods,

(a) inspect any documents and data relating to the operation in respect of the goods in question or to prior or subsequent commercial operations involving those goods; and

(b) examine the goods or take samples where it is possible to do so.

(2) The inspection referred to in subsection (1) may be carried out at the premises of

(a) the importer of the goods or his representative;

(b) any person directly or indirectly involved in the operation of the business; or

(c) any other person in possession of the documents and data referred to in subsection (1).

Power of exercising control

101.(1) The Comptroller or any of his officers so authorised may, in order to comply with this Act, exercise control over goods

(a) imported into Barbados;

(b) exported from Barbados; or

(c) moved in the course of business within Barbados,

as well as any books or documents relating to those goods, both in manual and electronic form.

(2) The Comptroller or any of his officers shall have the power to demand any information in respect of the goods, books or documents referred to in subsection (1) from any importer, exporter, **agent** or any other person directly or indirectly involved in the operation of the business.

Power to use appropriate scientific means for control purposes

102.(1) An officer referred to in section **101** may, in verifying compliance with the provisions of this Act, use such scientific methods or other methods as are approved by the Comptroller.

(2) For the purpose of subsection (1), "scientific methods" means the use of any technical, chemical, biological, empirical or factual medium for gathering information by structured process.

Power to demand information

103.(1) A proper officer authorised by the Comptroller may, in order to verify procedures and comply with the provisions of this Act, demand from any importer, exporter or agent within a reasonable time and at a specified place

(a) any information; or

(b) the production of any book or document in either manual or electronic format.

(2) A proper officer authorised under subsection (1) may demand the production of any books and documents from

(a) a person mentioned in subsection (1); or

(b) any other person he believes possess theses books and documents.

(3) Where a person referred to in subsection (2)*(b)* claims the right of attachment in respect of the books or documents produced by him, that production is done without the loss of the right of attachment.

(4) The proper officer authorised under subsection (1) may make copies or take abstracts of any books or documents produced in accordance with subsections (1) and (2).

(5) Where necessary, the proper officer authorised in accordance with subsection (1) may take a reasonable time and detain for a reasonable period any books or documents produced under subsection (1) or (2) and if requested, issue a receipt to the person who produced the books or documents.

(6) When a right of attachment is claimed in respect of a book or document produced under subsection (2), the receiving of the books or documents under subsection (5) is not considered a violation of the right of attachment.

(7) When any book or documents received by a proper officer authorised under subsection (1) is reasonably requested for the smooth operation of the person's business, the proper officer shall provide the importer, exporter or agent with a copy of the book or document within a reasonable time.

(8) The Comptroller may require any government authority or other organisation to furnish him with information which may be necessary for the purposes of this Act.

(9) An employee of a government authority or other organisation who has in his custody any book or document the examination of which may facilitate the application of this Act shall permit the proper officer so authorised by the

Comptroller to examine the book or document and make copies and take extracts of the book or document without the payment of a fee or charge.

(10) A proper officer referred to in subsection (9) shall not disclose or provide to third parties any confidential data or information which comes to his knowledge during the performance of his duties except with the permission of the Minister.

(11) For the purpose of this section "right of attachment" means a legal claim to any property temporarily held to assist in the auditing of any declaration made to the Comptroller.

Power to enter and search premises

104. Aproper officer authorised by the Comptroller may by special warrant under the hand of a Magistrate, by day or by night, enter into and search any house, shop, cellar, warehouse, room or other place and inspect and search the premises as well as any goods, books and documents found therein, whether the books and documents are in manual or electronic format.

Power to search premises where goods liable to forfeiture are found

105.(1) Where there are reasonable grounds to suspect that

(a) any goods that are liable to forfeiture under this Act; or

(b) any books or documents even in electronic format

which are related to the commission of an offence are kept or concealed in any house, shop, cellar, warehouse, room or other place, a proper officer authorised by the Comptroller may by special warrant under the hand of a Magistrate, enter the premises and examine, search for, detain and seize as liable to forfeiture or remove any goods or detain or seize any books or documents in electronic format.

(2) An officer referred to in subsection (1) shall in the case of resistance break open any door, chest, trunks and other packages and force and remove any other impediment or obstruction to such entry or seizure.

(3) Where in the case of any entry and search pursuant to this section or section **104**, damage is caused and no goods are found that are liable to forfeiture or no books or documents are found whether in normal or electronic format, the owner of the damaged

(a) house, shop, cellar, warehouse, room or other place; or

(b) door, chest, trunk or other package

is entitled to recover from the Comptroller the cost of repairing the damage.

PART X

WAREHOUSING

Approval of warehouses

106.(1) The Comptroller may appoint any secured place in Barbados as a warehouse.

(2) A warehouse shall be used for the deposit of goods and the keeping and security of goods that are

(a) chargeable with customs duty;

(b) for exportation; or

(c) for use as stores.

(3) A warehouse may be approved under subsection (1) for the following purposes

(a) short-term storage under bond;

(b) long-term storage under bond;

(c) manufacturing in bond;

(d) storage of unclaimed or abandoned goods;

(e) storage of goods imported contrary to this Act or any other enactment;

(f) storage of vessel's stores; or

(g) storage of goods for duty-free shops.

Application for licence to operate a private warehouse

107.(1) Subject to subsection **(2)** and (3) a person who wishes to apply for a licence to operate a private warehouse shall submit an application to the Comptroller in the prescribed form.

(2) An application referred to in subsection (1) shall be accompanied by

(a) a valid police certificate of character;

(b) proof of payment of the prescribed application fee;

(c) a certificate of title, lease agreement or other evidence in respect of ownership of the premises to be used as the warehouse;

(d) where applicable a certified copy of the detailed plan of the construction, description and location of the premises intended to be used as a warehouse;

(e) a copy of a document from the [Ministry of Labour and the Ministry of Health] relating to the premises intended to be used as a warehouse, stating that the statutory requirements respecting health and safety at work are satisfied.

(3) Without prejudice to subsection (2), where an application under subsection (1) is being made for a licence for the purpose of manufacturing in bond, the applicant shall supply this additional information

(a) a list of raw materials, components, machinery and equipment that the applicant intends to procure;

(b) information regarding the nature of the manufacturing process or other operations;

(c) the particulars of imported and other goods proposed to be used in the manufacturing process or other operations;

(d) the detailed plan and description of the warehouse; and

(e) data regarding the volume of trade anticipated of the manufacturing process or other operations to be employed.

Consideration of application

108.(1) In considering an application made under section **107** the Comptroller may conduct such inquiries as he considers necessary to determine whether

(a) the applicant has sufficient resources to operate the warehouse;

(b) there are safety and security issues arising from the location of the premises proposed to be used as a warehouse;

(c) the premises proposed to be used as a warehouse contains adequate space for the secure storage of imported and exported goods; and

(d) the structure of the premises proposed to be used as a warehouse is suited to the operations proposed to be carried out therein.

(2) Where, during consideration of an application, the Comptroller has reason to believe that the applicant has not provided sufficient information to permit the Comptroller to complete the consideration of the application, the Comptroller, shall by electronic or otherwise send to the applicant a notice requiring the applicant

(a) to provide within [days] from the date of receipt of the notice, the additional information which the Comptroller considers necessary; or

(b) within [days] from the date of receipt of the notice, to make representation in respect of the application.

(3) Where the Comptroller gives notice under subsection (2)*(a)*, the applicant shall furnish the additional information specified in the notice.

(4) The Comptroller shall make a decision in respect of the application

(a) subject to paragraph *(b)* within [days] of the receipt of the application; or

(b) where the applicant is require to provide additional information under subsection (2)*(a)* or make representation under subsection (2)*(b)* within [days] from the date of submission of the additional information or date of making representation as the case may be.

Grant of licence

109.(1) The Comptroller shall issue a licence where he is satisfied that the requirements of this Act have been satisfied.

(2) A licence issued pursuant to subsection (1)

(a) is not transferable;

(b) may, subject to subsection (3), be granted on payment of the prescribed licence fee and on such terms and conditions as the Comptroller may stipulate;

(c) shall, unless cancelled, continue in force from the date of issue until such period as may be stipulated by the Comptroller; and

(d) is renewable.

(3) The Comptroller may, in relation to a licence issued in respect of a manufacturing in bond specify

(a) the manufacturing process or other operations permitted to be carried on in the warehouse;

(b) the types and nature of imported and other goods permitted to be used;

(c) the period for which the licence is valid;

(d) the conditions, if any, subject to which the manufacturing process or other operations may be carried on in the warehouse; and

(e) the standard input-output norms, whenever considered necessary, for the raw-materials and the furnished goods.

General conditions respecting licences

110. The Comptroller shall in respect of a licence granted to operate a Customs warehouse, specify

(a) subject to section **113**, the rights, duties and obligations of the licensed warehouse operator;

(b) the location of the warehouse;

(c) the period of time of operation and possibility of any extension;

(d) the approved building and site plan;

(e) the management procedures;

(f) the transportation in transit formalities;

(g) the goods authorised to be stored in the warehouse; and

(h) such other conditions as may be required by the Comptroller.

Grounds of refusal to issue licence

111. Notwithstanding anything contained in this Part, the Comptroller may refuse to issue a licence for the operation of a private warehouse where the Comptroller is satisfied that

(a) the applicant

(i) is under the age of 18 years;

(ii) was the holder of a licence which was revoked pursuant to section **117(1)*(e), (f)* or *(g)*** within the period of 2 years immediately preceding the date of the application;

(iii) was in the period of 2 years immediately preceding the date of the application convicted of an offence involving

(aa) an international evasion or attempt to evade the provisions of this Act or any other customs enactment with respect to the importation or exportation of goods or convicted under any customs enactment; or

(bb) the dishonest appropriation or attempt to dishonestly appropriate, revenues belonging to the government of Barbados;

(iv) furnishes, in the application for the licence, information that is false or incorrect in a material particular;

(v) refuses to, or is unable to provide the required security; or

(vi) has failed to pay any fee applicable to the issue of the licence; or

(b) the premises to which the application relates is not suitable for the operation of the type of warehouse which the applicant intends to operate.

Bonding and security arrangements respecting private warehouses

112.(1) The Comptroller may, as a condition of the issue of a licence to operate a warehouse require the applicant to furnish under the bond such sum of money and with such number of sureties as the Comptroller may require.

(2) The applicant shall before operating the warehouse, deliver to the Comptroller in the prescribed form, the bond in the amount fixed by the Comptroller in accordance with subsection (3).

(3) The amount of a bond under subsection (2) shall be prescribed in regulations made under this Act.

Responsibilities of person who has been issued a licence

113. A person who has been issued a licence to operate a private warehouse

(a) is responsible for all expenses incurred in the operation, maintenance, security, safety and repair of the warehouse;

(b) is responsible for the expenses for services provided by customs officers;

(c) shall not make any alteration, or addition to the private warehouse without first obtaining the written permission of the Comptroller;

(d) shall ensure that the warehouse is secured with adequate locks on the doors and windows and with locks and fastening as the proper officer may require;

(e) shall provide and maintain, at his expense, adequate office space and facilities for the use of customs officers, including adequate space for the inspection of goods by the proper officer;

(f) shall provide personnel and equipment required to ensure that goods can properly be inspected by the proper officer;

(g) shall ensure that the goods are securely and safely stored in the bonded warehouse and adequate procedures are in place to maintain the security and safety of the goods;

(h) shall restrict access to the warehouse to designated persons as determined by the Comptroller; and

(i) shall have sufficient staff to control the warehouse, to maintain records and to provide records to customs officers when required.

Comptroller may amend licence

114. The Comptroller may, on the application of a person who has been issued a licence to operate a private warehouse, or on the Comptroller's own initiative, amend the licence issued under this Part

(a) to change any restriction or condition specified in the licence regarding the goods authorised to be stored in the warehouse; or

(b) to specify such restrictions and conditions as the Comptroller considers necessary.

Renewal of licence

115.(1) A person who has been issued a licence to operate a private warehouse and who is desirous of renewing a licence issued under this Part shall not later than 60 days before the date of expiry of the licence, apply to the Comptroller in the prescribed form, for its renewal.

(2) The provisions of sections **109** and **111** shall, in like manner apply to the renewal of a licence under this section.

Suspension of licence

116. The Comptroller, may in the prescribed form, suspend a licence issued under this Part where the Comptroller has reason to believe that the applicant

(a) [made or caused to be made any alteration or addition to the warehouse without first obtaining the written permission of the Comptroller;]

(b) failed to ensure that the warehouse is adequately secured;

(c) failed to provide and maintain adequate office space and facilities for the use of customs officers, including adequate space for the inspection of goods by the proper officer;

(d) failed to provide personnel and equipment required to ensure that goods can properly be inspected by the proper officer;

(e) failed to ensure that the goods are securely and safely stored in the warehouse and adequate procedures and in place to maintain the security and safety of goods;

(f) failed to restrict access to the warehouse to designated persons as determined by a proper officer;

(g) does not have sufficient staff to control the warehouse, maintain records and to provide records to customs officers when required; or

(h) is knowingly evading or attempting to evade the provisions of this Act or regulations regarding the importation or exportation of goods and it is in the public interest to suspend the licence.

Revocation of licence

117.(1) The Comptroller may revoke a licence for the operation of a warehouse where the person issued with the licence

(a) no longer owns or has a sufficient interest in, the premises appointed as a warehouse;

(b) is found by a court to be bankrupt;

(c) is the subject of a receivership;

(d) no longer meets the requirements respecting the grant of the licence;

(e) failed to fulfil any undertaking given in the bond presented in relation to the licence granted in respect of manufacturing in bond warehouse;

(f) is convicted of an offence involving

(i) the international evasion or attempt to evade the provisions of this Act or any other customs enactment with respect to the importation or exportation of goods; or

(ii) the dishonest appropriation or attempt to dishonestly appropriate, revenues belonging to the Government;

(g) has operated the warehouse in a manner which is not in compliance with the terms or conditions of the licence or otherwise in a manner which is dangerous to the public or to the health and safety of any person; or

(h) the premises comprising the warehouse is no longer suitable for the purpose.

(2) Where the Comptroller

(a) intends to revoke; or

(b) intends not to renew

a licence for the operation of a warehouse, the Comptroller shall not later than 3 months before the proposed date of revocation or date of expiration of the licence, give notice of the Comptroller's intention in writing.

Procedure re suspension or revocation of licence

118.(1) Where the Comptroller decides to suspend or revoke a licence for the operation of a private warehouse, the Comptroller shall, as soon as may be practicable

(a) place a seal on the warehouse; and

(b) furnish the person who has been issued with the licence, a notice of the prescribed form, of the suspension or revocation and the reasons in support of the decision.

(2) On the suspension or revocation of a licence to operate the private warehouse

(a) the duties on all goods in the warehouse shall be paid; or

(b) the goods in the warehouse shall be exported or removed to another warehouse

within such time as the Comptroller may direct.

(3) Notice in writing of the revocation or suspension of the licence addressed to the person issued with the licence and left at the warehouse shall be deemed to be notice to all persons interested in the goods.

(4) Where the goods referred to in subsection (2) are not exported or removed, the goods shall be taken to a warehouse by the proper officer and may be sold in accordance with section **260**.

Revocation of licence on request

119.(1) The Comptroller shall revoke a licence granted under this Part where the holder of the licence applies to the Comptroller, in the prescribed form, requesting that the licence be revoked.

(2) A licence to which subsection (1) applies shall terminate at the expiration of the period of 2 months from the date of receipt of the application by the Comptroller.

Approval of warehouse

120.(1) Where the Comptroller appoints a secured place in Barbados as a warehouse pursuant to section 104, the appointment may be for a specified period and is subject to such conditions as the Comptroller may prescribe.

(2) If, after the approval of a private warehouse, the owner or occupier thereof makes, without the previous consent of the Comptroller, any alterations therein or additions thereto, he shall be liable to a penalty of $20 000.

(3) The Comptroller may

(a) restrict the goods which may be permitted to be warehoused in a particular warehouse to those goods owned by the occupier of the warehouse; and

(b) make the approval of any warehouse conditional upon the warehousing of a minimum amount of goods during a specified period.

(4) The minimum amount of goods in respect of a warehouse referred to in subsection 3*(b)* may differ from the amount of goods in respect of a warehouse that is not restricted.

(5) The occupier of the warehouse who contravenes any condition imposed under subsection (1) is guilty of an offence.

(6) The occupier referred to in subsection (5) shall post a bond as security for the liability imposed under section **106**(3).

(7) When, after the appointment of a secured place as a warehouse under section 104(1), the occupier of the warehouse

(a) contravenes any conditions imposed by the Comptroller under subsection(1); or

(b) without the previous consent of the Comptroller makes any alterations therein or additions thereto the occupier is guilt of an offence and is liable on summary conviction to a fine of $20 000.

(8) The Comptroller may, at any time for reasonable cause, revoke or vary the terms of an appointment granted under subsection (1).

(9) Where the Comptroller intends to revoke or not to renew any appointment of a warehouse given under subsection (1), he shall, not later than 3 months before the date when the revocation is due to take effect or the approval is due to expire, hereinafter referred to as "the date of cessation", give notice of his intention in writing and the notice shall be deemed to have been served on all persons interested in any goods then deposited in that warehouse, or permitted by the Act to be so deposited between the date of the giving of the notice and the date of cessation, if addressed to the occupier of and left at, the warehouse.

(10) Where after the date of cessation or such later date as the Comptroller may permit, uncleared goods remain in a warehouse that is no longer **appointed** under subsection (1), the goods may be taken by a proper officer to a customs controlled area and without prejudice to any other power or earlier sale provided by this Act, if they are not cleared within one month, they may be sold.

Fee payable in respect of a private warehouse

121.(1) Subject to subsection (2), where a place of security of goods is appointed as a private warehouse under section **106**, the owner or occupier of the private warehouse shall pay to the Comptroller

(a) where the dutiable value of goods in the private warehouse does not exceed $200 000, a prescribed fee within 7 days of the appointment, and, for each succeeding year during which the approval continues, a further prescribed fee, payable in the month of January of each year;

(b) where the dutiable value of goods in the private warehouse exceeds $200 000, a prescribed fee 7 days of the approval, and, for each succeeding year during which the approval continues, a further prescribed fee, payable in the month of January of each year.

(2) The fee payable under subsection (1) shall, be reduced by deducting therefrom one-twelfth of such fee for each month which has expired prior to the date of such appointment in any such year in the case where appointment is given under section **106** on a date subsequent to 31st January in any year.

(3) Where any owner or occupier fails or refuses to comply with subsection (1), the Comptroller shall revoke the appointment.

(4) The Minister shall prescribe the fees to be pain in accordance with subsection (1).

Maintenance of goods

122.(1) Goods deposited in a warehouse shall be arranged, stowed and maintained in a manner that permits easy access to the goods.

(2) The Comptroller may give directions in respect of the arrangement, stowage and maintenance of goods.

(3) An occupier who fails to arrange, stow or maintain goods in a warehouse in accordance with this section is guilty of an offence and is liable to pay to the Comptroller a penalty of $10 000.

(4) The occupier of a warehouse shall on request, produce to a customs officer any goods deposited in the warehouse that are not lawfully authorised to be deposited in the warehouse.

(5) An occupier who fails to produce the goods as requested by the customs officer is guilty of an offence and is liable on summary conviction to a fine of $100 000 or 3 times the value of the goods, whichever is greater.

(6) Where the occupier of any private warehouse, private transit shed or private customs area does not produce to the proper officer on his request any goods deposited therein, which have not been duly entered or delivered therefrom, the proper officer shall send a written notice to the occupier requiring him within a period of 7 days (Sundays and public holidays excluded) to produce such goods to the officer, or to account to the satisfaction of the officer for the goods.

Goods not to be warehoused

123.(1) No class or description of goods set out in the *Fourth Schedule* may be warehoused except for those goods that are constructively warehoused for short-term storage.

(2) The Minister may by Order amend the list of goods set out in the *Fourth Schedule*.

(3) No warehoused goods may remain warehoused for a period of longer than 2 years unless the Comptroller permits such and the goods will be subject to such conditions as the Comptroller prescribes.

(4) Where the goods described in subsection (3) are not subject to any condition imposed by the Comptroller and have been warehoused for a period of 2 years, the goods may be sold or otherwise disposed of by the Comptroller.

(5) The goods described in subsection (4) shall be advertised by the Comptroller in the *Official Gazette* and in the case of goods warehoused in a

private warehouse, removed to the Queen's Warehouse and shall with all convenient speed be sold by public auction within one month after such advertisement.

(6) The Minister may, after consultation with the Comptroller, by Order prescribe any class or description of goods that may not remain warehoused for a period of longer than 2 months and may by Order amend the list set out in the *Fourth Schedule*.

(7) Where goods are warehoused in contravention of this section, they are liable to forfeiture.

Re-entry

124.(1) Goods that are permitted to be removed from a warehouse for transport to another warehouse may, at any time before they have been physically placed in the warehouse

(a) be entered by their owner for domestic use, if eligible, or for exportation or use as stores and shall then be dealt with as if they had been entered or withdrawn from the warehouse; or

(b) be removed for transport to another warehouse that has been approved for the warehousing of the goods and shall then be dealt with as if the goods had been warehoused and removed for transport.

(2) Where the owner, with the agreement of the occupier, wishes to re-warehouse goods according to the account taken at the time of the original entry of the goods into the warehouse without re-examination, the re-examination may be dispensed with, where the proper officer is satisfied that

(a) the goods are still in the warehouse; and

(b) there is no reason to suspect that there is any discrepancy in the quality of the goods.

(3) No goods shall be re-warehoused after being in a warehouse for a period of 3 years.

(4) Where goods are held in containers, no part of those goods shall be entered or removed under subsection (1) unless a part of those goods consists of one or more complete containers.

Removal from a warehouse

125.(1) Every good may be examined by a proper officer upon removal from a warehouse for domestic use, for entry for use as stores or for export.

(2) The occupier of a warehouse is liable for the duty due where a discrepancy is discovered in the goods at the time of delivery for entry for home use, for entry for use as stores for export or at any earlier time when a discrepancy is discovered.

(3) The duty due on any excess goods over the quantity declared on importation and the quantity found at the time of removal together with any necessary expenses and charges incurred in respect of the goods shall be paid to the Comptroller unless the excess is permitted by law.

(4) Where an excess quantity of goods is found on examination, by the occupier of the warehouse, the excess shall be re-warehoused in the name of the owner in the same manner as on first importation.

Loss or deterioration of goods

126.(1) Where at the time goods are to be lawfully removed from a warehouse, all or part of those goods are found to be missing, notwithstanding any other fine or liability to forfeiture incurred under this Act, the occupier of the warehouse shall, in addition to any restitution owed to the owner of the goods, pay to the Comptroller

(a) the duty that such goods would have borne if they had been entered for domestic use on the date of the discovery of the deficiency; or

(b) an amount that is, in the opinion of the Comptroller, the value of the goods, where the goods are not for domestic use,

and the occupier of the warehouse is guilty of an offence and is liable on summary conviction to a fine of $20 000.

(2) Where the goods have been lawfully removed from a warehouse for transport to another warehouse or to some other place, and no duty has been paid in respect of them, and the goods fail to reach that other warehouse or place then notwithstanding any other fine or liability to forfeiture incurred under this Act, the transporter of the goods shall pay the Comptroller

(a) the duty that the goods would have borne if they had been entered for domestic use on the date of their removal from the warehouse; or

(b) in the case of goods not eligible for domestic use, an amount that is, in the opinion of the Comptroller, the value of the goods,

and the transporter of the goods is guilty of an offence and is liable on summary conviction to a fine of $20 000 or 3 times the value of the goods, whichever is greater.

(3) Where warehouse goods are

(a) damaged;

(b) destroyed; or

(c) unlawfully removed

by or with the assistance of a customs officer and that officer is convicted of an offence in relation to that damage, destruction or removal, then except where the occupier of the warehouse or the owner of the goods was a party to the offence, the Comptroller shall pay compensation for any loss caused by the damage, destruction or removal and notwithstanding any other provision of any customs enactment, no duty shall be payable on the goods by the occupier or the owner and any sum paid by way of duty before the conviction of the customs officer shall be repaid.

Payment of duties

127.(1) Unless otherwise permitted by this Act, goods may not be removed from a warehouse until all duty chargeable on those goods and any charges in respect of the removal of those goods from the warehouse have been paid, and

in the case of goods requiring entry and not yet entered, until entry of those goods has been made.

(2) Subject to subsection (4), amount payable in duties in respect of goods entered for warehousing shall be calculated in accordance with the value of those goods determined when they were first warehoused.

(3) The rate of duty chargeable on warehoused goods shall be those in force with respect to the goods of that class or description at the time of the removal of the goods from the warehouse for consumption, export or use as ships' stores.

(4) Where the goods are spirits, wine or tobacco, and the goods are removed from the warehouse within 2 years of entry into a warehouse, the calculation of the rate of duty shall be in accordance with the quantity of the goods ascertained by weight, measure or strength at the time of removal of the goods, unless the Comptroller determines that the difference between the account made at the time of entry into the warehouse and the account made at the time of removal is not explained by natural evaporation or other legitimate cause, in which case the calculation of the rate of duty shall be in accordance with the account made at the time of entry into the warehouse.

(5) Where, within 2 years, warehoused goods have deteriorated or have been changed to such a degree that the Comptroller is satisfied that they have become worthless, the Comptroller may allow abatement of the duty chargeable on them as, in his opinion, the amount of the deterioration or damage bears to the original value of the goods.

(6) The abatement referred to in subsection (5) shall be allowed where the deterioration or change occurred within 2 years of the entry into the warehouse or such longer period as is allowed under this Act.

(7) Notwithstanding any other provision of this Act authorizing the removal of goods from a warehouse without payment of duty, the Comptroller may permit warehoused goods entered for removal for any purpose other than domestic use to be removed for that purpose, subject to such conditions and restrictions as he thinks fit, without payment of duty.

(8) Where any condition or restriction imposed under subsection (7) is contravened, the goods shall be liable to forfeiture.

Opening a warehouse or a customs controlled area without permission

128. A person who

(a) opens a warehouse or customs controlled area; or

(b) gains access to goods within a warehouse or customs controlled area

without the consent of a proper officer, commits a non-prosecutable breach.

PART XI

DUTIES, REFUNDS AND DRAWBACK

Imposition of duties of customs

129. There shall be raised, levied, collected and paid to the Crown, for the use of Barbados, upon all goods imported into Barbados or taken out of bond for consumption in Barbados, the several rates of duties of customs, if any, set opposite to each item respectively in the column of the tariff applicable to the items in Part I of the *Customs Tariff* subject to the conditions as may be prescribed.

Exemptions from import duties of customs

130. The articles enumerated in Part II of the *Customs Tariff* may be imported without payment of customs duties, subject to the conditions that may be prescribed.

Power of Parliament by resolution to amend Parts I and II of the Customs Tariff

131.(1) It shall be lawful for Parliament from time to time by resolution to impose in addition to or in substitution for any duties of customs set out in Part

I of the *Customs Tariff* such duties of customs as it may think fit upon any goods which may be imported into Barbados and to revoke, reduce, increase or alter any such duties so imposed.

(2) It shall be lawful for Parliament from time to time by resolution to provide for the importation of any goods whether or not the same are included in Part II of the *Customs Tariff*, without payment of customs duties.

(3) A resolution passed by Parliament under subsection (1) or (2) shall upon its taking effect have the same effect as if it were an Act amending this Act.

Export duties of Customs

132. There may be raised, levied, collected and paid to the Crown, for the use of Barbados, such export duties of customs as may be levied in the manner provided by section **131** or **135** upon all goods exported from Barbados.

Power of Parliament to impose export duties of customs

133. It shall be lawful for Parliament from time to time by resolution to impose duties of customs upon any goods exported from Barbados and to revoke, reduce, increase or alter any such duties and to provide for the exportation of any goods without payment of duty thereon.

General provisions applying to resolutions of Parliament

134. Any resolutions passed by Parliament under section **131** or **133** may, in addition to the matters set forth in those sections, specify terms or conditions subject to which any article to which the resolution relates may be imported or exported, free of customs duties or at the rate of customs duties expressed in the resolution, and different terms and conditions may be so specified in relation to the same article when imported or exported for different purposes.

Power of Minister in relation to import and export duties of customs

135.(1) Notwithstanding anything contained in section **130** relating to the power of Parliament to amend Parts I and II of the *Customs Tariff*, or in section 104, the Minister may by order published in the *Official Gazette*

(a) amend Part I of the *Customs Tariff* by revoking, reducing or increasing in respect of any article specified therein any duties of customs set out opposite thereto or by inserting therein any article not specified therein and such duties of customs in respect thereof as he thinks fit;

(b) amend Part II of the *Customs Tariff* by making such additions thereto or deletions therefrom as he thinks fit;

(c) revoke, reduce or increase any export duties of customs;

(d) impose export duties of customs on articles not specified by a resolution of Parliament as subject to export duties;

(e) exempt from export duties of customs any article not specified by a resolution of Parliament as being so exempt,

and from the date of publication of the order, the order shall be of full force and effect.

(2) An order made under subsection (1) may, in addition to the matters set out in the paragraphs of that subsection, specify the terms or conditions subject to which any article to which the order relates may be

(a) imported;

(b) exported;

(c) free of customs duties; or

(d) at the rates of customs duties expressed in the order,

and different terms and conditions may be specified in relation to the same article when imported or exported, for different purposes.

(3) Where at any time after the date of publication of an order made under subsection (1) and prior to the expiration of the period provided by subsection (6) in which the order may be annulled, or in the event of the order being annulled during that period in the manner provided by that subsection, then, if at any time after the date first mentioned and prior to the order being so annulled

(a) any person in compliance with the terms or conditions, if any, specified in the order has entered any goods in respect of which the customs duty is revoked by the order, that person shall deposit with the proper officer a sum equal to the duty payable immediately prior to the date of publication of the order; or

(b) any person in compliance with the terms and conditions, if any, specified in the order has entered any goods in respect of which the customs duty is reduced by the order, that person shall pay to the proper officer the reduced duty and in addition shall deposit with the said officer the difference between the duty payable immediately prior to the date of publication of the order and the duty payable immediately after that date.

(4) So much of the customs duties as is paid in consequence of an amendment made by an order made under subsection (1) as may be in excess of the customs duties immediately after payable in the event of the order being annulled in the manner provided by subsection (6) shall be repaid to the person who paid the same, and any customs duties are immediately after payable upon the order being so annulled, be repaid to the person who paid the same.

(5) Any sum deposited in consequence of an amendment made by an order made under subsection (1) as together with the customs duties, if any, paid shall be equal to the customs duties immediately after payable in the event of the order being annulled in the manner provided by subsection (6), shall be brought to account by the proper officer as duties of customs, and any sum so deposited as together with the customs duties, if any, paid shall be equal to the customs duties payable immediately prior to the date of publication of the order shall, after the expiration of the period provided by subsection (6) in which the order may be

annulled be returned to the person who deposited the same in the event of the order not being annulled during that period.

(6) Every order made under subsection (1) shall be laid before both Houses as soon as may be, and if within the period of 40 days beginning with the day on which any such order is so laid before it either House resolves that the order be annulled, it shall be void.

Power to impose duties

136.(1) Goods may be entered into Barbados without payment of customs duties where

(a) the Comptroller permits goods to be imported for temporary use for such periods as the Comptroller may see fit to allow;

(b) goods permitted to be warehoused on importation are warehoused;

(c) the Comptroller permits goods entered for transhipment to be removed for that purpose; or

(d) goods previously entered for domestic use are exported to another country and are then re-imported and it is shown to the satisfaction of the Comptroller that

(i) no duty was chargeable on those goods on any previous importation into Barbados or if any duty was chargeable, it has been paid;

(ii) no drawback has been paid or duty refunded on the exportation of the goods or any drawback paid or duty refunded has been repaid; and

(iii) the goods have not undergone any process outside Barbados since their exportation.

(2) Where goods are exported for repairs and re-imported upon re-importation duty will be payable only on the value of the repairs made abroad.

(3) Where, under any provision of any customs enactment, goods are subject to a condition or restriction exempting the goods from the payment of duty, and the condition or restriction is contravened, the duty becomes payable by the person who, but for that exemption, would have had to pay the duty, and the goods in respect of which the exemption was granted becomes liable to forfeiture.

(4) Goods exempted from duty by virtue of any provision of any customs enactment shall, upon a demand made by a customs officer, be produced or otherwise accounted for to the officer.

(5) A person who fails to produce or account for goods referred to in subsection (4) is liable to pay to the Comptroller a penalty of $10 000 or 3 times the value of the goods, whichever is greater.

(6) Where the goods referred to in subsection (4) are subsequently found, they are liable to forfeiture.

Rate of duty

137.(1) Unless otherwise provided under this Act, duty shall be payable on goods at the rate in force with respect to goods of that class or description provided in Part I of the *Customs Tariff*

(a) where imported goods are intended for domestic use, when the customs declaration, whether in electronic or other form is submitted to a proper officer in respect of the imported goods;

(b) where goods are to be exported, when the customs declaration is submitted, whether in electronic or other form, is to a proper officer in respect of goods to be exported;

(c) where goods are removed from a vessel or aircraft under any bond or other security, at the time of the delivery of the goods;

(d) where goods are removed from a warehouse for domestic use, at the time of the removal of the goods from the warehouse;

(e) in any other case, at the time of the importation or exportation of the goods.

(2) The person making a customs declaration of goods shall, upon making the declaration, specify the classification of the goods, specify the appropriate customs procedure code and, in the case of manual transaction, specify the rate of duty applicable to the goods.

Valuation

138.(1) The valuation of goods shall be in accordance with the World Trade Organisation's Valuation Code as set out in the *Fifth Schedule*.

(2) The person making an entry of goods shall, upon making entry, specify the customs value of the goods, determined in accordance with the *Fifth Schedule*.

(3) The currency exchange rate in effect on the date of submission of the entry will apply in determining the value of goods, unless otherwise provided for by regulations.

Assessment of duty

139.(1) An entry with respect to the importation or exportation of goods shall be deemed by the Comptroller to be an assessment by the importer or exporter as to

(a) the value of the goods;

(b) the duty rate applicable to those goods; and

(c) any other determination required before importation or exportation.

(2) Where the Comptroller has reasonable cause to suspect that duties or other charges are payable on goods for which no entry has been submitted, the Comptroller may determine the duty due at the amount which the Comptroller thinks proper based on the provisions of this Act.

(3) The Comptroller shall advise the importer or exporter of the assessment under subsection (1) or (2), by notice in writing.

(4) The Comptroller may make any amendments to an assessment of duty due that the Comptroller thinks necessary to ensure the correctness of the assessment notwithstanding that

(a) the goods to which the duty relates are no longer subject to customs control; or

(b) the duty originally assessed has been paid.

(5) Where a re-assessment is made under this section and it has the effect of imposing a new liability or altering an existing liability, written notice to that effect shall be given by the Comptroller to the importer or exporter.

(6) The Comptroller is not entitled to make amendments to a duty assessment after the expiration of 5 years from the date on which the original assessment was made.

(7) An importer or exporter who is dissatisfied with a decision of the Comptroller may within 21 days after the date on which notice of the decision is given, appeal to the Tribunal against the decision.

(8) A person who makes an assessment pursuant to subsection (1) shall

(a) keep the documents, records and information in respect of that entry in such manner and for such period as is required under this Act; and

(b) when required by a customs officer produce those documents, records and information for the purpose of establishing the accuracy of the assessment.

(9) A person who fails to produce any document, record or information required by a customs officer under subsection (8) is guilty of an offence and is liable on summary conviction to a fine of $100 000.

Payment of duty on imports

140.(1) Where goods are imported the duties applied are based on the Common External Tariff and constitute a debt due to the Crown.

(2) Duty payable under subsection (1) is

(a) owed by the importer of the goods, and where more than one, jointly and severally; and

(b) recoverable by action at the suit of the Comptroller on behalf of the Crown.

(3) The right to recover duty as a debt due to the Crown is not affected by the fact that

(a) the goods have ceased to be subject to customs control;

(b) a bond or other security has been given for the payment of duty; or

(c) a proper assessment of duty has not been made under this Act.

(4) Unless expressly permitted by the Comptroller, imported goods shall not be delivered or removed on importation until the importer has paid to a proper officer the duty that is chargeable on those goods and that duty shall, in the case of goods in respect of which an entry is required, be paid on the submission of the entry to a proper officer.

(5) The Comptroller may detain subsequent shipments of an importer who has not paid duty under this Act.

(6) The Comptroller may, provided appropriate security is provided, approve any person or any class of persons as persons who may defer the payment of duty due under this section.

(7) Where any duty, the payment of which has been deferred in accordance with subsection (6) remains unpaid by the due date for payment, interest shall be imposed at a rate prescribed by regulations.

(8) The obligation to pay and the right to receive and recover duty under this Act shall be fulfilled before the commencement of an appeal or other legal proceedings.

Payment of duty on exports

141.(1) The duty on exported goods is a debt due to the Crown and is due immediately on the submission of the entry.

(2) The duty payable under subsection (1) is

(a) owed by the exporter of the goods, and, where there is more than one exporter, jointly and severally by all of them; and

(b) recoverable by action at the suit of the Comptroller on behalf of the Crown.

(3) The right to recover any duty due pursuant to subsection (1) as a debt due to the Crown is not affected by the fact that

(a) the goods have ceased to be subject to customs control;

(b) a bond or other security has been given for the payment of the duty; or

(c) a proper assessment of duty has not been made under this Act.

(4) Unless expressly permitted by the Comptroller, exported goods shall not be delivered or removed on exportation until the exporter has paid the duty chargeable on those goods and that duty shall, in the case of goods in respect of which an entry is required, be paid on the submission of the entry to a proper officer.

(5) The Comptroller may, where the appropriate security has been provided as set out in the regulations, approve a person or a class of persons as persons who may defer the payment of duty due under this section.

(6) Where any duty, the payment of which has been deferred in accordance with subsection (5) remains unpaid by the due date for payment, interest shall be imposed at the rate prescribed.

(7) The obligation to pay the duty and the right to receive and recover duty under this Act shall be fulfilled before the commencement of an appeal or other legal proceedings.

Date for payment of duty

142.(1) Unless otherwise specified in this Act, the due date for the payment of duty assessed in accordance with section **139** is 5 working days after the date on which the written notice of the assessment or re-assessment is given by the Comptroller unless otherwise determined by the Comptroller.

(2) Where all or part of any duty remains unpaid after the due date, interest shall be imposed at the rate prescribed by Regulations.

Payment of additional duties

143.(1) Where an appeal or other proceeding results in a re-assessment which states that insufficient duties were paid, the additional duties shall be paid to the Comptroller within 5 working days of the date of the re-assessment.

(2) Where the additional duties specified in subsection (1) are not paid by the due date, interest will apply at the rate prescribed unless otherwise determined by the Comptroller.

Exemption

144.(1) Notwithstanding section **137**, the Minister may by Order

(a) revoke, reduce or increase any import or export customs duties;

(b) amend the list of goods exempted from customs duties; or

(c) impose new import or export customs duties.

(2) The duties or exemptions imposed by subsection (1) shall be for a period of 6 months and shall commence from the date of publication of the Order in the *Official Gazette*.

(3) The Minister may by Order published in the *Official Gazette* specify the name of the beneficiary of the exemption, the amount of the exemption and the period for which the exemption is granted.

(4) Where, under any provision of any customs enactment, goods are subject to a condition or restriction exempting the goods from the payment of duty and the condition or restriction is contravened, the duty becomes payable by the person who, but for that exemption, would have had to pay the duty, and the goods in respect of which the exemption was granted become liable to forfeiture.

(5) The importer or any person who is in control of goods exempted from duty by virtue of any provision of any customs enactment shall, upon a demand made by a customs officer, produce or otherwise account for the goods to the customs officer.

(6) A person who fails to produce or account for goods referred to in subsection (5) commits an offence and is liable to pay to the Comptroller a penalty of $10 000 or 3 times the value of the goods, whichever is greater.

(7) Where the goods referred to in subsection (5) are subsequently found, they are liable to forfeiture.

(8) The Order made under subsection (1), is subject to negative resolution.

Entry without payment of duty

145.(1) Goods may be entered into Barbados without payment of customs duty where

(a) the Comptroller permits goods to be imported into Barbados for temporary use in accordance with regulations;

(b) goods that are permitted to be warehoused on importation into Barbados are warehoused;

(c) the Comptroller permits goods entered for transhipment or transit to be removed for that purpose; or

(d) goods previously entered for domestic use in Barbados are exported to another country and then are re-imported into Barbados and it is shown to the satisfaction of the Comptroller that

(i) no duty was chargeable on those goods on any previous importation into Barbados, or if any duty was chargeable, it has been paid;

(ii) no drawback has been paid or duty refunded on the exportation of the goods or any drawback paid or duty refunded has been repaid; and

(e) the goods have not undergone any process outside Barbados since their exportation.

(2) Where goods are exported for repairs and are re-imported, upon re-importation duty will be payable only on the value of the repairs made abroad.

(3) Subject to such conditions as the Comptroller may impose, duty is not payable on goods temporarily imported in accordance with any treaty, agreement or arrangement concluded by the Government of Barbados.

(4) Except as the law may permit, this section does not apply to duties imposed under the *Customs Duties (Dumping and Subsidies) Act*, Cap. 67.

(5) This section does not apply to any goods that are declared in the *Common External Tariff* to be goods to which rules of the kind set forth in this section do not apply.

(6) On receipt of any required security the Comptroller may release goods subject to this section from customs control without payment of customs duty.

(7) Subject to any regulations that may be prescribed, the person giving security under subsection (6) shall be released from the conditions of the security if within 3 months from the date of the entry of the goods, or within such longer period as the Comptroller may allow in any particular case, the Comptroller is satisfied that the goods have been

(a) exported;

(b) packed for export into a bulk cargo container in a customs controlled area and the container is secured to the satisfaction of the Comptroller;

(c) destroyed; or

(d) dealt with in such manner as the Comptroller may allow.

(8) Where, at the expiration of the period prescribed by subsection (7), the goods have not been dealt with in accordance with that subsection

(a) any sum secured by way of deposit of money shall be retained by the Crown;

(b) any sum otherwise secured shall be paid to the Crown by the importer within 2 weeks after the expiration of that period or such longer period as the Comptroller may allow, and on such payment, the security shall be released.

(9) Where, under any provision of any customs enactment goods are subject to a condition or restriction allowing them to be entered without payment of duty, and the condition or restriction is contravened, the duty becomes payable by the person who, but for that exemption, would have had to pay the duty, and the goods in respect of which the exemption was granted become liable to forfeiture.

(10) Goods allowed entry without payment of duty by virtue of any provision of any customs enactment shall, upon a demand made by a customs officer, be produced or otherwise accounted for to the officer.

(11) A person who fails to produce or account for goods referred to in subsection (10) is guilty of an offence and is liable to pay to the Comptroller a penalty of $10 000 or 3 times the value of the goods, whichever is greater.

(12) Where the goods referred to in subsection (10) are subsequently found, they are liable to forfeiture.

Refunds

146.(1) Where an amount is paid as duty and such amount is found to be in excess of the duty due and payable, the Comptroller shall refund the excess,

unless all or a portion of the refund is set off against other amounts owed to the Crown.

(2) Where an appeal or any other proceeding results in a re-assessment in an amount less than the amount already paid in duties or given as security for payment, the excess duties paid shall be refunded to the appellant or the appellant shall be released from any security given for payment of the duties in excess of the amount properly payable.

(3) Where the refund referred to in subsection (1) or (2) is not paid within 6 months, interest will apply at the prescribed rate.

(4) Any obligation on the part of the Comptroller to refund duties under subsection (1) shall be suspended pending the outcome of any appeal filed by the Comptroller under this Act or any other Act against the decision requiring the duty to be refunded.

Claims for drawback

147.(1) A claim for drawback shall be made in the form and manner determined by the Comptroller and shall contain the particulars which the Comptroller shall direct.

(2) No drawback is payable

(a) unless it is shown to the satisfaction of the Comptroller that all duty due on the goods in respect of which the claim is made has been paid and not otherwise drawn back;

(b) until the person making the claim has furnished the Comptroller with information and produced to the Comptroller any books of account, documents or other information relating to the goods, as the Comptroller may demand; and

(c) until the goods that are the subject of the claim have been exported.

(3) The Minister may by order prescribe any class or description of goods in respect of which no drawback may be claimed.

Drawback of duty on certain goods

148.(1) Subject to this section, a drawback of duty may be allowed on goods at such amount and subject to the conditions that may be prescribed by the Comptroller.

(2) Where

(a) the Comptroller is satisfied that goods have been shipped for export;

(b) goods have been packed for export into a bulk cargo container in a customs controlled area and the container has been secured to the satisfaction of the Comptroller; or

(c) goods have been entered into an export warehouse and the Comptroller is satisfied that they will be exported,

the Comptroller may, for the purposes of this section, treat the goods as having been exported.

(3) Where a drawback has been allowed on any goods treated as exported, the goods shall not, without the permission of the Comptroller, be unshipped, relanded or unpacked before export.

(4) Where drawback has been allowed or paid on goods treated as exported and those goods are unshipped, relanded or unpacked before export, the amount of drawback allowed in respect of those goods shall, immediately on their unshipment, relanding or unpacking, constitute a debt due to the Crown and the debt shall immediately be payable by the owner of the goods at the time of their unshipment, relanding or unpacking.

(5) A debt due under subsection (4) is recoverable by legal action brought on behalf of the Crown.

(6) Where under this section drawback is allowed to any person, the Comptroller may, in his discretion apply the whole or any part of the sum allowed towards the payment of any duty that is owed by that person.

(7) Except as the Minister may permit, this section does not apply to duties imposed under the *Customs Duties (Dumping and Subsidies) Act*, Cap. 67.

Extent of drawback

149.(1) Subject to this section, where goods are entered

(a) for shipment for use as stores; or

(b) for warehousing for subsequent exportation or shipment for use as stores,

drawback may be claimed in respect of any duty paid at the time of the original importation of those goods into Barbados.

(2) Subject to any regulation made under this Act, no drawback may be claimed in respect of

(a) goods of a customs value at the time of original importation of less than $200;

(b) goods that were imported in Barbados more than 12 months before the date of the claim for drawback;

(c) goods not in the packages in which they were originally imported into Barbados, or in the case of bulk goods, where that bulk has been broken; or

(d) goods that have been tampered with or used.

(3) Where imported goods are

(a) shipped in error;

(b) defective; or

(c) unfit or unsafe for use,

drawback may be claimed provided that the goods are exported or destroyed under customs supervision.

Drawback on goods destroyed or damaged after shipment

150.(1) Where it is proved to the satisfaction of the Comptroller that after being shipped for exportation or for use as stores, goods have been destroyed by accident on board the exporting vessel or aircraft, drawback on those goods is payable as if they had been exported to their destination.

(2) Where it is proved to the satisfaction of the Comptroller that after being shipped for

(a) exportation; or

(b) use as stores,

goods have been materially damaged by accident on board the exporting vessel or aircraft, those goods may, with the consent of the Comptroller and in accordance with any conditions and restrictions that may be imposed by the Comptroller, be brought back into Barbados and relanded or unloaded, and where re-entered for domestic use, are chargeable with the duty normally chargeable on the importation of the damaged goods.

Offences in relation to drawback

151.(1) A person who

(a) obtains; or

(b) assists

another person to obtain a drawback for which there is no lawful entitlement is guilty of an offence and is liable to pay to the Comptroller a penalty of $10 000 or 3 times the amount obtained, whichever is greater and the goods are liable to forfeiture.

(2) A person who, with intent to defraud

(a) obtains; or

(b) assists

another person to obtain a drawback for which there is no lawful entitlement, is liable to pay to the Comptroller a penalty of $20 000 or 3 times the amount obtained, whichever is greater and the goods are liable to forfeiture.

PART XII

RECORD KEEPING

Keeping of records

152.(1) Every

(a) importer;

(b) exporter;

(c) carrier;

(d) warehouse occupier;

(e) operator of a customs controlled area;

(f) **manager** of a customs place;

(g) every person concerned with the coasting trade; and

(h) every other person who conducts business under any customs enactment;

shall keep or cause to be kept in Barbados whether in electronic form or otherwise, all documents, books, records and any other information relating to the transaction of such business in the form and manner prescribed by the Comptroller for a period of time not less than 7 years from the date of such transaction.

(2) A person referred to in subsection (1) who fails to keep the records required by this section is liable to pay to the Comptroller a penalty of $10 000.

Access to records

153.(1) A person to whom section **152**(1) applies shall, when required by a proper officer,

(a) make available and give access to the documents, books, records or any other information that the person is required to keep under section **152**(1);

(b) give access to documents, books, records or any other information in the form and manner prescribed by the Comptroller;

(c) ensure that the proper officer has access to the documents, books, records or other information at all reasonable times;

(d) answer any question relevant to matters arising under this Act asked by a proper officer in respect of those documents, books, records or other information;

(e) provide working space in accordance with sections 55 and 56 of the *Safety and Health at Work Act, 2005 (Act 2005-12)*;

(f) provide personnel to assist the officer in the performance of his duties; and

(g) provide copies of the records to the officer.

(2) Where information is recorded or stored by means of an electronic or other device, the person referred to in subsection (1) or the agent of that person shall, at the request of a proper officer, operate the device or cause it to be operated, in order to make the information available to the proper officer.

(3) A person who fails, without reasonable cause, to give a proper officer access to information required under this section in the form and manner prescribed is guilty of an offence and is liable to pay to the Comptroller a penalty of $10 000.

Retention of records by the Comptroller

154.(1) The Comptroller may take possession of and retain any document, book, record or other information presented to him in connection with any entry made or required to be produced under this Act.

(2) Where the Comptroller takes possession of a document, book, record or other information under subsection (1), the Comptroller shall, at the request of the person otherwise entitled to the document, book, record or other information provide that person with a copy of the document certified under the seal of the Customs Department as a true copy.

(3) Every copy of a document, book, record or other information referred to in subsection (2) that is certified is admissible as evidence in a Court or before a tribunal as if the document were the original.

(4) Notwithstanding subsection (2), where the Comptroller requires original invoices or certificates of origin, or both, to be produced for goods imported or exported he may

(a) require the invoices or certificates of origin, or both, to be submitted in duplicate and may retain the duplicates; or

(b) retain the originals where the invoices or certificates of origin, or both, are not submitted in duplicate.

PART XIII

PROHIBITED AND RESTRICTED GOODS

Prohibited and restricted imports

155.(1) No goods listed in Part I of the *Sixth Schedule* may be imported into Barbados.

(2) No goods listed in Part II of the *Sixth Schedule* may be imported into Barbados except in accordance with the conditions and restrictions prescribed in that Part.

(3) The Minister may, by order, amend the *Sixth Schedule* in respect of the imported goods listed therein.

(4) A prohibition or restriction imposed by an order made under subsection (3) may

(a) be general;

(b) be limited to the importation of goods from a specified place or by or from a specified person or class of persons; or

(c) whether general or limited, be absolute or conditional.

(5) All orders in force at the commencement of this Act prohibiting or restricting the importation of goods into Barbados shall continue in force as if they were made under this Act, unless they are revoked.

Prohibited and restricted exports

156.(1) No goods listed in Part I of the *Seventh Schedule* may be exported from Barbados.

(2) No goods listed in Part II of the *Seventh Schedule* may be exported from Barbados except in accordance with the conditions and restrictions prescribed in that Part.

(3) The Minister may, by order, amend the *Seventh Schedule* in respect of exported goods.

(4) A prohibition or restriction imposed by an order made under subsection (3) may

(a) be general;

(b) be limited to the exportation of goods from a specified place or by or from a specified person or class of persons; or

(c) whether general or limited, be absolute or conditional.

(5) Unless otherwise specified in the order referred to in subsection (3) or (4), an order under this section prohibiting or restricting the exportation of goods extends to and applies to the shipment of goods for use as stores by vessels and aircraft.

(6) All orders in force at the commencement of this Act prohibiting or restricting the exportation of goods from Barbados shall continue in force as if they were made under this Act, unless they are revoked.

Production of licence for restricted goods

157.(1) Where, under this Act or any other Act the importation or exportation of goods of any class or description is restricted, unless imported or exported under the authority of a licence, the Comptroller may refuse to enter those goods or to clear them for export unless the importer or exporter produces the licence in respect of the goods.

(2) A person who

(a) imports or exports restricted goods without the required licence; or

(b) fails to comply with a term or condition of the licence

is liable to pay to the Comptroller a penalty of $10 000 and the goods may be liable to forfeiture.

Prohibition or restriction of goods by order

158.(1) The Minister may by order

(a) prohibit or restrict the exportation or carriage coastwise of any class or description of goods; and

(b) prohibit or restrict the importation, exportation or carriage coastwise of any class or description of goods to or from any specified place in Barbados.

(2) An order made under subsection (1), is subject to negative resolution.

Goods imported in transit, in transhipment or as stores

159.(1) Subject to subsection (2), goods imported in transit, in transhipment or as the stores of any vessel or aircraft shall not be treated as prohibited or restricted goods.

(2) Subsection (1) shall not apply where the goods referred to in that subsection are expressly prohibited from or restricted from being imported in transit, in transhipment or as stores, in any order made under any customs enactment or any Act prohibiting or restricting the importation or exportation of goods.

(3) Goods imported in accordance with subsection (1) shall be exported within such time as the Comptroller may allow.

Penalty for prohibited goods

160.(1) A person who

(a) imports into Barbados or unloads or lands in Barbados goods, the importation of which is prohibited under this Part;

(b) exports or transports with intent to export, goods from Barbados, the exportation of which is prohibited under this Part;

(c) is knowingly concerned in any importation, exportation, transportation, unloading or landing of goods to which paragraph *(a)* or *(b)* applies;

(d) without lawful justification or excuse, removes from a customs controlled area goods that are imported in contravention of this Part;

(e) is knowingly concerned with or conspires in the removal from a customs controlled area, goods, the importation of which is prohibited under this Part,

is guilty of an offence and is liable on summary conviction to a fine of $200 000 or to imprisonment for a term of 2 years or to both.

(2) It is not a defence in a prosecution for an offence under subsection (1)*(a), (b), (d)* or *(e)* that the defendant had no knowledge or no reasonable cause to believe that the goods in respect of which the offence was committed were prohibited imports or prohibited exports.

PART XIV

POWERS

Patrol and surveillance

161.(1) Subject to subsection (2), a proper officer may, for the purposes of the detection of offences under this Act or under any other customs enactment, at any time and in such manner as the officer considers appropriate, patrol and pass freely through any place in Barbados, whether or not the place is private property, and may remain in any such place for the purpose of carrying out investigations or surveillance.

(2) This section does not authorise the proper officer referred to in subsection (1) to enter a dwelling-house without first obtaining the permission of the occupant.

(3) An officer proceeding as authorised under subsection (1), shall not be liable to any criminal or civil proceeding for so doing.

Power to land or moor

162. A proper officer in command or in charge of any vessel or aircraft engaged in the prevention of smuggling may anchor, moor, berth that vessel, land that aircraft or haul the vessel ashore, at any place in Barbados and the proper officer shall not be liable to any criminal or civil proceedings for so doing.

Power to board a vessel

163.(1) At any time while a vessel is within the territorial waters of Barbados, a customs officer may require that vessel to stop and may board it, and remain on board and may search any part of it.

(2) A customs officer on board any vessel referred to in subsection (1) may

(a) cause goods to be marked before they are unloaded from that vessel;

(b) examine and take account of goods in the course of their being unloaded;

(c) lock up, seal, mark or otherwise secure goods or their containers carried in that vessel;

(d) break open an area or container that is locked and to which no keys are provided;

(e) require any document or book that should be on board that vessel to be produced to him for examination; and

(f) require answers to the officer's questions relating to the vessel, its cargo, stores, baggage, crew, passengers, voyage or flight

and such officer shall not be liable to any prosecution or action at law for so doing.

(3) Any person who prevents a customs officer from performing any act referred to in subsection (2) or who refuses to produce any documents or to answer any questions asked under that subsection is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to a term of imprisonment of 3 years or to both.

(4) Goods found concealed on board a vessel within the territorial waters of Barbados are liable to forfeiture.

(5) Where the master of the vessel refuses to stop or permit a customs officer to board when required to do so pursuant to subsection (1), the master or his agent

is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to a term of imprisonment of 3 years or to both.

(6) Where the crew of a vessel refuse to stop when required to do so pursuant to subsection (1), and a chase ensues and the identity of the master of the vessel cannot be ascertained, every member of the crew of the vessel who is on board during the chase is guilty of an offence and is liable on summary conviction to a fine of $200 000 or to a term of imprisonment of 2 years or to both.

Power to station an officer on a vessel

164.(1) The Comptroller may station a customs officer on board a vessel at any time while it is within Barbados.

(2) The master of a vessel on which a customs officer is stationed who neglects or refuses to provide

(a) proper and sufficient food and water, together with reasonable accommodation for the officer; and

(b) a means of safe access to and egress from the vessel as required by the officer

is guilty of an offence and is liable on summary conviction to a fine of $10 000.

Power to access and search customs controlled area

165.(1) Without prejudice to any other power contained in this Act, a customs officer shall have a right of access to and a power to search any vessel, aircraft or vehicle in any part of a customs controlled area, and any goods found in the customs controlled area.

(2) The power of search referred to in subsection (1) includes the power to break into or open any locked building, vehicle, place or container and such action by a customs officer shall not result in any prosecution or action at law for so doing.

Searching of a vessel or aircraft

166.(1) A customs officer may search a vessel or aircraft

(a) that has arrived in Barbados;

(b) that is departing Barbados for a place outside of Barbados;

(c) that is not a vessel or aircraft to which paragraph *(a)* or *(b)* applies that is carrying any international cargo, while the vessel or aircraft remains within Barbados; or

(d) that is not a vessel or aircraft to which paragraph *(a)*, *(b)* or *(c)* applies that is within Barbados and that officer has reasonable cause to suspect

(i) is carrying dutiable uncustomed, prohibited, restricted or forfeited goods; or

(ii) has been, is being or is about to be involved in the commission of an offence under this Act.

(2) In the exercise of the power conferred by subsection (1), a customs officer may, using such force as is reasonable in the circumstances, enter every part of a vessel or aircraft and open any package, locker or other place and examine all of the goods found in the vessel or aircraft.

(3) A person who prevents a customs officer from exercising the power referred to in this section is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to a term of imprisonment of 3 years or to both.

Power to search premises

167.(1) Subject to subsection **212**, where a customs officer has reasonable grounds to believe that an article or goods that are not in compliance with any

customs enactment are being kept at or concealed in any building or other place, the customs officer may on the authorization of the Comptroller in writing

(a) enter that building or place at any time and search for, seize, detain or remove any article or goods that appear to him to be not in compliance with any customs enactment;

(b) so far as is reasonably necessary for the purpose of entry, search, detention or removal, break open any door, window or container and force and remove any other impediment or obstruction; and

(c) search for and remove any invoice, bill of lading, customs declaration, correspondence or any other document relating to the importation and exportation of goods.

(2) Where in the case of entry, search, seizure, detention or removal damage is caused and the article or goods referred to in subsection (1) are not found, the owner of the damaged goods or the damaged building is entitled to recover from the Comptroller the cost of repairing that damage.

(3) A person who prevents an entry or search in accordance with this section is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to a term of imprisonment of 3 years or to both.

(4) Notwithstanding subsection (1), a customs officer shall not enter a private dwelling house except with the consent of the occupant or owner or pursuant to a warrant issued in accordance with this Act.

Power to search vehicles

168.(1) A customs officer who has reasonable grounds to believe that there are

(a) any dutiable, uncustomed, prohibited or forfeited goods in any vehicle that is within a customs controlled area; or

(b) any goods that have been unlawfully imported or are in the process of being unlawfully exported in a vehicle which is not within a customs controlled area,

may stop the vehicle and search it and may detain the vehicle for such period as may be reasonably necessary for that purpose.

(2) Notwithstanding any other power provided under this Act, where a [customs officer] has reasonable grounds to believe that a vehicle is carrying any article that is liable to forfeiture, he may stop and search that vehicle.

(3) Where the person in charge of a vehicle fails to stop or refuses to permit the vehicle to be searched in accordance with subsection (1) or (2), that person is guilty of an offence and is liable on summary conviction to a fine of $100 000 and forfeiture of the goods.

Securing goods

169. For the purpose of performing any function or exercising any power that is required or authorised under this Act, a customs officer may, while boarding or searching any vessel or aircraft

(a) secure goods on board the vessel or aircraft by the appropriate means; or

(b) remove goods on board a vessel or aircraft to a secure place.

Search warrants

170.(1) Where an officer has reasonable cause to suspect that any uncustomed or prohibited goods or any books or documents relating to uncustomed or prohibited goods are harboured, kept or concealed in any house or other place in the Island, and it is made so to appear by information on oath before any magistrate or justice of the peace in the Island, it shall be lawful for the magistrate or justice of the peace by special warrant under his hand

(a) to authorise the officer to enter and search the house or other place by day or night; and

(b) to seize and carry away any uncustomed or prohibited goods or any books or documents relating to uncustomed or prohibited goods as may be found therein.

(2) It shall be lawful for the officer referred to in subsection (1), in case of resistance, to break open any door and to force and remove any other impediment or obstruction to such entry or seizure as aforesaid.

(3) A person who prevents an entry or search in accordance with this section is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to a term of imprisonment of 3 years or to both.

(4) Notwithstanding subsection (1), an officer shall not enter a private dwelling house except with the consent of the occupant or owner or pursuant to a warrant issued in accordance with this Act.

Determination of search

171.(1) Before a person referred to in section **174** is searched he must be informed of the intended search and he may request to be taken with all reasonable dispatch before a superior officer on duty for a determination to be made of the need for the search.

(2) Where a person is detained under this Act to be searched and there is no suitable person to conduct the search available at the place where the search is to take place, the person detained may be taken to a prescribed place to be searched.

(3) Where a search of a person is to be conducted

(a) a female shall not be searched except by a female customs officer and a male shall not be searched except by a male customs officer; and

(b) a minor, whether male or female, shall not be searched except in the presence of his parent or guardian.

(4) A customs officer is not liable to prosecution in respect of a search made in accordance with this section.

(5) Where a body search is required under this section it shall be conducted by a medical practitioner.

Application of sections

172. Sections **173**, **174** and **175** of this Act apply to

(a) a person on board a vessel or aircraft that has arrived in or is departing from Barbados;

(b) a person in the process of disembarking from or embarking on to a vessel or aircraft described in paragraph *(a)*; or

(c) a person who, having entered Barbados at a customs place remains in that customs place.

Preliminary search of persons by use of aids

173.(1) A customs officer may conduct a preliminary search of a person to whom section **171** applies and may detain that person for the purpose of conducting a preliminary search.

(2) A preliminary search referred to in subsection (1) is a search that

(a) involves little or no physical contact between the person conducting the search and the person being searched; and

(b) is conducted by using any aid including

(i) a dog;

(ii) a chemical substance;

(iii) x ray or imaging equipment; or

(iv) some other mechanical, electrical or electronic device or other similar aid, but not by any more invasive means.

Searching of person where reasonable cause to suspect goods are concealed

174.(1) A customs officer may search or cause a person to be searched where the proper officer has reasonable grounds to believe that the person

(a) has concealed on or about his body

(i) any dutiable, uncustomed, restricted or prohibited goods or goods that are liable to forfeiture;

(ii) evidence relating to any goods referred to in sub-paragraph (i) or

(iii) any article that is or might be evidence of a contravention of this Act; and

(b) either the person

(i) is in a customs controlled area;

(ii) has, within the preceding 24 hours arrived in Barbados at a place other than a custom place; or

(iii) is about to depart from Barbados from any place other than a customs place.

(2) A customs officer may use reasonable force where it is necessary to detain or search any person pursuant to subsection (1).

(3) A customs officer who searches a person pursuant to subsection (1) may require any person that the proper officer thinks necessary to assist him.

(4) A search of a person may be conducted whether or not that person has been the subject of a preliminary search under section **173**.

Searching of person for dangerous items

175.(1) A customs officer may immediately detain and search a person where the officer has reasonable grounds to believe that

(a) the person has a dangerous item on or about his person; and

(b) the item poses a threat to the safety of the officer or any other person.

(2) For the purpose of this section "dangerous item" means

(a) any firearm or ammunition as defined pursuant to the *Firearms Act*, Cap. 179; or

(b) any substance or device that could be used to endanger a person's safety.

(3) A customs officer who undertakes a search under this section shall, within 3 working days of the search, give a written report to the Comptroller of the search, the circumstances in which it was conducted, and the matters that gave rise to the reasonable belief that the person had a dangerous item on or about his person.

Seizure of items found

176.(1) A customs officer may seize any article found when carrying out a search under section **174** that the officer has reasonable grounds to believe is an item referred to in that section.

(2) An officer may seize any article found on or about a person when carrying out a search under section **175** that the officer has reasonable grounds to believe is an item referred to in that section.

Questioning of persons in customs controlled area

177. A proper officer may question any person in a customs controlled area.

Power to carry and use a firearm

178.(1) Where the Comptroller is satisfied that it is necessary for the protection of any customs officer engaged in the performance of any duty, he may in accordance with the *Firearms Act*, Cap. 179 apply for a licence on behalf of such officer to carry a firearm.

(2) A customs officer may use a firearm which he is authorised to carry under subsection (1), where such use is necessary for

(a) the preservation of life; or

(b) the summoning of a vessel in accordance with the provisions of section **179**.

(3) No customs officer shall be permitted to carry a firearm under this section unless such officer is properly trained and has been granted a licence in accordance with the *Firearms Act*, Cap. 179.

Firing on vessel

179.(1) A customs officer in charge of a properly identified vessel in the service of the Crown shall, having hoisted or displayed the proper identification, within the territorial waters of Barbados, chase any vessel where

(a) the master of the vessel fails to comply with signals or instructions given by the proper officer; or

(b) the master of the vessel refuses to permit the vessel to be boarded by the proper officer,

and may, as a last resort, after having fired a warning shot fire at or onto a vessel to compel the master to bring the vessel to a stop.

(2) A customs officer may only fire at or onto the vessel where he is satisfied that

(a) the master or person in charge of the vessel is aware of the signal to stop; and

(b) a warning shot has been fired.

(3) Every officer or person acting on his direction shall be fully indemnified and discharged from every indictment, information, prosecution, penalty or other proceeding for acting under this section and from all of the consequences thereof.

(4) Subsection (3) does not apply where the person has not acted in good faith or acted without reasonable care.

Detention of vessel

180.(1) .Where a customs officer has reasonable cause to believe that an offence under this Act has been or is being committed with the use of a vessel while it is in Barbados and the customs officer has reasonable cause to believe that there is on the vessel a person who was carried into Barbados on it in contravention of the Act, the customs officer may direct the vessel

(a) to proceed to the nearest customs controlled area or to any other place the officer considers appropriate; or

(b) to remain where it is and the officer may detain the vessel for any time and for any purposes reasonably necessary to carry out an investigation into the commission of the offence.

(2) Where the person in charge of a vessel attempts to or threatens to cause the vessel to depart from a place to which the vessel has been directed to proceed or in which the vessel has been directed to remain pursuant to subsection (1) without a certificate of clearance, the customs officer may, notwithstanding any other seizure power under this Act, seize and detain the vessel until a certificate of clearance has been obtained.

Power to examine and take account of goods

181.(1) Notwithstanding any other provision of any customs enactment, a customs officer may examine any goods

(a) that have been imported;

(b) that are in a public or private customs warehouse;

(c) that have been loaded into or unloaded from any vessel or aircraft at any place in Barbados;

(d) that have been entered for exportation or for use as stores;

(e) that have been brought to any place in Barbados for exportation or for use as stores or for shipment for exportation or for use as stores; or

(f) in respect of which any claim for drawback, allowance, rebate, remission or repayment of duty has been made

and may for that purpose require any container to be opened or unpacked.

(2) An examination of goods by a customs officer under subsection (1) shall be made at such time and place as the officer may direct.

(3) Any transportation of goods to a place so directed under subsection (2) and any

(a) unloading;

(b) opening;

(c) unpacking;

(d) weighing;

(e) repacking;

(f) bulking;

(g) sorting;

(h) lotting;

(i) marking;

(j) numbering;

(k) loading;

(l) carrying; or

(m) landing

of the goods, and any treatment applied to the containers in which the goods are kept, for the purposes of and incidental to the examination by the customs officer, their removal for exportation or for use as stores or warehousing, shall be done, and any facilities or assistance required for the examination shall be provided, by or at the expense of the owner of the goods.

(4) Where

(a) imported goods that a customs officer has the power under this section to examine; or

(b) goods other than imported goods that a customs officer has directed to be brought to a place for the purposes of examination,

are, without the authority of the customs officer, removed from customs control before they have been examined, those goods shall be liable to forfeiture.

(5) For the purposes of this section, whenever goods are removed to a bonded area for examination

(a) the customs officer at the place of importation shall immediately send a copy of the import entry for goods free of duty to the proper officer at the bonded area;

(b) the goods shall be removed directly from the place of importation to the bonded area and if not sealed the goods shall be accompanied by a proper officer; and

(c) the packages shall not be opened or otherwise dealt with except in the presence of or by the authority of the customs officer.

Examination of goods subject to customs control

182.(1) A proper officer may examine, weigh, analyse, test or cause to be examined, weighed, analysed or tested goods subject to the control of the Comptroller, and may, for that purpose, open or cause to be opened any packages in which the goods are contained or believed to be contained.

(2) All reasonable expenses incurred by the proper officer under subsection (1) are a debt owed to the Crown by the importer, exporter or the owner of the goods and are recoverable in the same manner as duty under this Act.

(3) The powers conferred by subsection (1) extend to the examination, weighing, analysing or testing of a suitcase, pallet, bulk cargo container or other package subject to customs control.

(4) The examination may include the physical or chemical testing of or the drilling into, or the dismantling of the goods.

(5) A proper officer shall, subject to section **214**, be allowed free access to all lands, buildings and places and to all goods in or on any lands, buildings or places for the purpose of exercising powers under this section in respect of goods that are, or are believed to be subject to customs control.

Examination of goods no longer subject to customs control

183.(1) This section applies to goods that have ceased to be subject to customs control but that the Comptroller has reasonable grounds to suspect are

(a) goods in respect of which an offence under this Act has been committed; or

(b) goods that are liable to forfeiture under this Act.

(2) The Comptroller may require a person who has or whom the Comptroller believes has possession or control of goods described in subsection (1) to produce them for inspection by a proper officer.

(3) A proper officer may exercise all the powers provided under section **182** in respect of goods described in subsection (1).

(4) A proper officer may take and retain possession of goods produced under subsection (2) for the purposes of exercising the powers given by subsection (3)

and may retain possession of the goods until the completion of the investigation into the grounds for suspecting that the goods

(a) are goods in respect of which an offence under this Act has been committed; or

(b) are goods that are liable to forfeiture under this Act.

(5) A person who fails or refuses to produce or account for any goods when required to do so under this section is guilty of an offence and is liable on summary conviction to a fine of $50 000 or 3 times the value of the goods, whichever is greater.

Accounting for goods

184.(1) The Comptroller may by notice in writing, require the person who is authorised to operate a customs controlled area to

(a) account for goods that the Comptroller believes have been entered into the customs controlled area; and

(b) produce documents, books or records whether in electronic form or otherwise relating to the movement of goods into or out of the customs controlled area.

(2) A person who fails or refuses to comply with subsection (1) is guilty of an offence and is liable to pay to the Comptroller a penalty of $10 000.

Production of goods

185.(1) A proper officer may require the person who is authorised to operate a customs controlled area to produce to the officer goods that according to any record are within the area.

(2) A person who fails or refuses to produce or account for any goods when required to do so under this section is guilty of an offence and is liable on summary conviction to a fine of $50 000.

Verification of entries

186.(1) The Comptroller may require from a person making an entry of goods

(a) proof by declaration or the production of documents; and

(b) any other declaration or documents otherwise required by this Act,

of the correctness of the entry, and may refuse to deliver the goods or to accept the entry before the proof is provided.

(2) Where the Comptroller is not satisfied

(a) that the entry made pursuant to subsection (1) in relation to any goods is correct; or

(b) with any other aspects of the importation or exportation of goods,

the Comptroller may detain the goods for a period that is reasonably necessary to enable the goods to be examined, and where necessary, to cause an investigation to be made, whether in Barbados or elsewhere, into the importation or exportation of those goods.

Power to take samples

187.(1) A proper officer may take and use samples of goods for such purpose as the Comptroller may deem necessary, and such samples shall be disposed of and accounted for in such manner as the Comptroller may direct.

(2) A sample taken in accordance with subsection (1) shall be as small as possible for the purpose for which it is taken.

(3) Any sample taken by a proper officer under subsection (1) shall, unless it is liable to forfeiture or where it is impractical to do so, be returned upon payment of such duty as may be payable in respect of it to the person who was at the time of the taking of the sample, the owner of it.

Power of arrest

188.(1) Subject to subsection (2) a customs officer or a police officer may arrest a person who has committed, or who that officer has reasonable grounds to believe has committed or is about to commit an offence under any customs enactment.

(2) A person may not be arrested for an offence by virtue of subsection (1) more than 7 years after the commission of the offence.

(3) Where a customs officer arrests a person in accordance with this section the customs officer shall, as soon as practicable, deliver the arrested person into the custody of a police officer.

Escape from officer

189. Where

(a) a person subject to arrest under section **188** escapes from a customs officer or a police officer attempting to arrest him; or

(b) a customs officer or police officer is for any reason unable or fails to arrest the person

the person may afterwards be arrested and detained by a customs officer or at any place in Barbados within 7 years from the time the offence was committed, and dealt with as if he had been arrested at the time of committing the offence.

Power to pay rewards

190.(1) The Comptroller may, with the approval of the Governor General, reward or give an award to any person excluding a customs officer for any service in relation to an assigned matter that appears to him to merit such reward or award.

(2) Notwithstanding subsection (1), approval need not be obtained for a reward not exceeding $1 000.

Power to require attendance

191.(1) Where under this Act or any other customs enactment, the master of a vessel, commander of an aircraft or agent of either of them, is required to answer any question put to him by the Comptroller or a proper officer, the Comptroller or the officer may, at any time while the vessel or aircraft is within the territorial waters of Barbados require the master, commander or agent of the vessel or aircraft to appear in the office of the Comptroller or the officer.

(2) Any master, commander or agent of either of them who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $10 000.

Power to require information and the production of evidence

192.(1) The Comptroller may, at any time within 7 years of the importation, exportation or carriage coastwise of any goods, require any person concerned

(a) in that importation, exportation or carriage coastwise; or

(b) in the carriage, unloading, landing or loading of the goods,

to furnish to him in such form and manner as the Comptroller may require, any information relating to the goods, and to produce and permit a proper officer to inspect, take extracts from, make copies of or remove for a reasonable period, any invoice, bill of lading or other book or document relating to the goods in that person's control or possession.

(2) The Comptroller may require evidence to be produced to his satisfaction in support of any information provided in respect of goods imported, exported or carried coastwise, or in respect of which drawback, allowance, rebate, remission or repayment of duty is claimed.

(3) A person who fails to comply with this section is liable to pay to the Comptroller a penalty of $10 000.

Discretionary power to Comptroller in special circumstances

193. The Comptroller may permit the entry, unloading, removal and loading of goods, and the report and clearance of a vessel or aircraft in such form and manner as he may direct to meet the exigencies of any case to which a customs enactment cannot be conveniently applied.

Power to accept compensation for offences

194.(1) Notwithstanding any other provision of this Act, where a person requests in writing that the offence be dealt with administratively, rather than through court proceedings and the person is liable to pay a fine or penalty, the Comptroller may, at any time prior to the commencement of proceedings in a court against the person for the offence,

(a) impose a fine or pecuniary penalty not exceeding that prescribed for the offence;

(b) seize the goods; or

(c) mitigate any fine or penalty or restore anything seized under the customs enactments.

(2) This section shall not affect any right conferred by any written law to claim goods in the case of a seizure, or to commence or require the commencement of legal proceedings at any time prior to the payment of the fine or the penalty.

Power to require security

195.(1) Without prejudice to any express security requirement provided for by this Act, or any other customs enactment, the Comptroller may, where he sees fit, require any person to give security by bond or otherwise for the observance of any condition or restriction in connection with an assigned matter.

(2) The Comptroller may, pending the giving of the required security, refuse to accept an entry or to perform any other act in relation to the matter with respect to which the security is required.

(3) Security may be required by the Comptroller in relation

(a) to a particular transaction, transactions generally or to a class of transactions;

(b) to a particular period and amount; and

(c) on such conditions as to penalty as the Comptroller may direct.

(4) Where the Comptroller is satisfied that the obligations for which any security given in accordance with this section have been fulfilled, the person who gave the security shall be released from the conditions of the security as soon as possible, subject to any provisions of this Act prohibiting the release of the security.

(5) Any bond taken on behalf of the Government may be cancelled at any time by order of the Comptroller and be valid in law and upon breach of any of the conditions may be shed and proceeded upon, and it shall not be necessary for the validity of such bonds that they shall be sealed or delivered in the presence of a witness or that they shall be prepared [be an Attorney-at-law or that they shall be delivered as a speciality.]

(6) Where at any time the Comptroller is dissatisfied with the sufficiency of any security, he may require that a new security be put in place in addition to the existing security.

(7) Where a new security is not given, the Comptroller may refuse to accept an entry or to perform any other act in relation to any manner with respect to which the new security is required.

(8) A person who is dissatisfied with a decision of the Comptroller made under this section may, within 7 days after the date on which notice of the decision is given, request in writing that the Comptroller reconsider the decision.

Power to require provision of facilities

196.(1) A person who is required under this Act to provide a secure place to be used for the examination of goods by a proper officer shall

(a) provide and maintain the equipment and facilities that are reasonably necessary to enable a proper officer to take account of or examine the goods and to conduct searches or perform any other duties the Comptroller may direct;

(b) provide the officer with any assistance necessary for the performance of the officer's duties and allow and give access to their accounting system.

(2) The Comptroller may withhold the services of his department where the proper facilities are not available.

(3) The Comptroller shall provide and maintain any fitting required for the purpose of affixing any lock or seal that the proper officer may need to affix to the premises or to any part of the premises of that person or to any vessel or aircraft or apparatus kept on the premises.

(4) Any person referred to in this section who

(a) wilfully destroys or damages any fitting, dock or key provided for use with the lock or any label or seal placed on such lock;

(b) improperly retains access to any place or article secured by a lock put in place by a proper officer; or

(c) has any fitting or article intended to be secured by means of a fitting constructed in a manner that defeats the intention of this section,

is guilty of an offence and is liable on summary conviction to a fine of $20 000.

Audit or examination of records

197.(1) Subject to section **212** a customs officer may, at all reasonable times

(a) enter any premises or place where records are kept pursuant to section **152**; and

(b) audit or examine those records either in relation to a specific transaction or to access the adequacy and integrity of the manual or electronic system by which such records are created and stored.

(2) A customs officer shall, pursuant to subsection (1), and subject to section **213** have full and free access to all lands, buildings and places and to all books, records and documents, whether or not in electronic form whether in the custody or under the control of the licensee, importer, exporter or any other person, for the purpose of inspecting any books, records and documents and any property, process or matter that the officer considers

(a) necessary or relevant for the purpose of collecting any duties due under this Act or other customs enactment for the purpose of carrying out any function lawfully performed by a customs officer; or

(b) likely to provide any information otherwise required for the purpose of enforcing the provisions of this Act or any other customs enactment.

(3) The customs officer referred to in subsection (1) or (2) may, without fee or reward, make extracts from or copies of any books, records or documents referred to in this section.

(4) A customs officer shall not enter any private dwelling house except with the consent of the occupant or owner or pursuant to a warrant issued in accordance with this Act.

Requirement to produce documents

198.(1) Where

(a) a proper officer has reasonable cause to believe that

(i) goods have been unlawfully imported, exported, undervalued, entered, removed or otherwise unlawfully dealt with by any person in contravention of this Act; or

(ii) any person intends to unlawfully import, export, manufacture, undervalue, enter, remove or otherwise deal with any goods; or

(b) goods have been seized under this Act,

the Comptroller may, by written notice require any person whom the proper officer believes to be or to have been the owner, importer or exporter of those goods, or the agent of the owner, importer or exporter of the goods or to have been involved in any way in the activities referred to in subsection (1)*(a)*, to produce and deliver to that proper officer, all books of account, invoice books, other books, records or documents whether or not in electronic form, in which any entry or memorandum appears or may be supposed to appear concerning the purchase, importation, exportation or manufacture cost, valuation of or payment for the goods within a period of 7 years preceding the date of the notice.

(2) In addition to the requirements of subsection (1), the Comptroller may require the owner, importer or exporter of those goods, or an agent of the owner, importer or exporter to

(a) allow the proper officer to make copies of or make extracts from any of the documents, books or records; and

(b) answer any question concerning those documents, books or records.

(3) A person who fails to comply with a request under this section is liable to pay to the Comptroller a penalty of $10 000.

Power to require copies of documents

199. Where a person is required to submit a report, entry or other form for the purpose of this Act or any other customs enactment, the Comptroller may require that person to submit as many copies of the report, entry or other form, as he may deem necessary.

Further powers in relation to documents

200.(1) The Comptroller may, by written notice, require a person

(a) to produce for inspection to a specified officer documents or records that the Comptroller considers necessary or relevant to

(i) an investigation under this Act;

(ii) an audit under this Act;

(iii) the recovery of a debt due and payable to the Crown; or

(b) to allow the specified officer to take extracts from, or make copies of documents or records of the kind referred to in paragraph *(a)* or to appear before a specified officer and answer all questions put to the person concerning the goods, or transactions relating to those goods, that are the subject of the investigation or audit, or that are relevant to the recovery of the debt referred to in paragraph *(a)*.

(2) A person who fails to comply with a request made under this section is liable to pay to the Comptroller a penalty of $10 000.

Copying of documents obtained during search

201.(1) Where a proper officer carries out any lawful search, inspection, audit or examination under any customs enactment, and has reasonable cause to believe that documents coming into his possession during such search, inspection, audit or examination are evidence of the commission of an offence under this Act or any other customs enactment, the proper officer may remove the documents for the purpose of making copies.

(2) Where documents have been removed in accordance with subsection (1), and the documents are copied on the instructions of the Comptroller, the documents shall be returned to the person entitled to possess them.

(3) A copy of any document certified under the seal of the Customs Department is admissible as evidence before any court or tribunal, as if the copy were the original.

Retention of documents and goods obtained during a search

202.(1) Where a proper officer carries out any lawful search, inspection, audit or examination under this Act, and has reasonable cause to suspect that any document or goods coming into his possession during the search, inspection, audit or examination are

(a) evidence of the commission of an offence under this Act; or

(b) intended to be used for the purpose of committing an offence under this Act,

(c) is property obtained through unlawful conduct; or

(d) is intended to used for money laundering or other unlawful conduct or activities related to terrorism

the officer may, subject to subsection (4), take possession of and retain the documents or goods.

(2) Where a proper officer takes possession of a document under subsection (1), he shall, at the request of the person otherwise entitled to the document, provide that person with a copy of the document certified under the seal of the Customs Department as a true copy.

(3) Notwithstanding any other law, a copy certified in accordance with subsection (2) is admissible in evidence in a court or before a tribunal as if the copy were the original document.

(4) Where a proper officer takes possession of and retains documents or goods under this section

(a) as a result of an offence being committed in respect of the documents or goods, the court or tribunal may order, either at the hearing or on a subsequent application, that the document or goods

(i) be delivered to the person appearing to the court or tribunal to be entitled to them; or

(ii) be otherwise disposed of in such manner and under such conditions as the court or tribunal thinks fit; and

(b) the proper officer may at any time, unless an order has been made under paragraph *(a)*

(i) return the documents or goods to the person from whom they were taken; or

(ii) apply to the magistrate for an order as to their disposal, and on any such application the magistrate may issue an order that a court or tribunal may issue under paragraph *(a)*.

(5) Where proceedings for an offence relating to the goods or document retained under this section are not brought within a period of 6 months after the date on which the officer took possession of the document or goods, any person claiming to be entitled to the goods or documents may, after the expiration of that period, apply to a magistrate for an order that they be delivered to that person, and on any such application the magistrate may

(a) refuse to issue the order; or

(b) make an order that a court or tribunal may make under subsection (4).

Detention of goods suspected to be illegally obtained

203.(1) A customs officer may, without warrant, seize and detain goods where

(a) the goods are in Barbados and he is satisfied that they either

(i) are being or are intended to be, exported from Barbados; or

(ii) are being, or have been imported into Barbados;

(b) the goods came to his attention, or into his possession during a search, inspection, audit or examination under this Act or any Act that relates to the reporting of imports or exports of currency; and

(c) he has reasonable grounds to suspect that the goods were obtained in contravention of any law.

(2) Reasonable force may be used by a customs officer where it is necessary to seize or detain goods under this section.

(3) Where the person from whom goods have been seized and detained is identified but is not present when the seizure and detention occurs, the Comptroller shall notify that person of the detention and seizure and issue a receipt.

(4) Subject to section **206** goods detained under this section shall be taken to a place of security as directed by the proper officer or other authorised person and detained.

Return of goods detained under section 203

204.(1) Goods seized and detained under section **203** shall be returned to the person from whom they were seized as soon as practicable after

(a) the completion of all relevant investigations, if it is shown that the goods are not tainted property or uncustomed goods; or

(b) the expiration of the investigation period, if sooner.

(2) Notwithstanding subsection (1), the Comptroller need not return the goods as provided in subsection (1), and may continue to detain them until the relevant proceedings or requests, including any resulting applications are determined, if on or before the expiration of the investigation period

(a) an information is laid, in respect of an offence;

(b) a foreign country makes a request to the Attorney General under any provision or Agreement relating to mutual legal assistance.

(3) For the purpose of subsection (1), "investigation period" means, in relation to goods seized and detained under section **203**

(a) the period of 6 months after the date on which the goods were seized and detained; and

(b) includes any extension of that period granted by the court.

Extension of 6 month period in section 204

205.(1) The 6 month period referred to in section **204**(3)*(a)* may be extended by order of the court for a further period of up to 90 days where the application for the extension is made before the expiration of the original 6 month period and the court is satisfied that

(a) there is reasonable cause to believe that the goods were obtained in contravention of any law, as referred to in section **203**(1)*(c)*; and

(b) the extension to be granted is necessary to allow for the completion of investigations in or outside Barbados in relation to the goods.

(2) The application for an extension shall be made in writing and served on the person from whom the goods were seized where it is possible to identify and locate that person and the application shall include

(a) a description of the goods detained;

(b) the date on which the detention commenced;

(c) a statement of the facts supporting the reasonable grounds required under section **204**;

(d) a statement of the reasons why the extension is necessary to allow the completion of investigations in or outside Barbados in relation to the goods.

(3) The person from whom the goods were seized is entitled to appear and be heard on the application.

(4) The Comptroller shall make all reasonable effort to notify the person from whom the goods were seized at least 24 hours before the hearing of the application, of the time and place of that hearing.

Custody of certain goods detained under section 204

206.(1) Where the goods detained under section **203** is a vessel, aircraft or animal, a proper officer may leave that item in the custody of

(a) the person from whom the goods have been seized; or

(b) any other person authorised by the proper officer who consents to having such custody.

(2) A person who has the custody of goods under subsection (1) shall, until a final decision is made under section **203** as to whether or not the goods are to be returned, hold them in safe keeping without charge to the Crown and in accordance with any reasonable conditions that may be imposed by the Comptroller.

(3) A person to whom subsection (2) applies shall

(a) make the item available to the proper officer on request;

(b) not alter or dispose of the item or remove it from Barbados, unless authorised to do so by the proper officer; and

(c) return the item on demand to the custody of the Comptroller.

Search warrants

207.(1) A proper officer may make an application in writing on oath to a magistrate where he is satisfied that there are reasonable grounds to believe that there is on the premises

(a) evidence of

(i) the commission of an offence under this Act; or

(ii) the unlawful exportation or importation of goods;

(b) any goods that is intended to be used for the purpose of

(i) committing an offence under this Act; or

(ii) unlawfully exporting or importing goods; or

(c) anything that is liable to seizure under this Act,

and a magistrate may where he is so satisfied issue a search warrant.

(2) Before applying for a warrant the proper officer referred to in subsection (1), shall have made reasonable enquiries and shall disclose in the application details of any other applications that the officer knows have been made within the previous 20 workings days in respect of the premises or goods specified, including the offence or offences alleged in any other application and the result of any other application or applications.

(3) A search warrant referred to in subsection (1) shall be directed

(a) to and executed by a designated proper officer; or

(b) to customs officers generally and executed by any customs officer or officers.

Entry and search under warrant

208.(1) Subject to section **171** in executing a warrant, a proper officer, customs officer or a police officer may, in addition to searching the premises specified in

the warrant, search or detain a person who is at the place while the warrant is being executed and who the officer believes is connected to the matter referred to in the warrant.

(2) A proper officer shall not detain a person pursuant to subsection (1) for a period of time exceeding 48 hours.

(3) In executing a warrant referred to in subsection (1), a proper officer, may seize any item found on the premises being searched or on the person being searched where the customs officer or police officer has reasonable cause to believe that the item is referred to in the warrant.

(4) A person called upon to assist the proper officer, in executing the warrant, has, for that purpose, the powers referred to in this section.

(5) A person who fails or refuses to comply with a search or detention pursuant to this section is guilty of an offence and is liable on summary conviction to a fine of $10 000.

Execution of search warrant

209.(1) A proper officer or customs officer executing a search warrant shall produce the warrant for inspection upon initial entry unto the premises, and in response to any reasonable request thereafter and, when requested by or on behalf of the owner or person occupying the premises shall provide a copy of the warrant no later than 7 days after the request is made.

(2) The person executing the warrant shall inform the owner or person occupying the premises of the date and time of the execution of the warrant and the name of the officer in charge of the search

(a) by delivering to the owner or person occupying the premises a written notice containing the information;

(b) by leaving a notice in a prominent place

(i) at the premises; or

(ii) attached to the goods searched;

(c) by sending a notice to the owner or person occupying the premises by registered mail; or

(d) in such other manner as the court may direct in any particular case.

Emergency warrants

210.(1) Where the Comptroller is satisfied, on an application made by a proper officer, that circumstances exist that would justify the grant of a search warrant, but the urgency of the situation requires that the search should begin before a warrant under that section could with all practicable diligence be obtained, the Comptroller may, in writing, grant an emergency warrant to the officer making the application.

(2) An application for an emergency warrant must comply with the requirements of section **207**(1)*(a)* to *(c)*.

(3) Where the Comptroller grants the application for an emergency warrant, the proper officer must, before executing the warrant, file a written statement containing the particulars of the application, and the statement shall, for the purposes of section **207**, be deemed to be an application under that section.

(4) A proper officer executing an emergency warrant shall produce the statement made in accordance with subsection (3) for inspection upon initial entry and in response to any reasonable request thereafter, and, when requested, shall provide a written copy of the statement no later than 7 days after the request is made.

(5) The provisions of section **207** and **208** so far as they are applicable and with the necessary modifications shall apply to emergency warrants in the same manner as they apply to other search warrants.

(6) An emergency warrant shall remain valid for 24 hours from the time the authorisation is given.

(7) As soon as practicable after an emergency warrant has expired, the proper officer who applied for it, or, where that officer is not able to do so, another proper officer shall provide a written report in the prescribed form setting out the manner

in which the emergency warrant has been executed and the results obtained by the execution of the warrant.

Use of aids by a customs officer

211.(1) In exercising any power under this Act to board a vessel or aircraft, enter a building or search any premises, a proper officer or a police officer may bring with him and use as an aid in exercising those powers

(a) a dog;

(b) a chemical substance;

(c) an x-ray or other imaging equipment; or

(d) some other mechanical, electrical or electronic device or other similar aids.

(2) This section does not apply to a search carried out on residential premises except pursuant to a warrant issued under section **207**.

Conditions applying to entry of buildings

212. Every provision of the Act that confers on a customs officer the power to enter any building requires the authority of a warrant, or emergency warrant and is subject to

(a) reasonable notice of the intention to enter being given by the customs officer, except where it would frustrate the purpose of the entry;

(b) entry being made at a time that is reasonable, taking into account the circumstances so as to avoid frustrating the purpose of the entry;

(c) identification being produced by the customs officer on initial entry and where requested at any subsequent time; and

(d) the authority for the entry and the purpose of the entry being clearly stated to the owner or person occupying the building, if present.

Detention of dangerous goods concerning an aircraft

213.(1) A customs officer may detain goods found in the course of exercising any power of search or examination concerning an aircraft if the officer has a reasonable belief that the goods

(a) are dangerous goods that may not be lawfully carried on an aircraft; and

(b) are proposed to be carried by an operator of an aircraft.

(2) Where a customs officer detains goods under subsection (1), he shall as soon as practicable deliver those goods into the custody of a member of the Police Force.

(3) Where goods have been delivered in accordance with subsection (2), responsibility for those goods passes from the Comptroller to the member of the Police Force.

Protection of persons acting under the authority of the Act

214.(1) A proper officer, customs officer, or a person assisting one of them, shall not be liable for the loss of or damage to any document, goods, vessel or aircraft caused by the action or inaction of that person lawfully exercising any power conferred under this Act.

(2) Subsection (1) does not apply where the person in question has not acted in good faith or has acted without reasonable care.

Comptroller may prescribe forms

215.(1) Subject to this Act, the Comptroller may prescribe forms required to be used for the purposes of implementing any customs enactment and any forms so prescribed shall be published in the *Official Gazette* one month before the forms are required to be used.

(2) Every importer and exporter shall use the appropriate forms.

(3) Every document submitted to the Comptroller or a proper officer for the purposes of any customs enactment shall be in such form and shall contain the particulars as may be prescribed by the Comptroller.

(4) Unless otherwise required by the Comptroller

(a) any document submitted under this section may be in electronic form; and

(b) the document referred to in paragraph (*a*) will serve as a legal document.

(5) The *Electronic Transactions Act, 2014* (Act 2014-8) shall apply *mutatis mutandis*.

Witnessing of signatures

216. Where a document or declaration, whether in written or electronic form is required by a customs enactment to be signed in the presence of the Comptroller or any particular officer and such document or declaration is signed in the presence of a witness whose signature is known to and who is approved by the Comptroller or the officer who receives the same, then in such case such document or declaration shall be as valid as if it had been signed in the presence of the Comptroller or the officer in whose presence it is required to be signed.

Documents in foreign language

217. Where a document in a foreign language is presented to a proper officer in relation to the carrying out of any duty or the exercise of any power under this Act or any other customs enactment, the officer may require the person who presented the document to supply to the officer an English translation of the document prepared by a person approved by the officer, at the expense of the person who presented the document.

PART XV

NON-PROSECUTABLE BREACHES AND OFFENCES DEALT WITH ADMINISTRATIVELY

Administrative penalties

218. A person who commits a non-prosecutable breach is liable to an administrative penalty in the amount specified in the ***Eighth Schedule***.

Administrative penalty notice

219.(1) A proper officer may issue an administrative penalty notice in the prescribed form to any person where the proper officer is satisfied that that person has committed a non-prosecutable.

(2) An administrative penalty notice shall specify the nature of the act constituting the non-prosecutable breach, the penalty to be paid and shall require the person to whom it is addressed to pay the administrative penalty within 14 days of the date of the notice.

(3) A person who is in receipt of an administrative penalty notice issued pursuant to subsection (1) shall pay the amount of the penalty and comply with any additional requirement contained in the notice on or before the date specified in the notice.

Procedure for challenging an alleged non-prosecutable breach

220. Notwithstanding section **219**(3), a person to whom an administrative penalty notice is addressed and who wishes to challenge the alleged non-prosecutable breach, may instead of paying the amount of the administrative penalty, apply to the Comptroller for a reconsideration of the matter in accordance with section **272**.

Administrative penalty to constitute a debt to the Crown

221.(1) The amount of an outstanding administrative penalty constitutes a debt to the Crown and is recoverable by legal action at the suit of the Comptroller on behalf of the Crown.

(2) The debt in respect of the administrative penalty is incurred from the day immediately following the last day on which an application could be made under section **272** or where an application is made under that section and the administrative penalty is affirmed by the Comptroller, 7 days after the date of the affirmation.

Certain offences may be dealt with administratively

222. A person who commits an offence listed in the ***Ninth Schedule*** may, subject to this Act, elect to have that offence dealt with administratively in accordance with sections **223** to **227**.

Prosecution avoidance

223.(1) Subject to subsection (2), where the Comptroller is satisfied that an offence listed in the ***Ninth Schedule*** has been committed by a person, the Comptroller may, in such form as may be prescribed, and subject to the approval of the Director of Public Prosecutions, notify the accused person of the particulars of the alleged offence and that the accused person may elect to have the offence dealt with administratively by the Comptroller by the payment of a prosecution avoidance penalty in lieu of prosecution for the offence, in the amount and within the period specified in the notice.

(2) Subsection (1) shall not apply to a person who is paid or has agreed to pay a prosecution avoidance penalty under this Act on 2 or more occasions within the period of 2 years immediately preceding the date of the commission of the act that is the subject of the prosecution avoidance notice.

(3) In determining whether to grant approval for the Comptroller to issue a prosecution avoidance notice under subsection (1) the Director of Public

Prosecutions shall give consideration to whether the facts alleged to have been committed by the accused person are of such a serious nature that it would not, having regard to the amount of the prosecution avoidance penalty under section **224** be in the national interest to permit the offence to be dealt with administratively.

Amount of prosecution avoidance penalty

224. The amount of a prosecution avoidance penalty in relation to an offence listed in the ***Ninth Schedule*** shall be the corresponding amount listed in that *Schedule*.

Procedure for payment

225.(1) A person notified of the commission of an offence pursuant to section **223** shall within 14 days of the date of receipt of the notice or such longer period as may be prescribed, notify the Comptroller whether he elects to pay the prosecution avoidance penalty or be prosecuted for the offence.

(2) A notification to the Comptroller under subsection (1) shall be in the form set out in the ***Tenth Schedule***.

(3) A prosecution avoidance penalty shall be paid within 30 days of the date on which an accused person notifies the Comptroller under subsection (1) of his election to have the offence dealt with administratively.

Effect of payment of prosecution avoidable penalty

226. The payment of a prosecution avoidance penalty shall not constitute a conviction for any offence under this Act and shall indemnify the accused person from prosecution for the offence.

Outstanding prosecution avoidance penalty a debt to the Crown

227. The amount of an outstanding prosecution avoidance penalty constitutes a debt due to the Crown and is recoverable by legal action at the suit of the Comptroller on behalf of the Crown.

PART XVI

OFFENCES

Falsification of record in System

228. A person who falsifies or without the permission of the Comptroller, deletes, damages, alters or impairs any record, data message or information stored in or processed by the System or on any duplicate electronic storage medium respecting the System is guilty of an offence and is liable on summary conviction to a fine of $50 000, or to a term of imprisonment for 5 years or to both.

Unauthorised use of the System

229.(1) A person shall not transmit to or receive information from the System or otherwise make use of the System unless that person is registered by the Comptroller as an authorised user of the System.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $250 000 or to imprisonment for a term of 5 years or to both.

Unauthorised modification of the System

230.(1) A person who unlawfully causes a modification of any programme or data held in the System is guilty of an offence and is liable on summary conviction to a fine of $250 000 or to imprisonment for a term of 8 years or to both.

(2) Where damage is caused to the System as a result of an offence committed under subsection (1), the person convicted of the offence is liable to an additional fine of $250 000 or to imprisonment for a term of 2 years.

(3) For the purpose of this section

(a) it is immaterial that the modification referred to in subsection (1) is not directed at

(i) any particular programme or data;

(ii) a programme or data of any kind; or

(iii) a programme or data held in the System;

(b) it is immaterial whether an unauthorised modification is or is intended to be permanent or merely temporary;

(c) a modification of any programme or data held in the System takes place if by reason of the operation of any function of the System

(i) any programme or data held in the System is altered or erased;

(ii) any programme or data is added to or removed from any programme or data held in the System; or

(iii) any act occurs which impairs the normal operation of the System; and

(d) any act that contributes toward the causing of a modification referred to in paragraph *(c)* shall be regarded as causing the modification.

Unauthorised obstruction of the System

231.(1) A person who knowingly and without authority

(a) interferes with, interrupts or obstructs the lawful use of the System; or

(b) impedes, prevents access to or impairs the usefulness of any programme or data on the System

is guilty of an offence and is liable on summary conviction to a fine of $250 000 or to imprisonment for a term of 8 years or to both.

(2) Without prejudice to the penalty imposed in respect of an offence committed under subsection (1) where damage is caused to the System as a result

of an offence committed under subsection (1), the person convicted of the offence is liable to an additional fine of $250 000 or imprisonment for a term of 8 years or to both.

Unauthorised interruption of the System

232. A person who unlawfully engages in conduct which causes the System to cease to function whether temporarily or permanently is guilty of an offence and is liable on summary conviction to a fine of $50 000 or to imprisonment for a term of 2 years or to both.

Impersonating an officer

233.(1) A person who for the purpose of

(a) obtaining admission to any building, vessel, aircraft or any other place; or

(b) doing or procuring to be done, any act which he is not entitled to do or procure to be done of his own authority

falsely assumes the name, designation or character of the Comptroller, of a customs officer or any person authorised by the Comptroller to discharge any duty relating to any assigned matter is guilty of an offence and in addition to any other proceedings that may be taken against him is liable on summary conviction to a fine of $100 000 and to imprisonment for a term of 5 years.

(2) Where a person by words, conduct or demeanour holds himself out to be the Comptroller or a customs officer or wears or uses the uniform, name, designation or description of the Comptroller or customs officer, that person is guilty of an offence under subsection (1).

Offences against officers

234.(1) A person who

(a) fires upon

(i) a vessel in the service of the Customs **and Excise** Department; or

(ii) a proper officer in the execution of his duty; or

(b) assaults a proper officer in the execution of his duty

whether or not he causes physical damage is guilty of an offence and is liable on conviction on indictment to a fine of $250 000 or to imprisonment for a term of 8 years.

(2) A person who

(a) obstructs, hinders or assaults a proper officer duly engaged in the performance of any duty or in the exercise of any power imposed or conferred on him by any customs enactment;

(b) does anything which impedes or is calculated to impede the carrying out of any search for anything liable to forfeiture under any customs enactment, or the detention, seizure or removal of anything under any customs enactment;

(c) rescues, damages or destroys anything liable to forfeiture or does anything calculated to prevent the procuring or giving of evidence as to whether or not anything is liable to forfeiture;

(d) interferes with any equipment, vessel, dog, communication system or other article used or intended for use by a customs officer;

(e) acts with the intention of impairing the effectiveness of any equipment, vessel, dog, communication system or other aid used or intended for use by a customs officer;

(f) prevents the arrest of any person under any customs enactment or rescues any person so detained,

is guilty of an offence and is liable on summary conviction to a fine of $100 000 and to imprisonment for a term of 3 years.

(3) Where an offence is committed under this section by a person who

(a) is armed at the time of the offence with a lethal weapon, including a stick, stone or similar object; or

(b) behaves in a violent manner

that person shall on conviction be liable to imprisonment for a term of 7 years.

(4) A person who uses abusive, offensive or threatening language to a proper officer who is engaged in the performance of a duty or the exercise of a power imposed or conferred on him by any customs enactment, is guilty of an offence and is liable on summary conviction to a fine of $5 000.

(5) A person who staves, breaks or destroys goods to prevent their detection or seizure by a proper officer or another person authorised to detain or seize the goods is guilty of an offence and is liable on summary conviction to a fine of $100 000.

(6) A person who

(a) rescues any person apprehended for any offence punishable by a pecuniary penalty or imprisonment under any customs **enactment** or prevents the apprehension of such a person; or

(b) obstructs a customs officer from going, remaining or returning from on board a vessel or aircraft within Barbados, from searching the vessel or aircraft, detaining or seizing any goods liable to forfeiture or from otherwise acting in the execution of his duty;

is guilty of an offence and is liable on summary conviction to a fine of $100 000.

Bribery and collusion

235.(1) Where a Comptroller, and customs officer or any other person authorised by the Comptroller to discharge any duty relating to an assigned matter

(a) directly or indirectly asks for or takes in connection with any of his duties any

(i) payment or other reward; or

(ii) promise or security for any payment or reward, not being a payment or reward that he is lawfully entitled to claim or receive; or

(b) enters into or acquiesces in any agreement to perform or abstain from performing any act related to an assigned matter whereby the Government is or may be defrauded or that is otherwise unlawful,

that person is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 and to imprisonment for a term of 5 years.

(2) A person who

(a) directly or indirectly offers or gives to the Comptroller, customs officer or proper officer

(i) any payment or other reward whether pecuniary or otherwise; or

(ii) any promise or security for any payment or reward

to discharge any duty relating to an assigned matter; or

(b) proposes or enters into any agreement with the Comptroller, customs officer or proper officer in order to induce the Comptroller, customs officer or proper officer to perform or abstain from performing any act

(i) related to an assigned matter whereby the Government is or may be defrauded; or

(ii) that is otherwise unlawful, or otherwise in contravention of the Comptroller's, custom officer's or proper officer's duty

is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or to imprisonment for a term of 5 years.

Carrying away officers

236.(1) Where a vessel or aircraft departs from Barbados carrying on board a customs officer without his consent, the master of the vessel, commander of the

aircraft or agent of either of them is guilty of an offence and is liable on conviction on indictment to a fine of $200 000 or to imprisonment for a term of 7 years.

(2) In addition to any other liability imposed under subsection (1), the amount of any expense incurred by the Comptroller or the Government caused by the carrying away of the customs officer may be recovered from the agent or owner of the vessel or aircraft.

Interfering with customs vessels, aircraft

237. A person who unless for just and sufficient cause interferes in any way with any vessel, aircraft, vehicle, buoy, anchor, chain, rope or mark that is being used by a proper officer in the performance of his duty is guilty of an offence and is liable on conviction on indictment to a fine of $50 000 or to imprisonment for a term of 2 years.

Signalling to smugglers

238.(1) In this section "prohibited signal" or "prohibited message" means a signal or message connected with the smuggling or intended smuggling of goods into or out of Barbados.

(2) A person who by any means sends a prohibited signal or transmits a prohibited message from any place in Barbados or from any vesselor aircraft to a person in another vesselor aircraft is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or to imprisonment for a term of **2** years and any equipment or apparatus used for the sending of the signal or message is liable to forfeiture.

(3) Subsection (2) applies whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at the time in smuggling.

(4) For the purposes of this section, where a vesselor aircraft to which a signal described in subsection (1) is sent

(a) changes its course;

(b) if at anchor, weighs anchor; or

(c) sends a signal in apparent response,

that vesselor aircraft, for the purposes of this section shall be deemed to be a smuggling vesselor aircraft, unless the contrary is proved.

(5) Where a customs officer or police officer has reasonable grounds to believe that a prohibited signal or prohibited message is being or is about to be transmitted from any vesselor aircraft, building or other place in Barbados, he may board or enter the vesselor aircraft, building or place and take such steps as are reasonably necessary to prevent the sending of that signal or message.

Adapting vessel or aircraft for smuggling

239. Where a vessel or aircraft arrives in Barbados or is in Barbados and has

(a) any part adapted for the purpose of concealing goods or persons; or

(b) any hole, pipe or device adapted for the purpose of concealing goods or persons

the master, owner or person in charge of the vessel or the owner or commander of the aircraft are each guilty of an offence and are each liable on conviction on indictment to a fine of $100 000 and the vessel is liable to forfeiture in accordance with section **250**.

Communicating with arriving vessels and aircraft

240. A person who in any way other than in an official capacity communicates with a vessel or aircraft that is arriving in Barbados before that vessel has been cleared by a proper officer is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or to imprisonment for a term of one year.

Offering smuggled goods for sale

241. Where a person offers goods for sale that have

(a) been imported without payment of duty; or

(b) been otherwise unlawfully imported

those goods, whether or not they were chargeable to duty or were unlawfully imported, are liable to forfeiture and the person offering them for sale is guilty of an offence and is liable on conviction on indictment to a fine of $2 500 or 3 times the value of the goods, whichever is greater.

Special penalty where offender is armed or disguised

242. Where a person concerned in the movement or carriage of goods

(a) performs any act contrary to the lawful importation, exportation or carriage coastwise of goods; and

(b) is armed with any offensive weapon or is disguised in any way; or

(c) is armed with any offensive weapon or is disguised and is found in Barbados in possession of any goods that are liable to forfeiture under any customs enactment,

that person is guilty of an offence and is liable on conviction on indictment to a fine of [$50 000] or to 3 times the value of the goods, whichever is greater or to imprisonment for a term of 5 years, and the goods are liable to forfeiture.

False declarations

243.(1) A person who, in relation to goods,

(a) makes, signs or submits to the Comptroller or proper officer any declaration, notice, certificate or other document; or

(b) makes any statement in answer to any question put to him by a proper officer that he is required under any written law to answer

that is false in a material particular, is guilty of an offence and is liable to pay to the Comptroller a penalty of $10 000 or 5 times the value of the goods, whichever is greater and the goods are liable to forfeiture.

(2) A person who

(a) makes or signs or causes to be made or signed or submits or causes to be submitted to the Comptroller or proper officer, any declaration, notice, certificate or other document; or

(b) makes any statement in answer to any question put to him by a proper officer that he is required under any written law to answer,

that is inaccurate, is liable to pay to the Comptroller a penalty of $10 000.

(3) Where a false declaration is determined by the Comptroller to be a clerical error or mistake of fact, the person may submit a corrected entry pursuant to section **69** or section **86** and no penalty will be imposed.

(4) Where by reason of an act described in subsection (1), the full amount of duty payable is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of duty unpaid or of the overpayment shall be payable immediately to the Comptroller and may be recovered accordingly.

Counterfeiting documents, seals, stamps etc.

244. A person who

(a) with respect to a document that is required under any customs enactment or that is used in the transaction of any business relating to an assigned matter

(i) counterfeits or falsifies that document;

(ii) knowingly accepts, receives or uses any documents so counterfeited or falsified;

(iii) alters any documents after it has been officially issued; or

(b) counterfeits any seal, stamp, signature, initials or other mark of, or used by a customs officer for the verification of a document or for the security of goods or for any other purpose relating to an assigned matter whether with or without the consent of a person

is guilty of an offence and is liable on conviction on indictment to a fine of $50 000 or 5 times the value of the goods, whichever is greater or to imprisonment for a term of 5 years and the goods are liable to forfeiture.

False scales

245.(1) A person who, where required by any customs enactment to provide scales, provides scales that do not give a true reading, is liable to pay to the Comptroller a penalty of $10 000.

(2) In connection with the weighing, counting, gauging or measuring of an article for the purpose of taking account of the goods or conducting an examination by a proper officer where

(a) any person referred to in subsection (1); or

(b) any person by whom or on whose behalf the article is or is to be weighed, counted, gauged or measured,

performs any act that may prevent or hinder the officer from taking a true account or making a proper examination that person is liable to pay to the Comptroller a penalty of $10 000.

(3) In this section "scales" include weights, measures and weighing or measuring machines or instruments.

Fraudulent evasion

246.(1) Where a person

(a) knowingly acquires possession of

(i) goods that have been unlawfully removed from a warehouse or a customs warehouse;

(ii) goods that are chargeable with any duty that has not been paid;

(iii) goods with respect to the importation, exportation or carriage coastwise of which any prohibition or restriction is in force under any law; or

(b) is in any way concerned with smuggling, unloading, landing, carrying, removing, depositing, harbouring, keeping or concealing of goods,

that person is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or 5 times the value of the goods whichever is greater and to imprisonment for a term of 5 years, and the goods are liable to forfeiture.

(2) Where a person evades

(a) the payment of any duty chargeable on imported goods; or

(b) the prohibition or restriction in force in respect of goods under any law

that person is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or 3 times the value of the goods, whichever is greater and to imprisonment for a term of 5 years and the goods are liable to forfeiture.

Vessels and vehicles

247. Every person who

(a) without lawful authority, acquires possession or control of an uncustomed vehicle or vessel;

(b) forges, alters or tampers with

(i) a vehicle's registration number, licence plate or other identification mark; or

(ii) a hull mark or other mark of a vessel with intent to conceal its true identity; or

(c) knowingly acquires possession of a vehicle or vessel referred to in paragraph *(a)* or *(b)*

is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or to 3 times the value of the goods, whichever is greater, and to imprisonment for a term of 5 years and the vehicle or vessel is liable to forfeiture.

Removing locks, seals or marks

248.(1) Where, in pursuance of a power conferred by a customs enactment, a lock, seal or mark is used to secure or identify any goods, place or container in which goods are kept then where

(a) the lock, seal or mark is removed or tampered with by a person without the authority of a proper officer;

(b) at any time before the lock, seal or mark is lawfully removed any goods are removed or added by a person, without the authority of a proper officer,

the person who contravenes paragraph *(a)* or *(b)* and who is in charge of the goods is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or to 3 times the value of the goods, whichever is greater and to imprisonment for a term of 5 years, and the goods are liable to forfeiture.

(2) For the purposes of subsection (1), goods in a vessel or aircraft are deemed to be in the charge of the master of the vessel or the commander of the aircraft.

Intermeddling with goods found floating in the sea

249. A person who is not a customs officer or a proper officer and

(a) who interferes with or picks up goods, including spirits, that are prohibited or restricted from being imported or exported that are found floating or sunk in the sea; and

(b) who fails to report the goods to a proper officer

is guilty of an offence and is liable on summary conviction to a fine of $100 000 and the goods are liable to forfeiture.

Penalty in cases of forfeiture

250. Where a vessel, aircraft or goods become liable to forfeiture under a customs enactment, the person who was concerned in the act or omission that causes the vessel, aircraft or goods to become liable to forfeiture is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or 5 times the value of the item seized, whichever is greater.

Offences in relation to warehouses

251.(1) Where a person who does not have the authority of a proper officer and who without first cause

(a) opens a door or lock of a customs warehouse; or

(b) creates or obtains access to any customs warehouse or to goods in a customs warehouse

that person is guilty of an offence and is liable on conviction on indictment to a fine of [$100 000] or 3 times the value of the goods, whichever is greater.

(2) Where goods have been

(a) entered for warehousing and are taken into a warehouse without the authority or direction of a proper officer;

(b) entered for warehousing and are removed without being warehoused;

(c) deposited in a customs warehouse and are unlawfully removed or are unlawfully loaded onto a vessel or aircraft for removal or for exportation or for use as stores;

(d) entered for warehousing and are concealed either before or after they have been warehoused; or

(e) lawfully permitted to be removed from a customs warehouse without payment of duty for any purpose and are not delivered to the destination to which they should have been taken in accordance with that permission,

those goods are liable to forfeiture.

(3) A person who is in anyway concerned with the actions described in subsection (2) is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or 3 times the value of the goods, whichever is greater.

(4) A person who is guilty of an offence under subsection (3) and who

(a) defrauds the Government of Barbados of any duty chargeable on those goods; or

(b) evades any prohibition or restriction in force with respect to any goods under this Act

is guilty of an offence and is liable on conviction on indictment to a fine of $100 000 or 3 times the value of the goods, whichever is greater or to imprisonment for a term of 5 years.

General provisions as to offences

252.(1) Where an offence under any enactment relating to an assigned matter which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or be attributable to any neglect on the part of any

(a) director;

(b) manager;

(c) secretary;

(d) other similar officer of the body corporate; or

(e) person purporting to act in the capacity of a functionary mentioned in paragraphs *(a)* to *(d)*,

that person as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

(2) Where in any proceeding for an offence under the customs enactment any question arises as to the duty or the rate chargeable on any goods and it is not

possible to ascertain the relevant time the duty or rate shall be determined as if the goods had been imported or exported without entry at the time when the proceeding was commenced.

General penalty

253. Unless otherwise provided, a person who is guilty of an offence for which no specific penalty is provided is liable on conviction on indictment to a fine of $100 000.

PART XVII

FORFEITURE AND SALE OF GOODS

Detention, seizure of goods

254.(1) Any goods that are liable to forfeiture under a customs law may be seized or detained by a proper officer or police officer.

(2) Any goods that are liable to forfeiture under a customs law

(a) may be seized or detained in any place; and

(b) where seized or detained, shall be delivered to the Comptroller immediately unless the goods are or may be required for use in connection with proceedings to be brought under a law other than a customs law.

(3) Where

(a) the person seizing or detaining any goods that are liable to forfeiture under a customs law is a police officer; and

(b) the goods are required for use in connection with proceedings that may be brought under a law other than a customs law,

the goods may be retained in the custody of the police officer until either those proceedings are completed or it is decided that no such proceedings will be brought.

(4) Where goods seized or detained may be required in connection with proceedings that may be brought under a law other than a customs enactment, notice in writing of the seizure or detention, with full particulars of the goods seized or detained, shall be given to the Comptroller immediately.

(5) Where goods are retained in the custody of the police officer under subsection (3) a customs officer is authorised to examine it and take account of it while it remains in the custody of the police officer.

Forfeiture of vessels, and aircraft used in connection with goods liable to forfeiture

255.(1) Where goods become liable to forfeiture under any customs **enactment**

(a) any vessel, aircraft, animal, container including any passenger's baggage or any other goods that have been used for the carriage, handling, deposit or concealment of the goods are liable to forfeiture

(i) either at the time when the goods were in the commission of the offence for which they later became liable to forfeiture; or

(ii) after they become liable to forfeiture; and

(b) any other goods mixed, packaged or found with the goods referred to in paragraph *(a)* are also liable to forfeiture.

(2) Where a vessel is or has been within the territorial waters of Barbados while being constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that vessel is liable to forfeiture.

(3) Where at any time while a vessel is within the territorial waters of Barbados any part of its cargo or any **goods** carried on board is thrown overboard or is staved or destroyed to prevent seizure, that vessel is liable to forfeiture.

(4) Where a vessel**or aircraft** has imported cargo into Barbados and a part of that cargo is found to be missing, and the master of the vessel, his agent **or the Comptroller of an aircraft** is unable to account for the missing cargo to the satisfaction of the Comptroller, that vessel**or aircraft** is liable to forfeiture.

(5) Where any vessel**or aircraft** has become liable to forfeiture, all tackle, apparel or furniture belonging to the vessel**or aircraft** are also liable to forfeiture.

Special provisions as to forfeiture of large vessels

256.(1) Notwithstanding any other customs law a vessel of 250 or more tonnes burden shall not be liable to forfeiture unless the offence in respect of or in connection with which the forfeiture is sought

(a) was the primary purpose of the voyage during which the offence was committed; or

(b) was committed while the vessel was under chase after refusing to stop when required to do so.

(2) Where

(a) any vessel of 250 tonnes or more burden would, but for subsection (1), be liable to forfeiture for or in connection with an offence under **this Act** and

(b) in the opinion of the Comptroller, a responsible officer including the master, mate or engineer of the vessel carrying a passenger certificate, the purser or chief steward, is implicated by his own act or by neglect in that offence

the Comptroller may impose a penalty on that vessel in a sum of [$15 000] and until that penalty is paid, the Comptroller may withhold clearance of the vessel.

(3) No claim shall be brought against the Comptroller for damages in respect of the payment of any deposit or the detention of any vessel under this section.

(4) The exemption from forfeiture of any vessel under this section shall not affect the liability to forfeiture of any goods carried on board.

Disposal of forfeited goods

257.(1) The Crown has the property right to forfeited goods or to the proceeds of sale of goods under section **260**.

(2) Condemned goods may be

(a) sold by public auction; or

(b) used, destroyed or otherwise disposed of after their condemnation, as the Comptroller may direct.

Sale of certain seized goods

258.(1) Where

(a) a living creature;

(b) goods that are of a perishable nature;

(c) goods that, in the opinion of the Comptroller,

(i) are likely to deteriorate or diminish in value during storage;

(ii) it is desirable to sell immediately; or

(iii) are likely to create a health or safety risk if stored in the premises by Customs,

has or have been seized and are liable to forfeiture, the Comptroller may sell or destroy the article or goods seized before its condemnation.

(2) The net proceeds of a sale referred to in subsection (1) are deemed to be substituted for the article or goods sold and all of the provisions of this Part, so far as they are applicable extend and apply to those proceeds.

Sale of goods condemned as forfeited

259.(1) Any goods condemned as forfeited by virtue of the ***Eleventh Schedule*** or deemed to have been condemned as forfeited by that *Schedule*, shall, unless it is a prohibited or restricted good, be sold by public auction.

(2) Any auction held under this section shall be advertised in the *Official Gazette* and in a daily newspaper printed and circulated in Barbados or in any other manner as the Comptroller thinks fit not less than 7 days before the auction is due to take place.

(3) The Comptroller shall, under this section, authorise a person to act as auctioneer at an auction.

(4) None of the following persons shall be permitted to bid for anything at an auction under this section

(a) a customs officer; or

(b) a person who has or had an interest in the goods being auctioned,

and a person who makes a bid in contravention of this subsection is guilty of an offence and is liable on summary conviction to a fine of $5 000.

(5) Any money arising from the sale of any goods pursuant to an auction under this section shall be used to pay

(a) fees for the auctioneer;

(b) any duty payable on those goods;

(c) all the charges that are incidental to the sale, warehousing and carriage of those goods; and

(d) all of the charges that are incidental to the seizure of those goods, or to any condemnation proceedings for the goods respectively,

and any excess shall be paid by the Comptroller into the Consolidated Fund.

(6) The value of duty of anything sold at an auction under this section is the price realised less the included duty.

(7) Any goods not sold at an auction under this section, and any prohibited or restricted goods condemned or deemed to be condemned as forfeited, may be destroyed or otherwise disposed of as the Comptroller may direct.

(8) Nothing in this section prevents the Comptroller from authorising the withholding from sale of anything condemned or deemed to be condemned as forfeited, and its use by the Department.

Sale of goods not condemned

260.(1) Where any goods that are not condemned are deemed to be condemned as forfeited are by virtue of any customs law sold, they shall unless they are of a perishable nature, be sold at a public auction.

(2) An auction held under this section shall be advertised in the *Official Gazette* and in a daily newspaper printed and circulated in Barbados, not less than 7 days before it is due to take place.

(3) The Comptroller shall appoint a person who may be a customs officer, to act as auctioneer at any auction under this section.

(4) Any money arising from the sale of any goods at an auction under this section shall be used to pay

(a) fees for the auctioneer;

(b) any duty payable on the goods;

(c) **any freight charges payable in respect of the goods; and**

(d) all of the charges that are incidental to the sale, warehousing and carriage of the goods,

respectively and any excess shall, where an application is made by the owner within 6 months of the sale, be paid over to any person who satisfies the Comptroller that he is the owner of the goods at the time of the sale.

(5) The value of the duty of the goods sold under this section is the price realised, less the included duty payable.

(6) The Comptroller shall sell any goods that are of a perishable nature in the manner that appears to him most likely to realise the largest sum.

(7) Any goods that cannot be sold at an auction under this section or by the Comptroller under subsection (6) may be destroyed or otherwise disposed of as the Comptroller may direct.

Notice of seizure

261.(1) Where goods have been seized, the proper officer shall as soon as reasonably practicable

(a) give notice in writing of the seizure in the prescribed form; and

(b) give the reasons for the seizure

to any person known or believed to have an interest in the goods or where that person is overseas, to his agent in Barbados.

(2) Notwithstanding subsection (1), a seizure is not invalidated or rendered illegal by reason of any failure to give such notice if reasonable steps were taken to give the notice.

Delivery of goods seized on deposit of value

262.(1) Where goods have been seized and are liable to forfeiture, unless the goods are prohibited goods, the Comptroller may at any time before their condemnation deliver the goods to the owner or other person from whom they were seized where the owner or person deposits with the Comptroller

(a) a cash sum equal to the value of the goods; and

(b) any duty to which the goods may be liable as determined by the Comptroller.

(2) The money deposited pursuant to subsection (1) shall be substituted for the goods seized and the provisions of this Part so far as they are applicable, apply to the money accordingly.

Protection of officers seizing or detaining goods

263.(1) Where in any proceedings against the Comptroller, for the condemnation of any goods seized as liable to forfeiture under any customs enactment, judgment is given for the claimant, the Court may certify that there were reasonable grounds for the seizure.

(2) Where proceedings described in subsection (1) are brought and judgement is given for the claimant or the Crown then if either

(a) a certificate relating to the seizure has been granted under subsection (1); or

(b) the Court is satisfied that there were reasonable grounds for seizing or detaining the article,

the claimant or the Crown shall not be entitled to recover any damages or costs and the claimant shall not be liable to any penalty.

(3) Nothing in subsection (2) affects the right of any person to the return of the goods seized or detained or to compensation for any damage to the goods during the detention.

(4) A certificate under subsection (1) may be proved by the production of either the original certificate or a certified copy of the original purporting to be signed by an officer of the Court from which the certificate was granted.

Application for order disallowing seizure

264. A person claiming an interest in goods that have been seized and are liable to forfeiture may, within 20 working days after the date on which a notice is given to that person under section **261** or within such further time as the Court may allow, apply to the Court for an order that

(a) the seizure is to be disallowed on the grounds that there is no reasonable cause for the seizure or the continued detention **exists under this Act** and that the goods are to be returned to the applicant; and

(b) the Crown shall pay the applicant a sum as compensation for any depreciation in the value of the goods resulting from the seizure or detention and for any transportation and storage costs, as the court thinks fit.

Court may disallow seizure

265.(1) Where an application is made under section **264**, the court may either dismiss the application or issue an order that

(a) the seizure is to be disallowed in whole or in part and the goods are to be returned; and

(b) the Crown is to pay to the applicant a sum

(i) as compensation for any depreciation in the value of the goods resulting from the seizure or detention; and

(ii) for any transportation and storage costs

and the order may be issued upon and subject to such terms and conditions as the court may determine.

(2) Where the court issues an order dismissing the application under subsection (1), the order issued is for condemnation of the goods to the Crown.

(3) No order that the seizure of the goods is to be disallowed shall be issued where the court is of the opinion that the goods or any of them are required to be produced in evidence

(a) in any proceedings pending under this Act; or

(b) where there are proceedings pending that may result in condemnation of the goods.

(4) No order for the payment of compensation shall be made except

(a) in respect of goods that, in the opinion of the court, were seized or detained without reasonable cause; and

(b) to the extent that the court disallows the seizure.

(5) Where the court issues an order for the payment of any sum as compensation to any person under this section, the sum so awarded is recoverable by that person as a debt due from the Crown.

Application for order disallowing seizure where notice is not received

266.(1) Except where the goods have already been condemned to the Crown, any person claiming an interest in goods seized as being liable to forfeiture under this Act who did not receive notice under section **261**, may, within one month after the date on which the goods were seized, apply to the court for an order

(a) of a kind specified in section **264** where the goods seized have not been sold, destroyed or otherwise disposed of; or

(b) that compensation be paid by the Crown for the whole or part of any loss suffered by the applicant where the goods seized have been sold, destroyed or otherwise disposed of.

(2) The court may

(a) dismiss an application made under subsection (1); or

(b) issue an order

(i) of a kind specified in section **265** where the goods seized have not been sold, destroyed or otherwise disposed of; or

(ii) that compensation of such amount as the court determines be paid to the Crown for the whole or part of any loss suffered by the applicant where the goods seized have been sold, destroyed or otherwise disposed of.

(3) No order for the payment of compensation referred to in subsection (2) shall be issued except in respect of goods that, in the opinion of the court, were seized or detained without reasonable cause, and except to the extent that the court disallows the seizure.

(4) Where the court issues an order dismissing the application under subsection (1), that order is deemed to be an order for condemnation of the goods to the Crown unless the goods have already been condemned under section **267**.

(5) Without limiting subsection (2), the court may dismiss an application under subsection (1), that is not made as soon as reasonably practicable after the applicant became aware of the seizure of the goods.

Condemnation if no appeal against seizure

267. Where no application is made under section **264** within the time specified in that section, the goods shall be condemned to the Crown as if such an application had been made and dismissed.

Condemnation if application discontinued

268. Where an application under section **264** or **266** is not completed, the goods are condemned to the Crown as if that application had been dismissed.

Condemnation of seized goods on conviction

269.(1) Subject to subsection (2), where this Act provides that on the commission of any offence any goods are liable to forfeiture, the conviction of any person for that offence has effect as a condemnation, without suit or judgment, of any goods that have been seized in accordance with this Act and

(a) in respect of which the offence was committed; or

(b) that were otherwise liable to forfeiture under this Act.

(2) Where the court imposes a sentence on any person on the conviction of that person for an offence under subsection (1), the court may order the restoration of the goods forfeited to the person from whom the goods were seized and where such an order is issued the conviction does not have effect as a condemnation of those goods.

(3) Where the court issues an order pursuant to subsection (2), the court may impose such conditions as it thinks fit.

(4) Subsection (2) does not apply where the goods have, before the conviction been sold by public auction or restored to the person from whom they were seized or otherwise disposed of by the Comptroller under any other provision of this Act.

Disposal of forfeited goods

270.(1) The Crown has the right to forfeited goods or to the proceeds of sale under section **258**.

(2) Condemned goods may be sold by public auction, used, destroyed or otherwise disposed of after their condemnation as the Comptroller may direct.

Application of forfeiture provisions

271. The provisions of this Act with respect to the forfeiture of goods extend and apply to any vessel or other article forfeited under this Act, except where this Act expressly provides otherwise.

PART XVIII

ADMINISTRATIVE PROCEEDINGS

Application for reconsideration

272.(1) Subject to subsection (2), where a person to whom this subsection applies is not satisfied with a decision of the Comptroller, that person may within 14 days of that decision, apply to the Comptroller in the form set out in the ***Twelfth Schedule*** for a **reconsideration** of the decision through administrative proceedings.

(2) Subsection (1) applies to

(a) the importer or exporter of goods;

(b) a person expressly permitted under this Act to apply to the Comptroller for a reconsideration;

(c) a person who has made an application for permission or licence in respect of any benefit or matter under this Act;

(d) a person who is aggrieved by the manner in which any right or interest in any manner has been dealt with by any person under this Act

(e) the agent or a person referred to in paragraph *(a)* or *(c)*; and

(f) a person in relation to an administrative penalty notice issued in accordance with section **219**.

(3) An application for reconsideration under subsection (1) shall be in such form as may be prescribed and shall

(a) state the grounds on which the application is based; and

(b) submit for consideration any documentation or other information relied upon in support of the request for reconsideration.

Powers of the Comptroller in administrative proceedings

273. Where a matter is dealt with administratively by the Comptroller, the Comptroller may

(a) stay the proceedings for condemnation of anything forfeited under this Act;

(b) restore anything seized under this Act, subject to conditions, if any;

(c) impose, reinstate or revoke penalties or fines, as the case may be, in respect of non-prosecutable breaches or offences dealt with administratively under this Act;

(d) seize goods;

(e) mitigate or remit any fine or penalty imposed or restore anything seized under this Act; or

(f) in relation to any duty, assessment or claim, confirm the original assessment or decision or substitute a new assessment or decision for

the original assessment or decision, resulting in an increase, a decrease or a confirmation of the amount of duty determined to be due.

Consideration of application by the Comptroller

274.(1) The Comptroller shall consider an application made under section **272** as soon after its receipt as may be practicable and, after taking into account any further submissions of the person making the application endeavour to make a decision as soon as may be practicable but not later than under 45 days of the filing of the application for reconsideration.

(2) The Comptroller shall keep a minute book in which shall be recorded the proceedings of an administrative matter considered under this section.

(3) This section shall not affect any right conferred by any other law to claim goods in case of a service or to commence legal proceedings at any time prior to the payment of a fine or penalty.

Nature of appeal

275. Where a person appeals a decision of the Comptroller made pursuant to section 272. Sections 24, 25 and 26 of the *Barbados Revenue Authority Act*, 2014 (Act 2014-1) shall apply *mutatis mutandis*.

Tribunal may extend time for appeal

276. Where under this Act a person may appeal to the Tribunal within a specified time, the Tribunal may, on application made within the specified time, extend the time within which the appeal may be brought.

Hearing

277.(1) Subject to section **278**, as soon as the Tribunal considers that an appeal is ready to be heard, the Tribunal shall fix a date, time and place for hearing the appeal and shall notify the appellant and the Comptroller of the date, time and place of the appeal.

(2) A notice to the appellant under subsection (1) shall

(a) in addition to the matters referred to in subsection (1), inform the appellant of the provisions of subsections (5) and (6); and

(b) be served on the appellant by personal service or by post in accordance with this Act.

(3) At the hearing of an appeal before the Tribunal the appellant and the Comptroller may provide evidence and shall be given an opportunity to be heard either in person or by a person authorised by the appellant or the Comptroller to appear on his behalf, without regard to whether that person is an attorney-at-law.

(4) Where the appellant or the Comptroller or both, fail to appear before the Tribunal at the time and place appointed, the Tribunal may upon proof of service of the notice of the hearing, proceed to determine the appeal.

(5) Subject to subsection (6), the hearing of an appeal before the Tribunal shall be in public.

(6) The Tribunal may hold a hearing or any part of a hearing in private where the Tribunal is of the opinion that it is proper to do so, having regard to the interests of any party and to the public interest.

(7) The Tribunal may order that any part of any evidence given or the name of any witness not be published and the order may be subject to such conditions as the Tribunal thinks fit.

Tribunal may decide appeal without oral hearing if both parties consent

278.(1) Notwithstanding section **277**, the Tribunal may where both parties consent decide an appeal without holding a hearing.

(2) Where the Tribunal, at any time during its consideration of an appeal in accordance with subsection (1), decides that an oral hearing should be held, the Tribunal shall fix a date, time and place for the hearing of the appeal in accordance with section **277**.

Tribunal's powers and immunity

279. For the purpose of a hearing and deciding any appeal before it, the Tribunal shall have

(a) all the powers, duties, functions and discretions of the Comptroller in making its decision; and

(b) all the powers of the High Court in the exercise of its civil jurisdiction, in respect of citing parties and conducting and maintaining order or at the hearing of the Tribunal.

Evidence

280.(1) The Tribunal may receive as evidence any statement, document, information or matter that, in the opinion of the Tribunal, may assist the Tribunal to deal effectually with the proceedings.

(2) The Tribunal may take evidence on oath.

(3) The Tribunal may permit a person appearing as a witness before it to give evidence by tendering a written statement and verifying it by oath.

Powers of investigation

281.(1) For the purpose of hearing and deciding a matter on appeal the Tribunal or any person authorised by the Tribunal in writing to do so may

(a) inspect and examine any papers, documents, records or articles;

(b) require any person to produce for examination any papers, documents, records or articles in that person's possession or under that person's control and to allow copies of or extracts from any such papers, documents or records to be made; and

(c) require any person to furnish, in a form approved by or acceptable to the Tribunal, any information or particulars that may be required by it.

(2) The Tribunal may require that any written information or particulars or any copies or extracts furnished under this section be verified by statutory declaration or otherwise.

(3) For the purpose of dealing with the matters before it the Tribunal may of its own motion or on application make an order that

(a) any information or particulars produced to it; or

(b) a copy of the whole or any part of any paper, document or record, furnished or produced to it

be supplied to any person appearing before the Tribunal, and in the order impose such terms and conditions as it thinks fit in respect of the production of and use that is to be made of the information.

(4) Every person shall have the same privileges in relation to the

(a) giving of information to the Tribunal;

(b) answering of questions put by the Tribunal; and

(c) production of papers, documents, records and articles

to the Tribunal as witnesses have in courts of law.

Power to summons witnesses

282. The Tribunal may of its own motion or on an application, issue in writing a summons requiring any person

(a) to attend at the time and place specified in the summons; and

(b) to give evidence and to produce any papers, documents, records or articles in that person's possession or under that person's control that are relevant to the matters before the Tribunal.

Form of summons

283. A summons to be issued by the Tribunal pursuant to its function shall be

(a) in the form prescribed in the ***Thirteenth*** *Schedule*; and

(b) signed by the Chairman of the Tribunal.

Service of summons by the Tribunal

284.(1) A summons by the Tribunal to a witness shall be served by

(a) delivering it to the person summoned at least 24 hours before the attendance of the witness is required; or

(b) sending it by registered post addressed to the person summoned at that person's usual place of residence or business at least 10 days before the date on which the attendance of the witness is required.

(2) Where the summons is delivered by registered post it shall be deemed for the purposes of subsection (1)*(b)* to have been served at the time when the letter would be delivered in the ordinary course of the post.

Protection of persons appearing before the Tribunal

285. Every witness giving evidence and every counsel, agent or other person appearing before the Tribunal shall have the same privileges and immunities as witnesses and counsel in a court of law.

Grounds of appeal and burden of proof

286.(1) Subject to subsection (2), the appellant is limited to the grounds stated in the appellant's notice of appeal and the burden of proof is on the appellant.

(2) The Tribunal may, either on the application of the appellant or of its own motion, amend the grounds stated in the notice of appeal.

PART XIX

COURT PROCEEDINGS

Prosecution for customs offences

287.(1) Where all other appeal proceedings before the Comptroller and the Tribunal have been exhausted and subject to any express provisions to the contrary in any customs enactment, a disputed matter involving a customs law may be appealed to the High Court.

(2) Subject to the powers of the Director of Public Prosecutions and to subsection (4), proceedings for an offence

(a) under this Act or any other customs law; or

(b) for condemnation

shall not be commenced except by Order of the Comptroller in writing and in the name of the proper officer.

(3) In the case of death, removal, discharge or absence of the proper officer in whose name any proceedings were commenced under subsection (2) those proceedings may be continued by an officer authorised to act on his behalf by the Comptroller.

(4) Notwithstanding subsection (2), where a person has been arrested for an offence under this Act or any other customs law, any court before which he is brought may deal preliminary with the case against him.

Appeal to Court of Appeal

288. A party who is dissatisfied with a decision of the High Court as being erroneous in point of law may appeal to the Court of Appeal.

Place where cause of action deemed to arise

289. Every cause of action under **this Act** shall be deemed to have arisen either in the place in which it actually arose or in any place on land where the person prosecuted may be or may be brought.

Place of trial

290. Proceedings in respect of an offence committed under this Act or any other customs law may be commenced

(a) in any court having jurisdiction in the place

(i) where the offence was committed;

(ii) where the person charged with the offence resides or is found; or

(iii) in the case of a body corporate charged with the offence, where that body corporate has its registered or principal office; or

(b) where anything was detained, seized or found in connection with the offence, in any court having jurisdiction in the place where the thing was detained, seized, found or condemned as forfeited.

Time limit on proceedings

291. Unless otherwise provided in this Act and notwithstanding any other written law, proceedings for an offence may be commenced at any time within 7 years after the date of the commission of the offence.

Limitation as to pleading

292. The fact that any customs duties have been secured by bond or otherwise shall not be pleaded or made use of in answer to or in stay of any civil proceedings under **any** customs enactment.

Officer may prosecute

293.(1) Any customs officer or other person authorised by the Comptroller although not an attorney-at-law, may prosecute and conduct any information or other proceedings under **this Act** in respect of any offence or penalty.

(2) Where any proceedings under **this Act** are brought in the name of the Comptroller, an officer or the Commissioner of Police, no such proceedings shall be dismissed by reason only of the failure of the Comptroller or officer or Commissioner of Police to appear in person or by counsel, provided that the proceedings, where brought in the name of the Comptroller or an officer, are conducted by an officer authorised in that behalf by the Comptroller and, where brought in the name of the Commissioner of Police, are conducted by a constable for the time being present in court.

Alternative prison sentence

294. Where

(a) a court has imposed a fine for an offence under a customs law; and

(b) the fine is not paid within the time specified by the court,

the court may, notwithstanding anything contained in any other law, order the defendant who was convicted of the offence to be imprisoned for a term of 3 years.

Imprisonment for second offence

295. Where a fine of $10 000 or more has been incurred under any customs enactment and the defendant has previously been convicted of an offence against the customs enactment or has previously incurred a pecuniary penalty or forfeiture under any customs enactment which has been enforced in any court, the court may in lieu of ordering payment of a pecuniary penalty, order the defendant to be imprisoned for any period not exceeding 5 years.

Incidental provisions as to legal proceedings for offences

296.(1) In proceedings for an offence under this Act, a court in which the matter is considered may mitigate any pecuniary penalty as it sees fit.

(2) It is not a defence in any proceeding for an offence or for the condemnation of an article as being forfeited under this Act, that security has been given by bond or otherwise for the payment of any duty or compliance with any condition.

Institution of civil proceedings

297.(1) Notwithstanding anything to the contrary in the *Crown Proceedings Act*, Cap. 197, any proceedings for the recovery of rents, charges, expenses, duties, penalties and all other sums of money payable under a customs law may be sued for, determined, enforced and recovered by suit or other appropriate civil proceedings in a magistrate's court, in the name of the Comptroller.

(2) The Magistrate's Court is hereby vested with the necessary jurisdiction for the purpose of subsection (1).

(3) Civil proceedings brought in the name of the Comptroller shall not be invalidated or lapse by reason of any change in person holding the office of Comptroller, and where such change occurs, those proceedings may be continued in the name of the person for the time being the holder of or acting in the office of Comptroller.

(4) Nothing in this section shall be construed so as to prejudice or affect the right of the Attorney-General to institute civil proceedings on behalf of the State.

Service of process

298.(1) Any summons or other process issued for the purpose of any proceedings under this Act shall be deemed to have been duly served where

(a) served personally to the person to whom it is addressed;

(b) left at his last known place of abode or business or in the case of a body corporate, at its registered or principal office; or

(c) left on board any vessel or aircraft to which he may belong or have lately belonged.

(2) Any summons, notice, order or other document issued for the purposes of any proceedings under this Act or of an appeal from the decision of the court in any such proceedings may be served by an officer.

(3) For the purposes of this section "appeal" includes an appeal by way of case stated.

Costs

299. In proceedings under a customs law the same rules as to costs shall be observed as in proceedings between private persons.

Payment of duty after appeal

300.(1) Where a decision of the Comptroller, Tribunal or of the High Court is made that the duty should

(a) be increased, the appellant shall pay the amount of the increase to the Comptroller; or

(b) be decreased, the Comptroller shall pay the amount of the decrease to the appellant,

within 30 days of the decision unless the decision has been further appealed.

(2) Where the amount due under subsection (1) is not paid within 30 days of the decision, interest shall apply at the rate prescribed by regulations.

Burden of proof

301.(1) In any proceedings under this Act instituted by or on behalf of or against the Crown, other than a prosecution of an individual for an indictable

offence, every allegation made on behalf of the Crown in any statement of claim, statement of defence, plea or information that relates to

(a) the identity or nature of any goods;

(b) the value of any goods for duty;

(c) the country or time of exportation of any goods;

(d) the fact or time of the importation of any goods;

(e) the place of manufacture, production or origin of any goods; or

(f) the payment of any duty on goods

shall be presumed to be true unless the contrary is proved.

(2) The presumption in subsection (1) shall not be countered by the fact that evidence is produced on behalf of the Crown in support of any such allegations.

(3) This section shall apply to proceedings in which the existence of intent to defraud the revenue of the customs is in issue.

(4) In any proceedings for an offence against this Act where it is alleged that the defendant intended to commit the offence, the prosecution has the burden of proving that intent beyond a reasonable doubt.

Onus of proof on defendant in certain cases

302. In any prosecution under this Act the onus is on the defendant to prove that

(a) the duties assessed have been paid; and

(b) the goods were lawfully

(i) loaded into or unloaded from any vessel or aircraft;

(ii) transferred from a vessel or aircraft to another vessel or aircraft; and

(iii) imported or exported.

Averment in proceedings

303.(1) The averment that

(a) the Comptroller has elected that a particular penalty should be sued for or recovered;

(b) goods thrown overboard, staved or destroyed were so dealt with to prevent or avoid their seizure;

(c) a person is or was appointed or authorised by the Comptroller to discharge or was engaged by the order or with the concurrence of the Comptroller in the discharge of any duty;

(d) a person is or was the Minister, the Comptroller, or a proper officer;

(e) an offence was committed or an act was performed within the limits of a customs port, approved wharf, customs airport or other customs controlled area or within the territorial waters of Barbados;

(f) the Comptroller is or is not satisfied as to the matter as to which he is required by a customs law to be satisfied; or

(g) that the proceedings were instituted by an order of the Comptroller

is sufficient evidence of the matter in question, until the contrary is proved.

(2) Where in proceedings brought by or against the Comptroller, the Attorney-General, a proper officer or against any other person in respect of anything purporting to have been done in pursuance of a power or duty conferred or imposed on him under a customs law, a question arises as to the place from which goods have been brought or as to whether or not

(a) duty has been paid or secured in respect of the goods;

(b) goods are of the description or nature alleged in the information, writ or other process;

(c) goods were lawfully brought to any place for the purpose of being loaded into a vessel or aircraft or were exported; or

(d) goods are or were subject to any prohibition or restriction on their importation, exportation or carriage coastwise,

the burden of proof lies on the other party to the proceedings.

Evidence of officers

304. Where at any trial a question arises as to whether a person is a proper officer, his own evidence shall be deemed sufficient and any proper officer shall be deemed a competent witness at the trial of any suit or information regarding a seizure or penalty regardless of whether the officer may be entitled to a reward upon the conviction of the party charged in the suit.

Proof of certain documents

305.(1) A document purporting to be signed by the Minister, the Comptroller or by their order, or by a person with their authority, shall until the contrary is proved, be deemed to have been so signed, and the matters contained in that document may, in proceedings under any customs law, be proved by the production of that document or any document purporting to be a copy of that document.

(2) Where a book or other document is required to be kept by a customs law, the production of that book or other document or a copy of it certified as a true copy by a proper officer in proceedings under the customs law will be treated as *prima facie* evidence of the matters stated in it.

(3) In any proceedings under a customs law, the production of a certificate purporting to be signed by the competent authority shall be sufficient evidence of all matters stated in the certificate unless the contrary is proved.

Presumption of authenticity of documents

306. All documents purporting to be sealed with a seal of the Customs Department are, in all courts and in all proceedings under this Act, deemed to have been sealed with due authority, unless the contrary is proved.

Valuation of goods for penalty or fine

307.(1) In all cases where the penalty or fine for an offence under this Act is an amount that is to be determined by the value of goods such value shall be determined in accordance with the *Fifth Schedule*.

(2) A certificate signed by the proper officer attesting to the value of the goods shall be accepted by the Court as *prima facie* evidence of the value of the goods.

Certificate of condemnation

308. Condemnation of goods by a court under this Act may be proved in any court, or before **the** Tribunal, by the production of a certificate of condemnation purporting to be signed by the officer of the court.

PART XX

AGENTS

Authority to be produced

309.(1) Whenever a person makes an application to transact business on behalf of any other person, the proper officer may require the person so applying to produce an authority, whether in written or electronic format, from the person on whose behalf the application is made, and in default of the production of such authority, the proper officer may refuse to transact business on behalf of the other person with the purported agent.

(2) A document required by this Act to be signed by a particular person may, with the approval of the Comptroller, be signed by a person authorised by that person to sign on his behalf, and shall be deemed for all purposes to be signed by the person required to sign.

(3) The Comptroller may for cause, refuse to allow any application referred to in subsection (1), or revoke the acceptance of any application under subsection (1).

Entities other than individuals

310.(1) A document produced under this Act by an entity other than an individual shall be signed by an individual authorised to do so by the governing body of that entity.

(2) Where the entity in subsection (1) has elected or appointed officers, the president, vice president, secretary or treasurer shall be deemed to be so authorised unless there is evidence to the contrary.

Gazetting of names of customs brokers

311.(1) The Comptroller shall cause to be published annually in the *Official Gazette* an alphabetical list of persons who are licensed customs brokers.

(2) For the purpose of subsection (1), customs broker means a person who is licensed to transact business with the Customs Department, including the submission of entries on behalf of other persons.

Penalties

312. A person who

(a) transacts business

(i) as an agent without the authority of the principal; or

(ii) as a customs broker without holding a valid licence issued by the Comptroller; or

(b) assists another person as an agent pursuant to paragraph *(a)*(i) or as a customs broker pursuant to paragraph *(a)*(ii) in the transaction of business

is liable to pay to the Comptroller a penalty of $5 000 or 3 times the value of the goods, whichever is greater.

Vessels agents

313. Where

(a) under a customs law a special procedure is prescribed in regard to a vessel; and

(b) the owner of the vessel is not resident or represented in Barbados

the master of the vessel shall appoint an agent in Barbados to perform any act that shall be performed by the owner of the vessel, under this Act.

PART XXI

COMMUNITY ORIGIN GOODS

Definitions

314. For the purpose of this Part,

"community"means the Caribbean Community established by the Revised Treaty;

"community origin" has the meaning assigned to it in section **319**;

"export duties" means any duties or charges with equivalent effect imposed on or in connection with the export of goods;

"Less Developed Country" means the Member States regarded as such in accordance with Article 4 of the Revised Treaty;

"materials" includes raw materials, intermediate products, parts and components used in the process of production, repair, renovation or improvement of goods;

"Member State" has the meaning assigned to it in the Revised Treaty;

"More Developed Country" means a Member State regarded as such in accordance with Article 4 of the Revised Treaty;

"remission" includes exemption for materials brought into free ports and other places that have duty free customs privileges; and

"Revised Treaty" refers to the Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy signed at Nassau, The Bahamas on 5th July, 2001 as amended.

Import duty on goods of Community origin

315.(1) Subject to subsection (2), customs duty otherwise imposed on goods of any description shall not apply to goods produced in a Member State.

(2) Subsection (1) shall not

(a) prohibit the imposition of non-discriminatory internal charges of any type on any goods, including goods produced in a Member State; or

(b) apply to fees and similar charges commensurate with the cost of services rendered applied to any goods including goods produced in a Member State.

(3) Where the Minister is satisfied that, pursuant to the provisions of the Revised Treaty, a Member State has suspended the operation of the preferential treatment of Community origin goods in respect of any class of goods exported to that Member State from Barbados, the Minister may issue a notice in the *Official Gazette* to that effect and thereafter, notwithstanding subsection (1), any goods of that class exported from that Member State, if entered for use in Barbados during the continuance in force of the notice, shall be liable to import duty.

Export duty on goods of Community origin

316.(1) Export duties shall not apply to goods of Community origin traded within the Community.

(2) Export duties applicable to goods exported to non-Member States may be applied where goods are exported through a Member State, destined for export to a non-Member State.

(3) The Comptroller shall take any necessary action to prevent the evasion of the payment of export duties.

Drawback

317.(1) Notwithstanding section **315** Community origin goods that benefit from drawback when exported from another Member State may be treated upon importation into Barbados as if the goods are not of Community origin for the purpose of this Part.

(2) Where goods that on importation were treated as Community origin goods and after importation drawback is allowed, then notwithstanding section **316**, the full amount of duty that would have been chargeable if the goods had not been treated as Community origin goods becomes payable upon demand being made by the Comptroller.

(3) The duty that would have been chargeable on the goods shall, immediately on demand being made by the Comptroller constitute a debt due to the Crown.

(4) The debt referred to in subsection (3) is recoverable by action at the suit of the Comptroller on behalf of the Crown.

Quantitative restrictions

318.(1) Nothing in Part XIII authorises the application of any quantitative restriction on

(a) the importation of goods that are of Community origin; or

(b) exports to a Member State.

(2) Nothing in subsection (1) prohibits the taking of measures necessary to prevent evasion of any prohibition or restriction under Part XIII.

Determination of origin

319.(1) The origin of Community Origin Goods shall be where the goods

(a) were wholly produced within the Community; or

(b) were produced within the Community wholly or partly from materials imported from a non-Member State or from materials of undetermined origin by a process that results in a substantial transformation characterised

(i) by the goods being classified in a tariff heading different from that in which any of those materials are classified; or

(ii) in the case of the goods set out in the list in Schedule 1 of the CARICOM Revised Treaty of Chaguaramas, only by satisfying the conditions specified for those goods.

(2) Subject to subsection (3), Community origin goods exported from Barbados to another Member State for repair, renovation or improvement shall, on the return of the goods to Barbados, be treated as goods that are of Community origin.

(3) Subsection (2) shall apply only where the goods are returned directly to Barbados and the value of materials imported from a non-Member State or of undetermined origin used in the process of repair, renovation or improvement does not exceed

(a) in the case of goods undergoing the process of repair, renovation or improvement in a More Developed Country, 65 per cent of the cost of repair, renovation or improvement;

(b) in the case of the goods undergoing the process of repair, renovation or improvement in a Less Developed Country, 80 per cent of the cost of repair, renovation or improvement.

(4) Where the importer fails to furnish proof to the satisfaction of the Comptroller that goods are of Community origin, the determination of whether

the goods are of Community origin may be made by the Comptroller without regard to any proof statements made by the importer.

(5) After making the determination referred to in subsection (4) on a matter the Comptroller shall in writing immediately inform the local competent authority which shall promptly inform COTED of any trading arrangements concluded pursuant to paragraph (4) and COTED may recommend to the Member States concerned the adoption of alternative trading arrangements.

(6) A person who furnishes or causes to be furnished any document that is untrue in a material particular in support of a claim in Barbados that goods are of Community origin and therefore eligible for preferential treatment is liable to pay to the Comptroller a penalty of $10 000 or 3 times the value of the goods, whichever is greater, and the goods shall be liable to forfeiture.

Common External Tariff

320.(1) The Rules of Origin set out in the Common External Tariff shall apply to goods that do not qualify for Community origin treatment.

(2) The Minister may, in keeping with the relevant determinations of COTED, amend the Common External Tariff with respect to any item.

(3) The Comptroller shall be the competent authority for the administration of the Common External Tariff.

Co-operation in customs matters

321. The Comptroller shall provide to Member States, administrative assistance in customs matters with agreements between the parties.

PART XXII

MISCELLANEOUS

Unpaid tax certificate

322.(1) Where an amount payable or remittable under this Act by a person, has not been paid or remitted as required by this Act, the Comptroller may certify, in a certificate called an "unpaid tax certificate", that the amount is an amount payable by that person under this Act.

(2) An unpaid tax certificate may be filed by the Comptroller in the High Court or the Magistrate's Court for District "A" and shall be registered in the court in which it is filed and after the expiry of 7 days after it is filed and registered has the same force and effect as a judgment of the court in which it is registered in favour of the Crown against the person for the amount specified in the certificate, plus the reasonable costs and charges attendant upon the registration of the certificate; and all proceedings may be taken upon the certificate and it may be enforced as if it were a judgment of the court in which it is registered.

Garnishment

323.(1) Where the Comptroller knows or suspects that a person, in this section referred to as the "third party", is indebted to or is liable to make a payment to a person who is liable to pay or remit an amount under this Act, the Comptroller may, deliver to the third party a demand for payment stating the name of that person and the amount payable or remittable by that person, and requiring the third party to make the payment forthwith if the payment is then due and owing and, if the payment from the third party to that person is not then due and owing, as it becomes due and owing.

(2) Where the Comptroller delivers a demand to a third party under subsection (1), the third party shall pay to the Comptroller, on account of that person's liability under this Act, moneys otherwise payable by the third party to that person as interest, rent, dividends, annuity, salary, wages, or other payment

until that person's liability under this Act is satisfied or such amount as is due from the third party to the person whichever is sooner.

(3) Where the Comptroller delivers a demand to a third party under subsection (1), the third party shall pay to the Comptroller, on account of the liability under this Act of a person who is an officer or an employee of the third party, moneys otherwise payable by the third party to that person as salary, wages or other remuneration, and the third party shall continue to do so until the amount due to that person is satisfied or until the amount demanded by the Comptroller is satisfied, whichever is lesser.

(4) A receipt issued by the Comptroller for moneys paid as required under this section is a good and sufficient discharge of the third party's original liability to a person to the extent of the payment.

(5) A third party who fails to comply with a requirement under subsection (1), (2) or (3) is liable to pay to the comptroller an amount equal to the amount that the third party was required to pay to the Comptroller under subsection (1).

(6) Where an amount that would otherwise have been payable by a third party to a person is paid by the third party to the Comptroller pursuant to a letter served on the person under subsection (1) or pursuant to an assessment of an amount payable by the third party under subsection (5), the person shall be deemed for all purposes to have paid the amount to the Comptroller on behalf of that person.

(7) The application of this section is subject to the *Protection of Wages Act,* Cap. 351.

Notice for immediate payment

324.(1) Where the Comptroller suspects that a person is about to leave Barbados or in any other circumstances considers it appropriate for the protection of the revenue to do so, the Comptroller may, before the day otherwise fixed for payment, deliver to that person a notice for immediate payment stating the amount that the Comptroller believes that person is liable to pay as taxes or penalties under this Act or would be liable to pay if the time for payment had

arrived; and that person shall forthwith pay the amount specified in the notice for immediate payment.

(2) Where a person who has received a notice for immediate payment fails, within 24 hours after the notice was served on him under subsection (1), to pay forthwith the amount specified in the notice the Comptroller may certify the amount under section **322** in an unpaid tax certificate and require its registration in the High Court or the Magistrate's Court for District "A" under that section, and section **322**(2) thereupon applies with such modifications as the circumstances require.

Joint and several liability

325.(1) Where liability for any offence under this Act is incurred by 2 or more persons jointly, each person is liable for the full amount of any fine or penalty and may be proceeded against jointly or severally.

(2) In any proceeding for an offence under this Act, any court by whom the matter is considered may mitigate any fine or penalty as it sees fit.

(3) In any proceedings for an offence or for the condemnation of anything as being forfeited under this Act, the fact that security has been given by bond or otherwise for the payment of any duty or for compliance with any condition in respect of the non-payment of which or non-compliance with which the proceedings are instituted shall not be a defence.

Directors or managers of corporations

326.(1) Where a corporation fails to pay the duty required to be paid by this Act, the directors or manager of the corporation at the time the corporation was required to pay the duty are jointly and severally liable, together with the corporation, to pay the duty and any penalties relating thereto.

(2) A director or manager of a corporation is not liable under subsection (1) unless

(a) a certificate for the amount of the corporation's liability referred to in that subsection has been registered in the High Court under section 281 and execution for that amount has been returned unsatisfied in whole or in part;

(b) the corporation has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved; or

(c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act*, Cap. 303 and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved.

(3) A director or manager of a corporation is not liable for a failure to pay duty under subsection (1) where the director or manager exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

(4) A director or manager of a corporation shall not be assessed for an amount payable by him under this section more than 7 years after the duty becomes due and payable.

Officials of unincorporated bodies

327.(1) Where any liability or obligation is imposed by or under this Act or its regulations on an unincorporated body, the body and each of the persons who are officials of the body at the time the liability or obligation is imposed are jointly and severally liable and responsible to satisfy the liability or obligation.

(2) For the purpose of this section "official" of an unincorporated body means

(a) in the case of a partnership, a partner of the partnership other than a limited partner within the meaning of the *Limited Partnership Act*, Cap. 312;

(b) in the case of a joint venture, a participant in the joint venture, other than a participant who contributes to the capital of the joint venture but who is not otherwise concerned in the management and daily operations of the joint venture;

(c) in the case of a trust, a trustee of the trust;

(d) in the case of any unincorporated body other than a body referred to in paragraph *(a)*, *(b)* or *(c)*,

(i) a person who holds office as chairman, president, treasurer or secretary of the body or any similar office;

(ii) where there is no such official of the body referred to in sub-paragraph (i), a member of any committee that has management of the affairs of the body; or

(iii) where there is no such official referred to in sub-paragraph (i) or (ii) or committee referred to in sub-paragraph (ii), a member of the body.

Executors and administrators

328.(1) For the purpose of this Act, where an individual dies

(a) the individual's estate shall be deemed to be the same person as the individual and not to be a trust;

(b) where any liability or obligation is imposed by this Act on the individual or his estate, the executors or administrators are subject to this section, responsible to satisfy the obligation; and

(c) the estate and the executors or administrators are jointly and severally liable for the payment of all amounts that are payable by the estate under this Act, except that the executors or administrators are liable for the payment of amounts that became payable before the individual died only to the extent of the assets of the estate after satisfying the claims of creditors whose claims rank in priority to the claim of the Crown.

(2) When an individual dies the Comptroller may, where it is considered appropriate to do so, waive in writing the requirement that the individual's executor or administrator pays the duty owed.

Trustees in bankruptcy

329. For the purposes of this Act, where a person is adjudged a bankrupt,

(a) the person's estate shall be deemed not to be an estate or trust;

(b) the property held by the person immediately before he was adjudged a bankrupt shall be deemed not to pass to and be vested in the trustee in bankruptcy upon the receiving order being made or the assignment in bankruptcy being filed but to remain vested in the person;

(c) the property held by the trustee in bankruptcy for the person on the day the person is discharged from bankruptcy shall be deemed not to pass to the person on the order of discharge being granted but to have been held by and vested in the person continuously since the day it was acquired by the person or the trustee;

(d) where any liability or obligation is imposed by this Act on the person in relation to assets to which the bankruptcy relates, the trustee in bankruptcy is, subject to this section, responsible to satisfy the liability or obligations; and

(e) the trustee in bankruptcy, and not the person, is liable for the payment of all amounts that become payable by the person under this Act before the person is discharged from bankruptcy, except that

(i) the trustee is liable for the payment of amounts that became payable by the person before the person became a bankrupt only to the extent of the person's property in the possession of the trustee that is available to satisfy the liability; and

(ii) the trustee is not liable for the payment of any amount which a receiver, within the meaning of section **330** is liable to pay or any amount that relates to activities which the person engages in, on or after the day the person is adjudged a bankrupt and to which the bankruptcy does not relate.

Receivers

330.(1) In this section,

"asset" includes any property;

"receiver" includes

(a) a person who is appointed to manage or operate an asset of another person under the authority of a court order, an Act or a bond, debenture or other debt security;

(b) a liquidator appointed to liquidate the assets or wind up the affairs of a corporation;

(c) a committee, guardian or curator who has authority to manage and care for the affairs and other assets of an individual who is incapable of managing his own affairs and assets.

(2) For the purposes of this Act, where a receiver is vested with authority to manage, operate, liquidate, or wind up any assets of a person or to manage and care for the affairs and other assets of a person,

(a) the receiver shall be deemed to be an agent of the person in the course or furtherance of any of the person's activities over which the receiver has authority and any act performed by the receiver in relation to the person's assets over which the receiver has authority shall be deemed to have been performed by the receiver as agent on behalf of the person;

(b) the receiver shall be deemed not to be trustee of the estate of the person or any part thereof;

(c) where the assets of a person over which the receiver has authority are not all of the person's assets, throughout the period during which the receiver acts as receiver of the person, the assets over which the receiver has authority shall be deemed to be separate from the other assets of the person as if they were assets of a separate person;

(d) where any liability or obligation is imposed by this Act on the person in relation to assets over which the receiver has authority the receiver is subject to this section, responsible to satisfy the obligation;

(e) the person and the receiver are jointly and severally liable for the payment of all amounts that become payable by the person under this Act before the receiver was appointed, except that the receiver's is liable for the payment of those amounts only to the extent of the person's assets under the control and management of the receiver after satisfying the claims of the Crown and those claims that rank in priority to the claim of the Crown and after paying any amounts that the receiver is required to pay to a trustee in bankruptcy of the person;

(f) the receiver, and not the person, is liable for the payment of all amounts that become payable by the person under this Act during the period which the receiver acts as receiver of the person to the extent that the

amounts can reasonably be considered to relate to that person's assets over which the receiver has authority;

(g) the Comptroller may, where a refund for a taxable period is payable to the person, apply the refund payable against any outstanding tax, penalty, interest or other amount payable under this Act by the person and pay the balance, if any, to the receiver on behalf of the person.

Receipts

331. The Comptroller shall provide an official receipt in written or electronic form for any money collected by him.

Duties and drawback to be proportionate to quantity or value

332. All duties, rates, charges and drawbacks imposed and allowed according to any specified quantity or any specified value or any particular description of container shall be deemed to apply in the same proportion to any greater or less quantity or value or any other description of container.

Mode of calculating weights and measures

333. All duties, rates, charges and drawbacks imposed and allowed under **this Act** shall be paid and received according to the weights and measures established by the *Weights and Measures Act*, Cap. 331, and, shall be paid and received in any currency being legal tender in Barbados.

Sales under customs enactments

334. The *District Auctioneers Act*, Cap. 114 shall not apply to sales under this Act when conducted by a customs officer authorised under this Act.

Action against officer

335. No action, suit or other proceeding shall be brought or instituted personally against any officer in respect of any act performed by him in pursuance of

(a) any power granted to him; or

(b) any duty imposed on him;

by this Act.

Goods in transit

336.(1) The provisions of this Act so far as they are applicable and subject to any regulations made under this Act regarding goods in transit, shall be deemed to apply to goods declared in transit to a destination beyond Barbados.

(2) Regulations made under this Act regarding goods in transit may prescribe the licensing procedure in relation to the import or export of those goods and may designate the licensing authority from whom licences are to be obtained.

(3) The licensing authority referred to in subsection (2) may, by instrument in writing, delegate to such public officers as the authority determines the power to issue licences in respect of goods in transit.

Availability of information

337. It is the duty of the Comptroller to ensure that all relevant information concerning the requirements, obligations and administration of this Act is available to the public.

Existing ports, warehouses to continue

338. All ports, warehouses, airports, wharves and boarding stations approved as such at the commencement of this Act, shall continue to be ports, warehouses, airports, wharves and boarding stations and all duly appointed

wharves and airports shall be deemed to be approved places of loading and unloading until the appointment of them is revoked or varied under this Act.

Regulations

339.(1) The Minister may make regulations

(a) setting the hours and places of customs services;

(b) prescribing the procedures for the reporting and processing of advance passenger information and advance cargo information;.

(c) providing for the sharing of information regarding imports and exports for purpose of

(i) safeguarding public health and safety;

(ii) enforcing the relevant sanitary and phytosanitary measures regarding plants;

(iii) enforcing standards and technical regulation; and

(iv) trade facilitation and business

(d) for the re-warehousing of specified classes or categories of goods that have been warehoused for a period of 3 years;

(e) providing for circumstances in which entry on the face of customs declaration with respect to the description, value or classification of goods may be corrected after submission and the procedures for so doing;

(f) prescribing any matter required to be prescribed under this Act;

(g) generally for the proper administration of this Act.

(2) Regulations made under this section are subject to negative resolution.

(3) Regulations made under this Act may provide that a person who breaches or contravenes any regulation is liable to pay to the Comptroller a penalty of $10 000.

Amendment of Schedules

340. The Minister may by order and subject to negative resolution amend the *Schedules*.

Comptroller may prescribe forms

341. Subject to this Act and any regulations, the Comptroller may from time to time prescribe forms to be used for the purpose of this Act and any such forms so prescribed shall be published in the *Official Gazette*.

Non application of Act to the Defence Force

342. This Act does not apply to

(a) any vessel or aircraft when used for the purposes of the Barbados Defence Force; or

(b) the importation or exportation by or on behalf of the Barbados Defence Force of arms, ammunition, vessels, vehicles, aircraft, uniforms and other military stores certified as such by the Prime Minister or a member of the Defence Board authorised in writing by the Prime Minister.

Savings

343. All regulations, orders, tariffs and notices made under the *Customs Act*, Cap. 66 and are in force at the commencement of this Act shall continue in force as if made under this Act in so far as they are not inconsistent with this Act, until revoked by any regulations, order, tariffs or notices made under this Act.

Repeal

344. The *Customs Act* is repealed.

Commencement

345. This Act shall come into operation on a date to be fixed by proclamation**.**

FIRST SCHEDULE

(Section 2)

Domestic Space

Anguilla

Antigua and Barbuda

Bahamas

Barbados

Belize

Bermuda

British Virgin Islands

Cayman Islands

Dominica

Grenada

Guyana

Haiti

Jamaica

Montserrat

St. Kitts and Nevis

St. Lucia

St. Vincent and the Grenadines

Suriname

Trinidad and Tobago

Turks and Caicos Islands

SECOND SCHEDULE

(Section 16(2))

FORM I

APPLICATION FOR REGISTRATION AS USER OF SYSTEM

Barbados Customs and Excise Department

ASYCUDA WORLD USER AUTHORIZATION FORM

To the Comptroller of Customs and Excise:

Pursuant to Customs NOTIFICATION, I hereby apply for registration as a user of ASYCUDA World and to this effect I/We provide the following details:

Applicant is a:

☐ **Private Individual**	☐ **Company**	☐ **Sole Trader**	☐ **Other**

Installation Type:

☐ **Carrier/Carrier's Agent**	☐ **Consolidator**	☐ **Broker**	☐ **Importer/ Exporter**
☐ **Government Agency**	☐ **Cargo Custodian**	☐ **Public Enterprise**	

Second Schedule - (Cont'd)

FORM 1

APPLICATION FOR REGISTRATION
AS USER OF SYSTEM (Cont'd)

1. IDENTIFICATION OF COMPANY/ OTHER INSTITUTION APPLYING FOR REGISTRATION

A) COMPANY (Carrier Agent, Individual, Broker, Large Importer, Government Agency, others)

Name: _____

IRD Number: _____ VAT Registration Number: _____

IMP/EXP Number: _____

Physical Business Address: _____

Postal Address: _____

Telephone: _____ Fax: _____

Email Address: _____

Note: All companies applying for registration must provide the names and photographs of each individual who will be using ASYCUDA World and include them in Part B.

Note: By signing this application form, the applicant agrees to comply with all conditions listed in (1) to (6) above.

Second Schedule - (Cont'd)

FORM 1

APPLICATION FOR REGISTRATION AS USER OF SYSTEM (Cont'd)

If approved as a registered user of ASYCUDA World, the applicant and any other individual/ applicant listed in this application, agrees to:

1. Not provide copies of any ASYCUDA World software given for your use by Customs to any third party, whether registered or not.

2. Keep secure, and not disclose to another person the unique user identifier allocated to you.

3. Only use the unique user identifier to access data in the system that is available to all registered users or is data input or pertains only to your transmissions.

4. Notify Customs immediately if you suspect that the security of your unique Identifier has in any way been compromised.

5. Notify Customs if you gain access or otherwise receive data that does not pertain to your lawful access to the system.

6. Not falsify damage or impair any record or information stored in the system or to damage or impair any duplicate tape or disc or other medium stored in the system.

7. Comply with any further conditions imposed by the Comptroller of Customs and Excise in relation to the security of a unique identifier allocated to you or persons listed in this application or to any other matter related to the access to and use of ASYCUDA World.

8. Request for password reset will be done using registered email account or in person using a valid ID.

Note: By signing this application form, the applicant agrees to comply with all conditions listed in (1) to (8) above.

Second Schedule - (Cont'd)

FORM 1

APPLICATION FOR REGISTRATION
AS USER OF SYSTEM (Cont'd)

PLEASE READ CAREFULLY THE NOTES BELOW YOU SIGN THIS APPLICATION

1. **All sections of this application form must be completed and all questions answered.**
2. **If the applicant is a company, this form must be signed by the General Manager or another authorized senior executive, and duly include the official company stamp/seal.**
3. **Regardless of individual responsibilities, the person signing this form on behalf of a company shall also be responsible for the requirements/conditions set out for individuals listed in this application.**
4. **By signing this form the applicant agrees to all requirements and conditions set out in this form and any other reasonable conditions that may be imposed by the Comptroller in respect of the registration.**

.....	...../.....	
Applicant's Name	Applicant's Signature/ Date	Company Seal

Second Schedule - (Cont'd)

FORM 1

APPLICATION FOR REGISTRATION AS USER OF SYSTEM (Cont'd)

B) <u>INDIVIDUALS</u> (All employees of company in (A) above, who would access the System)

Name:_____ Position:_____ Business Address:_____ _____ _____ Email Address:_____	PHOTO (Passport size) Signature:
Name:_____ Position:_____ Business Address:_____ _____ _____ Email Address:_____	PHOTO (Passport size) Signature:

Second Schedule - (Cont'd)

FORM 1

APPLICATION FOR REGISTRATION AS USER OF SYSTEM (Cont'd)

B) <u>INDIVIDUALS</u> (All employees of company in (A) above, who would access the System) (Concl'd)

Name: _____ Position: _____ Business Address: _____ _____ _____ Email Address: _____	PHOTO (Passport size) Signature:
Name: _____ Position: _____ Business Address: _____ _____ _____ Email Address: _____	PHOTO (Passport size) Signature:

(This page can be duplicated to cater for more registrants)
NB: The signature should NOT be placed on the line.

Second Schedule - (Cont'd)

2. TECHNICAL REQUIREMENTS FOR REGISTRATION AS A USER OF ASYCUDA World.

I/We confirm that the personal computers (PCs) that I/We use with Customs and Excise Department comply with following minimum specifications:
(Please indicate "Yes" by ticking the box or "No" by leaving the box blank.)

ENVIRONMENT

- ☐ Process speed of at least 2 GHz
- ☐ Printer
- ☐ Ram of at least 2 GB
- ☐ PDF enabled Scanner
- ☐ Java 1.7 Runtine Environment installed
- ☐ Updatable Anti-virus / Spyware software installed
- ☐ Hard Drive 4Gb available space
- ☐ Internet connection at least 512 kbps
- ☐ Firewall

I/We confirm that we have on our staff, or we can call upon:

- ☐ A qualified computer technician or the like, to deal with any software or hardware installation or support required to work with the Barbados Customs and Excise Department, ASYCUDA World.

Second Schedule - (Cont'd)

3. GENERAL CONDITIONS UNDER WHICH REGISTRATION WILL BE GRANTED

The applicant agrees to notify the Comptroller of Customs & Excise with 24 hours of any changes in the following situations:

You no longer meet licensing or operating conditions as Carrier Agent, Individual, Broker, Large Importer, Government Agency, others (if you fall within one of these categories);

1. Cease to employ all or any individual registered uses nominated in this application form.
2. Change the address of your company or individual users.
3. Change the name of your company or individual users.
4. Cease to conduct business with Customs.
5. You or any of your individual registered users are or to become bankrupt.
6. You or any of your individual registered users are convicted of any offence punishable under the Customs, taxation or criminal legislation.

Second Schedule - (Cont'd)

SECOND SCHEDULE

(Section 16(2))

FORM 2

(Section 23(2))

AUTHORISATION FROM IMPORTER OR EXPORTER

BARBADOS

<table>
<tr><td colspan="2">1. Consignor/Exporter (name, address) No.</td><td colspan="2">2. Regime</td><td>FOR OFFICIAL USE</td></tr>
<tr><td colspan="2" rowspan="2"></td><td colspan="2">3. No of Pages</td><td rowspan="2"></td></tr>
<tr><td colspan="2">5. Importer (name, address) No.</td><td>4. No. of items (total)</td></tr>
<tr><td colspan="2"></td><td colspan="3">6. Consignee (name. address) No.</td></tr>
<tr><td colspan="2">7. Declarant No. Ref.</td><td colspan="3">8. C of Consignment</td></tr>
<tr><td>10. Manifest/Rot No.</td><td>11. Port/Airport</td><td colspan="2">12. B.L/AWB No.</td><td>9. C of Destination</td></tr>
<tr><td>13. Transport code</td><td>14. Means of Transp/ Flight No.</td><td>15. Nationality</td><td rowspan="2">19. Additional Information</td></tr>
<tr><td>16. Date of arrival/ Departure</td><td>17. Account holder</td><td>18. Payment Items</td></tr>
</table>

Second Schedule - (Cont'd)

FORM 2 (Cont'd)

AUTHORISATION FROM IMPORTER OR EXPORTER (Cont'd)

20. Shipping Marks/ Container No.	21. Deception of goods	22. CPC	23. Community Code	24. Net mass kg	25. Gross mass kg
		26. COO/COD	27. Customs Value		28. Currency

29. Code	30. Base	31. Base amount	32. Rate	33. Duty/tax due

34. Supply quantity 1	35. Supply quantity 2	36. Supply quantity 3	37. Licence No.	38. No. and type package	39. Total d/tax item

20. Shipping Marks/ Container No.	21. Deception of goods	22. CPC	23. Community Code	24. Net mass kg	25. Gross mass kg
		26. COO/COD	27. Customs Value		28. Currency

29. Code	30. Base	31. Base amount	32. Rate	33. Duty/tax due

34. Supply quantity 1	35. Supply quantity 2	36. Supply quantity 3	37. Licence No.	38. No. and type package	39. Total d/tax item

Second Schedule - (Cont'd)

FORM 2 (Cont'd)

AUTHORISATION FROM IMPORTER OR EXPORTER (Cont'd)

40. Place and date Signature and name of declarant/ representative	41. Other charges	42. Amount	43. Summary Duty/tax this page Duty/tax brought fwd Total other charges
WARNING: A signed Declaration constitutes a statement that all particulars are true and correct, and use of a CPC constitutes the necessary form of declaration			**44.GRAND TOTAL USE**

Second Schedule - (Cont'd)

Notice of Exportation under Bond I_____ give notice that I intend to export the goods listed overleaf on the vessel/aircraft_____ bound for_____ by the virtue of special/General Bond No_____ Dated_____ Bond in force _____ Explorer _____Officer	Certificate of Shipment Date_____ The packages listed have been Received on board_____ *Master/Mate* Examined/Seen on board_____ Officer Shipped, Satisfied_____ Officer
Release/Deliver Order To the_____ at_____ Please deliver to_____ the packages listed. _____	Additional Information

DETAILS OF EXAMINATION

Place of examination_____

Officer i/c examination_____

Date of examination_____

Marks and numbers of Container/Package checked_____

Documents checked (invoice etc.)_____

OFFICER'S REPORT ON EXAMINATION

FOR OFFICIAL USE

_____
For Comptroller of Customs

Date _____

_____ _____
For Comptroller of Customs *Date*

Second Schedule - (Concl'd)

FORM 3

(Section 23(3))

AUTHORISATION FROM EMPLOYEE OF CUSTOMS BROKER

THIRD SCHEDULE

(Sections 2,37(3)(b))

Advance Passenger Information

PART I

A. Data relating to the voyage or flight

1. **Flight Identification**

   IATA/ICAO airline code and flight number, registration number

2. **Vessel (Ship/Airline) Identification**

   IMO or Registration number.

3. **Vessel Registration**

   Vessel's or aircraft's registration number.

4. **Country of Registration**

   Country where vessel or aircraft is registered.

5. **Agent or Owner**

   Name of agent for the vessel or aircraft or, where no agent, name of owner.

6. **Call Sign**

7. **Scheduled Departure Date**

   Date of scheduled departure of vessel or aircraft based on local time of departure from location.

8. **Scheduled Departure Time**

   Time of scheduled departure of vessel or aircraft based on local time of departure from location.

9. **Scheduled Arrival Date**

   Date of scheduled arrival of vessel or aircraft based on local time of arrival at location.

10. **Scheduled Arrival Time**

    Time of scheduled arrival of vessel or aircraft based on local time of arrival at location.

11. **Last Place or Port of Call of Vessel or Aircraft**

    Vessel or aircraft departed from this last foreign place or port of call to go to a place or port of call.

12. **Place or Port of Initial Arrival of Vessel or Aircraft**

    Place or port of call in the country of destination where the vessel or aircraft arrives from the last place or port of ship/aircraft initial arrival.

13. **Subsequent Place or Port of Call Within the Country or Domestic Space**

14. **Number of passengers on board vessel or aircraft**

    Total number of passengers on board vessel or aircraft.

15. **Number of crew on board vessel or aircraft**

    Total number of crew on board vessel or aircraft.

B. Data relating to each individual on board a vessel or aircraft

Core Data Elements of the Official Travel Documents

1. **Official Travel Document Number**

   Passport or other official travel document number.

2. **Issuing State or Organisation of the Official Travel Document**

   Name of the state or organisation responsible for the issuance of the official travel document.

3. **Official Travel Document Type**

   Indicator to identify type of official travel document.

4. **Expiration Date of Official Travel Document**

   Expiration date of the official travel document.

5. **Surname and Given Name(s)**

   Family name and given name(s) of the holder as they appear on the official travel document.

6. **Nationality**

   Nationality of the holder/of the travel document.

7. **Date of Birth**

   Date of birth of the holder of the travel document.

8. **Gender**

   Gender of the holder.

9. **Place of Birth**

   Please give City and Country of birth.

10. **Place or Port of Original Embarkation**

    Place or Port on that journey where traveller first boarded for foreign travel.

11. **Place or Port of Clearance**

    Place or Port where the traveller is cleared by the border control agencies.

12. **Place or Port of Onward Foreign Destination**

    Foreign place or port where the traveller is transiting.

13. **Passenger Name Record (PNR) Data**

    As available in the traveller's Passenger Name Record in the carrier's Reservation System including all historical changes to the PNR listed. Must include:

    (1) PNR record locator

    (2) Date of reservation or issue of ticket

    (3) Date(s) of intended travel

    (4) Name(s)

    (5) Address and contact information (telephone number, e-mail address)

    (6) All forms of payment information, including billing address

    (7) Complete travel itinerary for specific PNR

    (8) Frequent flyer information

    (9) Travel agency or Travel agent

    (10) Travel status of passenger, including confirmations, check-in status, no show or go show information

    (11) Split or divided PNR information

(12) General remarks (including all available information on unaccompanied minors under 18 years, such as name and gender of the minor, language(s) spoken, name and contact details of guardian on departure and relationship to the minor, name and contact details of guardian on arrival and relationship to the minor, departure and arrival agent)

(13) Ticketing field information, including ticket number, date of ticket issuance and one-way tickets, Automated Ticket Fare Quote fields

(14) Seat number and other seat information

(15) Code share information

(16) All baggage information

(17) Number and other names of travellers on PNR

(18) Any Advance Passenger Information (API) data collected

(19) All historical changes to the PNR listed in numbers 1 to 18

C. Additional Data

1. **Visa Number** (if applicable)

2. **Place of Issuance of the Visa**

   Place where Visa was issued

3. **Date of Issuance of the Visa**

   Date when Visa issued

4. **Other Document Number used for Travel** (if applicable)

   The other document number used for travel when the official travel document is not required

5. **Other Document Number used for Travel** (if applicable)

   Type of Other Document used for Travel (supporting travel document)

6. **Primary Residence**

   Country of Primary Residence

   (Country where Passenger resides most of the year)

   Address

(location identification such as: street name and number)

City

State/Province/Country

Postal Code

7. **Destination Address**

Address where Passenger will be staying in territory of Disembarkation

City

State/Province/Country

Postal Code

D. Data relating to the Reporting Party

Reporting Party Name

Reporting Party Telephone Number

Reporting Party Facsimile Number

Reporting Party Electronic Mail Address

PART II

(Section 37(3)(d))

Advance Cargo Information

Electronic Manifest Management Asycuda

A. AIR CARGO DATA MESSAGES

Cargo Manifest:

To be submitted by Airlines

Master Air Waybill:

To be submitted by Airlines

House Air Waybill:

To be submitted by Freight Forwarded/Representatives

Response Message:

To be handled by the filing party

B. MARITIME CARGO DATA MESSAGES

Cargo Manifest:

To be submitted by Master/Agent

Master Waybill:

To be submitted by Master/Agent

House Waybill:

To be submitted by Freight Forwarded/Representatives

Response Message:

To be handled by the filing party

*C. **Cargo for Discharge in Barbados***

Data relating to the Manifest

Data relating to the Manifest

Voyage number

(A number assigned by local Shipping Agent for vessels or the scheduled flight number for aircraft)

Date and Time of submission

Carrier

(Name of vessel)

Scheduled Departure Date

(Date of departure of vessel or aircraft)

Scheduled Arrival Date

(Date of arrival of vessel or aircraft)

Scheduled Arrival Time

(Time of arrival of vessel or aircraft)

Place of Departure

(The last foreign port or place of call for vessel or aircraft)

Destination

(Port or place in the country of destination where the vessel or aircraft first reports)

Subsequent Place or Port of call within the country (Optional)

Agent: Name

(Authorised representative of the vessel or aircraft, where available)

Owner

(Name of owner of vessel or aircraft)

Transport: Mode

(The manner in which the goods are imported or exported)

Transport: Name

(Name of the importing or exporting vessel or aircraft)

Transport: Nationality

(Nationality of vessel or aircraft as determined by its port of registry)

Transport: Place (Optional)

(Port of Registry)

Registration (Optional)

(International registration number including, in respect of vessels, the International Maritime Organisation registration number or Lloyd's registration number, or, in respect of aircraft, the International Air Transport Authority registration number)

Master (Optional)

(Name of vessel's captain)

Total: Bills

Total: Packages

Total: Containers

Total: Gross (Optional)

Tonnage: Net

(Vessel's registered tonnage)

Date of last discharge (Optional)

(Date vessel last discharged cargo at any port)

D. Data relating to Container Management

Container: Number

(The BIC identification number of containers)

Container: Type

(Type of containers, e.g. 20 feet, refrigerated)

Empty/Full Indicator

(Whether full container load or less than container load)

Seals

(The number of the security seal(s) affixed to the container door)

Marks

(Marks or numbers of the seal(s) affixed to the container door)

Sealing Party

(The authority that affixed the seal(s) to the containers)

Total Containers

Transport Document Reference Number

E. Data relating to individual Bills of Lading or Airway Bills

Manifest Line Number

(Number indicating the order of bills of lading on a manifest)

Transport Document Type

(Type of document issued by vessel or aircraft, including airway bills, bills of lading or waybills)

Transport Document Reference Number

Purpose of Shipment

(Whether for import, export, in transit or transhipment)

Unique Cargo Reference (Optional)

Place of loading

Place of discharge

Exporter

Exporter Address

Consignee

Notify

(Either the consignee or the name and phone number of the representative)

Total Containers

Packages: Kind

Packages: Marks and Numbers

Quantity: Package

Quantity: Gross Mass

Volume: Cubic Measurement (cbm)

Description of Goods

(Pursuant to applicable law)

Freight Indicator

(Payment status, whether prepaid or payment on collection)

Amount and Currency

Values:

Customs (Optional)

Insurance (Optional)

Freight (Optional)

Additional Seals

Additional Information

ADVANCE CARGO INFORMATION
ELECTRONIC MANIFEST MANAGEMENT ASYCUDA
CARGO MANIFEST DATA FIELDS

No.	**DATA FIELDS**	**DESCRIPTION**	**MANDATORY**
Tracking No	**General Information**	**General details with respect to voyage and Ship/Aircraft**	**YES**
1	Office of departure/ arrival	Code of the Customs office of departure or arrival	YES
2	Voyage number/Flight number	Voyage number or flight number, which uniquely identifies the current journey of the means of transport (the ship or aircraft)	YES
3	Date of departure	Date when the vessel or aircraft leaves the place of departure	YES
4	Time of departure	Estimated time when the vessel or aircraft departs the place of departure	YES
5	Date of arrival	Estimated date when the vessel or aircraft arrives at the place of destination	YES
6	Time of arrival	Estimated time when the vessel or aircraft arrives at the place of destination	YES

7	Place of departure	Place (LOCODE) where current voyage begins on the vessel or aircraft	YES
8	Place of destination	Place (LOCODE) where current voyage ends on the vessel or aircraft	YES
9	Port of last call	The place of (LOCODE) where the vessel or aircraft last reported before docking at the place of arrival.	YES
SHIPPING INFORMATION			
10	Vessel/Aircraft code	Vessel or aircraft code assigned to the party undertaking the transport of the goods	YES
11	Agent	Code of the Agent in charge of the **vessel**/ aircraft reporting during the stay in port	YES
TOTALS			
12	Bills	Total number of waybills on manifest	YES
13	Packages	Total number of packages on manifest	YES
14	Vehicles	Total number of motor vehicles on manifest	YES
15	Containers	Total number of Containers on manifest	YES
16	Gross Weight	Total gross weight contained in the manifest	YES

TRANSPORT			
17	Mode	Identifying the mode of transport	YES
18	Nationality	Flag or Nationality of means of transport	YES
19	Identity	Name of vessel/aircraft	YES
20	Registration	Registration number of vessel/aircraft	YES
21	Place	Port where the vessel/ aircraft was registered	NO
22	Date	Date of discharge	NO
23	Master	Name of Captain of the vessel/aircraft	YES
TONNAGE			
24	Gross Tonnage	Net tonnage plus maximum allotted cargo weight per voyage.	YES
25	Net Tonnage	Carrier's base weight.	
26	Office of destination	Office of destination. Code of the Customs office of destination in case of transit	Conditional/Optional
Co-LOADER			
27	Co-loader code	Carrier code of the party sharing the vessel/aircraft when multiple parties involved	Conditional/Optional
WAYBILL SEGMENT: Bill of Lading/Airway Bill			
28	Office Code	The Code of the Customs Office of Departure or Arrival General	

General Information			
29	Waybill reference number	This is the "Identifier" of the transport document. This is the reference assigned by the carrier or agent (e.g. Bill of lading or Airway bill number; it is unique in the manifest)	YES
30	Waybill type	Alphanumeric code for the type of transport document	YES
31	Nature	Code of the document: export-22, import-23, transit-24, transhipment-28, FROB-26.	YES
32	Waybill Line	The 'line number' is a sequence number used to identify each item - bill of lading or airway bill in the manifest	YES
33	Previous Document	Reference of the previous document (master waybill) when consolidated cargo	Conditional/Optional
34	UCR	Unique consignment reference number	NO
35	Place of loading	Place (LOCODE) where the goods were originally loaded on the vessel/aircraft	YES
36	Place of unloading	Place (LOCODE) where the goods will be ultimately unloaded/	YES

		discharged from the vessel/aircraft	
37	FAS/Liner	Terms of condition for transported goods (accepted values F or L)	YES
CARRIER			
38	Carrier	Carrier Code, name and address of the party undertaking the transport of the goods.	YES
39	Carrier Name	The name of the Shipping Line or the Airline transporting cargo to and from [Barbados]	YES
40	Carrier Address	The address of the Shipping Line or the Airline transporting cargo to and from Barbados.	YES
41	Shipping agent	Code of the Shipping Agent in charge of the ship management during the stay in port	YES
EXPORTER/SHIPPER			
42	Exporter code	Exporter code	NO
43	Name of Exporter	Name of Exporter	YES
44	Address of Exporter	Address of Exporter	YES
TRANSPORT			
45	Place of loading on current transport	Place (LOCODE) where the goods were loaded on current transport (if there was a change of vessel, it	YES/Optional

		would be recorded here)	
46	Place of discharge from current transport	Place (LOCODE) where the goods will be discharged from current transport (if there was further transhipment to be done, it would be recorded here)	YES/Optional
NOTIFY			
47	Notify code	Code of the notifying party.	NO
48	Notify name	Name of the notifying party.	YES
49	Notify address	Address of the notifying party.	YES
CONSIGNEE			
50	Consignee	Consignee code (TIN)	NO/Optional
51	Consignee name	Name of the Consignee	YES
52	Consignee address	Full address of the Consignee	YES
GOOD DETAILS			
53	Total containers	Total number of containers for this transport document.	YES
54	Packages codes	Kind of packages (packaging type code)	YES
55	Marks and Ndr	Marks and numbers	YES
56	Manifested packages	Number of packages as indicated on the waybill.	YES
57	Total Vehicles	Total number of vehicles for this waybill	YES

58	Manifested gross weight	Gross weight as indicated on the waybill. This field must be accurately captured as the data are compared to the "Totals" information of the general segment.	YES
59	Volume (CBM)	Volume of the goods in cubic metres.	NO/Mandatory
60	Description of goods	Commercial description of the goods from the waybill data (e.g. clothes, machines...).	YES
61	H.S. Code	Tariff Code for goods	NO/Optional
62	UNDG	Dangerous goods code (UNDG)	Conditional
63	Place of Origin	Place where goods are loaded into container for shipment (free text area)	NO/Optional
64	Place of Destination	Place where goods will be unloaded from container (free text area)	NO/Optional
65	Location	Code of the place where the goods are located in a shed or container park.	NO/Optional
DECLARED VALUES AND SEAL DETAILS			
66	Value or Freight code	Value or Freight code	YES
67	P/C	Prepaid or collect indicator for the value code	Conditional/ Mandatory

68	Freight value Amount	Amount of the value code	YES
69	Freight Currency	Currency code for the value code	YES
70	Customs value	Customs value of goods	YES/Optional
71	Customs currency	Customs currency code	YES/Optional
72	Insurance value	Insurance cost of the goods	YES
73	Insurance currency	Insurance currency code	YES
74	Transport value	Overall freight cost	YES
75	Transport currency	Overall freight currency code	YES
76	Seal Number of seals	Number of seals affixed on non-containerized cargo	Conditional/Optional
77	Marks of seals	Description Marks or references number of seals.	Conditional/Optional
78	Party	Code of the party having affixed the seals.	Conditional/Optional
79	Information	Additional Information when required.	No/Optional
CONTAINER SEGMENT			
80	Container Number	Container number(s) for container(s) relating to waybill.	YES
81	Number of packages	Number of packages in container	YES
82	Container Type	Container size-type	YES

83	E/F	Empty or Full indicator	YES
84	Seal Number	Quantity of seals affixed and seal numbers (3 fields)	YES/Optional
85	Sealing Party	Party affixing the seals	YES/Optional
86	Empty Weight	Empty weight of container (KG)	YES/Optional
87	Goods Weight	Weight of goods in container (KG)	YES
88	Min. Temp. CE	Minimum temperature in Celsius for refrigerated containers	Conditional/Optional
89	Max. Temp. CE	Maximum temperature in Celsius for refrigerated containers	Conditional/Optional
90	Humidity	Temperature in Celsius that the goods should be stored.	Conditional/Optional
91	Dangerous Code	UNDG code for dangerous goods.	Conditional/Optional
92	H.S. Code	Tariff Code for goods in container.	No/Optional
93	Goods Description	Description of goods in container.	YES
94	Container Disposition	(Cargo disposition, accepted values "CY. CFS and P. UNSTUFF). Required only when BL nature 23 and container is not empty	Conditional
95	Volume	Volume of cargo per container	YES

96	Container line code	Code identifying shipping container owner.	YES
VEHICLE SEGMENT			
97	Chassis Number	Chassis Number of Vehicle	YES
98	Engine Number	Engine Number of Vehicle	YES/Optional
99	Engine Size	Engine (cc) or (kw)	YES
100	Odometer Reading	Mileage of vehicle	YES/Optional
101	Make/Brand	Make and Brand of Vehicle	YES
102	Year	Year of Manufacture	YES
103	Colour	Colour of Vehicle	YES/Optional
104	New/Used	If vehicle new or used	YES/Optional

DATA SUBMISSION TIMEFRAME

1. The information set out in the Advance Cargo Information System Data Fields.

(a) for incoming cargo (import) by aircraft

(i) in the case of short haul, at time of departure of aircraft;

(ii) in the case of long haul, 4 hours prior to arrival at the first port in the country of destination;

(b) for outgoing cargo (export) (short and long haul), at the time of departure of the aircraft;

(c) for incoming cargo (import) by vessel;

(i) containerized cargo: 24 hours before arrival; at first port in the country of destination;

(ii) bulk or break bulk: 24 hours before arrival at first port in the country of destination;

(d) for outgoing cargo (export) by vessel;

(i) containerized cargo: 24 hours before loading at port of departure;

(ii) bulk or break bulk: 24 hours before departure to the first port in the country of destination.

PART III

(Section 37(3)(e))

2. **Cargo not intended for discharge within Barbados**

All dangerous or hazardous goods, explosives, firearms and ammunition, prohibited or restricted items not destined for Barbados must be listed separately in the following format:

Description	Quantity in Kilos	Country of Destination

FOURTH SCHEDULE

(Sections 74(2), 123(1),(2) and (6))

Goods Not Permitted to be Warehoused on Importation

Animals, living

Arms, ammunition and explosives

Asphalt, all kinds including pitch and tar

Bottles, empty in bags

Bricks and tiles

Cattle and other animal foods (other than in tins packed in cases)

Cement and cement products

Cheese

Film, cinematograph

Fireworks

Fish (other than in tins packed in cases)

Fruit and nuts (other than in tins packed in cases)

Grain, flour, pulse and preparations thereof (other than in tins packed in cases)

Hay and Chaff

Manure

Matches

Meats (other than in tins packed in cases)

Molasses

Nuts and kernels, other than food

Oils-

(a). Edible (other than in small packages for retail sale)

(b). Fuel (other than at installations approved for the purpose)

(c). Other kinds including essential, medicinal and perfumed oils

Salt

Seeds for expressing oil therefrom

Starch

Stones and slates Vegetables (other than preserved vegetables in tins packed in cases)

Sugar (unless packed in tins or cases)

Vegetables (other than in tins packed in cases)

Vessels, boats and launches

Wood and timber

(a). Lumber

(b). Shingles

(c). Shooks, staves and headings

Any goods which in the opinion of the Comptroller are likely to cause damage to other goods stored in the same warehouse or which may be considered hazardous to warehouse uses.

FIFTH SCHEDULE

(Sections 138 and 307)

Value of Imported Goods

Interpretation

1.(1) In this *Schedule*,

(a) "customs value of imported goods" means the value of goods for the purposes of levying *ad valorem* duties of customs on imported goods;

(b) "goods of the same class or kind" means goods imported from the same country as the goods being valued and goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;

(c) "identical goods" means goods produced in the same country as the goods being valued which are the same in all respects, including physical characteristics, quality and reputation;

(d) "identical goods" and "similar goods" do not include goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under paragraph 8(1)*(b)*(iv) because such elements were undertaken in Barbados;

(e) "person" means a natural or legal person;

(f) "produced" includes grown, manufactured and mined;

(g) "similar goods" means goods produced in the same country as goods being valued which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable.

(2) For the purposes of

(a) sub-paragraph (1)*(c)*, minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical; and

(b) sub-paragraph (1)*(g)*, the quality of goods, their reputation and the existence of a trade mark are among the factors to be considered in determining whether goods are similar.

(3) For the purposes of this *Schedule*

(a) persons shall be deemed to be related in business if

(i) they are officers or directors of one another's businesses;

(ii) they are legally recognised partners in business;

(iii) they are employer and employee within the same business entity;

(iv) any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both persons;

(v) one of them directly or indirectly controls the other person;

(vi) both persons are directly or indirectly controlled by a third person;

(vii) together they directly or indirectly control a third person or any other person;

(viii) they are members of the same family;

(b) one person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter;

(c) persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however

described, of the other shall be treated as related only if they fall within the criteria of sub-paragraph 3*(a)*;

(d) an event shall be deemed to occur at or about the same time as another event if the first event occurs

(i) on the same day as the other event; or

(ii) within the 45 days immediately before, or the 45 days immediately after the day on which the other event occurs.

Customs value

2.(1) Subject to sub-paragraph (2) and sub-paragraph (5), the customs value of imported goods shall be determined in accordance with the provisions of paragraph 3.

(2) Notwithstanding paragraph 3(1), but subject to paragraph 3, where the conditions described in paragraph 3(1) do not exist, the customs value of imported goods shall be determined in accordance with paragraphs 4, 5, 6 and 7, applying each paragraph in a sequential manner as is necessary.

(3) Except as provided for in sub-paragraph (2), and sub-paragraph (4) it is only when the customs value of imported goods cannot be determined under a particular paragraph that the provisions of the next paragraph in the sequence established by sub-paragraph (2) can be applied.

(4) The Comptroller may, at the request of an importer, reverse the order of the application of paragraphs 6 and 7.

(5) Where the customs value of imported goods cannot be determined in accordance with paragraphs 3 to 7, it shall be determined using any reasonable means consistent with the principles and general provisions of this *Schedule* and taking into account to the greatest extent possible previously determined customs values, making use of the methods of valuation laid down in paragraphs 3 to 7

inclusive, using where necessary reasonable flexibility in their application, but no consideration shall be given to

(a) the selling price in Barbados of goods produced in Barbados;

(b) the price of the goods on the domestic market of the country of exportation;

(c) the cost of production other than computed values which have been determined for identical or similar goods in accordance with paragraph 7;

(d) the price of the goods for export to a country other than Barbados;

(e) a system which provides for the acceptance for custom purposes, of the higher of two alternative values;

(f) minimum customs values; or

(g) arbitrary or fictitious values.

Conditions for customs value

3.(1) The customs value of imported goods determined under this paragraph shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to Barbados, adjusted in accordance with paragraph 8, and in appropriate cases paragraph 9, provided that

(a) there are no restrictions as to the disposition or use of the goods by the buyer, other than restrictions that

(i) are imposed by law or by the public authorities in Barbados;

(ii) limit the geographical area in which the goods may be resold; or

(iii) do not substantially affect the value of the goods;

(b) the sale or price is not subject to some condition or consideration for which a value cannot be determined and with respect to the goods being valued;

(c) no part of the proceeds of any subsequent re-sale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with paragraph 8; and

(d) the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under sub-paragraph (2).

(2) *(a)* In determining whether the transaction value is acceptable for the purposes of sub-paragraph (1), the fact that the buyer and the seller are related within the meaning of paragraph 1 shall not in itself be grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the importer or otherwise the Comptroller has grounds for considering that the relationship influenced the price, he shall communicate the grounds to the importer who shall be given a reasonable opportunity to respond.

(b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with sub-paragraph (1) whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time

(i) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to Barbados;

(ii) the customs value of identical or similar goods as determined under paragraph 6;

(iii) the customs value of identical or similar goods as determined under paragraph 7.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in paragraph 8 and costs incurred by the seller in sales in which he and the buyer are not related that are not incurred by the seller in sales in which he and the buyer are related.

(c) The tests set out in sub-paragraph 2*(b)* shall be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under that sub-paragraph.

(4) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods.

(5) Payments may be made directly or indirectly, need not necessarily take the form of a transfer of money, and shall include

(a) all payments made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller; and

(b) any settlement by the buyer, whether in whole or in part, of a debt owed by the seller.

(6) Activities, including marketing activities, undertaken by the buyer on his own account, other than those for which an adjustment is provided in paragraph 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.

(7) The customs value of imported goods shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods

(a) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;

(b) customs duties and other taxes payable in Barbados by reason of the importation or sale of the goods;

(c) the cost of transport after importation.

(8) The fact that goods which are the subject of a sale are entered for home use within Barbados shall be regarded as adequate indication that they were sold for export to Barbados, and this indication shall also apply where successive sales of the goods have taken place before valuation; and where such successive sales have taken place each price resulting from them may be used as a basis for valuation.

Transaction value of identical goods

4.(1) The customs value of imported goods determined under this paragraph is the transaction value of identical goods sold for export to Barbados and exported at or about the same time as the goods being valued if the identical goods at the time of sale are at the same commercial level and of substantially the same quantity as the goods being valued.

(2) Where there is no sale of identical goods at the same commercial level and in substantially the same quantity as the goods being valued, the transaction value of identical goods sold at different commercial levels or in different quantities may be used taking account of, and making a suitable adjustment for, the differences in the commercial levels and the quantities of the identical goods.

(3) Where the costs and charges referred to in paragraph 8(1)*(e)*, *(f)* and *(g)* are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

(4) In applying this paragraph

(a) if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods;

(b) a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under sub-paragraphs (1) and (2) for identical goods produced by the same person as the goods being valued; and

(c) a condition for adjustment because of different commercial levels or different quantities shall be that such adjustment shall be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in value.

(5) For the purposes of this paragraph, the "transaction value of identical imported goods" means a customs value previously determined under paragraph 3, adjusted as provided for in sub-paragraphs (2) and (3) of this paragraph.

Transaction value of similar goods

5.(1) The customs value of imported goods determined under this paragraph is the transaction value of similar goods sold for export to Barbados and exported at or about the same time as the goods being valued if the similar goods at the time of sale are at the same commercial level and of substantially the same quantity as the goods being valued.

(2) Where there is no sale of similar goods at the same commercial level and in substantially the same quantity as the goods being valued, the transaction value of similar goods sold at different commercial levels or in different quantities may be used taking account of, and making a suitable adjustment for, the differences in the commercial levels and the quantities of the similar goods.

(3) Where the costs and charges referred to in paragraph 8(1)*(e)*, *(f)* and *(g)* are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

(4) In applying this paragraph

(a) if more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods;

(b) a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under sub-paragraphs (1) and (2) for similar goods produced by the same person as the goods being valued; and

(c) a condition for adjustment because of different commercial levels or different quantities shall be that such adjustment shall be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in value.

(5) For the purposes of this paragraph, the "transaction value of similar imported goods" means a customs value previously determined under paragraph 3, adjusted as provided for in sub-paragraphs (2) and (3) of this paragraph.

Deductive value

6.(1) Where the imported goods or identical goods or similar imported goods are sold in Barbados in the condition as imported, the customs value of imported goods, determined under this paragraph, shall be based on the unit price at which the imported goods or identical goods or similar imported goods are sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following

(a) either the commission usually paid or agreed to be paid or the additions usually made for profit, and general expenses including the direct and indirect costs of marketing the goods in question in connection with sales in Barbados of imported goods of the same class or kind;

(b) the usual costs of transport and insurance and associated costs incurred within Barbados; and

(c) the customs duties and other taxes payable in Barbados by reason of the importation or sale of the goods.

(2) When the imported goods or identical goods or similar imported goods are not sold at or about the time of importation of the goods valued, the customs value of imported goods determined under this paragraph shall, subject otherwise to the provisions of sub-paragraph (1), be based on the unit price at which the imported goods or identical goods or similar imported goods are sold in Barbados in the condition as imported at the earliest date after the importation of goods being valued but before the expiration of 90 days after such importation.

(3) If the imported goods or identical goods or similar imported goods are not sold in Barbados in the condition as imported, then where the Comptroller so decides, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Barbados who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in sub-paragraph (1).

(4) Where the method of valuation referred to in sub-paragraph (3) is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work; and accepted industrial formulas, recipes, methods of construction and other industrial practices shall form the basis of the calculations.

(5) In this paragraph, the "unit price at which imported goods or identical goods or similar imported goods are sold in the greatest aggregate quantity" is the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

(6) Any sale in Barbados to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale

for export of the imported goods any of the elements specified in paragraph 8(1) *(b)*, shall not be taken into account in establishing the unit price for the purposes of this paragraph.

(7) For the purposes of sub-paragraph (1)*(a)*

(a) "profit and general expenses" shall be taken as a whole, the figure for the purposes of this deduction being determined on the basis of information supplied by or on behalf of the importer unless his figures are inconsistent with those obtaining in sales of imported goods of the same class or kind, and where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer; and

(b) in determining either the commissions or the additions usually made for profit and general expenses, the question whether certain goods are of the same class or kind as other goods shall be determined on a case-by-case basis by reference to the circumstances involved and in doing this, sales for which the necessary information can be provided of the narrowest group or range of imported goods of the same class or kind as the goods being valued should be examined;

(c) "goods of the same class or kind" includes goods imported from the same country as the goods being valued as well as goods imported from other countries.

(8) For the purposes of sub-paragraph (2), the "earliest date" shall be the date by which sales of the imported goods or of identical imported goods or similar imported goods are made in sufficient quantity to establish the unit price.

Computed value

7.(1) The customs value of imported goods determined under this paragraph shall be based on a computed value which shall consist of the sum of

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods, ascertained from information relating to the production of the goods being valued, supplied by or on behalf of the producer, including the relevant accounts of the producer where these are prepared in accordance with the general accepted accounting principles applied in the country where the goods are produced;

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Barbados;

(c) the cost or value of the items referred to in paragraph 8(1)*(e)*, *(f)* and *(g)*.

(2) The cost or value of materials and fabrication referred to in sub-paragraph (1)*(a)* shall include

(a) the cost of elements specified in paragraph 8(1)*(a)*(ii) and (iii); and

(b) the duly apportioned value of any element specified in paragraph 8(1) *(b)* which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods and in the case of the elements referred to in sub-paragraph 8(1)*(b)*(iv) only where it has been charged to the producer.

(3) No cost or value of an element referred to in sub-paragraph (2) shall be counted more than once in computing the value.

(4) For the purpose of sub-paragraph (1)*(b)*

(a) the amount for profit and general expenses shall be taken as a whole and shall be determined on the basis of information supplied by or on behalf of the producer except that where his figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued and which are made by producers in the country of exportation for export to Barbados, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods;

(b) whether goods are of the same class or kind as other goods shall be determined on a case by case basis with reference to the circumstances involved. In doing this, sales for export to Barbados of the narrowest group or range of goods of the same class or kind as the goods being valued for which the necessary information can be provided should be examined;

(c) "general expenses" means the direct and indirect cost of producing and selling the goods for export which are not included under sub-paragraph (1)*(a)*;

(d) "goods of the same class or kind" means goods imported from the same country as the goods being valued.

Customs value includes certain charges

8.(1) In determining the customs value under paragraph 3, there shall be added to the price actually paid or payable for the imported goods

(a) the following to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods, the sums paid as

(i) commission and brokerage, except buying commissions,

(ii) the cost of containers which for customs purposes are treated as a part or component of the goods in question; and

(iii) the cost of packing, whether for labour or materials;

(b) the duly apportioned value of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost, for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable,

(i) materials, components, parts and similar items incorporated in the imported goods,

(ii) tools, dies, moulds and similar items used in the production of the imported goods;

(iii) materials consumed in the production of the imported goods; and

(iv) engineering, development, art work, design work and plans and sketches undertaken elsewhere than in Barbados and necessary for the production of the imported goods;

(c) royalties, licence fees or other payment made in respect of patents, trade marks, or copyrights related to the goods being valued which the buyer must pay directly or indirectly as a condition of sale of those goods;

(d) the proceeds of any subsequent re-sale, disposal or use of the imported goods that accrue directly or indirectly to the seller;

(e) the cost of transport of the imported goods to the port or place of importation;

(f) loading and handling charges associated with the transport of the imported goods to the port or place of importation; and

(g) the cost of insurance.

(2) No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this paragraph.

(3) Additions shall be made to the price paid or payable only in accordance with this paragraph and on the basis of objective and quantifiable data; and if such do not exist a transaction value shall not be determined under the provisions of paragraph 3.

(4) In this paragraph, the term "buying commissions" means fees paid by an importer to his agent for the service of representing him abroad in the purchase of the goods being valued.

(5) Notwithstanding sub-paragraph (1)*(c)*

(a) charges for the right to reproduce the imported goods in Barbados shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and

(b) payments made by the buyer for the right to distribute or re-sell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to Barbados of the goods.

Interest charges

9.(1) Charges for interest under a financing arrangement entered into by the buyer and related to the purchase of imported goods shall not be included in the customs value determined under paragraph 3 if

(a) the charges are distinguished from the price actually paid or payable for the goods;

(b) the financing arrangement has been made in writing;

(c) where required by the Comptroller, the buyer can demonstrate that

(i) such goods are actually sold at the price declared as the price actually paid or payable; and

(ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided.

(2) The provisions of sub-paragraph (1) shall apply where the finance is provided by the seller, a bank or other person; and it shall also apply where customs value is determined using a method other than the calculation of the transaction value.

SIXTH SCHEDULE

(Section 155(1))

PART I

Prohibited Imports

1. Base or counterfeit coins of any country.

2. Coins legally current in Barbados or any money proporting to be legally current, not being of the established standard in weight and finess.

3. Articles of food intended for human consumption declared by the competent public health authority to be unfit for that purpose.

4. Indecent or obscene prints, paintings, photographs, books, cards, lithographic or other engravings or any other indecent or obscene articles.

5. Infected cattle, sheep or other animals or carcasses therefo, and hides, skins, horns, hoofs or any other part of cattle or other animals which may be prohibited in order to prevent the introduction or spread of any communicable diseases.

6. Prepared opium and pipes or other utensils for use in connection with the smoking of opium or the preparation of opium for smoking.

7. Fictitious stamps and any die, plate, instrument or materials capable of making any such stamps.

8. Toy guns that are capable of discharging any matter whatsoever accompanied by an explosion or a gun like sound.

9. Fruit or vegetables, other than dried or canned, that have been grown in or conveyed through the state of Florida in the United States of America, save and except those fruit or vegetables as are accompanied by a Phytosanitary Certificate stating that the fruit or vegetables have been fumigated by a competent entomological officer and are free from the Mediterrean Fly.

Sixth Schedule (Cont'd)

PART I (Cont'd)

Prohibited Imports (Concl'd)

Any fruit or vegetables that are brought to Barbados by any vessel or aircraft which has been cleared from any port or airport in Florida with the fruit or vegetables on board shall be deemed to have been grown in or conveyed through Florida unless proof to the contrary be given to the satisfaction of the Comptroller of Customs.

10. Substances or chemicals listed under heading number Ex 29.03 namely halons, chlorofluorocarbons, carbontetrachloride, methyl chloroform, hydrobromofluorcarbons, and bromochloromethane, including any derivative or mixture thereof, which are capable of depleting the ozone layer.

11. Goods the importation of which is prohibited by any other law of Barbados.

Sixth Schedule - (Cont'd)

(Section 155(2))

PART II

Restricted Imports Allowed with Conditions

1. Arms and ammunition, except under licence issued by the Minister under the *Firearm Act* Cap. 179.

2. Cannibis sativa (known as Indian Hemp or bhang), cannabis indicia, choras, or any preparation or mixture thereof, except under a licence issued by the Chief Medical Officer.

3. Goods which bear a design in imitation of any currency or bank notes or coin in common use in Barbados or elsewhere unless with the approval of the Comptroller.

4. Spirits (not being liqueurs, cordials, perfumed spirits or medecuinal spirits) and wine, unless specifically reported as such, and unless in aircraft, or in ships of twenty 20 tons burden at least, and in casks and other vessels capable of containing liquids, each of such casks or other vessels being the size or content of nine 9 gallons at least or unless in glass or stone bottles properly packed in cases, or in demijohns, each case or demijohn containing not less than one 1 gallon.

5. Tobacco, cigars, cigarillos or cigarettes, unless specifically reported as such and unless in aircraft, or in ships of twenty 20 tons burden at least, and unless in whole and complete packages each containing not less that twenty 20 pounds net weight of tobacco cigars, cigarillos or cigarettes, except that less than twenty 20 pounds may be imported by Parcel Post.

6. Tobacco extracts, essences or other concentrations of tobacco, or any admixture thereof, tobacco silk and tobacco stalk flour except under such condition as the Comptroller, with the approval of the Minister, acting in his discretion may either generally or in any particular case may allow.

7. Goods which if sold would be likable to forfeiture under the *TradeMarks Act,* Cap. 319 and also all goods of foreign manufacture bearing any name or trademark of any manufacturer, dealer or trader in Barbados, the United Kingdom or any British possession, unless the trade name or trademark is accompanied by a definite indication of the country in which the goods were made or produced.

Sixth Schedule - (Concl'd)

PART II (Concl'd)

Restricted Imports Allowed with Conditions (Concl'd)

8. Goods bearing the Royal Arms of Great Britain or arms so closely resembling the same as to be calculated to deceive unless the manufacturer of those goods holds Her Majesty's authority to use them in connections with his trade, business, calling, or profession.

9. Goods imported as vessel's or aircraft's stores except such as are required for consumption or use by or for the vessels or aircraft, its officers, crew, and passengers.

10. Substances or chemicals listed under heading number Ex 29.03 namely hydrobromofluorocarbons and methyl bromide, including any derivative or mixture thereof, which are capable of depleting the ozone layer.

11. Substances of chemicals within tariff heading number Ex 38.24 constituting refrigerant blends that are capable of depleting the ozone layer.

12. Goods the importation of which is restricted by any other law of Barbados, in accordance with that law.

SEVENTH SCHEDULE

(Section 156(1))

PART I

Prohibited Exports

1. Substances or chemicals listed under heading number Ex 29.03 namely halons, chlorofluorocarbons, carbontetrachloride, methyl chloroform, hydrobromofluorocarbons and bromochloromethane, including any derivative or or mixture thereof, which is capable of depleting the ozone layer.

2. Goods the exportation of which is prohibited by any other law of Barbados.

Seventh Schedule - (Concl'd)

(Section 156(2))

PART II

Restricted Exports

1. Substances or chemicals listed under heading number Ex 29.03 namely hydrochlorofluorocarbonds and methyl bromide, including any derivative or mixture thereof, which are capable of depleting the ozone layer.

2. Substance or chemicals within tariff heading number Ex 38.4 constituting refrigerant blends which are capable of depleting the ozone layer.

3. Goods the exportation of which is restricted by any other law of Barbados, except in accordance with that law.

EIGHTH SCHEDULE

(Section 218)

Administrative Penalties - Non Prosecutable breach

No.	Provisions	Contravention	Administrative Penalty $
1	Section 36(3)	Entering a customs controlled area without the permission of the proper officer or without authorization under any other enactment contrary to section 36(2)*(d)*	
		Entering a customs controlled area in relation to business other than the business in relation to which permission was given by the proper officer contrary to section 36(2)*(b)*	
		Entering a customs controlled area without wearing an official identification badge issued by the Comptroller contrary to section 36(2) *(c)*	
2	Section 47(3)	Failure to land, anchor or otherwise arrive at a designated place or place directed by the proper officer contrary to section 47(1)	
		Leaving or boarding a convenience without authorization contrary to section 47(2)	
3	Section 49(4)	Failure to make a report as required by as required by section 49(2) or 49(3)	
4	Section 49(6) *(a)*	Goods on manifest required to be produced not appearing in report	

Eighth Schedule - (Cont'd)

No.	Provisions	Contravention	Administrative Penalty $
5	Section 50(8)*(a)*	Goods appearing on clearance or manifest required to be produced do not appear in report	
6	Section 52(1)	Failure to comply with any requirement imposed	
7	Section 54(2)	Failure to comply with customs direction concerning embarkment	
8	Section 55(3)	Failure to comply with customs direction	
9	Section 56(3)	Failure to comply with any of the provisions of section 56	10 000
10	Section 67	Causing a conveyance to depart from a place other than from a custms contolled area	
11	Section 69(8)	Failure to submit a full and true account within period specified or to comply with condition imposed	25 000
12	Section 76(7)	Failure to comply with regulation, condition or term of license or approval granted in relation to goods	
13	Section 77(4)	Failure to comply with any condition given	
14	Section 86(6)	Goods not loaded into vessel or aircraft or not exported in accordance with customs declaration	
15	Section 87(5)	Goods are not declared for export in	
16	Section 88(3)	Failure to make entry outwards as required	

Eighth Schedule - (Cont'd)

No.	Provisions	Contravention	Administrative Penalty $
17	Section 101(1)*(a)*	Goods missing from warehouse	
18	Section 126(2)	Goods failing to reach warehouse or place	
19	Section 144(6)	Failure to produce or account for goods	
20	Section 145(11)	Failure to produce or account for goods	
21	Section 152(3)	Failure to keep and maintain the books, records and other information	
22	Section 153(3)	Failure to make infromation available to the proper officer.	
23	Section 164(2)*(a)*	Neglecting or refusing to provide proper and sufficient food and water together with reasonable accommodation for a proper officer and a means of safe access to and egress from a veseel as required	
24	Section 166(3)	Preventing a customs officer from performing any acts referred to in section 139(2)	
25	Section 167(3)	Preventing a customs officer from entry or search	
26	Section 168(3)	Preventing a customs officer from stopping or searching	
27	Section 184(2)	Failure or refusal to account or produce for goods when required to do so	

Eighth Schedule - (Concl'd)

No.	Provisions	Contravention	Administrative Penalty
27		Neglecting or refusing to provide a means of safe access to, and egress from a vessel as required by a proper officer	
28	Section 139(3)	Preventing a customs officer from performing any acts referred to in section 139(2)	
29	Section 140(3)	Preventing a proper officer from exercising a power under section 114(3)	
30	Section 141(3)	Preventing a proper officer from entering or searching under section 141(3)	
31	Section 157(2)	Failure or refusal to produce or account for goods when required to do so	

NINTH SCHEDULE

(Sections 222,223 and 224)

Offences which may be dealth with administratively

No.	Offence	Particulars of Offence	Penalty in lieu of prosecution $
	Section 45	Refusal to answer questions or knowingly giving a false answer to that question contrary to section 45(3)	a fine of 5000
		Failure to comply with a request made under section 45(3)	a fine of 5000
	Section 46(6)	Failure to comply with the request of a proper officer contrary to section *46(c)*	a fine of 5000
	Section 46	Failure to facilitate the boarding of a conveyance contrary to section 46	a fine of 20000
	Section 49(9)	Failure to answer questions according to section 40(8)*(a)*	a fine of 5000
	Section 49	Failure to produce books and documentation contrary to section 49	a fine of 10000
	Section 49(10)	Taking action before a report is made contrary to section 49	a fine of 10000 or three times the value of the goods, whichever is the greater

Ninth Schedule - (Cont'd)

No.	**Offence**	**Particulars of Offence**	**Penalty in lieu of prosecution $**
	Section 50(9)	Failure to answer question as required by section 50	a fine of 10000
	Section 50(9)	Failure to produce books and documents contrary to section 50	a fine of 10000
	Section 50(12)*(a)*	Breaking bulk contrary to section 50	a fine of 20000
	Section 50(12)*(b)*	Unloading goods contrary to section 50	a fine of 20000
	Section 50(12)*(c)*	Alteration in the stowage of goods contrary to section 50	a fine of 10000
	Section 50(12)*(d)*	Staving, destroying or throwing goods overboard or opening container container contrary to section 50	a fine of 20000
	Section 60	Departure or a conveyace without a valid clearance contrary	a fine of 20000
		Calling at a customs place after clearance without permission of the proper officer contrary to section 45(4)*(b)*	a fine of 10000
	Section 62(2)	Importation of goods concealed in a container holding goods of a different description	a fine of 10000 or three times the value of the goods, whicheve is greater
		Importation of goods packed in a manner appearing to be intended to deceive a customs officer	a fine of 10000 or three times the value of the goods, whicheve is greater

[2] The list of offences contained in this schedule is indicative only. Member States will be required to make the contents of this schedule consistent with the final list off offences contained in the version of the bill adopted

Ninth Schedule - (Cont'd)

No.	Offence	Particulars of Offence	Penalty in lieu of prosecution $
		Importation of entry of goods not corresponding with the entry made in respect of them	a fine of 5000
	Section 78	Importation of goods concealed or packed contrary to section 78(3)	a fine of 10000 or three times the value of the goods, whichever is greater a fine of 10000
	Section 88(1)	Failure to make an entry outwards contrary	a fine of 10000
	Section 88(4)*(b)*	Loading of goods on a conveyance	a fine of 10000 or three times the value of the goods, whichever is greater
	Section 92(2)	Carrying goods by way of coasting trade	a fine of 5000 or three times the value of the goods, whichever is greater
	Section 92(3)	Loading or unloading, carrying or otherwise dealing with goods contrary to a condition or restriction imposed	a fine of 5000 or three times the value of the goods, whichever is greater
	Section 94(6)	Departure of coasting vessel or coasting aircraft carrying goods without clearance	a fine of 5000 or three times the value of the goods, whichever is greater

Ninth Schedule - (Cont'd)

No.	**Offence**	**Particulars of Offence**	**Penalty in lieu of prosecution $**
	Section 94(6)	Departure of coasting vessel or coasting aircraft carrying goods in contravention of any conditions or restriction imposed under section 76(4)	a fine of 5000 or three times the value of the goods, whichever is greater
	Section 97(5)	Failure to keep or produce cargo book	a fine of 5000 or three times the value of the goods, whichever is greater
	Section 98(3)	Failure to allow a proper officer to board or to produce any document that should be on board	a fine of 20000
	Section 157(2)*(b)*	Importation or exportation of restricted goods without the required license or permit or failure to comply with license or permit	a fine of 20000 or three times the value of the goods, whichever is greater
	Section 124(1)	Importing, unshipping or landing of prohibited goods	a fine of 20000 or three times the value of the goods, whichever is greater
		Exporting or transporting prohibited goods with intent to export	a fine of 20000 or three times the value of the goods, whichever is greater
		Carrying coastwise any class or description of goods countrary to this Act	a fine of 20000 or three times the value of the goods, whichever is greater

Ninth Schedule - (Concl'd)

No.	**Offence**	**Particulars of Offence**	**Penalty in lieu of prosecution $**
		Knowingly concerned in any importation, exportation, transportation, shipment, unshipment or landing of goods to which section 124(1)*(a)* or *(b)* applies	a fine of 20000
		Without lawful justification or excuse, removes from a customs controlled area imported goods the importation of which is prohibited under this Part; or	a fine of 20000 or three times the value of the goods, whichever is greater
		Knowingly concerned with or conspires to the removal from a customs controlled area of goods, the importation of which is prohibited under part XI	a fine of 20000 or three times the value of the goods, whichever is greater
	Section 319(6)	Furnishing or causing to be furnished any document that is untrue in a material particular in support of a claim in [country] that goods are of Community origin	a fine of 20000 or three times the value of the goods, whichever is greater

TENTH SCHEDULE

(Section 225)

PART I

PROSECUTION AVOIDANCE NOTICE

1. Full name and address of the person committing the breach:

_____

_____

2. Address: _____

_____

3. Importer's particulars:

   (a) the Permanent Account Number (PAN): _____

   (b) the Import Export Code (IEC) Number: _____

4. The violation of provisions of *Customs Act, 2019* (Act 2019 -) against which prosecution avoidance notice is furnished:

5. Details of Bill(s) of Entry or Shipping Bill(s) in relation to the breach:

_____

_____

Tenth Schedule - (Concl'd)

6. Date of seizure of goods, if any: _____

7. Brief facts of the case and particulars of the breach committed:

_____

_____

8. Maximum penalty for alleged offence as set out in *Customs Act, 2019* (Act 2019 - *)*

_____

9. Amounts of Prosecution avoidance penalty: _____

10. Directions and procedures for paying prosecution avoidance notice:

_____

_____

11. legal effect of paying prosecution avoidance penalty

_____
Name of Applicant

_____
Signature of Applicant

_____
Date

TENTH SCHEDULE

(Section 225)

PART II

NOTICE OF INTENTION TO PAY PROSECUTION AVOIDANCE PENALTY

DECLARATION

I shalll pay the administrative penalty, as may be fixed by the [Comptroller] under section [ ] of the Customs Act.

I understand that I cannot claim, as of right, that the breach or offence committed by me under the Act shall be compounded.

_____

Name and Signature of the Applicant

VERIFICATION

I, _____ the son/daughter/wife of_____

residing at _____ do solemnly declare:_____

(a) that I am making the application in my capacity as
and I am competent to verify it.:

(b) That the contents of this application are trye to the best of my knowledgeandbeliefandnoinformatoionrelevanttothegactsofthecasehasbeen suppressed

.:

Tenth Schedule - (Concl'd)

(c) that the document accompanying the application are true copies of the original and the tables showing financial transactions are correct and are duly attested by me.

Sworn the _____ day of _____ (month) _____ (year) at _____

_____
Name and Signature of the Applicant

Place:

Date:

Before me

_____
A Commissioner of Oaths

.:

ELEVENTH SCHEDULE

(Section 259)

Provisions Relating to Forfeiture

Notice of Seizure

1. The Comptroller shall give notice of the seizure of any thing as liable to forfeiture and of the grounds therefor to any person who to his knowledge was at the time of the seizure the owner or one of the owners thereof:

Provided that notice shall not be required to be given under this paragraph if the seizure was made in the presence of

(a) the person whose offence or suspected offence occasioned the seizure; or

(b) the owner or any of the owners of the thing seized or any servant or agent of his; or

(c) in the case of any thing seized in any vessel or aircraft, the master or commander.

2. Notice under paragraph 1 shall be given in writing and shall be deemed to have been duly served on the person concerned

(a) if delivered to him personally; or

(b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business or, in the case of a body corporate, at its registered or principal office; or

(c) where he has no address within Barbados or his address is unknown, by publication of notice of the seizure in the *Official Gazette*.

Notice of Claim

3. Any person claiming that anything seized as liable to forfeiture is not so liable shall, within one month of the date of the notice of seizure or, where no such notice has been served on him, within one month of the date of the seizure, give notice of his claim in writing to the Comptroller.

4. Any notice under paragraph 3 shall specify the name and address of the claimant and, in the case of a claimant who is outside the Island, shall specify the name and address of a solicitor in the Island who is authorised to accept service of process and to act on behalf of the claimant, and service of process upon a solicitor so specified shall be deemed to be proper service upon the claimant.

Condemnation

5. If, on the expiration of the relevant period prescribed by paragraph 3 for the giving of notice of claim in respect of any thing, no such notice has been given to the Comptroller or if, in the case of any such notice given, any requirement of paragraph 4 is not complied with, the thing in question shall be deemed to have been duly condemned as forfeited.

6. Where notice of claim in respect of anything is duly given in accordance with paragraphs 3 and 4, the Comptroller shall take proceedings for the condemnation of that thing by the court, and where the court finds that the thing was at the time of seizure liable to forfeiture the court shall condemn it as forfeited.

7. Where any thing is in accordance with paragraphs 5 or 6 condemned or deemed to have been condemned as forfeited, then, without prejudice to any delivery up or sale of the thing by the Comptroller under paragraph 15, the forfeiture shall have effect as from the date when the liability to forfeiture arose.

Proceedings for Condemnation by the Court

8. Proceedings for condemnation shall be civil proceedings and shall be instituted in a court of summary jurisdiction.

9. Proceedings for the condemnation of any thing may be instituted—

(a) in the court of the magistrate having jurisdiction in the place where any offence in connection with that thing was committed or where any proceedings for such an offence are instituted; or

(b) in the court of the magistrate having jurisdiction in the place where the claimant resides or, if the claimant has specified a solicitor under paragraph 4, in the place where that solicitor has his office; or

(c) in the court of the magistrate having jurisdiction in the place where that thing was found, detained or seized or to which it is first brought after being found, detained or seized.

10.(1) In any proceedings for condemnation, the claimant or his solicitor shall make oath that the thing seized was, or was to the best of his knowledge and belief, the property of the claimant at the time of the seizure.

(2) If any requirement of this paragraph is not complied with, the court shall give judgment for the Comptroller.

11. Where an appeal, including an appeal by way of case stated, is made against the decision of the court in any proceedings for the condemnation of any thing, that thing shall, pending the final determination of the matter, be left with the Comptroller.

Provisions as to Proof

12. In any proceedings arising out of the seizure of any thing, the fact, form and manner of the seizure shall be taken to have been as set forth in the process without any further evidence thereof, unless the contrary is proved.

13. In any proceedings, the condemnation by a court of any thing as forfeited may be proved by the production either of the order or certificate of condemnation or of a certified copy thereof purporting to be signed by an officer of the court by which the order or certificate was made or granted.

Special Provisions as to certain Claimants

14. For the purposes of any claim to, or proceedings for the condemnation of, anything, where that thing is at the time of seizure the property of a body corporate, of two or more partners or of any number of persons exceeding five, the oath required by this Schedule to be taken and any other thing required by this Schedule or by any rules of the court to be done by, or by any person authorised by, the claimant or owner may be taken or done by, or by any other person authorised by, the following persons respectively, that is to say—

(a) where the owner is a body corporate, the secretary or some duly authorised officer of that body;

(b) where the owners are in partnership, any one of those owners;

(c) where the owners are any number of persons exceeding five not being in partnership, any two of those persons on behalf of themselves and their co-owners.

Power to Deal with Seizures before Condemnation

15. Where any thing has been seized as liable to forfeiture, the Comptroller may at anytime if he sees fit and notwithstanding that the thing has

not yet been condemned or is not yet deemed to have been condemned, as forfeited—

(a) deliver it up to any claimant upon his paying to the Comptroller such sum as the Comptroller thinks proper, being a sum not exceeding that which in his opinion represents the value of the thing, including any duty or tax chargeable thereon which has not been paid; or

(b) if the thing seized is a living creature or is in the opinion of the Comptroller of a perishable nature, sell or destroy it.

16.(1) If, where anything is delivered up, sold or destroyed in accordance with paragraph 15, it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Comptroller shall on demand by the claimant tender to him

(a) an amount equal to any sum paid by him under sub-paragraph *(a)* of paragraph 15; or

(b) where he has sold the thing, an amount equal to the proceeds of sale; or

(c) where he has destroyed the thing, an amount equal to the market value of the thing at the time of its seizure:

Provided that where the said amount includes any sum on account of any duty or tax chargeable on the thing which had not been paid before its seizure the Comptroller may deduct so much of that amount as represents that duty or tax.

(2) If the claimant accepts any amount tendered to him under sub-paragraph (1), he shall not be entitled to maintain any action on account of the seizure, detention, sale or destruction of the thing.

(3) For the purposes of head *(c)* of sub-paragraph (1), the market value of any thing at the time of its seizure shall be taken to be such amount as the Comptroller and the claimant may agree or, in default of agreement, as may be determined by a referee appointed by the Minister not being an official, other than a magistrate, of any Government department, whose decision shall be final and conclusive.

(4) The procedure on any reference to a referee shall be such as may be determined by the referee and such referee shall have the powers conferred on a magistrate to require and compel the attendance of witnesses and the production of books, papers and other documents and to award costs in accordance with the scale of costs laid down in the *Magistrates' Courts (Civil Procedure) Rules, 1958*.

TWELVTH SCHEDULE

(Section 272)

NOTICE OF APPLICATION TO COMPTROLLER FOR RECONSIDERATION

PART 1 - APPLICANT'S DETAILS

Applicant's Name of: _____

Address for service of document: _____

PART 2 - DECISION APPEALED AGAINST

I, hereby request a reconsideration of the Comptroller's decision dated [ ] with respect to

[State the entry number relating to the goods in respect of which the decision was made and/or other participants to enable identification of the decision]

PART 3 - THE FACTS OF THE CASE

The Applicant relies on the following facts in support of the appeal:

_____

_____

_____

Twelvth Schedule - (Concl'd)

PART 4 - GROUNDS OF APPEAL

The following are grounds on which the Applicant seeks a re-consideration of the decision:

PART 5 - LIST OF DOCUMENTS.

The Applicant relies on the following documents:

Signature of Applicant's or Agent

Date

This form once completed is to be sent to:

The Comptroller

THIRTEENTH SCHEDULE

(Section 283)

Customs Appeal Tribunal Summons

In the matter of

_____

_____

To: _____
(name)

_____
(occupation)

_____
(address)

You are hereby summoned to attend before the Customs Appeal Tribunal to inquire into the _____ to be held at
(subject matter)

_____ on the day of , 20
(place)

at _____ and to give evidence concerning the matter specified herein; and to bring with you and produce _____
(time) (documents)

at that time and place.

Dated this day of , 20

Chairman of Customs Appeal Tribunal

WARNING: If you fail to obey this summons in any respect without reasonable excuse, you are liable to punishment in the same manner as for contempt of the High Court