

Customs Act

Passed 13 April 2004

(RT¹ I 2004, 28, 188),

entered into force 1 May 2004.

amended by the following Acts:

16.01.2007 entered into force 18.02.2007 - RT I 2007, 11, 50

25.01.2007 entered into force 01.01.2008 - RT I 2007, 16, 77

14.02.2007 entered into force 15.06.2007 - RT I 2007, 22, 113

Chapter 1

General Provisions

§ 1. Scope of application

(1) Council Regulation 2913/92/EEC establishing the Community Customs Code (OJ L 302, 19.10.1992, pp. 1–50) (hereinafter Community Customs Code), Commission Regulation 2454/93/EEC laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, pp. 1–766) (hereinafter provisions for the implementation of the Community Customs Code) and other Community legislation passed for the implementation of customs rules apply to trade between the Republic of Estonia (hereinafter Estonia) and countries and territories (hereinafter third countries) remaining outside of the customs territory of the European Community (hereinafter Community), and to the rights, obligations and liability of persons engaged in such trade and of the customs authorities. This Act applies to issues not regulated by Community legislation.

(2) This Act also provides for the rights and obligations of the customs authorities and persons upon exercise, by the customs authorities, of state supervision over other prohibitions and restrictions, as well as for liability for violation of the customs rules. Pursuant to Article 1 of the Community Customs Code, the customs rules consist of the Community Customs Code and the provisions adopted at Community level or nationally to implement them.

(3) Customs duties on import and export arising from Community legislation are provided by Council Regulation 2658/87/EEC on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 07.09.1987, pp. 1–675) (hereinafter the Community Customs Tariff). Relief from import duties is provided by Council Regulation 918/83/EEC setting up a Community system of reliefs from customs duty (OJ L 105, 23.04.1983, pp. 1–37) (hereinafter Community system of reliefs from customs duty). The provisions of Estonian tax laws apply where taxes other than import duties are imposed on the import of goods, provided that such provisions are not in contradiction with Community legislation.

(4) The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336; 61, 375; 2003, 20, 117; 78, 527) apply to the administrative proceedings prescribed by Community legislation, this Act and legislation established on the basis thereof, taking into account the specifications provided for by Community legislation and in this Act.

(5) For application of the customs rules, the Government of the Republic or the Minister of Finance have the right to establish, within the limits of their competence, legislation concerning matters which, according to Community legislation, are within the competence of the Member States.

§ 2. Basic definitions

(1) For the purposes of this Act, definitions are used within the meaning of the Community Customs Code and the provisions for the implementation of the Community Customs Code.

(2) For the purposes of this Act, an Estonian person is an Estonian sole proprietor a legal person founded in Estonia, a foreign legal person with a permanent establishment in Estonia, an Estonian state, rural municipality or city agency or a representation of an international organisation in Estonia.

(3) Personal effects are articles to be used or consumed on a journey by a traveller, except for commercial means of transport.

(4) A consignment consists of goods which are conveyed by the same consignor at the same time from the same place of origin using the same commercial means of transport to the same consignee at the same place of destination.

(5) Commercial means of transport is a means of transport used for the carriage of persons for a charge, or for the transport of goods for a charge or free of charge.

(6) A traveller is a natural person travelling from a third country to Estonia or from Estonia to a third country, regardless of what is the purpose of the trip.

(7) Risk evaluation means analysing information at the disposal of the customs authorities and, based on such information, evaluating objects as to the possibility of violation of the customs rules involving the objects.

(8) Customs authorities means the Tax and Customs Board.

(9) A customs official is an official of the Tax and Customs Board who carries out customs formalities in the performance of his or her duties.

(10) Customs formalities are customs control and other operations which must be completed by the persons concerned or the customs authorities in order to comply with the customs rules.

(11) Customs office means any office of the Tax and Customs Board at which all or some customs formalities may be performed.

§ 3. Representation

(1) Under the conditions set out in Article 5.1 of the Community Customs Code, any person may appoint a representative in his dealings with the customs authorities. A representative must be an Estonian person, except if the person presents transit declarations or declarations for temporary importation, or if the person presents declarations only occasionally and the customs authorities consider such request to be reasonable.

(2) In the case of indirect representation, the representative shall have a customs agency activity licence. The organiser of a customs auction is not required to have a customs agency activity licence.

(3) At the reasoned request of the customs authorities, a notarised authorisation document shall

be submitted by a representative.

§ 4. Customs agency

- (1) A customs agency is an Estonian sole proprietor or a legal person founded in Estonia that deals with the customs authorities in connection with the conveyance of goods from a third country into Estonia or the conveyance of goods from Estonia to a third country, and performs customs formalities on behalf of another person by agreement with the latter.
- (2) A customs agency shall provide security to the customs authorities.
- (3) A customs agency shall operate through customs agents. A customs agent is a natural person who holds a corresponding certificate issued to him or her by the customs authorities.

§ 5. Customs agency activity licence

- (1) Customs agency activity licences shall be issued and revoked by the customs authorities.
- (2) The customs authorities shall refuse to issue a customs agency activity licence if the person concerned cannot produce security which satisfies the customs authorities.
- (3) If a customs agency fails to provide new security to the customs authorities at least five days before the expiry of its security, the customs authorities shall suspend the customs agency activity licence until the person has submitted security which satisfies the customs authorities. In cases where the customs authorities decide to increase the amount of security due to a person's failure to meet the terms specified in subsection 62 (1) of this Act or because the person has been punished for an offence specified in subsection 62 (2) of this Act, the customs authorities shall suspend the customs agency activity licence until the person has submitted security which satisfies the customs authorities.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

- (4) A customs agency activity licence shall be revoked on the basis of a written application from the customs agency or on the initiative of the customs authorities. A customs agency activity licence shall be revoked if the customs agency fails to submit security to the customs authorities that satisfies the customs authorities by the deadline set for such purpose.
- (5) The Minister of Finance shall establish, by a regulation, the procedure for issue and revocation of custom agency activity licences and certificates, and rules on the activities of customs agencies.

§ 6. Decision of customs authorities

- (1) Where a request for a decision of the customs authorities for the implementation of the customs rules is made in writing, the applicant shall be informed of the decision of the customs authorities by post, electronic means or by delivery by the customs authorities within thirty days as of receipt of the request, unless the customs rules prescribe a different term.
- (2) The following information shall be included in a written decision of the customs authorities:
 - 1) the name of the customs office that made the decision;
 - 2) the name and position of the official who prepared the decision;

- 3) the name, number and date of the decision;
- 4) the name and postal address of the person with regard to whom the decision has been made;
- 5) the reason for the decision together with references to the corresponding provisions of the customs rules;
- 6) the applicable sanctions upon non-compliance with the decision;
- 7) the procedure for contesting the decision.

§ 7. Challenge of decisions and acts of customs authorities

A person has to right to file a challenge against a decision of the customs authorities or an act of a customs official. Challenges shall be filed and settled pursuant to the procedure for challenges provided for in the Taxation Act (RT I 2002, 26, 150; 57, 358; 63, 387; 99, 581; 110, 660; 111, 662; 2003, 2, 17; 48, 341; 71, 472; 82, 554; 88, 591; 2004, 2, 7), taking into account the specifications provided by Community legislation.

§ 8. Language of customs formalities

- (1) Customs formalities shall be carried out in Estonian.
- (2) In cases specified by the customs rules, customs formalities may be carried out in another language, whereupon the customs authorities have the right to request translation of the additional documents submitted together with the customs declaration. In justified cases, the customs authorities have the right to request submission of a translation attested by a notary or certified by a sworn translator.

§ 9. Performance of customs control

(1) The customs authorities shall perform all of the controls provided for in Article 13 of the Community Customs Code in adherence to the provisions of the customs rules concerning inspection of goods to be placed under customs procedure.

(2) Upon controls of cash, the customs authorities shall apply the rules for customs control of goods. The term "cash" is used in this Act within the meaning of Article 2.2 of Regulation (EC) No 1889/2005 of the European Parliament and of the Council on controls of cash entering or leaving the Community (OJ L 309, 25.11.2005, pp 9–12)

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 9¹. Ex-ante verification

(1) Before issuing the licences prescribed by the customs rules, the customs authorities shall conduct ex-ante verification in the course of which the ability of the applicant to comply with the terms of the licence applied for is assessed.

(2) The customs authorities shall prepare a written decision on ex-ante verification. The decision on ex-ante verification may also contain requirements or recommendations by the customs authorities for changes to be made in the organisation of the work of the applicant, including changes to be made in the keeping of records, reporting or internal rules.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 10. State supervision of prohibitions and restrictions

If a prohibition or restriction established by legislation is in force concerning trade between the Member States of the European Union, postal consignments moving between such states, or goods carried by persons travelling from one Member State to another, and the customs authorities exercise supervision over compliance therewith, customs officials are authorised to exercise, upon performance of their duties, every right for the implementation of the customs rules granted to them by Community legislation and this Act if they have reason to believe, after evaluating the risks involved, that such prohibition or restriction may be disregarded.

§ 11. Provision of information and data transmission by electronic means

(1) Persons directly or indirectly involved in trade between Estonia and a third country, or in the movement of postal consignments or travellers between such states shall submit to the customs authorities, upon the request thereof and within a reasonable term set thereby, the documents needed for evaluating risks, or shall present such information by electronic means, and provide the customs authorities with free access to data concerning goods, means of transport or travellers.

(2) If a prohibition or restriction established by legislation is in force concerning trade between the Member States of the European Union, postal consignments moving between such states, or goods carried by persons travelling from one Member State to another, and the customs authorities exercise supervision over compliance therewith, persons who are involved in trade between Estonia and other Member States, or in the movement of postal consignments or travellers between such states must also submit information according to subsection (1) of this section.

(3) Authorised processors of national databases shall enable the customs authorities access to databases maintained thereby if the data contained therein are necessary for evaluating a risk.

(4) (Repealed -14.020.2007 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 12. Customs control zone

(1) The customs control zone includes territories of ports and airports open for international traffic, areas of railway stations and border checkpoints located on a road section which the Director General of the Tax and Customs Board has, in agreement with the owner or lawful possessor, designated for performance of customs formalities.

(2) In the customs control zone, it is prohibited to unload goods from and load goods to a means of transport without the permission of the customs authorities, and to remove goods from the customs control zone before the required customs formalities are completed.

§ 13. Goods under customs supervision

- (1) Only procedures and transactions approved by the customs authorities may be performed with goods under customs supervision.
- (2) If the customs authorities suspect unlawful removal of goods from customs supervision, the debtor is obliged to prove that the goods have not been unlawfully removed from customs supervision. If the debtor is unable to prove this, the goods shall be deemed to be unlawfully removed from customs supervision.
- (3) If goods under customs supervision perish or are damaged, the possessor of the goods is required to notify the customs authorities thereof at the earliest opportunity and present evidence concerning the loss of or damage to the goods. If the evidence presented does not satisfy the customs authorities, the goods shall be deemed to be unlawfully removed from customs supervision.

Chapter 2

Tax and Customs Board and Customs Officials

§ 14. Duties of Tax and Customs Board upon implementation of customs rules

Upon implementation of the customs rules, the Tax and Customs Board has the duty to protect society and the economy by preventing tax fraud and illicit trafficking, to collect taxes payable upon the import of goods and to facilitate lawful trade between Estonia and third countries.

§ 15. (Repealed -14.020.2007 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 16. Co-operation of Tax and Customs Board with other executive state authorities

- (1) In performing its functions, the Tax and Customs Board shall co-operate with other executive state authorities pursuant to the customs rules and other legislation.
- (2) The Tax and Customs Board shall co-ordinate co-operation between other executive state authorities related to the conveyance of goods from third countries to Estonia and the conveyance of goods from Estonia to third countries.

§ 17. Presentation of identification

In the performance of their duties, customs officials are required to present identification upon request.

§ 18. Rights of customs officials

In the performance of his or her duties, a customs official has the right:

- 1) to check the identity documents of persons and make copies from such documents, to inspect goods and means of transport, persons and their personal effects and to detain goods, means of transport and persons in the cases and pursuant to the procedure established by law;

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- 2) to use technical and other means for preventing, combating and detecting the violation of customs rules, tax laws and the Taxation Act without infringing the constitutional rights of persons, and to perform surveillance activities pursuant to the procedure provided by law;
- 3) pursuant to the procedure prescribed by law, to enter, without hindrance, the premises and territory used by persons for the purposes of checking circumstances which indicate the possible violation of the customs rules, tax laws or the Taxation Act;
- 4) to stop and check means of transport and the goods contained therein, and also to check the documentation of the driver and of the means of transport, and the documents accompanying the goods, and if necessary, to prohibit the use of a means of transport;
- 5) perform other customs operations prescribed by legislation.

§ 19. Special equipment and weapons

- (1) The special equipment of officials of the Tax and Customs Board is divided into passive and active means of protection, and other equipment. Things and equipment intended for civilian use are special equipment of officials of the Tax and Customs Board only if they are used in the performance of the functions of the Tax and Customs Board.
- (2) Passive means of protection include protective helmets, armours and other types of bullet proof vests.
- (3) Active means of protection include handcuffs and service dogs.
- (4) The equipment of the officials of the Tax and Customs Board includes lighting and audio equipment, painting and labelling devices for special purposes, tear gas and smoke grenades (equipment) and means of transport for special or ordinary use, and means of transport used by officials of the Tax and Customs Board in the performance of their duties.
- (5) The weapons of officials of the Tax and Customs Board include truncheons, gas weapons and firearms.
- (6) In the performance of his or her duties, an official of the Tax and Customs Board has the right to use special equipment and weapons in the following cases:
 - 1) for combating a criminal attack;
 - 2) in detaining a person violating the customs rules, tax laws or the Taxation Act, in taking a detained person to the customs office or the police, and also in conveying if the person does not obey or offers resistance to the customs official, or if there is reason to believe that the person may flee or cause harm to other persons, the surroundings or to himself or herself.
- (7) In the performance of his or her duties and in order to ensure his or her own safety, an official of the Tax and Customs Board may use special equipment and weapons against a person violating the customs rules, tax laws or the Taxation Act based on the nature of the violation, the person committing the violation and the particular situation. In using special equipment and weapons, harm to human health must be avoided insofar as this is possible in any given case.
- (8) The Government of the Republic shall, by a regulation, establish the procedure for carrying and keeping special equipment by officials of the Tax and Customs Board.

§ 20. Use of firearms

- (1) Officials of the Tax and Customs Board have the right to wear and use firearms. An official has the right to use a firearm as an extreme measure in an emergency with prior warning if performance of his or her assigned duties is otherwise not possible without endangering his or her life or health.
- (2) Firearms may be used to:
 - 1) prevent a criminal attack which endangers the life and health of the official of the Tax and Customs Board or another person;
 - 2) disarm and detain an armed person;
 - 3) force a means of transport which fails to respond to repeated orders to stop and or is being pursued to stop, by shooting such part of the means of transport which does not endanger human life;
 - 4) kill an animal in the cases provided for in the Animal Protection Act (RT I 2001, 3, 4; 2002, 13, 78; 61, 375; 63, 387; 96, 566);
 - 5) hinder the flight of a person who is being conveyed or who is armed and is being pursued, only by shooting the person in the leg.
- (3) It is prohibited to use a firearm:
 - 1) against a minor, elderly person or a woman with obvious signs of pregnancy, except in order to combat or prevent an armed or group attack by such person or in order to disarm him or her;
 - 2) in foreign diplomatic representations and consular posts, in special missions and representations of international organisations, or against vehicles subject to diplomatic immunity, except with the consent of the head of the corresponding representation or agency or in the cases specified by international agreements;
 - 3) on premises where highly flammable or toxic substances or explosives are produced or stored, including substances which, as a result of the use of special equipment or a firearm, may endanger the life or health of persons.
- (4) An official of the Tax and Customs Board is required to notify the head of his or her structural unit immediately of any case in which a firearm has been used.

§ 21. Uniform of officials of the Tax and Customs Board

- (1) When on duty, officials of the Tax and Customs Board shall wear a uniform in the prescribed cases.
- (2) The Government of the Republic shall, by a regulation, establish the description of the uniforms officials of the Tax and Customs Board and the term of use for items belonging to such uniforms.
- (3) The Minister of Finance shall, by a regulation, establish the procedure for providing officials of the Tax and Customs Board with uniforms and for wearing uniforms.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 22. Co-operation of customs officials with officials of other executive state authorities

- (1) Customs officials are required, within the limits of their competence, to assist in the prevention of unlawful attempts by natural persons to cross the border, and to promptly notify the border guard officials of relevant information known to them.
- (2) In the import and export of goods, customs officials are required to co-operate with other supervisory officials pursuant to law.
- (3) Upon the import of goods, or assignment of customs-approved treatment or use to goods, officials are required to examine the documents or labelling certifying the conformity of goods which, pursuant to legislation, are subject to inspection by the Veterinary and Food Board or the Plant Production Inspectorate. Only customs-approved treatment or use permitted by an official of the Veterinary and Food Board or the Plant Production Inspectorate shall be assigned to such goods.

Chapter 3

Conditions for Application of Import and Export Duties and Other Measures Regulating Trade

§ 23. Estonian Customs Tariff

The Estonian Customs Tariff sets out the measures established by the Common Customs Tariff and by Estonian legislation (hereinafter state measures) applicable upon the placing of goods under customs procedures. Upon subjecting goods to applicable measures in the process of customs clearance, declarants and customs officials shall be guided by the provisions of the Estonian Customs Tariff.

§ 24. Maintenance and amendment of Estonian Customs Tariff

- (1) The Customs and Tax Board is the authority responsible for the maintenance and correctness of the Estonian Customs Tariff. Maintenance of state measures, including nomenclatures shall be organised and the correctness of data shall be guaranteed by the ministry in the area of government of which the relevant measure belongs. In order to maintain the compliance of the Estonian Customs Tariff with the requirements of legislation, an authority maintaining state measures has the right to make necessary amendments to the Estonian Customs Tariff.
- (2) The Government of the Republic shall, by a regulation, establish the procedure for maintenance of the Estonian Customs Tariff.

§ 25. Tariff classification of goods

- (1) The declarant shall, pursuant to law, determine the tariff classification of goods.
- (2) If the tariff classification of goods determined by the declarant is incorrect, the customs authorities shall immediately inform the declarant thereof and determine the tariff classification of the goods on the basis of the Estonian Customs Tariff within ten days after the date on which the declarant was informed of the necessity to change the tariff classification of the goods. In justified

cases, a longer term may be set. At the request of the declarant, the customs authorities are required to provide written justification for an extended term.

§ 26. Issue of certificates of non-preferential origin of goods

(1) The Estonian Chamber of Commerce and Industry shall issue and approve certificates of origin which certify the non-preferential origin of goods. A fee shall be charged for the issue and approval of certificates of non-preferential origin. Upon calculation of the fees, all expenses incurred by the Estonian Chamber of Commerce and Industry for issue and approval of certificates of origin, including the cost of information technology, remuneration, liability insurance coverage and the printing of forms, shall be taken into consideration. The rates of the fees shall be published on the website of the Estonian Chamber of Commerce and Industry.

(2) The Government of the Republic shall, by a regulation, establish the procedure for application and issue of certificates of origin which certify the non-preferential origin of goods.

§ 27. Exchange rates applicable in determining customs value and time limits for decisions

(1) The quoted rate specified in Article 168 of the provisions for the implementation of the Community Customs Code is the exchange rate of the Estonian kroon quoted by the Bank of Estonia.

(2) The customs authorities shall make a decision for determination of the customs value pursuant to Article 181a of the provisions for the implementation of the Community Customs Code within one year after the term set for provision of additional information by the person concerned.

Chapter 4

Provisions Applicable to Goods Brought into Estonia until Customs-approved Treatment or Use is Assigned

§ 28. (Repealed -14.020.2007 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 29. (Repealed -14.020.2007 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 30. Conditions for storage of goods in temporary storage

(1) Goods in temporary storage may be stored in customs terminals or other storage facilities accepted by the customs authorities under the conditions prescribed in the customs rules. All persons bringing goods from a third country to Estonia may temporarily store goods in a customs terminal; a storage facility is intended for specified users.

(2) Customs terminals and storage facilities shall be operated by Estonian persons. Activity licences for operating customs terminals and permits for operating storage facilities shall be issued and revoked by the customs authorities.

(3) The customs authorities shall refuse to issue an activity licence for operating a customs terminal or a permit for operating a storage facility, if:

- 1) the customs terminal or storage facility is not in compliance with the requirements provided for in the customs rules;
 - 2) the applicant for an activity licence for operating a storage facility has operated in the field of import of goods for less than one year before the date on which the application is submitted;
 - 3) the application is not sufficiently justified;
 - 4) the person does not have sufficient security;
 - 5) the accounting of the applicant does not enable the customs authorities to check the activities of the applicant;
 - 6) the person lacks accurate accounts concerning the movement of goods;
 - 7) the person does not have an impeccable business reputation;
 - 8) the person has tax arrears with regard to duties payable upon import or export;
 - 9) the person has submitted incorrect information.
- (4) The customs authorities may refuse to issue an activity licence for operating a customs terminal or a permit for operating a storage facility if during the six months prior to the date of submission of an application, the person operating the customs terminal or storage facility has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine exceeding 100 fine units in the case of a natural person or a fine exceeding 30 000 kroons in the case of a legal person, or the person operating the customs terminal or storage facility has committed a criminal offence prescribed in §§ 391–393 of the Penal Code if information concerning the punishment has not been expunged from the punishment register.
- (5) The customs authorities may suspend an activity licence for operating a customs terminal or a permit for operating a storage facility for a period of up to two months and set a term for elimination of circumstances which constitute the basis for suspension, for compliance with the requirements of the customs authorities or for the removal of goods from the customs terminal or storage facility, if:
- 1) during the six months prior to the date of suspension of the activity licence, the person operating the customs terminal or storage facility has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine exceeding 100 fine units in the case of a natural person or a fine exceeding 30 000 kroons in the case of a legal person, or the person operating the customs terminal or storage facility has committed a criminal offence prescribed in §§ 391-393 of the Penal Code if information concerning the punishment has not been expunged from the punishment register;
 - 2) the inviolability of goods is not guaranteed;
 - 3) the person operating the customs terminal or storage facility is in violation of the conditions specified by the activity licence;
 - 4) the circumstances listed in clauses (3) 1) and 4)–9) of this section exist.
- (6) An activity licence for operating a customs terminal or storage facility shall be revoked on the basis of a written application of a person operating a customs terminal or storage facility or on the initiative of the customs authorities. The customs authorities may revoke an activity licence, if:
- 1) the activity licence was suspended prior to revocation on the grounds specified in clause 5 1) of this section, or

- 2) a person operating a customs terminal or storage facility fails to eliminate the circumstances underlying the revocation of the person's activity licence during the prescribed term.
- (7) Persons operating customs terminals and storage facilities are required to keep records of goods pursuant to the procedure prescribed by the customs rules. Goods shall be entered in the records immediately after the arrival of the goods in the customs terminal or storage facility. The customs authorities have the right to inspect temporarily stored goods and documents concerning such goods at all times.
- (8) A person operating a customs terminal or storage facility shall be responsible for the inviolability of goods and correctness of records, unless the person proves that the records were incorrect due to the fault of another person.
- (9) The Minister of Finance shall establish, by a regulation, the requirements for customs terminals and storage facilities, and the procedure for the issue, suspension and revocation of activity licences for operating customs terminals or storage facilities, and the procedure for storing goods.

§ 31. Taking goods into storage

- (1) Based on an application of the person in possession of goods, the customs authorities may take the goods into storage until customs-approved treatment or use is assigned, and such goods have the status of goods in temporary storage.
- (14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)
- (2) The customs authorities shall refuse to take goods into storage if there are no premises in the customs office suitable for storing such goods, if the premises are occupied, or if storage of the goods in the premises is impossible due to the measurements or nature of the goods.

Chapter 5

Assignment of Customs-approved Treatment or Use to Goods

§ 32. Procedure for assignment of customs-approved treatment or use

- (1) Customs-approved treatment or use shall be assigned, by a prescribed term, to goods in temporary storage.
- (2) The person who lodges a summary declaration is responsible for the assignment of customs-approved treatment or use to the goods. Customs formalities are carried out for the assignment of customs-approved treatment or use.
- (3) The Government of the Republic may establish, by a regulation, the procedures for customs formalities necessary for assigning custom-approved treatment or use.

§ 33. Customs control upon assignment of customs-approved treatment or use

- (1) Documents or entries in national registers which must be submitted pursuant to Acts regulating a given area upon the import or export of goods shall be examined in the course of customs formalities, unless otherwise provided by legislation.
- (2) The customs authorities have the right to involve experts in the performance of customs

control. The customs authorities shall bear the costs of expert analyses unless the customs rules prescribe otherwise.

(3) Customs control shall not endanger the life and health of persons, animals or plants, or harm the goods under control or the environment. Customs control shall be carried out without undue delay.

(4) Upon the inspection of goods, means of transport, baggage or travellers, a report shall be prepared concerning the results of the inspection in two copies, one of which shall be given to the relevant person and the other of which shall be retained by the customs authorities. The customs authorities are not required to prepare an inspection report if the goods in a means of transport were not moved in the course of inspecting the means of transport.

§ 34. Premises needed for activities of customs authorities

(1) The customs authorities have the right to obtain premises and, if possible, furnished office rooms, conforming to occupational safety and health requirements, and means of communication, for use free of charge in customs terminals, customs warehouses, free zones and free warehouses from the owner or lawful possessor thereof, for the activities of the customs authorities. The customs authorities shall pay for telecommunications services.

(2) The customs authorities have the right to obtain premises and, if possible, furnished office rooms, conforming to occupational safety and health requirements, and means of communication, for use free of charge at border checkpoints, the location of postal services providers, ports, airports and railway stations and other transport terminals from the lawful possessor thereof or from the owner if the owner is not the possessor, for the activities of the customs authorities, unless the customs authorities have agreed otherwise with the owner of a border checkpoint on a road. The customs authorities shall pay for public utilities, including telecommunications services and electricity, if the amount to be paid is calculated separately.

§ 35. Measuring of quantities of goods

(1) The measuring of quantities of goods upon customs control may be performed by Community persons who are approved as professionally competent in the corresponding field of measurement pursuant to the Metrology Act (RT I 2004, 18, 132).

(2) Pursuant to the customs rules and in the cases specified therein, a person lodging a summary declaration or the declarant is required to organise, in the process of customs formalities, the measuring of goods by a person specified in subsection (1) of this section and to present the document containing the results of measurements to the customs authorities. The list of goods and cases where a person is required to arrange for the measurement of quantities of goods shall be provided by the procedure for inspection of goods and for taking samples and specimens of the goods established on the basis of subsection 39 (7) of this Act.

(3) Upon comparing the results of measurements of liquids, bulk, sawn timber or timber with the data submitted concerning such goods, the customs authorities may consider the measurement uncertainty of the measurement process.

§ 36. Competence of customs offices

(1) The competence of the customs offices provided for in Article 60 of the Community Customs Code upon carrying out customs formalities and the time and place of customs formalities shall be determined by the Director General of the Tax and Customs Board.

(2) The costs for examination of goods at another time as a customs service provided for in Article 202 of the provisions for the implementation of the Community Customs Code shall be calculated based on the average wages of a customs official and the transport costs. The average wages of a customs official shall be calculated pursuant to the Wages Act (RT I 1994, 11, 154; 1995, 12, 120; 1999, 29, 397; 2000, 10, 59; 40, 248; 2001, 42, 233; 50, 287; 2002, 61, 375; 62, 377; 111, 662; RT III 2003, 2, 16; RT I 2003, 88, 591). Transport costs shall be calculated on the basis of the average cost of a journey per one kilometre of an official vehicle of the Tax and Customs Board during the calendar year preceding the year in which a service is provided. The average wage of a customs official, and the average cost of the journey per one kilometre which constitutes the basis for calculation of transport costs shall be published on the website of the Tax and Customs Board. The Minister of Finance shall, by a regulation, establish the procedure for calculating the cost of customs services and for paying for customs services.

(3) In unforeseeable circumstances, the customs authorities shall resolve customs formalities issues independently, based on the specific situation and the public interest.

§ 37. Lodging of customs declaration

(1) A customs declaration shall be lodged through an electronic data processing system. In the cases prescribed by the customs rules, other methods of lodging of a customs declaration may be used.

(2) If the quantity or value of a consignment exceeds the statistical threshold provided by Community legislation and declaration of the consignment orally or by another act, pursuant to the provisions for the implementation of the Community Customs Code, is impossible, a customs declaration shall be lodged.

(3) In addition to the provisions specified in subsection (2) of this section, a customs declaration must also be lodged for goods with a customs value that exceeds the limits of relief from import duties provided by the Community system of reliefs from customs duty or in a quantity that exceeds the tax exempt limit established by Estonian tax laws.

(4) The customs authorities may refuse to accept separate customs declarations for parts of a consignment upon import if the value of a declared part of the consignment does not exceed the limits of relief from import duties provided by the Community system of reliefs from customs duty, or a tax exempt limit has been established on the quantity of the goods by an Estonian tax law and

the quantity of the goods remains below such limit.

(5) A customs declaration must be lodged concerning a consignment containing goods with regard to which a restriction is in force also in the cases not specified in subsections (2) and (3) of this section.

(6) Natural persons are permitted to lodge a traveller's declaration if the quantity or value of the consignment does not exceed the statistical threshold provided by Community legislation. A traveller's declaration shall not be lodged upon declaration of a means of transport to be conveyed to Estonia as goods from a third country.

(7) Upon submission of a customs declaration, the customs authorities shall check the identity of the person, the right of representation of the person and his or her right to lodge a declaration for the particular goods.

(8) The Minister of Finance shall establish, by a regulation, additional instructions for the completion, lodging and acceptance of written customs declarations and simplified customs declarations, and for forwarding the information contained in the declarations.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 38. Liability upon lodging of customs declaration

A declarant and, in the case of indirect representation, the person on whose behalf a customs declaration is lodged, are liable for the completeness and correctness of information contained in the customs declaration, the authenticity of the submitted documents and the compliance of the goods with the customs declaration.

§ 39. Examination of goods and taking of samples and specimens

(1) Calculation of the costs of the examination of goods in another place and at another time as a customs service provided for in Article 239 of the provisions for the implementation of the Community Customs Code, and payment for customs services shall be carried out pursuant to subsection 36 (2) of this Act and the procedure established on the basis thereof.

(2) If a declarant refuses to carry out any of the acts listed in Article 241 of the provisions for the implementation of the Community Customs Code, the customs authorities shall do so pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act (RT I 2001, 50, 283; 94, 580). Before the customs authorities apply a coercive measure, the declarant may file a challenge against the precept issued by the customs authorities within five days after the date of receipt of the precept.

(3) Information on the results of an examination, analysis and other such treatment of samples and specimens shall be communicated to a declarant, at the request thereof, by post, the customs authorities or electronic means. Unused samples and specimens or remaining samples and specimens

shall be returned to a declarant at the declarant's request.

(4) If there is doubt that certain goods could infringe intellectual property rights within the meaning of Council Regulation 1383/2003/EC concerning customs action against goods suspected of infringing certain intellectual property rights and the measures to be taken against goods found to have infringed such rights (OJ L 196, 02.08.2003, pp. 7–14), the proprietor of the relevant rights shall provide, within ten working days after being informed of the goods being detained, a written opinion on the suspected goods based on the results of examinations of samples or specimens thereof. The proprietor of a right shall not be remunerated for giving an opinion on suspected goods.

(5) An opinion shall set out:

- 1) the time and place of giving the opinion on the goods;
- 2) the given name, surname and the official title of the person who prepared the opinion;
- 3) a description of the samples based on which the opinion is given;
- 4) a conclusion containing the reasoned opinion of the proprietor of the right as to whether the goods infringe intellectual property rights or not.

(6) The customs authorities shall immediately send a copy of an opinion received from the proprietor of a right to the persons involved, who have the right, within ten days after receipt of the copy of the opinion, to file written objections against the opinion to the customs authorities and provide relevant evidence.

(7) The Minister of Finance shall establish, by a regulation, the procedure for examination of goods and the procedure for obtaining samples and specimens thereof.

§ 40. Examination of means of transport

(1) The customs authorities have the right to stop and inspect means of transport which arrive to, stay in or leave Estonia.

(2) Means of transport shall be inspected in the presence of the possessor. If the possessor of a means of transport cannot be established or if he or she refuses to be present at the customs examination, the means of transport may be examined in the presence of one impartial witness on the order of the customs official without the presence of the possessor.

(3) Means of transport that cross the border between Estonia and a third country are required to stop at the customs office at the border or, in the absence thereof, to proceed directly to the designated customs office by the specified route. In the case of an unavoidable stop, the customs authorities or border guard shall be informed promptly.

(4) Officials of ports, postal service providers, railway stations and airports, and ship's agents are required to inform the customs authorities in advance of the arrival from a third country and departure to a third country of any means of transport and shall not permit the unloading, loading or transshipment of imported and exported goods without the permission of the customs authorities.

§ 41. Examination of baggage

(1) Customs officials have the right to demand the presentation, for customs examination, of baggage by travellers crossing the border between Estonia and a third country, or staying in the

transit area of a port or airport, and to examine the baggage. A person under examination shall present his or her baggage to a customs official and unpack the baggage on the order of a customs official.

(2) Baggage shall be inspected in the presence of the possessor. If the possessor cannot be established or if he or she refuses to be present at the customs examination, baggage may be examined in the presence of one impartial witness on the order of the customs official without the presence of the possessor.

(3) A customs official shall examine the baggage of a traveller staying in the transit area of a port or airport if, based on evaluation of risks, there is reason to believe that the traveller may possess goods regarding the import or export of which a prohibition or restriction has been established.

§ 42. Customs examination of travellers

(1) Before the examination of a traveller, a customs official of the same sex may externally feel the clothes of the person under examination in order to ascertain whether he or she is carrying goods subject to declaration which have not been presented to the customs authorities, or goods which are prohibited or subject to a restriction.

(2) If based on the evaluation of risks the customs authorities have reason to believe that a person crossing the border between Estonia and a third country or staying in the transit area of a port or airport is hiding goods subject to declaration, or goods which are prohibited or subject to a restriction, on or in the body, the customs examination of the person may be performed on the order of a customs official.

(3) The customs examination of a traveller shall be performed in a separate room by a customs official of the same sex as the person under examination in the presence of one impartial witness of the same sex. At the request of a person under examination, a witness chosen by him or her from the persons present shall be present at the examination.

(4) Before the customs examination of a traveller, customs officials are required to present their identification and provide information on the acts to be performed for the customs examination of a traveller.

(5) During the customs examination of a traveller, a customs official has the right to:

- 1) demand that the traveller get undressed and examine him or her by observation;
- 2) search the items of clothing of the traveller;
- 3) send the traveller to a medical institution for bodily examination in the presence of a customs official if the customs official suspects that goods may be in the body of the traveller.

(6) A traveller under examination shall answer the questions concerning the suspicions involving him or her as precisely as possible, and is required to comply with the orders of customs officials given in order to discover hidden goods. Travellers who are citizens of foreign countries are entitled to use an interpreter when answering the questions posed to them and complying with the orders of a customs official.

§ 43. Examination of postal consignments

(1) The customs examination of an international postal consignment containing goods which arrive from a third state shall be performed at the location of the postal service provider before delivery of the postal consignment to the addressee, and the customs examination of a postal consignment to be sent to a third state shall be carried out after or upon receipt of the postal consignment from the consignor. For the purposes of this Act and legislation established on the basis thereof, express items within the meaning of the Postal Act (RT I 2001, 64, 367; 2002, 61, 375; 63, 387; 2003, 88, 594) are not deemed to be international consignments.

(2) Restricted goods contained in an international postal consignment concerning which documents must be submitted upon the export or import thereof pursuant to an Act regulating the relevant area, if such documents have not been submitted, goods concerning which a requisite entry has not been made in a state register, and prohibited goods shall be returned to the consignor at the consignor's expense or detained by the customs authorities, of which the consignor shall be notified.

§ 44. Customs seals

(1) A customs seal is a seal or other preventive means affixed by a customs official to ensure the inviolability of goods, means of transport or premises. Several customs seals may be affixed to one object.

(2) The possessor of a means of transport or premises is liable for the inviolability of the goods stored therein which are protected by a customs seal and for the intactness of the customs seal. It is prohibited to remove a customs seal without the permission of the customs authorities. A customs seal may be removed without the permission of the customs authorities in unforeseeable circumstances in order to ensure the preservation of goods carried in a means of transport or stored on a premises.

(3) The customs authorities may accept the customs seals placed by another person, a customs authority or other competent agency of a foreign state. Customs seals accepted by the customs authorities are equivalent to customs seals affixed by the customs authorities.

(4) The customs authorities have the right to demand the presence of persons concerned upon affixation and removal of customs seals by customs officials.

(5) Customs seals shall be affixed in a manner that prevents access to goods without damaging the seals or without leaving traces of tampering on means of transport or premises. The manner in which customs seals are affixed shall exclude removal of the customs seals without damage thereto. Customs officials shall make notations on the corresponding documents concerning the affixation of customs seals.

(6) The possessor of a means of transport or premises shall immediately notify the customs authorities of the breakage or loss of a customs seal, removal thereof in unforeseeable circumstances, or of traces of tampering or other damage to a means of transport or premises protected by a customs seal.

(7) The Minister of Finance shall, by a regulation, establish the procedure for affixation and removal of customs seals.

§ 45. Goods subject to occupation

(1) The goods specified in Articles 53, 57 and 75 of the Community Customs Code shall be occupied, sold, destroyed under customs supervision or transferred without charge by the customs authorities pursuant to the procedure provided for in §§ 97 and 98 of this Act.

(2) The customs authorities shall deliver a written notice to a declarant concerning the intention to occupy goods and shall set a deadline for compliance with the requirements arising from the customs rules. Goods shall not be occupied if a declarant complies with the requirements or re-exports the goods from the customs territory within the term set by the customs authorities, destroys the goods under customs supervision or transfers the goods to the ownership of the state with the consent of the customs authorities.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 46. Simplified declarations

(1) As a general rule, the customs authorities shall refuse to grant authorisation to use the local clearance procedure specified in Article 263 of the provisions for the implementation of the Community Customs Code unless the person forwards information concerning the goods to the customs authorities by electronic means.

(2) A permit for use of simplified declarations shall be revoked at the written request of the holder of the permit or on the initiative of the customs authorities. The customs authorities shall revoke a permit if the requirements for granting the permit are no longer met or if the person fails to provide security which satisfies the customs authorities within the term indicated in the decision by which security is required.

§ 47. Traveller's declarations

(1) The provisions concerning declaration of a consignment of goods provided in subsections 37 (2), (3), (4) and (6) of this Act apply to the goods in the luggage of a traveller moving from a third country into Estonia or from Estonia to a third country.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

(2) (Repealed -14.020.2007 entered into force 15.06.07 - RT I 2007, 22, 113)

(3) (Repealed -14.020.2007 entered into force 15.06.07 - RT I 2007, 22, 113)

(4) The personal effects of a traveller shall be in correspondence with the duration and objective of his or her journey and need not be declared unless a restriction has been established on the import or export of an item.

(5) A traveller's declaration shall be lodged with regard to personal effects and goods concerning which a restriction has been established, unless the requirement to lodge a customs declaration concerning such goods is provided by legislation.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

(6) A traveller whose baggage, upon conveyance from a third country to Estonia or from Estonia to a third country, does not contain goods subject to declaration, must declare the absence of such goods to the customs authorities orally or by another act.

(7) At the request of a traveller, the customs authorities may take goods for storage. The provisions of § 31 of this Act apply to goods in storage.

(8) The Minister of Finance shall, by a regulation, establish the procedure for customs formalities prescribed for travellers, the format of a traveller's declaration and the procedure for completion thereof.

§ 48. Postal consignment declaration

(1) The sender of an international postal consignment containing goods which is sent out of Estonia to a third country shall complete a postal consignment declaration which shall be appended to the postal consignment. If the consignment contains goods the quantity or customs value of which exceeds the statistical threshold provided by Community legislation, the person shall also lodge a customs declaration concerning the goods.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

(2) If a consignment arriving from a third country contains goods the quantity or customs value of which exceeds the statistical threshold provided by Community legislation, the person must lodge a customs declaration.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 49. Amendment and invalidation of customs declarations after release of goods

(1) The customs authorities may, on their own initiative or at the request of a declarant, make amendments to a customs declaration or invalidate a customs declaration after the goods have been released.

(2) The Minister of Finance shall, by a regulation, establish additional instructions for making amendments in customs declarations after release of goods and the procedure for invalidation of customs declarations.

§ 50. Post-clearance examination of declarations

(1) In the process of post-clearance examination of declarations, a customs official may use the rights provided for in Article 78 of the Community Customs Code according to the authorisation granted to him or her by the Director General of the Tax and Customs Board or a person authorised by the Director General within the limits of his or her competence. It is prohibited for a customs official to enter a dwelling without the permission of the persons residing therein.

(2) Post-clearance examination of declarations shall be carried out and documents in proof of the preferential origin of goods shall be examined pursuant to the procedure provided for in the Taxation Act.

Chapter 6

Customs-approved Treatment or Use

§ 51. Release for free circulation

- (1) Release for free circulation shall confer on goods of third country origin the customs status of goods of Community origin.
- (2) The Government of the Republic shall, by a regulation, establish additional instructions for placing goods under the customs procedure of release for free circulation.

§ 52. Customs procedures with economic impact and customs warehouses

- (1) Based on the application specified in Article 497 of the provisions for the implementation of the Community Customs Code, the customs authorities shall grant, under the conditions provided for in Article 86 of the Community Customs Code, authorisation to use a customs procedure with economic impact or to operate a customs warehouse.

(1¹) If a person using a customs procedure with economic impact or a keeper of a customs warehouse has not provided the customs authority with a new security, the customs authority shall suspend the validity of the licence for the use of the customs procedure with economic impact or the keeping of a customs warehouse on the day following the day of the termination of the security until a security to the satisfaction of the customs authorities has been submitted.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

- (2) In cases where the customs authorities decide to increase an amount of security due to a person's failure to meet the terms specified in subsection 62 (1) of this Act or because the person has been punished for an offence specified in subsection 62 (2) of this Act, the customs authorities shall suspend the authorisation to use a customs procedure with economic impact or to operate a customs warehouse until the person has submitted security which satisfies the customs authorities. The customs authorities shall revoke the authorisation if the person fails to produce security that satisfies the customs authorities within the term indicated in the decision to require security. The customs authorities shall also revoke an authorisation if the requirements for granting the authorisation are no longer met.
- (3) A person who no longer wishes to use a customs procedure with economic impact or to operate a customs warehouse shall submit a written application for revocation of the person's authorisation.
- (4) The Minister of Finance shall establish, by a regulation, the requirements for customs warehouses, and the procedure for the grant, suspension and revocation of authorisation for operation of a customs warehouse, and for the storage of goods.
- (5) The Government of the Republic shall, by a regulation, establish additional instructions for placing goods under a customs procedure with economic impact.

§ 53. Placing goods under export procedure

- (1) The customs authorities shall examine exported goods based on an evaluation of risks. In cases provided by the Tax Act or legislation established for implementation of the Common Agricultural Policy, the customs authorities shall make a notation on the document in proof of the export of goods.
- (2) In cases where a customs declaration is lodged by an indirect representative of a declarant, declaration of exported goods in a customs office for exit is not permitted.
- (3) The Government of the Republic shall, by a regulation, establish additional instructions for placing goods under export procedure, and the procedure for carrying out customs formalities upon export.

§ 54. Free zone and free warehouse

- (1) Free zones and free warehouses shall be established on the application of persons and in compliance with the provisions of Article 167.1 of the Community Customs Code by an order of the Government of the Republic based on a proposal forwarded by the Tax and Customs Board to the Ministry of Finance.
- (2) For establishment of free zones and free warehouses, the written consent of the owner or lawful possessor of the territory of the free zone or the premises of the free warehouse is required. In case of multiple owners or possessors, the written consent of all the owners or possessors is required.
- (3) The order of the Government of the Republic shall set out the type of free zone, the term for which the free zone or free warehouse will be established, the co-ordinates of the boundary points of the free zone, buildings to be used as free warehouses and the entry and exit points from the free zone or free warehouse.
- (4) The operation of a free zone or free warehouse shall terminate upon the expiry of the corresponding term, or the operation thereof shall be terminated before the prescribed time by an order of the Government of the Republic if the free zone or free warehouse no longer is in conformity with the requirements prescribed in the customs rules or such requirements are no longer complied with..
- (5) The customs authorities shall refuse to issue a licence for operating in a free zone if:
 - 1) performance of customs control would be jeopardised or made impossible by the operation applied for;
 - 2) the application is not sufficiently justified in the opinion of the customs authorities;
 - 3) the accounting of the applicant does not enable the customs authorities to check the activities of the applicant;
- 3¹) the person does not have security which satisfies the customs authorities for operation in a free zone conforming to Article 168a of the Community Customs Code;

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

- 4) the person lacks accurate accounts concerning the movement of goods;
- 5) the person does not have an impeccable business reputation;
- 6) the person has tax arrears with regard to duties payable upon import or export;

7) the person has submitted incorrect information.

(6) The customs authorities may refuse to issue a licence for operation in a free zone if, during the six months prior to the date of application, the person has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine exceeding 100 fine units in the case of a natural person or a fine exceeding 30 000 kroons in the case of a legal person, or the person has committed an offence prescribed in §§ 391-393 of the Penal Code if information concerning the punishment has not been expunged from the punishment register.

(7) The customs authorities may suspend a licence for operating in a free zone for a period of up to two months and set a term for elimination of the circumstances which constitute the basis for suspension, for compliance with the requirements of the customs authorities or for the removal of goods from the possession of the person, if:

1) during the six months prior to the date of suspension of the licence, the person has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine exceeding 100 fine units in the case of a natural person or a fine exceeding 30 000 kroons in the case of a legal person, or the holder of the permit has committed a criminal offence prescribed in §§ 391–393 of the Penal Code if information concerning the punishment has not been expunged from the punishment register;

2) the person is in violation of the conditions specified by the licence for operating in a free zone;

3) circumstances listed in clauses (5) 3)–7) of this section exist.

(8) A licence for operating in a free zone shall be revoked on the basis of a written application of the person or on the initiative of the customs authorities. The customs authorities may revoke a licence, if:

1) the licence was suspended prior to revocation on the grounds specified in clause 7 1) of this section, or

2) the person fails to eliminate the circumstances underlying the revocation of the licence during the prescribed term.

(9) The Minister of Finance shall, by a regulation, establish additional instructions for operating in free zones and free warehouses and the procedure for issue, suspension and revocation of corresponding activity licences.

§ 55. Transfer of goods to state ownership and destruction of goods

Third country goods may be transferred into state ownership with the consent of the customs authorities. The Minister of Finance shall, by a regulation, establish the procedure for transfer of goods into state ownership and the procedure for destruction of goods under customs supervision.

Chapter 7

Customs Preferences and Simplification of Customs Formalities

§ 56. Goods with customs preference

- (1) Goods exempt from import or export duties pursuant to the Community Customs Code, Community system of reliefs from customs duty or this Act are deemed to be goods imported to the Community customs territory with customs preferences or goods exported from the Community customs territory with customs preferences.
- (2) Goods imported or exported with customs preferences may be used only for the purposes for which the customs preferences are established. The use of such goods for other purposes is permitted only after payment of import or export duties.
- (3) A customs preference shall be granted on the condition that the declarant or, in the case of indirect representation, the person on whose behalf the customs declaration was lodged, is entitled to receive the customs preference.

§ 57. Tax exemption

- (1) Supplies, fuel and other goods to be used, during a journey, on board of a water craft or aircraft engaged in intra-Community transport operations which are imported by the person operating such craft as consumption supplies are exempt from import duties. Spare parts and additional equipment are not deemed to be consumption supplies.
- (2) Goods imported by persons specified in the Vienna Convention on Diplomatic Relations (RT II 1993, 24, 56), the Vienna Convention on Consular Relations (RT II 1993, 23, 53) or an international agreement ratified by the *Riigikogu*² are exempt from import duties.
- (3) Any loan, giving as security, hiring out free of charge or for a charge, or transfer of goods imported with a customs preference pursuant to subsection (2) of this section before the expiry of a term of three years after the date of release of such goods for free circulation is prohibited, except to other persons who enjoy the same preferential treatment.
- (4) Any loan, giving as security, hiring out free of charge or for a charge, or transfer before the expiry of the term specified in subsection (3) of this section shall entail payment, per each full or partial month up to the date of expiry of the term, of one thirty-sixth of the total amount of import duties payable upon release for free circulation of the goods if the person concerned does not have the right to be released from import duties.
- (5) The Government of the Republic shall, by a regulation, establish the procedure for customs formalities for goods exempt from all duties belonging to diplomatic missions of foreign states, and servants at foreign missions and their family members.

§ 58. Customs formalities for goods of Defence Forces and for goods intended for security or defence purposes

- (1) The customs authorities shall not examine warships, military aircraft or other military equipment used in the performance of the functions of the Defence Forces of the Republic of Estonia, vessels and aircraft used in the performance of the functions of the border guard, means of transport and equipment used in the performance of the functions of rescue service units or the personal effects of personnel who are performing their duties unless the customs authorities have reason to believe that the personal effects contain goods which are not necessary for the performance

of their duties. Upon movement of a unit from a third country to Estonia or from Estonia to a third country, the commander of the unit shall declare the supplies and equipment of the unit to the customs authorities pursuant to the procedure prescribed in the customs rules.

(2) In the cases not specified in subsection (1) of this section, the means of transport, goods and personal effects of the personnel of units of the Defence Forces, the border guard and the rescue service, as well as goods for security and defence purposes which are classified on the basis of the State Secrets and Classified Information of Foreign States Act shall be subject to customs control under a simplified procedure.

(25.01.07 entered into force 1.01.08 - RT I 2007, 16, 77)

(3) The Government of the Republic shall, by a regulation, establish the procedure for customs formalities for goods of the Defence Forces, the border guard and the rescue service, of international military headquarters, foreign armed forces and civilian staff, and for the goods of the members thereof, as well as for goods for security and defence purposes.

(4) The customs control of foreign warships, military aircraft and other military equipment, means of transport and equipment of rescue service units of foreign states, and the goods and personal effects of members of the military, civil staff, their dependants and rescue service units of foreign states shall be performed pursuant to the customs rules or an international agreement. Customs formalities for such goods shall be carried out pursuant to the procedure provided for in subsection (3) of this section if the goods, pursuant to legislation, are exempt from all duties upon import.

§ 59. Diplomatic mail and consular consignments of foreign states and Republic of Estonia

(1) Diplomatic mail and consular consignments may contain only documents and goods intended for official use.

(2) Diplomatic mail and consular consignments shall be marked with clearly visible external marks indicating their contents.

(3) Diplomatic mail and consular consignments which are to be imported or exported shall not be opened or detained. If, based on an evaluation of risks, the customs authorities have reason to believe that diplomatic mail or a consular consignment may contain goods not intended exclusively for official use, the customs authorities have the right to ask the addressee or an authorised person of the sending state to open the consignment in the presence of a customs official. Upon refusal to open such consignment, the consignment shall be returned at the expense of the sender.

Chapter 8

Customs Debt

§ 60. Security to cover customs debt

(1) In addition to the types of security provided for in Article 193 of the Community Customs Code, security may be provided in the form of a registered security over a movable or a mortgage established for the benefit of the state pursuant to the procedure provided for in the Law of Property

Act (RT I 1993, 39, 590; 1999, 44, 509; 2001, 34, 185; 93, 565; 2002, 47, 297; 53, 336; 99, 579; 2003, 13, 64; 17, 95; 78, 523) or in the Commercial Pledges Act (RT I 1996, 45, 848; 49, correction notice; 1997, 48, 774; 2001, 93, 565; 2002, 53, 336).

(2) The customs authorities may refuse to accept security provided in the form of a registered security over a movable or a mortgage established for the benefit of the state if they find that the security cannot be sold easily or that acceptance thereof will bring about excessive administrative costs, or the amount of security is less than 1 000 000 kroons.

(3) The Minister of Finance shall, by a regulation, establish the procedures for provision, use and release of security and the bases for determination and calculation of amounts of security.

§ 61. Amount of security

(1) If the customs authorities require security on the basis of Article 190.1 of the Community Customs Code, the amount of security shall, by a decision, be determined by the customs authorities. The customs authorities may require security which enables the payment of the import or export duties arising from a customs debt at any time, or a reduced security.

(2) The minimum amounts for securities shall be established in the bases for determination and calculation of amounts of security provided for on the basis of subsection 60 (3) of this Act.

(3) The customs authorities shall reduce the amount of security required from a person in accordance with the provisions of § 62 of this Act.

(4) The customs authorities may make a new decision to require security and increase the amount of security if a person no longer meets the requirements provided for in subsection 62 (1) of this Act or has been punished for an offence specified in subsection 62 (2) of this Act.

(5) A decision to increase security shall set out the term for provision of the security which satisfies the customs authorities and which may be up to two months after the date the decision is made.

§ 62. Requests for reduction of amount of security

(1) The customs authorities shall reduce the amount of a security if all of the following conditions have been met:

- 1) the accounting of the person enables the customs authorities to check the activities of the applicant;
- 2) the person keeps accurate accounts concerning the movement of goods;
- 3) the person has an impeccable business reputation;
- 4) the person does not have tax arrears with regard to taxes payable upon import or export;
- 5) the information provided by the person is correct.

(2) The customs authorities may refuse to reduce the amount of a security if, during the six months prior to the date of making the decision on the security, the person has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine exceeding 100 fine units in the case of a natural person or a fine exceeding 30 000 kroons in the case of a legal person, or the person has committed an offence prescribed in §§ 391-393 of the Penal

Code if information concerning the punishment has not been expunged from the punishment register.

§ 63. Release and use of security

(1) The customs authorities shall release a security based on the provisions of Article 199 of the Community Customs Code and shall inform the relevant person thereof within ten days after the date of release of the security. Upon release of security provided in the form of a security over a movable or a mortgage, the entry regarding the registered security over a movable or the mortgage shall be deleted pursuant to the procedure provided by law.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

(2) If customs duties resulting from a customs debt are not paid by the prescribed date, the customs authorities are entitled to deduct the amount of import or export duties resulting from the customs debt together with the calculated interest from a deposit, to collect it from a guarantor or to deduct it from money received from the sale of a security. Upon use of a security, the amount of import or export duties resulting from a customs debt shall be collected first, and thereafter the interest calculated on the amount shall be collected. If the same security is used to cover tax liabilities arising, pursuant to Estonian tax Acts, as a result of a customs debt and the amount of security is not sufficient to satisfy all tax claims then, upon the use of the security, the amount of import or export duties resulting from the customs debt shall be collected first, other taxes in proportion to the tax claims shall be collected in the second order and interest shall be collected thereafter.

§ 64. Customs debt resulting from provision of incorrect information

Where a customs declaration in respect of one of the procedures referred to in Article 201.1 of the Community Customs Code is drawn up on the basis of information which leads to all or part of the import or export duties not being collected, the persons who provided the information required to draw up the declaration and who knew, or who ought reasonably to have known that such information was false, shall also be considered debtors.

§ 65. Entry in accounts of amount of duty and notifying debtor thereof

(1) The customs authorities shall enter amounts of import and export duties related to customs debts into accounts in full kroons.

(2) If the basis for incurrence of a customs debt is not a customs declaration or if the customs authorities have reason to believe that the information presented in a customs declaration is incorrect, the customs authorities shall determine the amount of import or export duty and inform the debtor thereof pursuant to the procedure provided for in the Taxation Act.

(3) The Minister of Finance shall, by a regulation, establish the procedure for entry of amounts of import and export duties into accounts, for notifying debtors thereof and for payment of debts.

§ 66. Terms for payment of customs duties

(1) Import and export duties shall be paid in the process of customs formalities, based on an accepted customs declaration, on the date on which the amount of export or import duty is communicated to the person. If the basis of payment of an import or export duty is not a customs declaration, the amount of the import or export duty shall be paid within five days as of the date on which the amount of the import or export duty is communicated to the debtor.

(2) If the basis of payment of an import or export duty is not a customs declaration, the customs authorities may require the immediate payment of the import or export duty if the customs authorities have reason to believe that any delay could render collection of the debt impossible.

§ 67. Manners of payment of customs duties

Payments of import and export duties shall be made in cash or by way of a non-cash settlement. Payment may be made also from amounts overpaid at an earlier date.

§ 68. Deferment of payment of customs duty

(1) A person who wishes to be granted permission for deferment of payment of import or export duties provided for in Article 224 of the Community Customs Code shall submit a written application to this effect. The application shall set out the information needed to determine the amount of security. A permit to defer payment shall be issued after submission of a security which satisfies the customs authorities.

(2) A permit to defer payment shall be revoked on the basis of a written application from the holder of the permit or on the initiative of the customs authorities. The customs authorities shall revoke a permit if the person fails to produce a security which satisfies the customs authorities within the term indicated in the decision for determining the security.

§ 69. (Repealed -14.020.2007 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 70. Calculation of deferment of payment of customs duty

Where the period for summing up entries or releasing goods is a calendar week or a calendar month, the customs authorities may permit that the amount of import or export duty in respect of which payment is deferred shall be paid no later than:

- 1) if the period is a calendar week, on the Friday of the fourth week following that calendar week;
- 2) if the period is a calendar month, by the sixteenth day of the month following that calendar month.

§ 71. Collection of unpaid amounts of customs duty and interest

If an amount of import or export duty resulting from a customs debt is not paid within the prescribed term, the customs authorities shall collect the amount of duty together with interest under the conditions and pursuant to the procedure established in the Taxation Act.

§ 72. Accrual of customs duties

Import and export duties shall accrue to the state budget.

Chapter 9

Liability for Violation of Customs Rules

§ 73. Illegal conveyance of goods to Estonia or out of Estonia

(1) A person who, while carrying goods to be declared from a third country to Estonia or from Estonia to a third country, evades customs control, fails to declare the goods, declares the goods under an incorrect tariff classification or description, or behaves in any other fraudulent manner shall be punished by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 74. Illegal acts with goods subject to prohibitions and restrictions upon movement thereof between Estonia and third countries

(1) The conveyance of goods which are subject to prohibitions and restrictions without a mandatory document or register entry, from a third country to Estonia or from Estonia to a third country, the carriage of forbidden goods from a third country to Estonia or from Estonia to a third country, or the declaration of such goods for customs-approved treatment or use is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 75. Illegal acts with goods subject to prohibitions and restrictions upon movement thereof between Member States

(1) The conveyance of goods which are subject to prohibitions and restrictions without a mandatory document or a register entry, or the carriage of forbidden goods from a Member State of the European Union to Estonia or from Estonia to a Member State of the European Union, where the customs authorities exercise state supervision of compliance with such prohibitions and restrictions, is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 76. Illegal acts with goods located in Estonia

(1) Illegal acts or operations performed with goods brought into Estonia from a third country with customs preferences or goods under customs supervision are punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 77. Illegal placing of goods in temporary storage facility, customs warehouse, free zone or free warehouse

(1) The illegal placing of goods in a temporary storage facility, customs warehouse, free zone or

free warehouse, or the illegal carriage of goods out of such facilities and zones is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 78. Violation of requirements in force in free zone or free warehouse

(1) Operation or construction of buildings within a free zone or free warehouse without the permission of the customs authorities is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 79. Hindrance of customs official

(1) Hindrance of a customs official, including obstruction of the performance of an examination or failure to comply with the lawful demands or orders of a customs official, or refusal to submit or failure to submit documents or information necessary for examination within the term set therefor, or submission of false information or submission of documents or information in a manner which does not permit the performance of an examination, is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 50 000 kroons.

§ 80. Violation of requirements for preservation and storage of goods

(1) Violation of the requirements for the storage or preservation of goods or for the keeping of records on goods in a temporary storage facility, customs warehouse, free zone or free warehouse is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.

§ 81. Submission of documents containing false information concerning origin of goods

(1) Preparation and submission of documents containing false information concerning the origin of goods is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.

§ 82. Acts with goods of persons unauthorised to act in certain areas

(1) Conveyance of goods from a third country to Estonia or from Estonia to a third country, or declaration of goods for customs-approved treatment or use without the mandatory document or registration which certifies the right to operate in the field in question, is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.

§ 83. Violation of customs rules concerning means of transport

(1) Failure to stop a means of transport in the place prescribed in the customs rules or at the signal of a customs official on duty, or driving a means of transport upon the performance of customs formalities without the permission of the customs authorities, or deviation from a prescribed

route when moving to the customs office of the destination or other location prescribed or accepted by the customs authorities, is punishable by a fine of up to 200 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.

§ 84. Tampering with customs seal or means of identification of goods

(1) Tampering with or unauthorised removal of a customs seal or means of identification of goods, or unlawful entry into a commercial means of transport or premises protected by a customs seal is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40 000 kroons.

§ 85. Failure to comply with time limits provided by customs rules or established by customs authorities

(1) Exceeding the time limits prescribed for the assignment of customs-approved treatment to goods, completion of a customs procedure or lodging of summary declaration upon arrival or leaving of goods or a customs declaration lodged in its stead, or for re-exportation of goods is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 30 000 kroons.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 86. Failure to comply with time limits for preserving documents

(1) Failure to comply with the time limits prescribed in Article 16 of the Community Customs Code for the keeping of documents is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

§ 87. Illegal berthing of vessels

(1) Allowing the coming alongside of a vessel under customs formalities without the permission of the customs authorities is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

§ 88. Failure to perform acts related to unforeseeable circumstances or *force majeure*

(1) Failure to perform acts related to unforeseeable circumstances or *force majeure* is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

§ 89. Delayed notice to customs authorities

(1) Delaying in notifying customs authorities of the destruction or damage of goods under customs supervision is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

§ 90. Failure to give notice to customs authorities of arrival or departure of means of transport
Failure by an official of a port, postal service provider, railway or airport, or a ship's agent to give advance notice to the customs authorities of the arrival or departure of a commercial means of transport is punishable by a fine of up to 100 fine units.

§ 91. Illegal operations with cargo under customs supervision

- (1) Opening, re-packaging, transshipment or unloading of cargo under customs supervision without the permission of the customs authorities is punishable by a fine of up to 100 fine units.
- (2) The same act, if committed by a legal person, is punishable by a fine of up to 20 000 kroons.

§ 91¹. Failure to perform obligation to declare cash

Failure to perform obligation to declare cash provided in Article 3 of Regulation (EC) No 1889/2005 of the European Parliament and of the Council on controls of cash entering or leaving the Community is punishable by a fine of up to 100 fine units.

(14.02.07 entered into force 15.06.07 - RT I 2007, 22, 113)

§ 92. Declaration of goods under incorrect tariff classification

- (1) Declaration of goods under an incorrect tariff classification without the intention to obtain rights or to be released from obligations is punishable by a fine of up to 80 fine units.
- (2) The same act, if committed by a legal person, is punishable by a fine of up to 10 000 kroons.

§ 93. Material violation

Violations of the customs rules provided by this Act which, if committed by a natural person, are punishable by a fine of up to 100 fine units and, if committed by a legal person, are punishable by a fine of up to 30 000 kroons, and the offences provided for in §§ 391–393 of the Penal Code are deemed to be material or serious violations within the meaning of Community legislation, and the customs authorities have the right, upon establishing such violation, to refuse to make a decision favourable to the person or to revoke an initial decision favourable to the person.

§ 94. Proceedings

- (1) The provisions of the General Part of the Penal Code and the Code of Misdemeanour Procedure (RT I 2002, 50, 313; 110, 654; 2003, 26, 156; 83, 557; 88, 590) apply to the misdemeanours provided for in §§ 73–92 of this Act.
- (2) The Tax and Customs Board is the extra-judicial body which conducts proceedings in matters concerning the misdemeanours provided for in §§ 73–92 of this Act.
- (3) The extra-judicial body or a court may, pursuant to the provisions of § 83 of the Penal Code,

confiscate an object which has been the direct object of the commission of a misdemeanour provided for in §§ 73–76 of this Act. Goods infringing intellectual property rights which have been the direct object of the commission of a misdemeanour provided for in §§ 73–76 of this Act shall be confiscated.

(4) The extra-judicial body or a court may confiscate a means of transport which has been specifically reconstructed with a view to committing a violation of the customs rules and which has been used as the means of or as an aid to committing a violation of the customs rules.

(5) Goods detained, occupied or confiscated by the customs authorities shall be stored in the possession of the customs authorities or, if the measurements and nature of the goods permit, shall be placed in storage in a customs warehouse or customs terminal.

§ 95. Measures implemented for prevention and detection of criminal offences

In order to combat organised crime, a customs office, with the permission of the Director General of the Tax and Customs Board, has the right to allow goods which are being or have been conveyed to Estonia to arrive unhindered at their destination under customs surveillance (carriage under surveillance method), and if necessary, to co-operate with other surveillance agencies.

Chapter 10

Acts with Goods which are Confiscated, Occupied or Transferred to State Ownership

§ 96. Transfer of goods and means of transport detained by police and border guard officials

Goods and means of transport which are involved in the violation of customs rules and which are detained by police or border guard officials shall be transferred to the customs authorities by the officials. Competent officials of the transferor and transferee shall prepare a statement concerning any transfer.

§ 97. Sale of goods and means of transport which are confiscated, occupied or transferred to state ownership

(1) Goods and means of transport which the customs authorities have confiscated, occupied pursuant to § 45 of this Act or transferred to state ownership shall be sold at a customs auction. Highly perishable goods may be sold before a decision on confiscation enters into force.

(2) Abandoned goods or means of transport occupied by the customs shall be sold at a customs auction if:

- 1) the owner or holder of goods or a means of transport cannot be established within 30 days after the date on which the goods or the means of transport arrive in Estonia from a third country or are detained by the customs authorities;
- 2) the goods or a means of transport have been detained due to a violation of the customs rules, but no decision to confiscate the goods or means of transport has been made, and the owner or holder thereof has not reclaimed such goods or means of transport from the customs authorities within 30 days after the date on which the decision on violation of the customs rules was made.

(3) The customs authorities have the right to take justified amounts of goods from confiscated lots with the aim to use such goods for the prevention of further offences.

(4) Goods specified in subsections (1) and (2) of this section which cannot be sold and goods which infringe intellectual property rights shall be destroyed under customs supervision pursuant to the procedure provided in § 55 of this Act. The customs authorities shall collect the costs of destroying confiscated goods from the person from whom the goods were confiscated. The customs authorities shall collect the costs of destroying occupied goods from the person as a result of whose act or omission the goods were occupied, if such person can be established. The person shall not be required to reimburse such costs if they do not exceed 50 kroons.

(5) Confiscated counterfeit clothing and footwear from which unlawful markings have been removed may be transferred, with the written permission of the possessor of the relevant rights, to state or local government health care or social welfare institutions. The Minister of Finance shall, by a regulation, establish the procedure for transfer of confiscated counterfeit clothing and footwear to state or local government health care or social welfare institutions.

§ 98. Transfer, without charge, of means of transport which are confiscated, occupied or transferred to state ownership

(1) Instead of selling the goods specified in subsections 97 (1) and (2) of this Act, such goods may be transferred, in cases prescribed by legislation, to health or social service providers without charge.

(2) Goods specified in subsections 97 (1) and (2) of this Act which qualify as protected species or are subject to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (RT II 1993, 27/28, 83) shall be transferred without charge to the agency designated by the Minister of the Environment, instead of being sold.

(3) Goods specified in subsections 97 (1) and (2) of this Act of cultural value shall be transferred free of charge to a museum specified by the Minister of Culture, instead of being sold.

(4) Goods specified in subsections 97 (1) and (2) of this Act which are public records with archival value or private records entered in the archives register shall be transferred without charge to the archives designated by the State Archivist, instead of being sold..

(5) A person to whom goods are transferred without charge shall lodge a customs declaration for release for free circulation concerning such goods. The goods shall be transferred after performance of customs formalities.

§ 99. Customs auction

(1) Customs auctions shall be organised by Estonian persons. The organiser of a customs auction shall be determined by a public competition organised by the Tax and Customs Board. The organiser of a customs auction shall have the right to act as an indirect representative in submission of customs declarations and performance of customs formalities.

(2) In the case of the sale, by way of a customs auction, of goods or a means of transport specified in subsections 97 (1) and (2) of this Act, the organiser of a customs auction shall, within

two calendar days from the date of the customs auction, lodge to the customs authorities a customs declaration for release of the goods for free circulation.

(3) The amounts of import and export duties resulting from a customs debt shall be the first to be transferred to the state budget from any amount received from the sale of goods at a customs auction. Secondly, the organiser of the customs auction shall be paid six per cent of the amount received as a result of the auction. If a customs debt exists, taxes payable under Estonian tax Acts and interest on such taxes shall be paid thereafter, after which the costs for storage or transport incurred after the date of the decision to sell the goods shall be covered from the sum remaining after payment of the tax and interest. The remaining amount shall be transferred to the state budget.

(4) The Minister of Finance shall, by a regulation, establish the procedure for organisation of customs auctions.

Chapter 11

Final Provisions

§ 100. Amendment of Archives Act

Subsection 39 (6) of the Archives Act (RT I 1998, 36/37, 552; 1999, 16, 271; 2000, 92, 597; 2001, 88, 531; 93, 565; 2002, 53, 336; 61, 375; 63, 387; 82, 480) is amended and worded as follows:

«(6) If upon customs control, a person is found to be in possession of records specified in subsections (2) and (4) of this section and the person has no authorisation to export them, such records shall be confiscated as prohibited goods, pursuant to the customs rules within the meaning of the Customs Act, and shall be transferred to the archives determined by the State Archivist.»

§ 101. Amendment of Taxation Act

The Taxation Act (RT I 2002, 26, 150; 57, 358; 63, 387; 99, 581; 110, 660; 111, 662; 2003, 2, 17; 48, 341; 71, 472; 82, 554; 88, 591; 2004, 2, 7) is amended as follows:

1) subsection 1 (3) is amended and worded as follows:

«(3) The provisions of this Act apply to the duties payable upon import or export of goods unless otherwise provided for in the customs rules within the meaning of the Customs Act.»;

2) in § 45, subsection 87 (2), subsection 89 (1), § 97 and subsection 119 (2), the words “Customs Code” are substituted by the words “customs rules” in the appropriate case form;

3) subsection 3 is added to § 59 worded as follows:

«(3) In determining amounts of duty, checking the correct payment of duties or preventing offences, customs officials have the right to use all the rights granted to them by law for implementation of the customs rules. Customs officials who have good reason to suspect a violation of a tax Act have the right to use all the rights granted to them by law for the implementation of the customs rules upon determining the amount of duty related to trade between the Member States of the European Union, international postal consignments and persons moving from one Member State to another, upon checking the correct payment of duties or upon preventing offences.»;

4) in subsection 90 (3), subsection 100 (1) and subsection 105 (1), the words “Customs Code or

regulations established on the basis thereof” shall be substituted by the words “customs rules”;

5) subsection 105 (2) is amended and worded as follows:

«(2) In the cases prescribed by a tax law or by the customs rules, tax shall be paid to a tax authority in cash or by way of purchasing revenue stamps. The taxes payable upon import or export of goods shall be paid pursuant to the procedure provided by the customs rules.”;

6) subsection (1¹) is added to §120 worded as follows:

«(1¹) Upon placement of goods under customs supervision or release thereof for free circulation, a tax authority has the right to demand a security to cover taxes payable in connection with a custom debt. The provision, use and release of security and the bases for calculation of amounts of security shall be carried out pursuant to the procedure provided for in the customs rules.”;

7) subsection (5¹) is added to §128 worded as follows:

«(5¹) If tax arrears to be collected arise from tax liabilities related to the incurrence of a customs debt and the amounts of money recovered as a result of compulsory execution are not sufficient to satisfy all tax claims, the amounts of money recovered as a result of compulsory execution shall be first calculated to cover import and export duties.”;

8) subsection 128 (6) is amended and worded as follows:

«(6) If amounts of money recovered as a result of compulsory execution conducted by a bailiff are not sufficient to satisfy all claims, the amount received shall first be calculated to cover the costs of execution and the remuneration of the bailiff and, thereafter, the claims shall be satisfied in the order provided for in subsection (5) of this section, taking into consideration the specification provided for in subsection 5¹.”

§ 102. Amendment of Museums Act

Subsection 16 (3) of the Museums Act (RT I 1996, 83, 1487; 1997, 93, 1559; 2000, 47, 286; 2001, 88, 531; 2002, 27, 153; 53, 336; 2003, 21, 126) is amended and worded as follows:

«(3) Things of cultural value confiscated by the customs authorities shall be handed over to the museums for replenishment of their collections pursuant to the procedure provided for in the customs rules within the meaning of the Customs Act.”

§ 103. Amendment of Border Guard Act

The Border Guard Act (RT I 1994, 54, 903; 1995, 62, 1056; 2001, 65, 377; 88, 531; 2002, 42, 267; 57, 354; 2003, 20, 116; 90, 601) is amended as follows:

1) clause 4 (1) 4) is amended and worded as follows:

«4) to prevent the unlawful carriage of goods from a third country to Estonia and from Estonia to third countries on the territory between the border check points and in the territorial waters;”;

2) clause 4 (1) 7) is amended and worded as follows:

«7) to assist the customs authorities within the limits of its competence and conduct customs control, in accordance with the customs rules within the meaning of the Customs Act, in border check points where there is no permanent customs control;”;

3) clause 8) is added to subsection 7 (1) worded as follows:

«8) to inspect, in the process of customs control, means of transport, persons, personal effects and goods not subject to declaration and, in the cases and pursuant to the procedure provided by law, detain goods, means of transport and persons as necessary.”

§ 104. Amendment of Police Act

Clause 6) is added to subsection 12 (2) of the Police Act (RT 1990, 10, 113; 1991, 10, 152; RT I 1993, 20, 355; 1994, 34, 533; 40, 654; 86/87, 1487; 1995, 62, 1056; 1996, 49, 953; 1998, 50, 753; 51, 756; 2001, 7, 17; 65, 377; 85, 511; 2002, 56, 350; 2003, 20, 116; 81, 544) worded as follows:

«6) the Tax and Customs Board for implementation of the customs rules within the meaning of the Customs Act.”

§ 105. Amendment of Ports Act

The Ports Act (RT I 1997, 77, 1315; 1999, 88, 805; 2001, 88, 531; 2002, 1, 1; 42, 267; 58, 363; 61, 375; 63, 387; 2003, 88, 591 and 594) is amended as follows:

1) subsection 16 (1) is amended and worded as follows:

«(1) Public customs warehouses, customs terminals, free zones and free warehouses shall be established in ports for the promotion of commerce pursuant to the procedure established by the customs rules within the meaning of the Customs Act.”;

2) subsection 16 (2) is repealed.

§ 106. Implementing provisions of this Act

(1) Free zones that were established by a Government of the Republic order pursuant to the Customs Code (RT I 2001, 88, 531; 2002, 61, 375; 63, 387; 92, 528; 2003, 2, 17; 26, 156; 73, 484; 88, 591) which was in force up to the entry into force of this Act, are deemed to be type 1 free zones. Such free zones may operate until the date specified in the corresponding order of the Government of the Republic, provided that the free zones comply with the terms and conditions set by the customs rules.

(2) Any licence or permit issued pursuant to the Customs Code that was in force up to the entry into force of this Act and which relates to the activity of a customs agent, an authorised representative of a customs agent, the operation of a customs warehouse, customs terminal, storage facility or the activities of persons operating in free zones, lodging of entry declarations or simplified customs declarations, or the right to defer payment of duties, shall remain valid for one year after the date of entry into force of this Act, provided that the activities of the holder of the licence are in compliance with the customs rules. The licences and permits set out in the treaty for Estonia's accession to the European Union (RT II 2004, 3, 8) shall be valid under the terms and conditions and during the period of time set out in the treaty.

(3) Upon processing customs declarations, the Customs Code in force up to the entry into force of this Act applies with regard to goods concerning which a customs declaration was accepted before the entry into force of this Act. The customs procedures specified in the treaty for Estonia's accession to the European Union shall be completed under the terms and conditions and within the period of

time set out in the treaty. A customs procedure for temporary importation which is used at the time of entry into force of this Act shall be completed at the date indicated in the corresponding customs declaration for temporary importation if the objectives and terms of the procedure do not meet the terms and conditions provided by the customs rules.

(4) Community goods or goods in free circulation in the Czech Republic, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia or the Slovak Republic (hereinafter acceding countries) which are transported to Estonia and on the export of which customs formalities are completed in the Community or the acceding country prior to the entry into force of this Act are deemed to be third country goods. Goods which are sent to Estonia from a third country before the entry into force of this Act and which arrive in Estonia after the entry into force of this Act are also deemed to be third country goods.

(5) Estonian goods which are undergoing the outward processing procedure in the Community or an acceding country upon the entry into force of this Act are deemed to be, in the event of transport of such goods into Estonia under customs supervision, third country goods.

(6) Estonian goods which are transported to a Member State of the Community or an acceding country for purposes which comply with the purposes of applying the temporary importation procedure with total relief from import duties prior to the entry into force of this Act are deemed to be, in the event of transport of such goods into Estonia under customs supervision, third country goods.

(7) Third country goods specified in subsections (4)–(6) of this section shall be released from import duties and other Community customs measures if the documents that are provided for in the treaty for Estonia's accession to the European Union are lodged concerning such goods.

(8) Customs declarations which are lodged, before the entry into force of this Act, for placing goods under an export, outward processing or re-exportation procedure upon their conveyance from Estonia to the Community or an acceding country shall be invalidated if the goods are not dispatched before the date of entry into force of this Act.

(9) The customs authorities shall commence the receipt and processing of applications for licences, certificates and other documents which enter into force on the date of entry into force of this Act only after publication of this Act.

(10) Until 30 June 2004, subsection 39 (4) of this Act is in force in the following wording:

«(4) If there is doubt that certain goods could infringe intellectual property rights within the meaning of Council Regulation 3295/94/EC laying down measures to prohibit the release for free circulation, export, re-export or entry for a suspensive procedure of counterfeit and pirated goods (OJ L 341, 30.12.94, pp. 8-13), the holder of the relevant rights shall provide, within ten working days after being informed of the goods being detained, a written evaluation of the goods based on the results of examinations of samples or specimens thereof. The proprietor of a right shall not be remunerated for giving an opinion on suspected goods.»

(11) Section 95 of this Act is in force until the entry into force of the Code of Criminal Procedure (RT I 2003, 27, 166; 83, 558; 88, 590).

§ 106¹. Calculation of length of customs service under favourable conditions

(1) The time of service in the position of a customs official is deemed to be the length of customs service.

(2) If the total length of customs service of a person is at least twenty years, then the period of service as a customs official beginning from 22 October 1990 until 31 July 1994 shall be included under favourable conditions multiplied by three in the length of customs service.

(16.01.07 entered into force 18.02.07 - RT I 2007, 11, 50)

§ 107. Entry into force of Act

This Act enters into force on 1 May 2004.⁽²⁾ Section 106¹ of this Act enters into force on 1 January 2008.

(16.01.07 entered into force 18.02.07 - RT I 2007, 11, 50)

¹ RT = *Riigi Teataja* = *State Gazette*

² Riigikogu = the parliament of Estonia