



Tuvalu

CUSTOMS ACT

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Tuvalu

CUSTOMS ACT

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Tuvalu

CUSTOMS ACT

AN ACT RELATING TO THE COLLECTION AND MANAGEMENT OF THE REVENUE OF CUSTOMS¹

Commencement [1st July 1964]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Customs Act.

2 Interpretation

- (1) In this Act and in any other Act relating to the customs unless the context otherwise requires —

“**agent**”, in relation to the master or owner of an aircraft or ship, includes any person who notifies the Customs Officer in writing that he intends to act as agent, and who or on whose behalf any person authorised by him signs any document required or permitted by the customs laws to be signed by an agent:

Provided that the owner of any aircraft or ship, if resident or represented in Tuvalu, shall be deemed to be the agent of the master for all the purposes of the customs laws if no such agent be appointed;

“**air cargo**” means cargo, duly reported as such, arriving in an aircraft from any place outside Tuvalu;

“**aircraft**” includes balloons, kites, gliders, airships and flying machines;

“**approved place of unloading**” and “**approved place of loading**” mean respectively any quay, jetty, wharf or other place, including any part of an

“**warehouseman**” means the occupier of a customs area and any person or authority in control of a customs area.

- (2) For the removal of doubts, it is hereby declared that notwithstanding the use of the expression “shall incur a penalty” in any section of this Act any lesser penalty may be imposed than the penalty prescribed by that section.

3 Officers to have powers of police officers

For the purpose of carrying out the provisions of the customs laws, all officers shall have the same powers, authorities and privileges as are given by law to police officers.

4 What shall be deemed to be acts of Customs Officer

Every act, matter or thing required by the customs laws to be done or performed by, with, to or before the Customs Officer if done or performed by, with, to or before any officer assigned by the Customs Officer for such purpose, shall be deemed to be done or performed by, with, to or before the Customs Officer; and every person performing any duty or service relating to the customs by the orders or with the concurrence of the Customs Officer (whether previously or subsequently expressed) shall be deemed to be the officer for that duty or service; and every act required by the law at any time to be done by, with, to or before any particular officer nominated for such purpose, if done by, with, to or before any person appointed by the Customs Officer to act for such particular officer, shall be deemed to be done by, with, to or before such particular officer and any act required by the law to be done at any particular place within any port if done at any place within such port appointed by the Customs Officer for such purpose, shall be deemed to be done at the particular place so required by law.

5 Hours of attendance

The working days and hours of general attendance of officers shall be as prescribed.

6 Request by public for extra attendance

Every request by any person for a temporary extension of the hours of general attendance which may be prescribed under section 5 or elsewhere in this Act shall be made in writing on the prescribed form to the proper officer at the port where the extra attendance is desired, and it shall be lawful for the said proper officer in his discretion to grant such request subject to the provisions of any regulations and payment of any prescribed fees.

PART II - DUTIES, PROHIBITIONS, DRAWBACKS AND REFUNDS OF DUTY

7 Customs duties

The Minister may by order impose import or export duties of customs upon any goods whatsoever which may be imported into or exported from Tuvalu and revoke, suspend, reduce, increase or alter any such duties, and provide for the importation or exportation of any goods without payment of customs duty thereon:

Provided that all import or export duties of customs and all exemptions from duties of customs set out in Schedule 1 shall continue in force until revoked, suspended, reduced, increased or altered in the manner provided in this Act.

8 Minister may remit duty, rent, charges and fees

The Minister may, in his discretion and upon application submitted through the Customs Officer in any particular case, direct the remission or refund in whole or in part of any customs duty payable or paid on any goods imported or exported or of any rent, charges or fees paid to the Customs Officer and in directing such remission or refund the Minister may impose such conditions as he may think fit.

9 Time of entry to govern duty payable

- (1) All goods deposited in any warehouse without payment of duty on the first importation thereof, or which may be imported or exported and shall not have been entered for use within Tuvalu or for exportation as the case may be, shall if consumed on a vessel or aircraft after arrival in Tuvalu and before clearance thereupon, or upon being entered for use within Tuvalu or for exportation as the case may be, be subject to such duties as may be due and payable on the like sort of goods under the customs laws in force at the time when the same are entered save in cases where special provision shall be made to the contrary:

Provided that for the purposes of this section in the case of passengers' baggage or of goods imported into Tuvalu by post, for which entry is not required, the time of entry shall be taken to be the time of delivery of such baggage or goods to the passenger or addressee, as the case may be, and, in the case of goods exported from Tuvalu by post, the time of entry of such goods shall be taken to be the time of posting.

- (2) Goods may be entered for use in Tuvalu before importation except during such periods as the Customs Officer may by notice specify and in the case of any goods so entered the rate of duty applicable shall be the rate of duty in force at the time of importation of the goods.

10 Effect of obligation to pay duty

- (1) Where by entry, bond, removal of goods or otherwise, any obligation has been incurred for the payment of duties of customs such obligations shall be deemed to be an obligation to pay all duties of customs which may become legally payable, or which are made payable or recoverable under the customs laws, and to pay the same as the same become payable.
- (2) When any duty has been short levied or erroneously refunded, the person who should have paid the amount short levied, or to whom the refund has erroneously been made, shall pay the amount short levied or repay the amount erroneously refunded, on demand being made by the Customs Officer.
- (3) Without prejudice to any other provision of this Act any amount due by way of customs or excise duty may be recovered as a debt due to the Crown.

11 Duty on goods re-imported

- (1) Subject to subsection (2), where any goods whether made or produced within Tuvalu or not, being of a class or description liable to any import duty of customs, are re-imported into and entered for use within Tuvalu after exportation therefrom, and it is shown to the satisfaction of the Customs Officer that any duty of customs or excise chargeable in respect of goods prior to their exportation was duly paid, either prior to exportation or at any subsequent time, and either that no drawback of any such duty was allowed on exportation, or that any drawback so allowed has been repaid to the Customs Officer, then —
 - (a) if it is further shown as aforesaid that the goods have not been subjected to any process abroad, or having been so subjected (but without change of their form or character) are goods not liable at the time of re-importation to duty *ad valorem*, the goods shall be exempt from any further duty when the same are entered for use within Tuvalu after re-importation, unless the rate of duty of excise or customs, as the case may be, chargeable on goods of the same class or description at the time when the same are entered for use within Tuvalu after re-importation shall exceed the rate paid on the said goods as a duty of excise or on first importation and entry, as the case may be, in which case such goods shall be chargeable with duty according to the difference between the amount of duty previously paid and duty calculated at the rate in force at the date when such goods are entered for use within Tuvalu after re-importation;
 - (b) if the goods at the time when the same are entered for use within Tuvalu after re-importation are of a class or description liable to an import duty *ad valorem*, and it is further shown as aforesaid that the goods have been subjected to a process of repair, renovation, or improvement abroad, but that their form or character has not been changed such goods shall be chargeable with duty as if the amount of

the increase in the value of the goods attributable to the process were the whole value thereof, and, where any sum has been contracted to be paid for the execution of the process, that sum shall be prima facie evidence of that amount, but without prejudice to the powers of the Customs Officer under the customs laws as to ascertainment of the value of the goods for the purpose of assessing duty thereon *ad valorem*:

Provided that if the rate of duty of excise or customs, as the case may be, chargeable on goods of the same class or description at the time when the same are entered for use within Tuvalu after re-importation shall exceed the rate paid on the said goods as duty of excise or on first importation and entry, as the case may be, then, in such case, in addition to the *ad valorem* import duty chargeable according to the amount of the increase in the value of the goods attributable to the process, such goods shall be chargeable with additional excise or customs duty calculated in the manner set out in paragraph (a), as if such goods had not been subjected to any process of repair, renovation or improvement abroad.

- (2) The provisions of subsection (1) shall be conditional on the person exporting goods for subsequent re-importation giving notice in writing and producing such goods for identification at the port or place of shipment to the proper officer, or, in the case of exportation by post, to the proper postal authority, before the exportation of such goods, unless the Customs Officer in his discretion shall waive this condition in any case in which in his opinion it may seem unreasonable or impose hardship.

12 Goods entered for transshipment exempt from duty

Goods entered for transshipment through Tuvalu in accordance with any regulations in that behalf made under the customs laws shall be exempt from the payment of import or export duties.

13 Assessment of value of goods liable to *ad valorem* duty

- (1) For the purpose of any enactment for the time being in force whereunder a duty of customs is chargeable on goods by reference to their value —
 - (a) in the case of imported goods the value for the purpose of assessing duty *ad valorem* shall be taken to be the domestic value, as defined in the next succeeding paragraph hereof, the cost of packing and packages for export, and carriage to the place of shipment but not including dock and port charges and storage costs incidental to placing the goods on board ship for exportation to Tuvalu;
 - (b) for the purpose of this section “domestic value” in respect of goods imported into Tuvalu shall be the market price at which at the time of

exportation such or similar goods are offered for sale, for consumption in the country from which the goods are exported, to all purchasers in the usual wholesale quantities in the ordinary course of trade in the principal markets of such country, including the costs of packages ordinarily used in those markets but not including excise duties or sales, purchase or value added tax or other impost payable in that country:

Provided that where the actual purchase price of any goods in the country from which the goods are exported exceeds the domestic value as hereinbefore defined then such actual purchase price shall be deemed to be the domestic value of the goods in question:

Provided further that in the case of goods the domestic value of which is in excess of \$1 the value for the purposes of this section shall be calculated to the nearest dollar, so that any part of the value of such goods which includes a fraction of a dollar not exceeding 50 cents shall be disregarded and any such fraction of a dollar in excess of 50 cents shall be deemed to be \$1.

- (2) In converting the domestic value, as defined in the preceding subsection, and any other charges, costs or amounts to be taken into account in determining value in accordance with the provisions of this section, from any foreign currency into the legal currency of Tuvalu, the rate of exchange shall be such rate as may be notified from time to time, in respect of any such foreign currency, by the Customs Officer by public notice.
- (3) In the case of exported goods the value for the purpose of assessing duty *ad valorem* shall be determined in the manner from time to time prescribed.

14 Duty payable on classification at highest rate

If any goods are enumerated in Schedule 1, or can reasonably be classified under 2 or more names, headings or descriptions, and there is a difference of duty, the highest duty provided shall be charged and collected thereon.

15 Duty on composite goods

Except as otherwise provided in the customs laws, goods containing any article liable to duty as a part or ingredient thereof shall be liable to duty at the rate payable on such part or ingredient, and any goods composed or more than 1 article liable to duty shall be liable to duty at the rate payable on the article charged with the highest rate of duty:

Provided that the highest rate shall not be exacted in cases where the Customs Officer in his discretion decides that the goods contain only a negligible proportion of the article liable to the highest rate:

Provided further that in no case shall any less duty be charged on any such goods than the duty due thereon when considered as a whole without regard to their contents.

16 Duty chargeable on reputed quantity

If any goods subject to the payment of specific duty are imported in any package intended for sale, or of a kind usually sold with the goods when the same are sold retail, and marked or labelled, or commonly sold, as containing or commonly reputed to contain, a specific quantity of such goods, then such package shall be deemed, for the purpose of customs duty, to contain not less than such specific quantity.

17 Duty calculated on gross weight in certain cases

If any goods subject to the payment of duty according to the weight thereof are imported in any package intended for sale, or of a kind usually sold with the goods when the same are sold retail, and such package is not marked or labelled, or is not in the opinion of the Customs Officer commonly sold as containing or commonly reputed to contain a specific quantity of such goods, and the importer is not able to satisfy the Customs Officer as to the correct net weight the duty thereon shall be calculated according to the gross weight of such package and its contents.

18 Minister may fix standard contents for packages containing liquids

The Minister may by notice specify, in litres or centilitres, standard capacities for packages containing goods liable to duties according to the liquid measurement thereof in all cases where in his absolute discretion he shall consider that such packages, being of sizes within limits to be specified in the notice, are reputed to be, or are sold as packages of standard sizes, whether or not any statement of the actual contents is contained on any label or other attachment to or part of such package, and thereupon all packages having capacities within the limits specified in any such notice shall be deemed to contain the standard capacity specified in the notice in each case.

19 Duties, etc., to be proportionate to quantity or value

All duties, rates, charges and drawbacks imposed and allowed according to any specified quantity, or any specified value, or any particular description or package, shall be deemed to apply in the same proportion to any greater or less quantity or value, or any other description of package, and shall be paid and received in any currency being legal tender in Tuvalu.

20 Abatement of duty

No claim for any abatement of duty in respect of any goods imported into Tuvalu shall be allowed on account of damage unless such claim shall be made before or at the time of delivery of the goods out of the control of the customs.

21 Derelict, etc., goods liable to full duty unless damaged

All goods derelict, jetsam, flotsam and wreck brought or coming into Tuvalu, and all droits of Admiralty sold in Tuvalu, shall at all times be subject to the same duty as goods of the like kind on importation into Tuvalu are subject unless it shall be shown to the satisfaction of the Customs Officer that such goods are damaged, in which case a claim for abatement of the duty may be made.

22 Damage to be assessed by the Customs Officer

Subject to the provisions of sections 20 and 23, the damage sustained by any goods shall be assessed by the Customs Officer, who shall allow abatement of the duty in proportion to such damage.

23 No abatement on certain goods

No claim for abatement of duty on account of damage shall be allowed in respect of tobacco, cigars, cigarettes, cigarillos, wine or spirits.

24 Qualification as to abatement

When the carrier is liable for damage to any goods or any goods are insured against damage, no claim for abatement of duty on account of damage shall be allowed in respect of imported goods (not being goods derelict, jetsam, flotsam or wreck brought or coming into Tuvalu or droits of Admiralty sold in Tuvalu) except on proof that the carrier or insurer of the goods has made an allowance to the importer in respect of the damage and the abatement shall not exceed such proportion of the duty as the amount of the allowance made bears to the value of the goods undamaged, calculated in accordance with section 13.

25 Limitations as to wine and beer

- (1) No liquor containing more than 24° volume of alcohol shall be deemed wine; and no liquor containing more than 11.5° volume of alcohol shall be deemed beer, ale, stout or porter.
- (2) All liquor containing more than 24° volume of alcohol and all liquor, other than wine, containing more than 11.5° volume of alcohol, shall be deemed spirits.

26 Strength of spirits

- (1) In ascertaining the strength of any spirit, any obscuration shall be determined and allowed for.
- (2) The certificate of the Customs Officer or of any pharmacist as to the strength of any liquid containing alcohol shall be prima facie evidence of the strength thereof.

27 Goods used contrary to purpose for which imported

If any goods which are ordinarily liable to duty at a given rate are allowed by law to be, and are in fact, entered at a lower rate of duty, or free of duty, on any special conditions, or for use for some specified purpose or in some particular place or because they are the property of or intended for use by some particular person or functionary, and if such conditions are not observed, or the goods are at any time within 5 years of the date of importation thereof used for any other than the specified purpose or in any other than that particular place, or being goods entered as aforesaid because they are the property of or intended for use by some particular person or functionary, are sold or transferred to any other person or if such functionary continues to own or use such goods and they remain within Tuvalu after he ceases to be a functionary as aforesaid, such goods, unless the full duties thereon or such lesser amount as the Customs Officer either generally or in any particular case may decide shall be chargeable, shall have been paid, shall be forfeited, and the importer and any person who shall be knowingly concerned in the use of such goods contrary to such conditions, or for some purpose other than that specified or in any way contrary to this section, shall each incur for each such offence a penalty of \$200, or treble the duty paid value of such goods at the election of the Customs Officer unless the full duties on such goods or such lesser amount as aforesaid shall be paid with the prior consent of the Customs Officer.

28 Penalty for not producing goods

The importer of any goods falling within section 27 shall, on demand, produce them to any officer or otherwise account for them to the satisfaction of the Customs Officer within such period of 5 years aforesaid, and if he shall fail to produce such goods, or otherwise account for the same as aforesaid, he shall incur a penalty of \$200 or treble the duty paid value of such goods, at the election of the Customs Officer.

29 Goods imported for temporary use or purpose

The proper officer may give permission to any person to import any goods without payment of duty thereon, upon being satisfied that such goods are so imported for temporary use or purpose only; and such permission shall be subject to sections 30 and 31 and to the following conditions, that is to say —

- (a) that such goods shall be exported within 4 months of the date of such permission; and
- (b) that the person to whom such permission is given shall deposit in the hands of the proper officer the amount of duty on such goods, or else give security therefor, at the election of the proper officer.

30 Disposal of deposit

If any goods imported under the provisions of section 29 are not exported within 4 months of the date of the said permission the deposit in the hands of the proper officer shall be forfeited, or, if security has been given as aforesaid, then the importer shall pay to the proper officer the full duties on such goods; and if such goods are exported as aforesaid such deposit shall be refunded, or the security cancelled:

Provided that the proper officer may, in his discretion, and on provision of additional security where he so requires, allow any additional period where he is satisfied that the goods are the bona fide property or bona fide in the use of any person on a temporary visit to Tuvalu.

31 Certain goods may be exempted

The Minister may by notice declare⁵ that any goods named by him shall not be imported under section 29 and may also in like manner declare that any goods which are permitted to be imported under the said section shall be subject to such proportion of the duty thereon as he shall specify in such notice.

32 Contract prices of Imported goods may be adjusted to meet change in duty

- (1) Where any new import duty of customs is imposed, or where any import duty of customs is increased, and any goods in respect of which the duty is payable are delivered on or after the day on which the new or increased duty takes effect in pursuance of a contract made before that day, the seller of the goods may, in the absence of agreement to the contrary, recover, as an addition to the contract price, a sum equal to any amount paid by him in respect of the goods on account of the new duty or increase of duty, as the case may be.
- (2) Where any import duty of customs is repealed or decreased, and any goods affected by the duty are delivered on or after the day on which the duty ceases or the decrease in the duty takes effect in pursuance of a contract made before the day, the purchaser of the goods in the absence of agreement to the contrary may, if the seller of the goods has had, in respect of those goods, the benefit of the repeal or decrease of the duty, deduct from the contract price a sum equal to the amount of the duty or decrease of duty, as the case may be.

- (3) Where any addition to or reduction from the contract price may be made under this section on account of any new, increased, repealed or reduced duty, such sum as may be agreed upon, or in default of agreement determined by the Customs Officer, as representing, in the case of a new or increased duty, any new expenses incurred, and, in the case of a repealed or reduced duty, any expenses saved may be included in the addition to or deduction from the contract price and may be recovered or deducted accordingly.

33 Minister may prohibit importation, carriage coastwise or exportation

The Minister may from time to time, by order, prohibit the importation, carriage coastwise or exportation of any goods whatsoever, and any such order may prohibit importation, carriage coastwise or exportation until the revocation thereof, or during such period as may be specified therein, and may either absolutely prohibit importation, carriage coastwise or exportation, or may prohibit importation, carriage coastwise or exportation, except on compliance with any conditions which may be specified in the order, or may prohibit importation from or exportation to, or carriage coastwise from or to any particular place named in the order.

34 Goods prohibited or restricted to be imported

- (1) The goods, the particulars of which are set out in Schedule 2, are prohibited or restricted to be imported as the case may be, save as thereby excepted.
- (2) The Minister may by order amend Schedule 2.

35 Goods prohibited or restricted to be exported

- (1) The goods, the particulars of which are set out in Schedule 3, are prohibited or restricted to be exported as the case may be, save as thereby excepted.
- (2) The Minister may by order amend Schedule 3.

36 Saving as to goods in transshipment and stores

Goods imported for transshipment to any place outside Tuvalu, or as the bona fide stores of any aircraft or ship, shall not be deemed to be goods prohibited or restricted to be imported or exported unless such goods are expressly prohibited or restricted to be imported for such transshipment, or as aircraft's or ship's stores, under the provisions of the customs laws or any other Act prohibiting or restricting the importation or exportation of goods:

Provided that any goods imported as aforesaid shall be duly re-exported within such time as the Customs Officer shall allow.

37 Prohibitions and restrictions elsewhere provided

The provisions of sections 33, 34, 35 and 36 shall be additional to the provisions of section 132 and to any provisions of any other Act prohibiting or restricting the importation, carriage coastwise or exportation of any goods.

38 Minister may direct granting of drawbacks

- (1) The Minister may from time to time, by regulations, direct on what goods a drawback of the whole or any part of the duties paid on the importation thereof may be granted, and the conditions under which such drawback shall be allowed.
- (2) Notwithstanding anything hereinbefore contained in this section all drawbacks payable under any Act repealed by this Act shall be paid or allowed under this Act until cancelled by direction of the Minister under this section.

39 Declaration by owners of goods exported on drawback

The owner of any goods on which drawback is claimed shall make and subscribe a declaration on a prescribed form of debenture that the conditions under which drawback is allowed have been fulfilled, and, in the case of goods exported or put on board an aircraft or ship for use as stores, that such goods have been actually exported or put on board for use as stores, as the case may be, and have not been returned and are not intended to be returned to Tuvalu and that such owner at the time of entry of such goods was and continues to be entitled to the drawback thereon.

40 Certification of debenture

Every sum of money which shall be due upon any debenture shall be paid on the proper debenture certified by the Customs Officer.

41 Evidence of landing or disposal of drawback goods

The Customs Officer may require the owner to produce satisfactory evidence of the landing or disposal of any goods before certifying any debenture.

42 Time limit for debenture payment

No debenture for any drawback shall be paid after the expiration of 1 year or such further time as the Minister may allow from the date of entry of any goods for drawback, or from the date of the performance of the conditions on which drawback is allowed, as the case may require, or, in the case of goods exported or put on board

an aircraft or ship for use as stores, from the date of putting the same on board the exporting or using aircraft or ship.

43 Refund of duties overpaid

Subject to sections 77 and 80 any sum of money not less than \$2 which has been overpaid may be refunded at any time within 1 year after such payment on proof of such overpayment.

PART III - ARRIVAL AND REPORT OF AIRCRAFT AND SHIPS, LANDING OF PASSENGERS AND UNLOADING, REMOVAL AND DELIVERY OF GOODS

44 Procedure on arrival

If any aircraft or ship arriving in Tuvalu —

- (a) without reasonable cause to the satisfaction of the Customs Officer, does not come to some port therein, or such other place as may be allowed by the Customs Officer in any special circumstances, without landing or touching at any other place in Tuvalu; or
- (b) on arriving at any such port or place does not come as quickly up to the proper place of mooring or unloading as the nature of the port or place will admit, without touching at any other place; or
- (c) in proceeding to such proper place does not bring to at the station appointed by the Minister by notice for the boarding of aircraft or ships; or
- (d) after arriving at such proper place departs therefrom except directly to some other place of mooring or unloading approved by the proper officer, or with the authority of the proper officer, directly to some other port or to some place allowed by the Customs Officer in any special circumstances as aforesaid in Tuvalu, or directly on any flight or voyage to a place outside Tuvalu in accordance with the provisions of the customs laws; or
- (e) after departing as aforesaid on any flight or voyage to a place outside Tuvalu lands or brings to within Tuvalu, unless in accordance with the customs laws, or with the permission of the proper officer, or for some cause which the master shall explain to the satisfaction of the Customs Officer;

then in every such case the master of such aircraft or ship shall incur a penalty of \$200.

45 Customs Officer may direct mooring and discharge

The Customs Officer may, subject to any other authority provided by law, give reasonable directions as to the particular part of any port or other place where aircraft or ships shall moor or discharge their cargo.

46 Officer may board aircraft or ship

Any officer on duty may board any aircraft or ship within Tuvalu and stay on board for any period, and shall have free access to every part, with power to secure any part by such means as he shall consider necessary, and to examine any goods, and take account of them, and to require any goods to be unloaded, and removed for examination, or for the security thereof, or to unload and remove such goods at the expense of the master or owner, or the agent of either, and to examine any goods in course of being unloaded or removed, or when unloaded or removed, and to lock up, seal, mark or otherwise secure any goods on board such aircraft or ship.

47 Officer may open if access not free

If any officer acting under the provisions of section 46 finds that there is not free access to any place or any box or chest, or if the keys of any such place, box or chest, if locked, are withheld, such officer may open any such place, box or chest in any manner; and such officer shall not be liable to prosecution or action at law for so doing; and if any goods be found concealed on board, they shall be forfeited.

48 Penalty for interfering with seal, etc., or failing to unload goods if required

If any officer acting under the provisions of section 46 places any lock, mark or seal upon any goods or stores on board an aircraft or ship or upon any place or package in which the same may be, and such lock, mark or seal be wilfully opened, altered or broken before due delivery of such goods or stores, or within Tuvalu except with the authority of the proper officer, or if any such goods or stores be secretly conveyed away, or if any goods or stores, place or package after having been secured by the officer be opened within Tuvalu, except with the authority of the proper officer, or if any officer shall require any goods to be unloaded or removed for examination or for the security thereof and such goods are not unloaded and removed forthwith as required by the officer, the master of such aircraft or ship shall incur a penalty of \$200.

49 Goods unlawfully discharged

If any officer boards any aircraft or ship and finds any goods thereon, and after leaving such aircraft or ship, such officer, or any other officer, boards such aircraft or ship, and such or any part of such goods are no longer on board, and the master is

unable to give a due account of the lawful discharging of the same, the master of such aircraft or ship shall incur a penalty of \$200, or treble the duty paid value of such goods, at the election of the Customs Officer.

50 Search of persons

If any officer is informed or has reason to suppose that any person on an aircraft or ship, or any person who has landed from an aircraft or ship, or any person whom the officer may suspect has received any goods from any such person, is carrying or has any uncustomed or prohibited goods about his person, such officer may search such person; and if any such person, upon being questioned by any officer as to whether he has any goods obtained outside Tuvalu upon his person, or in his possession, or in his baggage, refuses to answer or denies having the same, and any such goods are discovered to be or have been upon his person, or in his possession, or in his baggage, such goods shall be forfeited; and no officer shall be liable to any prosecution or action at law on account of any search made in accordance with the provisions of this section.

51 Special authority may be required before search

Before any person is searched he may require to be taken with all reasonable despatch before a magistrate, or the Customs Officer, or other superior officer, who shall, if he sees no reasonable cause for search, discharge such person, but if otherwise, direct that he be searched.

52 Search of a female

A female shall not be searched except by a female.

53 Control of small craft

If upon boarding any ship not exceeding 100 tons burden any officer finds any goods of which the master is not able to give a satisfactory account, and if such officer suspects that such goods are being or have been or are intended to be dealt with in any way contrary to the customs laws, he may arrest and detain such master, and take him before a magistrate, and if such master fails to satisfy the magistrate that such goods had not been, were not being, and were not intended to be dealt with contrary to the customs laws, such ship and such goods shall be forfeited, and the master shall incur a penalty of \$200.

54 General regulations for small craft

The Minister may make regulations of general application to ships not exceeding 100 tons burden prescribing, with reference to the tonnage, build or general

description of such ships, the limits within which the same may be used or employed, the manner in which such ships shall be so used or employed, the number and description of arms and quantity of ammunition which such ships may carry, and such other terms, particulars, conditions and restrictions as the Minister may think fit.

55 Penalty for infringement of regulations respecting small craft

Every ship which is used or employed contrary to any regulations made under section 54 shall be forfeited unless the same shall have been specially licensed by the Customs Officer to be used or employed, as next hereinafter provided.

56 Licences for small craft

The Customs Officer may, if he thinks fit, grant licences in respect of any ships not exceeding 100 tons burden upon such terms and conditions, and subject to such restrictions and stipulations as in such licences mentioned, notwithstanding any regulations made under the provisions of section 54, whether the said regulations shall be revoked or not; and if any ship so licensed shall not comply with the conditions imposed by or expressed in any such licence or if such ship shall be found without having such licence on board, the ship shall be forfeited; and the Customs Officer may revoke, alter or vary any licence granted as aforesaid.

57 Accommodation of officer

If the master of any ship on board of which any officer is stationed shall neglect or refuse to provide every such officer with proper and sufficient food and suitable bedding accommodation in a cabin of the ship to the satisfaction of the Customs Officer, or provide safe access to or egress from a ship or aircraft, he shall incur a penalty of \$50.

58 Report of aircraft or ship

The master of every aircraft or ship, whether laden or in ballast, or his agent shall (except as otherwise provided in any regulations made under this Act) within 24 hours after arrival from any place outside Tuvalu at any port, or at any place specially allowed by the Customs Officer, make report of such aircraft or ship and its stores and cargo to the Customs Officer on the prescribed form in the prescribed manner and give the prescribed particulars.

59 Certain goods to be reported separately

Every report required by section 58 shall show separately any goods which are to be transferred to another aircraft or ship for re-exportation, and shall state whether there

be any goods which are to remain on board for exportation in the same aircraft or ship; and such report shall, except in the case of a steamship or except where otherwise specially allowed by the Customs Officer, give a particular account of all goods remaining on board for exportation, and shall be made before bulk is broken.

60 Steamship to report certain goods before breaking bulk

The master of a steamship shall make a report of the stores of such ship, and of any packages or parcels for which no bill of lading has been issued, before bulk be broken unless the Customs Officer shall otherwise allow.

61 Penalty for not making due report

If the master of any aircraft or ship, or his agent, fails to make due report, or if any of the particulars contained in such report be false, such master, or his agent, shall incur a penalty of \$200, and all goods not duly reported shall be forfeited unless the omission is explained to the satisfaction of the Customs Officer.

62 Penalty for not accounting for package reported

If any package or parcel which is duly reported (except where remaining on board for re-exportation or with the permission of the Customs Officer for direct transfer to another aircraft or ship for use as stores or for re-exportation) is not duly unloaded, removed and deposited in a customs area or other place approved by the Customs Officer, the master or his agent shall pay the duty thereon unless he proves that such package or parcel has not been imported or that it has been re-exported or that it has been surrendered into the custody of a warehouseman.

63 Liability of warehouseman

Where the master or agent proves that any package or parcel has been duly surrendered into the custody of a warehouseman the warehouseman shall pay the duty thereon unless it is proved that such package or parcel has been duly delivered to the consignee or his agent:

Provided that this section shall not apply in a case in which any package or parcel is surrendered to and received by the proper officer.

64 Determination of duty under section 62 or 63

Where it is necessary for the purpose of determining the amount of any duty payable under section 62 or 63 to classify any goods and to assess the quantity, value, quality, weight, measurement or strength thereof such goods shall be deemed to be of such description and of such quantity, value, quality, weight, measurement or strength as may be determined by the proper officer having regard to the information

in his possession relating thereto unless the actual description, quantity, value, quality, weight, measurement or strength is proved.

65 What is cargo

No goods may be imported as aircraft's or ship's stores except such as are required for consumption or use by or for the aircraft or ship, its officers, crew and passengers, and any goods not so required (other than the bona fide baggage of passengers) shall for all purposes be deemed to be the cargo of such aircraft or ship.

66 Master to answer questions

The master or agent shall —

- (a) answer immediately all such questions relating to the aircraft or ship, its cargo, baggage, crew, passengers, and flight or voyage as shall be put to him by the proper officer, and
- (b) produce all such books and documents in his custody or control relating to the aircraft or ship, its cargo, stores, baggage, crew, passengers and flight or voyage as the proper officer may require, and
- (c) before any person (unless permitted by the proper officer) disembarks, deliver to the officer who boards such aircraft or ship on arrival at any port or place a list containing the name of each passenger on board such aircraft or ship, and also, if required by such officer, the names of the master, and of each officer and members of the crew;

and if such list be not correct and complete, unless the inaccuracy or omission is explained to the satisfaction of the Customs Officer, or if he fails to comply with any provisions of this section, the master or his agent shall in respect of every such offence incur a penalty of \$200.

67 Penalty for wrongly breaking bulk

- (1) If after arrival within Tuvalu bulk is broken contrary to section 59 or section 60, or any alteration made in the stowage of the cargo of any aircraft or ship so as to facilitate the unloading of any part of such cargo before such aircraft or ship has arrived at her proper place of unloading, or, not being a steamship, or an aircraft or ship specially allowed to do so before report of such aircraft or ship has been made as hereinbefore provided, or if at any time after arrival as aforesaid any goods before they are duly surrendered into the custody of a warehouseman are wilfully staved, destroyed, or thrown overboard, or any package is opened without the knowledge and consent of the proper officer, in every such case the master or his agent shall incur a penalty of \$200 unless cause be shown to the satisfaction of the Customs Officer.

- (2) Any person who, before delivery thereof from customs control, wilfully staves or destroys any goods or opens any package without the knowledge and consent of the proper officer shall incur a penalty of \$200 and in addition the warehouseman shall incur a like penalty if any goods or packages are so staved, destroyed or opened after surrender thereof into his custody and before due delivery therefrom.

68 Master to deliver previous clearance

The master of every aircraft or ship or his agent shall, if required, deliver to the Customs Officer at the time of making report the clearance of such aircraft or ship, if any, from the port or ports from which such aircraft or ship shall have arrived.

69 Aircraft or ship abandoned may be seized

Any officer may seize any aircraft or ship found abandoned within Tuvalu and such aircraft or ship shall be delivered into the custody of the Customs Officer.

70 Report when discharging at more than one port

Notwithstanding any provisions contained in this Act to the contrary, it shall be lawful, on the arrival from any place outside Tuvalu at any port, or at any place in Tuvalu specially allowed by the Customs Officer, of any aircraft or ship having on board cargo intended to be delivered at more than one port or place in Tuvalu, for the master or his agent to make report at the first mentioned port or place of her whole cargo, reporting separately such portion of her cargo as may be intended for the first mentioned port or place and there discharge the same; and after the discharge of such cargo, and upon being authorised by the proper officer, the master may proceed to any other port or to any other place in Tuvalu specially allowed by the Customs Officer, where such portion of the cargo as may be intended for such port or place shall be reported by the master or his agent in like manner as if such master had first arrived at such last mentioned port or place, and the master or agent so reporting any aircraft or ship and all persons concerned in discharging the cargo shall be subject to all the provisions in such respect contained in the customs laws.

71 Unloading, entry, removal and delivery of goods

- (1) Save in accordance with any rules made under this Act, or with the permission of the Customs Officer —
 - (a) no goods shall be unloaded from any aircraft or ship arriving from any place outside Tuvalu unless authority for unloading the same has been given by the proper officer, nor from any ship other than a steamship unless such goods shall first have been duly entered;

- (b) no goods shall be unloaded or removed from any aircraft or ship arriving from any place outside Tuvalu on Sundays or public holidays at any time whatsoever, or on any other days except between such hours as may be prescribed, or shall be transferred from any such aircraft or ship into any vessel at such time as will cause such goods to be afloat in such vessel on the said days, or on other days except between the said hours;
- (c) no goods after having been unloaded from any aircraft or ship arriving from any place outside Tuvalu into any vessel to be landed shall be transhipped, or removed into any other vessel previously to their being landed, and the vessel into which any goods after being unloaded from a ship shall be put shall, if so required by the Customs Officer, be a ship licensed under section 166; and any goods which have been unloaded from any aircraft or ship and put into any vessel to be landed shall be taken directly and without delay to an approved place of unloading or sufferance wharf approved for the purpose within the same port, there to be landed forthwith;
- (d) no goods (except goods unloaded into a vessel to be landed in accordance with paragraph (c)) shall be unloaded from any aircraft or ship arriving from any place outside Tuvalu except at an approved place of unloading or sufferance wharf approved for the purpose, and all goods when so unloaded, and all goods which shall have been put into a vessel to be landed in accordance with paragraph (c) shall immediately upon being unloaded or landed be conveyed in the care of the proper officer into the customs area, or to a Queen's warehouse if the Customs Officer shall so require:

Provided that such goods as the proper officer may deem to be unsuited for storage in a customs area or Queen's warehouse shall be deposited in such place as the proper officer may direct, at the risk and expense of the importer, as if such goods were deemed to be unsuited for storage in a Queen's warehouse under section 81;

- (e) no goods shall be removed from any part of the customs area or from the Queen's warehouse into which the same shall have been conveyed unless such goods shall first have been duly reported and entered, and authority for the removal or delivery of the same has been given by the proper officer;
- (f) goods entered to be warehoused shall be removed by the importer by such ways, in such manner and within such time as the proper officer shall direct, to the warehouse for which the same are entered and delivered into the care of the officer in charge of the warehouse:

Provided that, if the Customs Officer shall so require, the importer shall first enter into a bond for the due warehousing of such goods.

- (2) The provisions of this section shall apply only to the cargo of an aircraft or ship.

72 Restriction of delivery of goods

- (1) During any period not exceeding 3 months specified at any time by order of the Customs Officer for the purposes of this section, the Customs Officer may refuse to allow the removal for use within Tuvalu on payment of duty, or the sending out for use within Tuvalu after the charging of duty, of goods of any class or description chargeable with a duty of customs or excise, notwithstanding payment of that duty, in quantities exceeding those which appear to the Customs Officer to be reasonable in the circumstances.
- (2) Where the Customs Officer has during any such period as aforesaid exercised his powers under this section with respect to goods of any class or description, then, in the case of any such goods which are removed or sent out for use within Tuvalu after the end of that period, the duties of customs or excise and the rates thereof chargeable on those goods shall, notwithstanding any other provision of the customs or excise laws relating to the determination of those duties and rates, be those in force at the date of the removal or sending out of the goods.

73 Goods other than cargo

- (1) No goods whatsoever other than cargo duly reported as such shall be taken out of any aircraft or ship arriving from any place outside Tuvalu or delivered to any person aboard such aircraft or ship other than for the consumption or use of the crew or passengers thereof, except under such conditions (which conditions may vary the procedure as to reporting the aircraft or ship as required by this Act) as may be prescribed by regulations made under this Act or as directed by the Customs Officer in any particular case.
- (2) In this section the expression “goods” includes passengers’ baggage, stores and any goods which may be taken on board any aircraft or ship arriving from any place outside Tuvalu while such aircraft or ship is within Tuvalu.

74 Forfeiture

Any goods unloaded, removed or dealt with contrary to section 71 or 73, or to the terms and conditions contained in any written permission of the Customs Officer, shall be forfeited.

75 Delivery of bullion, etc., and perishable goods requiring refrigeration

Notwithstanding anything hereinbefore contained the proper officer may permit the delivery to the importer of any bullion, currency notes or coin, or any perishable goods requiring storage under refrigeration, without entry thereof, but if such importer fails to enter such goods within 72 hours, excluding Sundays and public holidays, after delivery, he shall incur a penalty of \$100.

76 Entry in absence of documents

If the importer of any goods is not able to furnish full particulars of such goods for want of any documents or information concerning them (other than documents or information relating to the origin of such goods required by any provision of customs laws) he shall make and subscribe a declaration in the prescribed form to that effect before the proper officer and the proper officer shall thereupon permit the importer to examine and enter such goods notwithstanding that there shall not be satisfactory documentary evidence regarding the same and may allow delivery of such goods provided that the proper officer is satisfied that the description of the goods for tariff and statistical purposes is correct and also in the case of goods liable to duty *ad valorem* that the value declared on the entry is approximately correct, and in the case of goods liable to duty according to weight, measurement or strength thereof, that the weight, measurement or strength declared on the entry is correct.

77 Disposal of amount paid for provisional entry

In the case of goods liable to duty *ad valorem* the entry made in accordance with section 76 shall be provisional. The amount estimated as the duty for the purpose of making such provisional entry together with such sum as the proper officer may require, not exceeding one half of the estimated duty, shall be paid by the importer and shall be brought to account as duty:

Provided that should the importer, within 6 months or such further period as the proper officer may in any special circumstances allow, produce to the proper officer satisfactory evidence of the value, and make final entry of such goods, there shall be repaid to such importer so much of the sum already paid by him as exceeds the amount calculated as duty on such goods after the making of such final entry.

78 Goods not entered after declaration

If the importer, having made a declaration in accordance with section 76, fails to make entry as therein provided, or if the proper officer is not satisfied as aforesaid (in which case any entry which shall have been made shall be ipso facto void), the proper officer shall cause the goods referred to in such declaration to be deposited in a Queen's warehouse and dealt with as provided in section 83.

79 Power to waive production of documents

Notwithstanding anything hereinbefore contained, if the Customs Officer is satisfied, whether before or after the deposit in the Queen's warehouse under section 78 of any goods liable to duty *ad valorem*, that it is impossible at the time of entry for the importer to obtain satisfactory documentary evidence of the value of such goods, or if in any case the documentary evidence of the value of such goods, though not complete, is in the opinion of the Customs Officer sufficient to enable a reliable estimate of the value to be made, the Customs Officer may permit such

goods to be entered according to a value which 2 officers to be appointed by the Customs Officer for the purpose are satisfied is, as nearly as may be estimated, and not less than, the correct value of such goods.

80 Payment of additional sum in certain cases

Where the Customs Officer permits any goods to be entered in the absence of any documents required under section 79, he may require the person entering the goods to pay to him an additional sum not exceeding one half of the estimated duty:

Provided that the Customs Officer shall repay such sum to the person entering the goods should such person produce the required document within 6 months of the date of entry or should he explain his failure so to do to the satisfaction of the Customs Officer.

81 Goods deemed to be in a Queen's warehouse

Where under the customs laws any goods are or may be required to be deposited in a Queen's warehouse, and for any reason the proper officer, in his discretion, decides that it is undesirable or inconvenient to deposit such goods in a Queen's warehouse, such goods shall for all purposes be deemed to be deposited in a Queen's warehouse as from the time that the same are required to be deposited in a Queen's warehouse, and shall in addition to the rent and other charges payable under section 82 be chargeable with such expenses for securing, watching, guarding, and of removing the same from the original to some other place of deposit (if the proper officer shall so require) as the proper officer shall deem reasonable, and no officer shall be liable to make good any damage which such goods may sustain by reason or during the time of their being so deposited and dealt with as aforesaid:

Provided that such rent or other charges shall not be payable where such goods remain in a transit shed or customs area and are subject to rent or other charges payable to the owner or occupier of such transit shed or customs area.

82 Goods not entered or delivered to be deposited in a Queen's warehouse

- (1) If any goods imported in any aircraft or ship having been unloaded are not entered and delivered from the customs area within 10 days (exclusive of Sundays and public holidays) from the date of the completion of unloading or within such further period as the proper officer may in any special circumstances allow then such goods shall be deposited in such Queen's warehouse as the proper officer shall direct by the agent of such aircraft or ship or where such goods have been surrendered into the custody of any other person by such other person; or if there be no agent nor such other person or if the agent or other person shall not act forthwith as herein required the proper officer may cause the goods to be deposited in a Queen's warehouse; and such

goods shall in every case be subject to rent and other charges as the Minister shall direct by notice.

- (2) If any agent of an aircraft or ship or other person fails without reasonable cause to comply with subsection (1) he shall for each such failure incur a penalty of \$100.
- (3) Notwithstanding the provisions of subsection (2), where the Customs Officer is satisfied that the failure of the agent of an aircraft or ship or other person to comply with the provisions of subsection (1) is due to the fault of the importer of such goods, the importer shall incur a penalty of 50 cents per tonne or cubic metre at the discretion of the proper officer for each day after the prescribed period that such goods remain in the customs area.
- (4) No compensation shall be payable by the Government to any importer, owner or consignee of any goods deposited in a Queen's warehouse in respect of any loss or damage which occurs to such goods while so deposited, save when loss or damage occurs as the direct result of the wilful act or negligence of an officer.

83 Goods deposited in a Queen's warehouse may be sold

- (1) Where under the provisions of this Act any goods are deposited or deemed to be deposited in a Queen's warehouse and such goods are of a perishable nature, then the proper officer may notwithstanding such provisions, sell the same forthwith by public auction; and if such goods, though not perishable, are of a kind not permitted by any provision of law to be deposited in a Queen's warehouse, the proper officer may, notwithstanding such provisions, sell the same by public auction after 14 days' notice of intended sale given by public notice or in such other manner as may be prescribed.
- (2) Where any goods are deposited or deemed to be deposited in a Queen's warehouse under the provisions of this Act and the same are not entered for warehousing or delivery from such Queen's warehouse within 1 month after such deposit or within such further period as the proper officer may direct, and all charges for removal, freight and rent and all other expenses incurred in respect thereof duly paid, such goods shall be advertised by public notice or in such other manner as may be prescribed and 1 month after such advertisement shall with all convenient speed be sold by public competition.
- (3) In all cases where goods are sold under the provisions of this section, the proceeds shall be applied first in discharge of duties (if any), of the expenses of removal and sale, and of rent and charges due to the Government, and then freight and other charges for which a claim has been made before the date of sale; and the balance, if any, shall be paid to the owner of the goods on his application for the same, if such application be made within 1 year from the time of the sale of such goods, but otherwise shall be paid into the general revenue of Tuvalu.

- (4) If any goods on being offered for sale as aforesaid cannot be sold for a sum sufficient to pay all duties, expenses, rent and charges, the same may be destroyed, or otherwise disposed of as the Customs Officer may direct.
- (5) Where the identity of the consignee of any goods is known such steps as may be reasonable in the particular circumstances of each case shall, prior to the sale of such goods under this section, be taken to notify the consignee of the intention to sell the goods:

Provided that where the consignee is not present in Tuvalu it shall not be necessary to notify him if the agent of the ship or aircraft in which the goods were imported is notified.

84 Freight on goods deposited in a Queen's warehouse

Subject to section 83, any officer having the custody of any goods which come into his hands under this Act may refuse delivery thereof from a Queen's warehouse until proof be given to his satisfaction that the customs, rent, freight, landing and storage charges due on such goods have been paid.

85 Goods deposited in a Queen's warehouse may be examined

The Customs Officer may cause any goods which under the provisions of this Act are required to be removed to a Queen's warehouse to be opened for examination by any officer, as often as may be required, at the expense of the owner of such goods.

86 Goods may be entered by ship-owners, etc.

Where the importer of any goods imported in any ship into Tuvalu fails to make entry thereof, or having made entry, fails to land the same or to take delivery thereof by the times severally hereinafter mentioned, the ship-owner or master or the agent of either may make entry of the said goods at the times, in the manner, and subject to the conditions following, that is to say —

- (a) if a time for the delivery of the goods is expressed in the charter party, bill of lading or agreement, then at any time after the time so expressed; and
- (b) if no time for delivery of the goods is expressed in the charter party, bill of lading or agreement, then at any time after the expiration of 72 hours, exclusive of Sundays and public holidays, after the report of the ship:

Provided that if at any time before the goods are landed or unshipped the importer of the goods is ready and offers to land or take delivery of the same, he shall be allowed to do so, and his entry shall, in such case, be preferred to any entry which may have been made by the ship-owner or master, or the agent of either.

87 Computation of time

The periods of time mentioned in sections 82 and 86 shall be computed from the time at which the aircraft or ship or goods shall have been released from any quarantine to which they may have been subjected.

88 Aircraft or ship may be detained until goods landed

Whenever any goods remain on board any importing aircraft or ship beyond the period of 10 days after the arrival of such aircraft or ship, or beyond such further period as the proper officer may allow, such aircraft or ship may be detained by the proper officer until all expenses of watching or guarding such goods beyond such 10 days, or such further time, if any, allowed as aforesaid, and of removing the goods or any of them to the Queen's warehouse, in case the officers shall so remove them, be paid; and like charge may be made in respect of any derelict or other aircraft or ship coming, driven, or brought into Tuvalu under legal process, by stress of weather, or for safety, when it is necessary to station any officer in charge, either on board thereof or otherwise, for the protection of the revenue, so long as the officer shall so remain.

89 Restrictions as to passengers and other persons

- (1) No person, whether a passenger or not, shall disembark or go ashore from, or go on board any aircraft or ship that has arrived within Tuvalu save at such times, by such means and by such ways as may be prescribed or otherwise as the Customs Officer may allow.
- (2) The master of any aircraft or ship who permits, allows or suffers any person to leave such aircraft or ship after arrival in Tuvalu save as permitted under this Act shall be guilty of an offence and the master or his agent shall incur a penalty of \$200.

**PART IV - WAREHOUSED GOODS AND GOODS DEPOSITED
IN A CUSTOMS AREA****90 Warehousing**

Any goods while in any warehouse, and all goods whatsoever while in any customs area, shall be subject to such regulations as may be prescribed⁶ and in the case of goods warehoused in a Government warehouse or customs area in the occupation or use of the Government to the payment by the owner of such goods, at the prescribed times, of such rent and other charges as the Minister shall prescribe; and if at any time any such rent or other charges are not paid to the proper officer when due and payable on any goods in any such Government warehouse or customs area, such

goods may, without prejudice to any other lawful method of recovery, be sold, or otherwise dealt with, and any proceeds applied as if they were goods which might be sold, or otherwise dealt with, under sections 116 and 117.

91 Government not liable for loss in warehouses or customs areas

- (1) No compensation shall be payable by the Government to an importer, owner or consignee of any goods deposited in a Government warehouse or in a customs area in the occupation or use of the Government by reason of any loss or damage which occurs while the goods are so deposited, save when loss or damage occurs as the direct result of the wilful act or negligence of an officer.
- (2) No action shall be brought against the Government or any public officer for loss or damage sustained by goods while in any private warehouse or private customs area or for any wrong or improper delivery of goods therefrom, save when any loss or damage occurs as a direct result of the wilful act or negligence of an officer.

92 Private warehouses and customs areas

No building or place may be used as a private warehouse or, save with the written permission of the Customs Officer, as a private customs area, until a bond, in such sum as may from time to time in each case be required by the Customs Officer, is given by the warehouse keeper or by the owner or occupier of the customs area, as the case may be, with 1 or more sufficient sureties, conditioned on due payment of all duties and the due observance of the provisions of the customs laws:

Provided that the Customs Officer may with the consent of the Minister in any case dispense with the requirement that there be 1 or more sufficient sureties.

93 Warehouse keeper, etc., not to enter warehouse without permission

The owner or occupier of any customs area or a warehouse keeper shall not by himself or by any person in his employ open or gain access to any building in a customs area or transit shed or private warehouse except in the presence or with the knowledge and consent of an officer acting in the execution of his duty.

94 Warehouse keeper, etc., to provide facilities

The owner or occupier of any private warehouse or customs area or transit shed shall provide such office, sanitary and lavatory accommodation and weights, scales, measures and other facilities for examining and taking an account of goods and for securing the same as the Customs Officer may require.

95 Revocation of order approving warehouse

The Customs Officer for reasonable cause may revoke the appointment of any private warehouse or customs area and on such revocation the duties on all goods warehoused therein shall be paid, or the goods shall be exported or removed to another warehouse or area within such time, not less than 3 months, as the Customs Officer may direct; and notice in writing of revocation addressed to the warehouse keeper of the private warehouse or area and left thereat shall be deemed to be notice to all persons interested in the goods.

96 Disposal of goods on revocation

If any goods are not duly exported or removed in conformity with section 95 such goods shall be taken to a Queen's warehouse by the proper officer and may be sold, or otherwise dealt with, and any proceeds applied as if the goods were goods which might be sold or otherwise dealt with under section 83.

97 Procedure as to warehousing

Upon the presentation of an entry for goods to be warehoused, the proper officer shall, subject to any other direction of the Customs Officer, take a particular account of such goods at the approved place of unloading and shall enter in a book prepared for that purpose the name of the importing aircraft or ship, and the person in whose name such goods are entered, the number of packages, the mark and number of each package, the description of the goods and the name of the warehouse in which the same shall be deposited; and when the same shall have been so deposited with the authority of such officer the warehouse keeper, in the case of goods warehoused other than in a Government warehouse, shall acknowledge in writing at the foot of the account the receipt of the goods into the warehouse, and the proper officer at the warehouse shall certify that the entry and warehousing of the goods is complete; and such goods shall from that time be considered goods duly warehoused.

98 Goods to be warehoused in packages in which imported, and may be required to be marked

- (1) All goods warehoused shall be deposited in the packages in which they are imported, except such goods as are permitted to be dealt with as provided in section 229, in which case they shall be deposited in the packages in which they are contained when the account thereof is taken by the proper officer on the completion of the operation.
- (2) The importer or owner of any warehoused goods shall mark such particulars on the packages containing such goods or any of them and in such manner as the Customs Officer may direct.

99 Penalty for interfering with storage of goods in a private warehouse

If in the case of goods warehoused in a private warehouse any alteration shall afterwards be made in the goods or packages so deposited, or in the packing thereof in the warehouse or in the marks or numbers of such packages without the presence and sanction of the proper officer or if the same shall be removed from the part of the warehouse in which they were deposited without the knowledge of the proper officer, except for delivery after they have been duly entered, and under the authority of the proper officer, such goods shall be forfeited.

100 Stowage of goods in private warehouse or customs area

All goods deposited in any private warehouse or private customs area shall be arranged, stowed and maintained to the satisfaction of the Customs Officer in such manner that easy access can be had to every package or parcel thereof.

101 Warehouse keeper neglecting to arrange, stow and maintain goods

Where goods are not arranged, stowed and maintained to the satisfaction of the Customs Officer, the occupier of the private warehouse or customs area shall, on receipt of a written notice from the Customs Officer, comply with any directions given under section 100 within a period of 7 days (Sundays and public holidays excluded) and if the occupier fails to comply he shall incur in respect of every package or parcel not so arranged, stowed and maintained, a penalty of \$10, together with a further penalty of \$2 for each day during which any such package or parcel shall not be so arranged and stowed.

102 Goods to be produced to officer

- (1) If the occupier of any private warehouse or customs area does not produce to any officer on his request any goods deposited in such warehouse or customs area, which have not been duly entered or delivered therefrom, the proper officer shall send to the occupier a written notice requiring him within a period of 7 days (Sundays and public holidays excluded) to produce such goods to the officer, or to account to the satisfaction of the officer for the goods.
- (2) When the occupier fails within such period to produce the goods to the officer or to account for them to his satisfaction, the occupier shall for every such failure incur a penalty of \$10 in respect of every package or parcel not so produced or accounted for.
- (3) Notwithstanding anything in this section contained, the occupier shall, in every case, pay the duties (in addition to any penalty) due upon every package or parcel not produced or accounted for.

103 Penalty for not warehousing, etc.

If any goods entered to be warehoused shall not be duly warehoused by the importer in pursuance of such entry, or if any goods whatsoever, being duly warehoused or deposited in a customs area shall be in any way concealed in or removed from the warehouse or customs area, or abstracted from any package or transferred from one package to another, or otherwise dealt with for the purpose of illegal mixing, removal or concealment, they shall be forfeited.

104 Penalty for illegally opening warehouse, customs area or transit shed

If any person without the authority of the proper officer or without just and sufficient cause opens any warehouse or customs area or transit shed or gains access to the goods therein, he shall for every such offence incur a penalty of \$200 and if any person not authorised by the warehouse keeper enters any warehouse or part of a customs area when forbidden by such officer, or refuses to leave any warehouse or any part of a customs area when requested to do so by such officer, he shall incur a penalty of \$20.

105 Penalty for embezzling warehoused goods, etc.

- (1) If any goods required to be previously entered are unlawfully taken out of any warehouse or customs area without being duly entered, the warehouse keeper or the occupier of any part of a customs area where such goods have been deposited shall forthwith pay the duties due upon such goods.
- (2) Any person who —
 - (a) unlawfully takes any goods out of any warehouse or customs area without such goods having been duly entered, or assists or is concerned in such taking; or
 - (b) destroys, steals or in any way misappropriates or converts any goods duly warehoused or deposited in a customs area;

shall be liable to imprisonment for 2 years, and where any such person is an officer and has been prosecuted to conviction, no duty shall be payable in respect of such goods, and any damage sustained by reason of such destruction, theft, misappropriation or conversion shall, with the consent of the Minister, be made good to the importer, consignee or owner.

106 Proper officer may do reasonable acts to warehoused goods

The proper officer shall have power at the expense of the owner of the goods warehoused in a Government warehouse, or deposited in a customs area in the occupation or use of the Government, to do all such reasonable acts as may by him respectively be deemed necessary for the proper custody and preservation of such goods, and shall have a lien on the said goods for expenses so incurred; but no such

acts shall be done until the expiration of 24 hours after the owner of such goods has been notified that such acts are required, unless the proper officer shall in his discretion decide that immediate action is necessary for the proper custody or preservation of the goods as aforesaid.

107 Importer or owner to pay cost of action taken under section 106

The importer or owner of any such goods shall pay any expenses incurred in respect thereof under section 106 at such times and in such manner as the Customs Officer shall either generally or in any particular case direct, and if any such expenses be not paid in accordance herewith, such goods may be sold or otherwise dealt with, and any proceeds applied as if they were goods which might be sold or otherwise dealt with under section 116.

108 Removal of warehoused goods to another warehouse

The removal of warehoused goods from a warehouse to any other warehouse shall be subject to such conditions as may be prescribed by regulations and to such other conditions as the Customs Officer may direct.

109 Procedure on delivery

On the delivery of any goods for removal as aforesaid, an account containing the particulars thereof shall be transmitted by the proper officer of the port or place of removal to the proper officer of the port or place of destination, and the person requiring the removal thereof shall enter into a bond, with such security as the Customs Officer shall require, in a sum equal at least to the duty chargeable on such goods, for the due arrival and re-warehousing thereof at the port or place of destination within such time as the proper officer may direct; and such bond shall not be discharged unless such goods shall have been produced to the proper officer and duly re-warehoused at the port or place of destination within the time directed by the proper officer as aforesaid, or unless the full duties of customs shall have been paid thereon as provided in section 111, or unless such goods shall have been otherwise accounted for to the satisfaction of the Customs Officer or until the full duties due upon any deficiency of such goods not so accounted for shall have been paid.

110 Goods removed subject to warehouse regulations

Upon the arrival of such goods at the port or place of destination, they shall be warehoused in the same manner, and under and subject to the same customs laws and regulations, so far as the same are or can be made applicable, as on the warehousing of goods on the first importation thereof except that further entry of the goods shall not be required.

111 Goods removed may be entered for use in Tuvalu or for exportation

If, upon the arrival of goods so removed as aforesaid at the port or place of destination, the parties are desirous forthwith to export the same or to pay duty thereon for use within Tuvalu, without actually lodging the same in the warehouse, the officer at such port or place may permit the same to be entered and delivered for use within Tuvalu or to be entered and loaded for exportation, as if such goods had been actually lodged in such warehouse.

112 Removal, etc., to be subject to certain conditions

If any goods taken from a warehouse for removal or for exportation or use as aircraft's or ship's stores are removed or put on board an aircraft or ship except with the authority or under the care of the proper officer, and in accordance with any regulations made under this Act and in such manner, by such persons and within such time, and by such roads or ways, as such officer shall permit or direct, such goods shall be forfeited; and if any such goods are illegally removed or carried away prior to being put on board the exporting or removing aircraft, ship or carriage, or from any exporting or removing aircraft, ship or carriage, in or on which the same have been put, any bond given in respect thereof shall be forfeited, and may forthwith be put in suit for the penalty thereof, although the time prescribed in such bond for putting the goods on board the exporting aircraft or ship, or re-warehousing such goods at the place of destination, has not expired; and all such goods may be forfeited.

113 Customs Officer may remove goods warehoused in a Government warehouse

Notwithstanding anything hereinbefore contained, the Customs Officer may, if in his discretion he decides that such action is advisable, remove goods at the cost of Government from one Government warehouse to another in any manner he may deem reasonable.

114 Re-warehousing

All warehoused goods shall be entered and delivered either for use within Tuvalu or as aircraft's or ship's stores, or for exportation not later than 2 years after the day on which the same were warehoused, unless the owner of such goods shall be desirous of re-warehousing the same, in which case the same shall be examined by the proper officer, and the duties due upon any deficiency or difference between the quantity ascertained on warehousing and the quantity found to exist on such examination, together with the necessary expenses attendant thereon, and any charges incurred in respect of the said goods, shall, subject to such allowances as are by law permitted in respect thereof, be paid to the Customs Officer at the rates in force at the time of such examination; and the quantity so found shall be warehoused in the name of the then owner thereof in the same manner as on first warehousing:

Provided that no goods shall be re-warehoused under this section unless the proper officer certifies that the goods are in proper condition to be re-warehoused.

115 Re-examination not required in certain cases

If the owner of the warehoused goods desires, with the concurrence of the warehouse keeper, to re-warehouse the same according to the account taken at the warehousing thereof, without re-examination, such re-examination may be dispensed with if the officer is satisfied that the same are still in the warehouse, and that there is no reason to suspect that there is any undue deficiency; but the warehouse keeper shall be liable to make good the duty on any deficiency not allowed by law which may be discovered in the goods at the time of delivery thereof, or any earlier time.

116 Disposal of goods not re-warehoused

If any warehoused goods are not duly entered for use within Tuvalu, or as aircraft's or ship's stores, or exported or re-warehoused, and the duties ascertained to be due on the deficiencies as aforesaid and any charges and expenses are not paid at the expiration of 2 years from the previous entry and warehousing thereof, the same shall be advertised by public notice, or in such other manner as the Customs Officer may direct, and 3 months after such advertisement shall with all convenient speed be sold by public auction, and the proceeds thereof shall be applied to payment of the duties, expenses of the same, and of any rent and charges due to the Crown, then in discharge of any lien for freight and other charges, and the surplus, if any, shall be paid to the owner of such goods on his application for the same within 1 year from the time of sale, but otherwise shall be paid into the general revenue of Tuvalu; and if such goods, on being offered for sale, cannot be sold for a sum to pay all duties, expenses, rent and charges due to the Crown, then the same may be destroyed or otherwise disposed of as the Customs Officer may direct; and the duties due upon any deficiency in any warehoused goods not allowed by any regulations made under this Act shall be forthwith paid by the owner of such goods.

117 Warehoused goods entered or sold must be removed within 14 days

If any goods remain in any warehouse for a period of 14 days after being entered for use within Tuvalu, or after being sold by public auction under the customs laws, they shall be forfeited and disposed of in such manner as the Customs Officer may direct, unless the failure to remove the same is explained to the satisfaction of the Customs Officer.

118 Delivery in special circumstances

The Customs Officer may permit any goods to be taken out of any warehouse or customs area without payment of duty for such purpose and for such period as to

him may appear expedient and in such quantities, and under such regulations and restrictions, and with such security by bond for the due return thereof, or the payment of the duties due thereon, as he may direct or require; and if any such goods are dealt with in any way contrary to the terms of such permission or to such regulations or restrictions, the same shall be forfeited.

119 Stores

The Customs Officer may permit warehoused goods to be delivered as stores for a ship of not less than 30 tons burden, or an aircraft, in accordance with section 146, and if any goods taken from a warehouse for use as stores are duly put on board the aircraft or ship for which the same are entered, or otherwise accounted for to the satisfaction of the Customs Officer, or shall be dealt with in any way contrary to the customs laws, such goods shall be forfeited.

120 Duty to be paid according to original account

The duties to be paid when warehoused goods are entered for use within Tuvalu shall be at the rates in force at the date of entry, and shall not be less in amount than would have been payable according to the value or quantity thereof at the time of importation, except as to the following goods, namely, tobacco in leaf, oil in casks, malt liquor in casks, and spirits in casks, the duties whereon when cleared from the warehouse for use within Tuvalu shall be chargeable upon the quantity of such goods ascertained by weight, measure or strength, as the case may be, at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of any deficiency has been caused by illegal abstraction:

Provided that if at any time any deficiency beyond that which can be accounted for by natural waste or other legitimate cause is found in goods warehoused, or operated on in warehouse, the warehouse keeper or the owner of the goods shall on the written demand of the proper officer be liable immediately to pay according to the account of the goods as warehoused and, if he fails to pay the duty, shall incur a penalty of double the amount of such duty.

121 Goods entered for exportation or use as aircraft's or ship's stores exempt from duty

Subject to the observance by the exporter of all the provisions of the customs laws and the conditions of any bond, no import duty shall be charged in respect of —

- (a) any goods entered under bond for exportation or use as aircraft's or ship's stores, and subsequently proved to the satisfaction of the Customs Officer to have been duly exported to and landed at some place outside Tuvalu, or exported as stores as the case may be; or
- (b) any goods remaining on board an importing aircraft or ship for re-exporting or use as stores on the importing aircraft or ship,

unless the Customs Officer has reasonable grounds to suppose that any deficiency in any such goods, or any part thereof, has arisen from illegal abstraction, in which case duty shall be paid on such deficiency by the owner of such goods.

PART V - LOADING AND EXPORTATION OF GOODS

122 Entry of ships outwards

The master of any ship in which any goods are to be exported, or his agent, shall if required, before any goods be taken on board, deliver to the proper officer at the port at which such ship shall have first arrived an entry outwards of such ship, verified by his signature, in the prescribed form, and containing the several particulars indicated in or required thereby, and in such entry outwards the master or his agent shall declare that no imported goods are left on board such ship other than such goods and stores as shall be specified in the entry outwards.

123 Rummage certificate

The master of every ship shall, if required, obtain from the proper officer a certificate of rummage; and if he desires to obtain such certificate before the whole of the inward cargo of the ship has been discharged, he shall remove and stow the inward cargo remaining on board such ship in such manner as such officer shall direct in order to enable him to rummage the ship, and after the ship has been rummaged, shall stow the inward cargo remaining on board separately and keep it separated to the satisfaction of the proper officer from any coastwise or any outward cargo that may subsequently be put into such ship.

124 Licence to unload or load at a sufferance wharf

Before any goods are unloaded from or loaded into an aircraft or ship at a sufferance wharf the master of such aircraft or ship shall furnish the Customs Officer with particulars on the prescribed form of the goods to be so unloaded or loaded, as the case may be, and this form when signed by the proper officer shall be the licence for such aircraft or ship to proceed to such sufferance wharf.

125 Conditions to be observed

The master of an aircraft or ship unloading or loading goods at a sufferance wharf shall, if the Customs Officer so requires, first enter the goods at the port at which the licence has been issued and shall comply with the conditions of the licence and such other conditions as the Customs Officer may impose.

126 Delivery of licence after unloading or loading

When unloading and loading at a sufferance wharf has been completed the master or his agent before the aircraft or ship shall depart therefrom shall enter on the licence particulars of the cargo so unloaded or loaded and after signing such account shall deliver the licence to the proper officer.

127 Subsequent procedure

After unloading or loading any goods at a sufferance wharf the master shall, unless the proper officer shall otherwise direct, proceed with his aircraft or ship forthwith to the port at which the licence was issued and shall there comply with all the provisions of the customs laws as nearly as may be as if such goods had been unloaded at such port.

128 Penalty for breach of sections 122 to 127

If any goods are taken on board any aircraft or ship at any port contrary to any of the provisions of sections 122 and 123 or if any goods are unloaded from or loaded into any aircraft or ship at a sufferance wharf contrary to any of the provisions of sections 124, 125, 126 and 127 or if any of the requirements of the said sections 122, 123, 124, 125, 126 and 127 are not observed, the master of such aircraft or ship or his agent shall incur a penalty of \$200 unless such contravention is explained to the satisfaction of the Customs Officer.

129 Limitation

Nothing contained in sections 122, 123, 124, 125, 126 and 127 shall be deemed to authorise the loading of goods except from an approved place of loading or a sufferance wharf, unless specially allowed by the Customs Officer under section 135.

130 Non-application to aircraft

The Minister may by writing addressed to the Customs Officer direct that any or all of the provisions of sections 124, 125, 126, 127 and 128 shall not apply to aircraft either generally or in any particular case during any period specified in such writing, and the Customs Officer shall give effect to such direction.

131 Loading of goods for exportation or carriage coastwise by ships other than steamships

On arrival at any port or place in Tuvalu of any ship other than a steamship, about to deliver cargo at more than one port or place in Tuvalu, or having on board any goods duly reported for exportation in the same ship, it shall be lawful, subject to

any regulations made under this Act, or to such conditions as the Customs Officer may deem necessary, to allow the entry outwards of such ship, and to permit the loading of goods for exportation in such ship or for carriage coastwise as provided in section 164, before the whole of the goods imported in such ship are discharged therefrom, the complete separation of such goods from the inward cargo and from any cargo remaining on board for exportation being effected to the satisfaction of the proper officer.

132 Restriction on exportation of certain goods

No person shall export or attempt to export any warehoused goods, or goods liable to duties of customs transferred from an importing aircraft or ship, or goods entitled to drawback on exportation (not being wines, spirits, tobacco, cigars, cigarillos, or cigarettes), nor shall enter or attempt to enter any such goods for exportation in any ship of less burden than 35 tons, unless the Customs Officer shall otherwise allow.

133 Penalty

Any person who exports or enters or attempts to export or enter any goods contrary to section 132 or places any goods on board a ship of less size than is thereby permitted for exportation shall incur a penalty of \$100, and such goods shall be forfeited.

134 General provisions regarding loading and exportation of goods

- (1) Without prejudice to section 228 and subject to section 135, no goods shall be put on board any aircraft or ship for exportation or use as stores, or be put on board any vessel for the purpose of being put on board any aircraft or ship for exportation or use as stores —
 - (a) on a Sunday or a public holiday, or on any other day except between such hours as may be prescribed; or
 - (b) from any place not being an approved place of loading; or
 - (c) without the authority of the proper officer; or
 - (d) before due entry outwards of the exporting aircraft or ship, if the same is by law required to be entered outward; or
 - (e) before such goods are duly entered.
- (2) No goods having been put into any vessel to be waterborne to any aircraft or ship for exportation or use as stores shall be put on board the exporting aircraft or ship outside the limits of any port.
- (3) Any officer may open and examine any goods put on board any aircraft or ship or brought to any place to be put on board any aircraft or ship for exportation or use as stores.

135 Customs Officer may relax conditions of shipment

Notwithstanding section 134, the Customs Officer may permit any goods to be put on board any aircraft or ship on such days, at such times, from or at such places, and under such conditions as he may either generally or in any particular case direct, and in like manner the Customs Officer may direct what goods need not be entered by the exporter until after the departure of any aircraft or ship, but any such goods must be entered within 48 hours of such departure or such further time as the Customs Officer may allow; and, if they are not so entered, the exporter for every such offence shall incur a penalty of \$200:

Provided that where any goods are permitted to be entered after being put on board the Customs Officer may in such case require the exporter or his agent to give security for the payment of any export duties of customs on any goods liable thereto.

136 Vessels loading into ship to proceed direct and may be required to be licensed

Any goods which have been put into any vessel to be waterborne to any aircraft or ship for exportation or use as stores shall be taken directly and without delay to the aircraft or ship in which the same are to be exported or used as stores, and put on board forthwith; and every vessel in which the same are waterborne as aforesaid to any aircraft or ship shall, if so required by the Customs Officer, be a ship licensed under section 56.

137 Permission required to discharge goods loaded

No goods having been put on board any aircraft or ship in accordance with section 148, or for exportation, or use as stores, shall be discharged in any part of Tuvalu without the written permission of the proper officer, and except in accordance with such conditions as the Customs Officer shall impose.

138 Penalty for breach of sections 134 to 137

If any person puts or attempts to put any goods on board any aircraft or ship or discharges, or attempts to discharge, or deals with any goods in any way contrary to any of the provisions of sections 134, 135, 136 and 137, such person shall incur a penalty of \$200 or treble the value of such goods at the election of the Customs Officer, and all such goods shall be forfeited.

139 Penalty for attempting to ship prohibited or restricted goods

If any person puts on board any aircraft or ship, or puts off or puts into any vessel to be waterborne to any aircraft or ship for exportation or use as stores, or brings to any aerodrome, customs area, quay, wharf or any place whatever in Tuvalu for exportation or use as stores, or exports any goods prohibited to be exported, or any

goods the exportation of which is restricted, contrary to such restriction, or attempts to perform or is knowingly concerned in the performance of any of the aforesaid acts, he shall (except as otherwise provided in section 133) incur a penalty of \$200, or treble the duty paid value of such goods at the election of the Customs Officer, and all such goods shall be forfeited.

140 Bond may be required in certain cases

Before any warehoused goods or goods entitled to any drawback on being put on board an aircraft or ship for use as stores or for exportation, or goods exportable only under particular regulations, or restrictions, or goods liable to duties of customs intended for transfer from an importing to an exporting aircraft or ship shall be permitted to be entered for use as stores, or for exportation or for transfer as aforesaid, the exporter shall give security by bond, if the proper officer shall so require, to such amount as the proper officer may decide in the circumstances of each case, that such goods shall be duly put on board the aircraft or ship for which the same are entered and shall be used as stores (if so entered) or else exported to and discharged at the place for which they are entered within such time as the proper officer may deem reasonable, or be otherwise accounted for to the satisfaction of the Customs Officer.

141 Master may be required to sign for goods

The master of an exporting aircraft or ship shall, if required by the proper officer, give on the relative shipping bill or other appropriate document an acknowledgement of the receipt on board of the goods referred to therein.

142 Offences relating to certain goods

If any goods for which bond is required under section 140 or any goods liable to export duties of customs be put on board any aircraft or ship or brought to any aerodrome, customs area, quay, wharf or other place to be put on board an aircraft or ship and are on examination by the proper officer found not to agree with the entered particulars thereof, or being goods on which drawback is being claimed or allowed are found to be goods not entitled to drawback, all such goods shall be forfeited; and the exporter of such goods shall in every such case incur a penalty of \$200, or treble the amount of the duty paid value of such goods, at the election of the Customs Officer.

143 Penalty for not exporting bonded goods

If any goods for which bond is required under section 140 after being entered and put on board an aircraft or ship are used otherwise than as stores (if so entered) or are not duly exported to and discharged at the declared destination (such goods not having been discharged in Tuvalu with the permission of the proper officer as

provided in section 137) or otherwise accounted for to the satisfaction of the Customs Officer, the same shall be forfeited; and the master of the aircraft or ship in which such goods have been put shall incur a penalty of \$200, or treble the duty paid value of such goods at the election of the Customs Officer.

144 Short loading of bonded goods

If any person who has entered any goods for which bond is required under section 140 fails, in case such goods or any of them are not duly put on board the aircraft or ship for which the same have been entered, to attend before the proper officer within 24 hours of the time of clearance of the aircraft or ship or such further period as the Customs Officer may allow, and notify such officer of the short loading of such goods and re-warehouse or re-enter for exportation or use as stores in some other aircraft or ship within such period of 24 hours any such goods which shall have been removed from a warehouse for exportation or use as stores, any such goods entered as aforesaid shall be forfeited.

145 Exporter to notify short loading of non-bonded goods

If any exporter who has entered any goods, not being goods for which bond is required, for exportation in any aircraft or ship fails, in case such goods or any of them are not duly put on board the aircraft or ship for which the same are entered, to attend the proper officer within 24 hours after the departure of such aircraft or ship, or such period as the Customs Officer may allow, and notify such officer of the short loading of such goods, he shall incur a penalty of \$10.

146 Customs Officer may allow shipment of stores

Notwithstanding anything to the contrary contained in the customs laws, and subject to any regulations made under this Act, the Customs Officer may, upon due request being made, permit the master of any aircraft or ship departing from any port in Tuvalu upon a flight or voyage to any place outside Tuvalu to take on board stores (not being goods prohibited to be exported) for the use of such aircraft or ship, and of the master, crew and passengers, upon payment of any export duty leviable on the like kind of goods exported and upon such other terms and conditions as the Customs Officer may direct, and in such quantities as the Customs Officer in his discretion shall deem reasonable; and every such request shall be made on the prescribed form and contain the particulars required thereby or indicated therein, and shall be signed by the master or his agent; and no stores shall be put on board for the use of any aircraft or ship, nor shall any articles taken on board any aircraft or ship be deemed to be stores, except such as shall be or have been put on board such aircraft or ship in accordance with the provisions hereof.

147 Drawback and transhipment goods

The provisions of the customs laws with reference to the exportation of warehoused goods, so far as they are applicable, shall be deemed to apply to and include goods liable to duties of customs transferred from an importing to an exporting aircraft or ship, and goods exported on drawback.

148 Loading of goods other than cargo or stores

Notwithstanding anything to the contrary in the customs laws, and subject to any regulations made under this Act, the proper officer may permit the loading of passengers' baggage, and also permit any person to take on board any aircraft or ship any goods for sale or delivery to the passengers, officers, or crew of such aircraft or ship, or for such other purposes as the proper officer shall allow, under such conditions as he may either generally or in any particular case direct; but if any goods, not being part of the cargo or authorised stores of any aircraft or ship, shall be taken on board any aircraft or ship, which is about to proceed to any place outside Tuvalu, or which has any goods remaining on board thereof from a voyage from a place outside Tuvalu, or if any attempt shall be made to put any such goods on board any such aircraft or ship without permission of or contrary to any conditions directed as aforesaid by the proper officer, or otherwise contrary to the customs laws, the same shall be forfeited.

PART VI - DEPARTURE AND CLEARANCE OF AIRCRAFT AND SHIPS

149 Clearance of aircraft and ships

No aircraft or ship shall depart from any port or place in Tuvalu to any port or place outside Tuvalu, either direct or via another port or place in Tuvalu, until the master or his agent has satisfied the proper officer that all the provisions of the customs laws have been fulfilled, whereupon unless he has decided to withhold clearance in accordance with any other provision of law, such officer shall deliver to the master or his agent a clearance in the prescribed form and such clearance shall be the authority for the departure of such aircraft or ship as aforesaid.

150 Power to refuse or cancel clearance of ship or aircraft

- (1) For the purpose of the detention thereof in pursuance of any power or duty conferred or imposed by or under any enactment, or for purpose of securing compliance with any provision of this Act or of any other enactment or of any instrument made thereunder, being a provision relating to the importation or exportation of goods —

- (a) the proper officer may at any time refuse the clearance of any ship or aircraft; and
 - (b) where clearance has been granted to a ship or aircraft, any officer may at any time while the ship is within the limits of any port or the aircraft is at any customs aerodrome demand that the clearance shall be returned to him.
- (2) Any such demand may be made either orally or in writing on the master of the ship or commander of the aircraft, and if made in writing may be served —
- (a) by delivering it to him personally; or
 - (b) by leaving it at his last known place of abode; or
 - (c) by leaving it on board the ship or aircraft with the person appearing to be in charge or command thereof.
- (3) Where a demand for the return of a clearance is made as aforesaid —
- (a) the clearance shall forthwith become void; and
 - (b) if the demand is not complied with, the master of the ship or the commander of the aircraft shall be liable to a penalty of \$200.

151 Power to prevent flight of aircraft

- (1) Any officer, if it appears to him that an aircraft is intended or likely to depart for a destination outside Tuvalu from any port or place in Tuvalu before customs clearance is given therefrom, may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to him necessary in order to prevent the flight.
- (2) Any person who contravenes any instructions given under the foregoing subsection shall be liable to a penalty of \$400 and to imprisonment for 3 months; and if an aircraft flies in contravention of any such instruction or notwithstanding any steps taken to prevent the flight, the owner and the commander thereof shall, without prejudice to the liability of any other person under this subsection, each be similarly liable unless he proves that the flight took place without his consent or connivance.

152 Penalty for not clearing

If any aircraft or ship departs from any port or place as aforesaid without authority having been granted as required by section 149, the master or his agent shall incur a penalty of \$200.

153 Master to deliver account of cargo, etc.

The master of every aircraft or ship, or his agent, shall immediately before the departure of such aircraft or ship from any port or place in Tuvalu deliver to the

proper officer a content in the prescribed form of such aircraft or ship and containing the several particulars therein required as far as the same can be known to him and shall make and subscribe the declaration at the foot thereof in the presence of such officer and shall answer all such questions as shall be put to him by such officer concerning the aircraft or ship, the cargo, the stores, the baggage, the officers, crew and passengers and the voyage:

Provided that the Customs Officer may generally or in any particular case require the master or agent to furnish a list of the officers, crew and passengers to the proper officer at least 1 hour before the scheduled time of departure of any aircraft or ship.

154 Penalty for any contravention of section 153

If a master or agent fails to deliver the content required by section 153 or if any of the particulars contained in such content are false or if any of the required particulars are omitted from such content and such omission is not explained to the satisfaction of the Customs Officer or if a master or agent otherwise fails to comply with section 153 such master or agent shall incur a penalty of \$200.

155 Minister may prescribe special conditions as to clearance

Notwithstanding sections 149 and 153 or any other provisions of the customs laws relating to the departure and clearance of aircraft and ships, the Minister may by notice or by writing under his hand addressed to the Customs Officer require all aircraft and ships whatsoever, or any particular aircraft or ship, to be cleared in any manner specified in such notice or writing; and if any aircraft or ship shall depart contrary to the provisions of any such notice or writing as aforesaid of which the master or agent shall have been informed by the Customs Officer in writing, the master or agent shall incur a penalty of \$1,000.

156 Clearance in ballast

If any ship is departing in ballast from Tuvalu to any place outside Tuvalu, not having any goods on board except stores duly shipped as such, nor any goods reported inwards for exportation in such ship, the proper officer shall, on the application of the master or his agent, clear such ship in ballast; and the master of such ship or his agent shall comply with the customs laws as if such ship had cargo on board, except that the words "in ballast" shall be written on the prescribed forms in the places which are provided for particulars of cargo.

157 Ships with passengers and baggage deemed in ballast

For the purposes of section 156 ships having only passengers with their bona fide baggage on board in addition to stores as aforesaid shall be deemed to be in ballast.

158 Clearance to be produced to officer on demand

Any officer may go on board any aircraft or ship within Tuvalu and demand the clearance of such aircraft or ship, and if the master fails to produce the same, or if the master of any aircraft or ship whatsoever which may be boarded as aforesaid by any officer fails to answer or does not truly answer such questions concerning the aircraft or ship, the cargo, stores, baggage, officers, crew, passengers and intended flight or voyage, as may be demanded by him, he shall incur a penalty of \$200.

159 Goods not contained in account forfeited

If there be any goods or stores on board any aircraft or ship which may have been boarded by an officer within Tuvalu not contained in the content or account required to be signed as the clearance of such aircraft or ship (if any) such goods or stores shall be forfeited, and the master shall incur a penalty of \$200, or treble the duty paid value of such goods, at the election of the Customs Officer.

160 Penalty for failure to produce goods

If any officer having boarded any aircraft or ship within Tuvalu after clearance, discovers that any goods which were loaded in Tuvalu on board thereof as stores or for exportation or which at the time of clearance remained on board from the inward voyage are no longer on board such aircraft or ship (unless the same shall have been discharged in Tuvalu, with the permission of the proper officer, as provided in section 137, or being stores remaining on board from the inward voyage, are in the opinion of the proper officer less than should be on board after making the allowance for what might reasonably have been consumed, having regard to the period during which the aircraft or ship shall have been within Tuvalu), the master shall incur a penalty of \$50 for every package or parcel of such goods not on board, or a penalty of treble the duty paid value of such goods, at the election of the Customs Officer.

161 Deficiency in stores, etc.

If any aircraft or ship, having departed from Tuvalu on a flight or voyage to a place outside Tuvalu and having returned within Tuvalu, is boarded by an officer, and if such officer discovers any deficiency in the stores of such aircraft or ship which in his opinion is in excess of the quantity which might fairly have been consumed, having regard to the period which has elapsed between the departure of such aircraft or ship and the discovery of the deficiency, the master shall pay the duties of such deficiency at the rate chargeable on similar goods imported, and in addition shall incur a penalty of \$50.

162 Aircraft or ship not bringing to at boarding station or carrying away officer

If any aircraft or ship departing from Tuvalu does not bring to at the proper boarding station for setting down officers, or for any other purpose required by the customs laws, or departs on a flight or voyage with any officer on board without the assent in writing of such officer, the master shall incur a penalty of \$200 unless the same shall be explained to the satisfaction of the Customs Officer.

PART VII - COASTING TRADE**163 Definitions**

Except as provided in section 164, all trade by sea or by air from one part of Tuvalu to any other part thereof shall be deemed to be coasting trade, and all aircraft or ships while employed therein shall be deemed to be coasting aircraft and coasting ships, and if any doubt shall at any time arise as to what, or to or from what parts of Tuvalu, shall be deemed a passage by sea the Minister may determine and direct in what cases the trade by water from one port or place in Tuvalu to another of the same shall or shall not be deemed a trade by sea within the meaning of the customs laws.

164 Provisions relating to aircraft and ships from places outside Tuvalu

- (1) Notwithstanding any provisions in the customs laws to the contrary, where any aircraft or ship arrives in Tuvalu from any place outside Tuvalu, having on board cargo intended to be delivered at more than one port in Tuvalu, or intending to load cargo for a foreign port at more than one port in Tuvalu, the proper officer may permit such aircraft or ship to convey goods from any port at which such aircraft or ship partially discharges her cargo or loads cargo for a foreign port to her port or ports of destination within Tuvalu for delivery there; and such goods shall be completely separated from the inward cargo still on board, to the satisfaction of the proper officer.
- (2) Any aircraft or ship referred to in subsection (1) conveying goods from one port within Tuvalu to another port within Tuvalu shall not, by reason thereof, be deemed a coasting aircraft or coasting ship within the meaning of the customs laws.
- (3) If any goods are unloaded or conveyed in contravention of any regulations made under this Act or of such conditions as the Customs Officer may impose, the master of the aircraft or ship shall incur a penalty of \$50, and the goods shall be forfeited.

165 Removing uncustomed goods coastwise

Goods imported at a port in Tuvalu but consigned to and intended for delivery at another port in Tuvalu may, subject to such conditions as the Customs Officer may impose, be transhipped at the port of first importation and carried by another aircraft or ship in either the foreign or coasting trade to the port of destination prior to entry and without being examined, provided that at the latter port the goods shall be dealt with as goods imported direct from a place outside Tuvalu and that if goods are so carried in an aircraft or a ship in the foreign trade such conveyance of goods shall not constitute the aircraft or ship a coasting aircraft or coasting ship within the meaning of the customs laws.

166 Licence for coasting ships

The Minister may make regulations for the licensing of coasting aircraft or ships to carry uncustomed goods coastwise.

167 Coasting ship may be required to display name and number

The Minister may make regulations requiring every ship licensed under section 166 to paint or otherwise display her name and the number of her licence in such manner as he shall prescribe and the master of every ship in respect of which any such regulation is contravened shall incur a penalty of \$50 and the ship may be seized by any officer and detained until such penalty has been paid.

168 Coasting aircraft or ships to take only coastwise cargo

No uncustomed goods shall be carried in any coasting aircraft or ship except such as shall be loaded to be carried coastwise at some port or approved place of loading in Tuvalu.

169 Offences

If any aircraft or ship licensed under section 166 deviates from its flight or voyage, unless forced by unavoidable circumstances, whereof the proof shall lie on the master of such aircraft or ship, or if the master of any coasting aircraft or ship has taken on board any wrecked or other goods or discharged any uncustomed goods in the course of a flight or voyage from one part of Tuvalu to another and fails to render an account of the circumstances and of any goods so taken on board or discharged and to proceed forthwith direct to the nearest port in Tuvalu, and to declare and explain the same to the satisfaction of the proper officer, and to deliver all goods so taken on board into his care, such master shall incur a penalty of \$200, and the aircraft or ship may be detained by any officer until such penalty be paid.

170 Special conditions as to certain goods

Uncustomed tobacco; cigars, cigarillos, cigarettes, wines and spirits (except spirits the product of Tuvalu removed under the provisions of the excise laws or with the permission of the Customs Officer), shall not be put on board any aircraft or ship for carriage coastwise except at an approved place of loading or sufferance wharf and in the presence or with the authority of an officer, and if any such goods shall be put on board contrary hereto, or if any attempt is made so to put them, such goods shall be forfeited.

171 Coastwise cargo not to be put on board on Sundays, etc.

If any uncustomed goods are discharged from any aircraft or ship arriving coastwise, or from any vessel into which the same have been put to be landed, or to be waterborne, to be put on board any aircraft or ship for carriage coastwise on Sundays or public holidays or on any other days except between such hours as may be prescribed, save with the written permission of the Customs Officer, the same shall be forfeited, and the master of the aircraft, ship, or vessel shall incur a penalty of \$100 and the aircraft, ship or vessel may be detained by any officer until such penalty is paid.

172 Forfeiture of goods prohibited to be carried coastwise

If any person puts on board any coasting aircraft or ship, or puts off, or puts into any vessel to be put on board any coasting aircraft or ship, or brings to any aerodrome, customs area, quay, wharf or any place whatever in Tuvalu for carriage coastwise, or carries coastwise any goods prohibited to be carried coastwise, or any goods the carriage coastwise of which is restricted, contrary to such restriction, or attempts to perform, or is knowingly concerned in the performance of any of the aforesaid acts, he shall incur a penalty of \$400, and all such goods shall be forfeited.

173 Master to keep cargo books

The master of any coasting aircraft or ship licensed under section 166 shall keep or cause to be kept a cargo book stating the name of the aircraft or ship, the master and the port to which the aircraft or ship belongs, and the port or place to which it is bound on each flight or voyage, and unless the Customs Officer otherwise directs, shall at every port or place of loading enter in such book the name of such port or place, an account of all goods there taken on board such aircraft or ship, stating the descriptions of the packages, and the quantities and descriptions of any goods stowed loose and the names of the respective consignors and consignees, and shall at every port or place of discharge of such goods note the respective days on which the same or any of them are delivered out of such aircraft or ship, and the respective time of departure from every port or place of loading and of arrival at every port or place of discharge.

174 Master to produce cargo book on demand

The master of any coasting aircraft or ship who under section 173 is required to keep a cargo book shall, on demand, produce such cargo book for the inspection of any officer, who shall be at liberty to make any note or remark therein; and if upon examination any package entered in the cargo book as containing imported goods shall be found not to contain such goods, such package with its contents shall be forfeited; or if any package shall be found to contain imported goods not entered in such book such goods shall be forfeited.

175 Penalty for failure to keep cargo book correctly

If any master who under section 173 is required to keep a cargo book fails correctly to keep or cause correctly to be kept such cargo book or to produce the same, or if at any time there is found on board such aircraft or ship any goods not entered in such book as loaded, or any goods noted as delivered, or if any goods entered as loaded and not noted as delivered are not on board, the master of such aircraft or ship shall incur a penalty of \$50, and the aircraft or ship may be detained by any officer until such a penalty is paid.

176 Minister may impose special conditions respecting coasting trade

Notwithstanding any other provisions contained in this Act the Minister may by notice require the owners of goods which they intend to ship coastwise to furnish to the Customs Officer prior to shipment an account of such goods in such manner as may be specified in the said notice and to require the masters or agents of all or any coasting aircraft or ships to deliver to the Customs Officer, prior to the departure from any port or place of such aircraft or ships, an account of all cargo and stores taken on board in such manner as may be specified in the said notice; and if any owner as aforesaid fails to furnish such information he shall incur a penalty of treble the duty paid value of the goods or \$200 at the election of the Customs Officer and if any coasting aircraft or ship departs contrary to the provisions of any such notice as aforesaid the master and owner shall each incur a penalty of \$100.

177 Form of cargo book

A cargo book required to be kept under section 173 shall be in the prescribed form, and shall contain such particulars in addition to, or in lieu of, the particulars required by section 173 as the form prescribed as aforesaid shall indicate or require; and if such cargo book is not in the form prescribed as aforesaid the master of the aircraft or ship shall incur a penalty of \$20, and the aircraft or ship may be detained by any officer until such penalty is paid.

178 Coastwise passengers, etc.

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

179 Master to deliver cargo book to officer before departure

Before any aircraft or ship licensed under section 166 departs from any port or place of loading, her cargo book, containing the several particulars required by this Act, and signed by the master, shall be delivered to the proper officer, who shall return it dated and signed by him, and such cargo book shall be the clearance of the aircraft or ship for the voyage; and if the master fails to deliver such cargo book he shall incur a penalty of \$50, and the aircraft or ship may be detained by any officer until such penalty is paid.

180 Procedure where no officer is stationed

Any aircraft or ship licensed under section 166 taking cargo on board at a place where no officer is stationed, to be carried coastwise, may depart from such place without delivering such cargo book, on condition that the master of the aircraft or ship shall produce the cargo book to the proper officer at the first place where an officer is stationed at which such aircraft or ship arrives after loading, and the officer shall thereupon sign such book, if satisfied as to its correctness.

181 Master to deliver cargo book on arrival

- (1) Immediately after the arrival of any aircraft or ship licensed under section 166 at any port or place of discharge and before any goods be unloaded, the cargo book with the name of the place or wharf where the cargo is to be discharged noted thereon shall be delivered to the proper officer, who shall note thereon the date of delivery:

Provided that such a coasting aircraft or ship having cargo duly loaded to be carried coastwise may discharge at a place where no officer is stationed without delivering the cargo book as herein required, on condition that the cargo book, containing an account of the cargo so discharged, is produced to the proper officer at the first place where an officer is stationed at which the aircraft or ship arrives after discharging.

- (2) If any goods are unloaded or if any goods are loaded on board any aircraft or ship and carried coastwise, or are brought to any port or place in Tuvalu for that purpose, contrary to the customs laws, such goods shall be forfeited.

182 Customs Officer may vary procedure

Notwithstanding anything hereinbefore contained, the Customs Officer may permit the loading and clearance and the entry and unloading of any coasting aircraft or ship licensed under section 166 and any uncustomed goods under such conditions as he may, in any particular case, impose.

183 Search of coasting aircraft or ship

Any officer may go on board any coasting aircraft or ship in any port or place in Tuvalu or on any coasting ship at any period of her voyage and search such aircraft or ship and examine all goods on board, and all goods then being loaded or unloaded, and demand all books or documents which ought to be on board such aircraft or ship, and may require all or any such books or documents to be brought to him for inspection, and the master shall answer all such questions concerning the aircraft or ship and its cargo, officers, crew, passengers and the flight or voyage as may be put to him by such officer; and if the master refuses to produce such books or documents on demand, or to bring the same to such officer when required, he shall incur a penalty of \$50; and the aircraft or ship may be detained by any officer until the penalty is paid.

184 Coasting aircraft or ship and goods may be entered outwards in certain cases

The Customs Officer, subject to such conditions as he may require to be observed, may permit the master of any aircraft or ship bringing any goods coastwise to an approved port to enter such aircraft or ships and goods or any of them outwards for exportation without first discharging the same.

PART VIII - IMPORTATION AND EXPORTATION BY POST**185 Application of customs laws to importation and exportation by post**

Subject to the provisions of any regulations made under the next following section, the provisions of the customs laws shall apply to postal packets in like manner, so far as is consistent with the tenor thereof, as they apply to any other goods; and persons may be punished for offences against the customs laws and goods may be examined, seized and forfeited, and the officers examining and seizing them shall be protected and legal proceedings, in relation to the matters aforesaid, may be taken accordingly under the customs laws.

186 Power to modify such application

- (1) The Minister may make regulations for the purpose of modifying or excepting the application of any of the customs laws to postal packets, and for the purpose of securing in the case of such packets the observance of the customs laws, and for enabling the officers of the post office to perform for the purpose of the customs laws and otherwise all or any of the duties of the importer and exporter, and for carrying into effect any arrangement with the government or postal administration of any other country with reference to such packets, and for prescribing penalties for any contravention of the customs laws or of the regulations made under this section.
- (2) Without prejudice to the generality of the power to make regulations contained in the preceding subsection, the Minister may, by regulations made under the preceding subsection, prescribe what descriptions of postal packets may or may not contain goods or other articles of any description whatsoever, and the conditions under which they may contain such goods or articles.
- (3) The Postmaster shall have the same right of recovering any sum paid in pursuance of the customs laws or otherwise under the said regulations in respect of any postal packet as he would have if the sum so paid were a rate of postage.
- (4) A contravention of the regulations made under this section shall be deemed to be a contravention of the customs laws, and shall involve accordingly the like punishment of persons guilty thereof and the like forfeiture of goods.

187 Goods contained in postal packets contrary to law

Any officer of the post office may detain any incoming postal packet which he has reasonable cause to suspect of containing any letter, printed matter, document or any other thing whatsoever, the conveyance of which by post or the importation of which is prohibited or restricted by law, and deliver such packet to the proper officer, who may open and examine the packet in the presence of the person to whom the packet is addressed or of his accredited representative, or in the absence of such person, if, after notice in writing from the officer requiring the attendance of such person left at or forwarded by post to the address on the packet, if any, he or his accredited representative fails to attend; and if the proper officer finds any goods therein, or any letter, printed matter, document or any other thing whatsoever being conveyed by post, or imported contrary to any lawful prohibition or restriction, he may detain the packet and deal with it and its contents as goods imported contrary to the customs laws; but if he finds no such goods, letter, printed matter, document or other thing, he shall deliver the packet either to the person to whom it is addressed, or to his accredited representative, upon his paying the postage or other sum, if any, chargeable thereon, or if he is absent, forward the packet by post to the person to whom it is to be delivered.

188 Saving

Sections 185 and 187 shall be in addition to and shall not derogate from the provisions of the Post Office Act.

PART IX - BONDS AND OTHER SECURITIES**189 Bonds and other securities required under the customs laws**

- (1) The Customs Officer may, if he sees fit, require any person to give security by bond or otherwise for the observance of any condition in connection with customs or excise.
- (2) All bonds and other securities relating to customs or excise or for the performance of any conditions or matter incidental thereto shall be taken to or for the use of Her Majesty.
- (3) All such bonds and other securities as aforesaid may, after the expiration of 3 years from the date thereof, or from the time, if any, limited therein for the performance of the conditions thereof, be cancelled by or by the order of the Customs Officer.
- (4) All bonds and other securities given under the provisions of the customs laws by persons under 21 years of age shall be valid.
- (5) No bond given under or in pursuance of the customs laws shall be invalid by reason only of a formal defect in the execution thereof or by reason of the lack of a witness to such execution.

190 Surety to be deemed a principal debtor

- (1) Without prejudice to any rights of a surety under any bond or other security required by the customs laws against the person for whom he is surety, a surety shall, under the bond or other security executed by him, be deemed a principal debtor and not merely a surety and, accordingly, shall not be discharged nor shall his liability be affected by any giving of time for payment, or by an omission to enforce the bond or other security or by any other act or omission or means whereby the liability of the surety would not have been discharged if he had been a principal debtor.
- (2) Whenever any person bound under a bond or other security required by the customs laws pays the whole or any part of the sum for which he is bound, or, being a surety —
 - (a) dies; or
 - (b) becomes a bankrupt or enters into any arrangement or composition with or for the benefit of his creditors; or

- (c) departs from Tuvalu without leaving sufficient property therein to satisfy the whole amount for which he is bound; or
 - (d) for any other reason is, in the opinion of the Customs Officer, unable or likely to be unable to satisfy the bond or other security if called upon,
- the Customs Officer may, if he thinks fit, require a new bond or other security to be executed.

191 Continuing validity of existing bonds and other securities

All bonds and other securities executed under the authority or in pursuance of any provisions of the customs laws before the commencement of this Act shall be valid and effectual according to the tenor thereof, notwithstanding anything contained in this Act.

PART X - PREVENTION OF SMUGGLING

192 Penalty on persons found on board smuggling aircraft or ships

If any aircraft or ship is found or discovered to have been within or over Tuvalu —

- (a) which has any secret or disguised place adapted for concealing goods or any device adapted for running goods; or
- (b) which has on board or in any manner attached thereto, or which is conveying or has conveyed in any manner any goods imported contrary to the customs laws or goods intended for exportation contrary to the customs laws; or
- (c) from which any part of the contents of such aircraft or ship has been thrown overboard to prevent seizure; or
- (d) on board which any goods have been staved or destroyed to prevent seizure,

then in every such case every person who is found or discovered to have been on board any such aircraft or ship shall incur a penalty of \$200, and all such goods shall be forfeited:

Provided that no person shall be liable under this section unless there shall be reasonable cause to believe that such person was concerned in or privy to the illegal act or thing proved to have been committed.

193 Smuggling ships under 250 tons forfeited

Every ship of less than 250 tons burden on board which, or in respect of which any offence against section 192 has been committed, shall be forfeited.

194 Penalty on aircraft and ships of 250 tons or more

- (1) With regard to aircraft or any ship of not less than 250 tons burden on board or in respect of which any offence against section 192 has been committed, such aircraft or ship shall not be forfeited for such offence, but the following provisions shall apply —
 - (a) the Customs Officer shall have power, subject to appeal to the Minister, to fine any such aircraft or ship in any sum, not exceeding \$100, in any case where in his opinion a responsible officer (as hereinafter defined) of such aircraft or ship is implicated either actually or by neglect;
 - (b) for the purpose of enforcing such fine, the Customs Officer shall have power to require the deposit in his hands, at the port or place where such aircraft or ship shall be, of such sum, not exceeding \$100, as he may think right, pending the ultimate decision, and in default of payment of such deposit the Customs Officer shall have power to withhold clearance and to detain the said aircraft or ship;
 - (c) if in any case the Customs Officer considers that the fine of \$100 aforesaid will not be an adequate penalty against any such aircraft or ship for the offence committed thereon, it shall be lawful for him to take proceedings for condemnation of the said aircraft or ship in a penalty not exceeding \$1,000, at the discretion of the court; and for this purpose the Customs Officer may, as to any aircraft or ship referred to in this section, require the deposit in his hands as aforesaid of a sum not exceeding \$1,000, to abide the decision of the court, and in default of payment of such deposit the Customs Officer may withhold clearance and detain such aircraft or ship;
 - (d) no claim shall be made against the Customs Officer for damages in respect of the payment of any deposit, or the detention of any aircraft or ship under this section.
- (2) The expression “responsible officer” in this section includes the master, mates and engineers of any ship, and in the case of a ship carrying a passenger certificate, the purser or chief steward, and where the ship is manned by Asiatic seamen, the serang or other leading Asiatic officer, and, in the case of an aircraft, the pilot, navigator, chief steward or chief engineer; and the expression “neglect” in this section includes circumstances in which goods not owned by any of the crew are discovered in a place in which such goods could not reasonably have been so put or have remained if the responsible officer having supervision of such place had exercised proper care at the time of loading of the aircraft or ship or subsequently.

195 Ship forfeited for offence during chase

- (1) If any ship within Tuvalu does not bring to upon the proper signal made by any vessel or boat in Her Majesty’s service or in use by or subject to the control of the Customs Officer for the purposes of enforcement of the customs

laws and flying the flag referred to in subsection (2) whereupon chase is given, and any person on board such ship during chase or before such ship brings to or upon bringing to throws overboard any part of her contents, or staves or destroys any part thereof to prevent seizure, such ship shall be forfeited.

- (2) The display by any officer of the Customs flag on a boat, such flag being of not less dimensions than 4 feet by 2 feet, with the upper horizontal half coloured blue and containing the Union Jack, and the lower horizontal half coloured white, with the letters "H.M.C." conspicuous thereon, shall be deemed sufficient proof of the authority of such officer, and any person other than an officer displaying such a flag shall incur a penalty of \$500.

196 Penalty for not bringing to

If any aircraft or ship liable to seizure or examination under the customs laws does not bring to when required so to do and so remain for such period as the boarding officer shall require, the master of such aircraft or ship shall incur a penalty of \$200.

197 Offences by smugglers, etc., against officers

- (1) If any person maliciously shoots at aircraft or ships in use by an officer for the enforcement of the customs laws, or maliciously shoots at, maims, or wounds any officer in the execution of his office or duty, or with violence commits any of the offences mentioned in subsection (4), every person so offending, and every person aiding, abetting or assisting therein shall be guilty of felony and liable to imprisonment for 15 years.
- (2) If any person engaged, or who has been engaged, in the commission of any offence against the customs laws is armed with firearms or other offensive weapons, or whether so armed or not, is disguised in any way, or being so armed or disguised is found with any goods liable to forfeiture under the customs laws, he shall be liable to imprisonment for 3 years.
- (3) If any person by any means procures or hires or deposes or authorises any other person to procure or hire any person to assist in any evasion of the customs laws, he shall be liable to imprisonment for 12 months.
- (4) If any person staves, breaks or destroys any goods to prevent seizure thereof by an officer or other person authorised to seize the same, or rescues, or staves, breaks or destroys to prevent the securing thereof any goods seized by an officer or other person authorised to seize the same, or rescues any person apprehended for any offence under the customs laws, or prevents the apprehension of any such person or obstructs any officer going, remaining or returning from on board an aircraft or ship within Tuvalu, or in searching an aircraft or ship, or in searching a person liable to be searched under the customs laws, or in seizing any goods liable to forfeiture, or otherwise acting in the execution of his duty, or attempts or endeavours to commit, or aids,

abets or assists in the commission of any of the offences mentioned in this subsection, he shall for each such offence incur a penalty of \$200.

- (5) If any person, not being an officer, takes or assumes the name, designation, appearance or character of an officer for the purpose of thereby obtaining admission into any aircraft, ship, house or other place, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, he shall, in addition to any other punishment to which he may be liable for the offence, be liable to imprisonment for 3 months.
- (6) In this section “violence” means any criminal force or harm to any person, or any criminal mischief to any property, or any threat or offer of such force, harm or mischief or the carrying or use of deadly, dangerous or offensive weapons in such manner as is likely to cause terror to any person, or such conduct as is likely to cause in any person a reasonable apprehension of criminal force, harm or mischief to him or to his property.

198 Penalty for assembling to evade customs laws

All persons to the number of 3 or more who shall assemble for the purpose of evading any of the provisions of the customs laws, or who having so assembled evade any such provisions, shall each be guilty of an offence, and shall each be liable on summary conviction to imprisonment for 12 months.

199 Penalty for signalling to smugglers

- (1) Any person who by any means makes any signal or transmits any message from any part of Tuvalu or from any ship or aircraft for the information of a person in any ship or aircraft being a signal or message connected with the smuggling or intended smuggling of goods into or out of Tuvalu, whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at the time in smuggling goods, shall be liable to a penalty of \$200, and to imprisonment for 1 year, and may be detained; and any equipment or apparatus used for sending the signal or message shall be liable to forfeiture.
- (2) If, in any proceedings under the foregoing subsection, any question arises as to whether any signal or message was such a signal or message as aforesaid, the burden of proof shall lie upon the defendant or claimant.
- (3) If any officer or any member of Her Majesty’s armed forces or coastguard, or any police officer has reasonable grounds for suspecting that any such signal or message as aforesaid is being or is about to be made or transmitted from any ship, aircraft, vehicle, house or place, he may board or enter that ship, aircraft, vehicle, house or place and take such steps as are reasonably necessary to stop or prevent the sending of the signal or message.

200 Penalty for interfering with customs gear

Every person who cuts away, cuts adrift, removes, or alters, defaces, sinks or destroys, or in any other way injures or conceals any aircraft, ship, buoy, anchor, chain, rope or mark in the charge of or used by any person for the prevention of smuggling, or in or for the use of the service of the customs shall incur a penalty of \$100.

201 Intermeddling with goods found floating

If any person, not being an officer or otherwise authorised by law, intermeddles with or takes up any spirits or any goods prohibited to be imported or exported being in packages found floating upon or sunk into the sea, such spirits or goods prohibited to be imported or exported shall be forfeited and every such person shall incur a penalty of \$50.

202 Writs of assistance

All writs of assistance issued from the court (which is hereby authorised and required to grant such writs upon application by the Customs Officer) shall continue in force during the reign for which they were granted and for 6 months afterwards; and any officer having such writ of assistance may, by day or night, enter into and search any house, shop, cellar, warehouse, room or other place, and in case of resistance, break open doors, chests, trunks, and other packages, and seize and bring away any uncustomed or prohibited goods, or any books or documents relating thereto, and put and secure the same in a Queen's warehouse:

Provided that entry may not be made at night except in the company of a police officer.

203 Search warrant

If any officer has reasonable cause to suspect that any uncustomed or prohibited goods, or any books or documents relating to uncustomed or prohibited goods, are harboured, kept or concealed in any house or other place in Tuvalu, and it shall be made so to appear by information on oath before any magistrate in Tuvalu, the magistrate may by special warrant under his hand authorise such officer to enter and search such house or other place by day or by night, and to seize and carry away any such uncustomed or prohibited goods, or any books or documents relating to uncustomed or prohibited goods, as may be found therein; and such officer, in case of resistance, may break open any door, and force and remove any other impediment or obstruction to such entry or seizure as aforesaid.

204 Officer may stop, etc., any ship, aircraft or carriage

Any officer may upon reasonable suspicion stop and examine any ship, aircraft, or carriage within Tuvalu to ascertain whether any uncustomed or prohibited goods are contained therein; and, if none shall be found, the officer shall not on account of such stoppage and examination be liable to any prosecution or action at law; and the person in charge of any such ship or aircraft and any person driving or conducting such carriage refusing to stop or allow such examination when required by any officer shall incur a penalty of \$200.

205 Officer may patrol freely

Any officer, when on duty, may patrol upon and pass freely either on foot or otherwise, along and over and enter any part of Tuvalu other than a dwelling-house, and any such officer so proceeding shall not be liable to any criminal or civil proceedings for so doing.

206 Officer may moor or park patrol craft or carriage

The officer in charge of any aircraft, ship or carriage employed for the prevention of smuggling, may take such aircraft, ship or carriage to such place as he shall deem most convenient for that purpose, and keep any such aircraft, ship or carriage at such place and for such time as he shall deem necessary and proper; and such officer shall not be liable to any criminal or civil proceedings for so doing.

PART XI - PENALTIES AND GENERAL PROVISIONS

207 General penalty

Save as otherwise provided in section 208 any person who is convicted of any offence against the customs laws for which no specific penalty is provided shall incur a penalty of \$100.

208 Penalty in cases of forfeiture

Where any aircraft, ship, carriage or goods become liable to forfeiture under the customs laws, any person who shall be knowingly concerned in the act or omission which renders the same liable to forfeiture shall be guilty of an offence, and shall incur the penalty provided by this Act in respect of such offence, or, where no such penalty is provided, shall incur a penalty of \$200, or treble the duty paid value of any goods seized, at the election of the Customs Officer; and any such person may be arrested and detained by any officer, and taken before a magistrate to be dealt with according to law:

Provided that no person shall be arrested whilst actually on board any aircraft or ship in the service of a foreign state or country.

209 Penalty for false declaration

Any person who, in any matter relating to the customs laws, or under the control or management of the Customs Officer —

- (a) makes and subscribes, or causes to be made and subscribed, any false declaration; or
- (b) makes or signs or causes to be made or signed any declaration, certificate or other instrument required to be verified by signature only, the same being false in any particular; or
- (c) makes or signs any declaration made for the consideration of any officer on any application presented to him, the same being untrue in any particular; or
- (d) when required by the customs laws to answer questions put to him by any officer, refuses to answer such questions or answers any such questions untruly;

shall incur a penalty of \$1,000.

210 Penalty for evading customs laws regarding imported or exported goods

Every person who —

- (a) imports or brings or is concerned in importing or bringing into Tuvalu any prohibited goods, or any goods the importation of which is restricted, contrary to such prohibition or restriction, whether the same be unloaded or not; or
- (b) knowingly unloads or assists or is otherwise concerned in unloading any goods which are prohibited, or any goods which are restricted and imported contrary to such restriction; or
- (c) knowingly harbours, keeps or conceals, or knowingly permits or suffers or causes or procures to be harboured, kept or concealed, any prohibited, restricted or uncustomed goods; or
- (d) knowingly acquires possession of or is in any way knowingly concerned in carrying, removing, depositing, concealing, or in any manner dealing with any goods with intent to defraud the revenue of any duties thereon, or to evade any prohibition or restriction of or applicable to such goods; or
- (e) is in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any import or export duties of customs, or of the laws, and restrictions, of the customs relating to the importation,

unloading, warehousing, delivery, removal, loading and exportation of goods;

shall for each offence incur a penalty of treble the value of the goods or \$200 at the election of the Customs Officer; and all goods in respect of which any such offence shall be committed shall be forfeited.

211 Penalty in relation to concealed goods, etc.

If any person imports or exports, or causes to be imported or exported, or attempts to import or export any goods concealed in any way, or packed in any package or parcel (whether there be any other goods in such package or parcel or not) in a manner calculated to deceive an officer, or any package containing goods not corresponding with the entry thereof, such package and the goods therein shall be forfeited, and such person shall incur a penalty of \$200, or treble the value of the goods contained in such package, at the election of the Customs Officer.

212 Power of Customs Officer to purchase goods in certain cases

- (1) Notwithstanding section 211, if, upon the examination of any imported goods, which are chargeable with duty upon the value thereof, it appears to the Customs Officer that the value of such goods as declared by the importer and according to which duty has been or is sought to be paid is not the true value thereof, it shall be lawful for the Customs Officer to detain the same, in which case he shall give notice in writing to the importer of the detention of such goods, and of the value thereof as estimated by him, either by delivering such notice personally, or by transmitting the same by post to such importer addressed to him at his place of abode or business.
- (2) The Customs Officer shall, within 15 days after the detention of such goods, determine either that the goods are or may be correctly entered according to the value declared by the importer and permit the same to be delivered, or to retain the same for the public use of Tuvalu, in which latter case he shall cause the value at which the goods were declared by the importer, together with an addition of 5 per cent, and the duties already paid to be paid to the importer in full satisfaction for such goods; or he may permit such person, on his application for the purpose, to enter the goods according to such value and on such terms as he may direct.
- (3) Such goods, if retained, shall be disposed of for the benefit of Tuvalu, and if the proceeds arising therefrom, in case of sale, exceed the sum so paid, and all charges incurred by Tuvalu, such surplus shall be paid into the general revenue of Tuvalu.

213 Officer taking unauthorised fees, etc.

If any officer shall demand or accept any fee, perquisite or reward whether pecuniary or otherwise, directly or indirectly, from any person on account of anything done or to be done by him, or omitted to be done by him, in or in any way relating to his office or employment, except such as he shall be permitted to demand or receive with the approval of the Minister, or Customs Officer, such officer so offending shall, on proof thereof to the satisfaction of the Minister, be dismissed from his office; and if any person shall give, offer or promise to give any such fee, perquisite or reward, such person shall for every offence incur a penalty of \$200.

214 Collusive seizure, bribery, etc.

If any officer makes any collusive seizure, or delivers up, or makes any agreement to deliver up or not to seize any aircraft, ship, carriage or goods liable to forfeiture, or demands or takes any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty, or conspires or connives with any person to commit an offence against the customs laws for the purpose of seizing any aircraft, ship, carriage or goods, and obtaining any reward for such seizure or otherwise, every such officer shall commit an offence and shall be liable to a fine of \$1,000 or to imprisonment for 2 years and shall be rendered incapable of holding any public office in Tuvalu, and every person who gives or offers or gives or promises to give or procures to be given any bribe, recompense or reward to, or shall make any collusive agreement with any such officer to induce him in any way to neglect his duty, or to do, conceal or connive at any act whereby any provisions of the customs laws may be evaded, shall commit an offence and shall be liable to a fine of \$1,000 or to imprisonment for 2 years.

215 Offering goods for sale under pretence that they are smuggled

If any person offers for sale any goods under pretence that the same are prohibited, or have been unloaded and removed without payment of duties, all such goods (although not prohibited or liable to any duties) shall be forfeited.

216 General provisions as to forfeiture

Subject to the provisions of sections 193 and 194, all aircraft, ships and carriages, together with all animals and things made use of in the importation, attempted importation, landing, removal, conveyance, exportation or attempted exportation of any uncustomed, prohibited or restricted goods, or any goods liable to forfeiture under the customs laws shall be forfeited; and all aircraft, ships, carriages and goods together with all animals and things liable to forfeiture, and all persons liable to be detained for any offence under the customs laws, or under any law whereby officers are authorised to make seizures or detentions, shall or may be seized or detained in any place by any person duly employed for the prevention of smuggling, or by any person having authority from the Customs Officer to seize or detain the same, and

all aircraft, ships, carriages and goods, together with all animals and things so seized, shall forthwith be delivered into the care of the Customs Officer; and the forfeiture of any aircraft, ship, carriage, animal or thing shall be deemed to include the tackle, apparel and furniture thereof, and the forfeiture of any goods shall be deemed to include the package in which the same are found and all the contents thereof.

217 Procedure on seizure

(1) Where any seizure is made of any goods forfeited under the provisions of the customs laws or any law enabling officers to make seizures, and the goods seized are not in the possession of the offender, master or person in charge of the vessel, aircraft or vehicle, or owner of the goods, or the seizure has not been made in the presence of the offender, master or owner as aforesaid, the seizing officer shall give notice in writing to the master or owner as aforesaid, if known to him, by delivering the notice to him personally, or by sending such notice by post to his usual place of abode, or his business premises, if known, or in the case of a body corporate, at their registered or principal office; and when the address is unknown the notice of seizure is to be by public notice.

(2) All seizures lawfully made under the customs laws or any other laws shall be deemed to be taken and condemned and may be sold or otherwise disposed of in such manner as the Customs Officer may direct, unless the person from whom the seizure has been made, or the master or owner as aforesaid or some person by them duly authorised, gives notice to the Customs Officer within 1 calendar month from the date of the seizure that he claims the goods, whereupon proceedings shall be taken for the forfeiture and condemnation thereof:

Provided that animals or perishable goods may be sold forthwith by public auction and the proceeds of such sale retained to abide the result of any claim which may be lawfully made.

(3) Where any proceedings are taken for forfeiture and condemnation, the court may, except in the case of goods subject to any prohibition or restriction, order delivery of the thing seized to the claimant on security being given for the payment to the Customs Officer of the value thereof in case of condemnation.

218 Disposal of seizure

All seizures whatsoever which have been made and condemned under the customs laws, or any other Act by which seizures are authorised to be made by officers, shall be disposed of in such manner as the Customs Officer may direct.

219 Minister may restore seizure, etc., and authorise Customs Officer to remit penalties

- (1) When any seizure has been made, or any fine or penalty incurred or inflicted, or any person committed to prison for any offence against the customs laws, the Minister may direct restoration of such seizure whether condemnation has taken place or not, or waive or compound proceedings or mitigate or remit such fine or penalty, or release such person from confinement either before or after conviction on any terms and conditions, as he shall see fit.
- (2) Subject to the approval of the Minister (which approval may be signified by general directions to the Customs Officer), the Customs Officer may mitigate or remit any penalty or restore anything seized under the customs laws at any time prior to the commencement of proceedings in any court against any person for an offence against the customs laws or for the condemnation of any seizure.

220 Penalties

Where by reason of the commission of an offence under this Act the payment of any customs duty has or might have been evaded the penalty imposed by the court upon the conviction of any person for that offence, unless any other penalty is specifically provided, shall be not less than treble the amount of duty payable unless the court for special reasons thinks fit to order otherwise, and without prejudice to the power of the court to impose any greater penalty otherwise permitted to be imposed in respect of such offence.

221 Rewards

The Customs Officer may, with the approval of the Minister, reward any person who informs him of any offence against the customs laws or assists in the recovery of any fine or penalty:

Provided that such approval need not be obtained for a reward not exceeding \$20.

222 Steamship agents

Where under the customs laws any special procedure is prescribed in regard to steamships, and where the owner of any steamship is not resident in Tuvalu, it shall be the duty of the master or owner of such steamship to appoint an agent in Tuvalu for the purpose of performing any act which may under the customs laws be performed by the agent of the master or owner of a steamship; and if the master or owner of any steamship shall fail to appoint an agent as aforesaid, and until such agent be appointed or if such agent shall not give security when so required to the satisfaction of the Customs Officer for the due observance of the customs laws, then such steamship shall be subject to the requirements of the customs laws applicable to ships other than steamships, and on failure or omission to perform any such

requirements, the owner or master shall be liable in respect of such failure or omission to all penalties that might be imposed upon them or either of them under the customs laws if such ship were not a steamship.

223 Form of document

Every document submitted to the Customs Officer or his officers for the purposes of the customs laws shall be in such form as may be prescribed, if any, and shall contain the particulars required by such form or indicated therein.

224 Production of documents

- (1) The importer, exporter, or any person concerned in the importation or exportation of any goods shall, on the request of any officer made at any time within 3 years of the date of importation or exportation, as the case may be, or of the date of delivery to the proper officer, of an entry for such goods, if the same have been entered, produce for the inspection of such officer the invoices, books of account, and any other documents of whatever nature relating to such goods which the officer shall require and shall answer such questions and make and subscribe such declarations regarding the weight, measure, strength, value, cost, selling price, origin and destination of such goods, and the name of the place whence or where any imported goods were consigned or transferred from one aircraft or ship to another, as shall be put to him by the officer, and shall produce such evidence as the officer may consider necessary in support of any information so furnished; and if the importer or exporter or other person concerned as aforesaid shall without reasonable cause neglect or refuse to carry out any of the provisions of this section, he shall incur a penalty of \$200, and the Customs Officer may, on such neglect or refusal, refuse entry or delivery or prevent shipment if the goods have not been entered or delivered or shipped or may allow entry, delivery or shipment upon such terms and conditions, and upon deposit of such sum, pending the production of the proper documents and declaration, as he shall see fit to impose or require.
- (2) The deposit made in accordance with subsection (1) shall be forfeited unless within 3 months of the time of deposit, or such further period as the Customs Officer may allow, the person making the deposit shall produce the required documents or declaration to the Customs Officer.

225 Copies of documents to be submitted if required

Where any person is required to submit any report, entry, declaration, or other form for the purpose of the customs laws, the Customs Officer may require such person to submit as many copies thereof as he may deem necessary; and where the Customs Officer shall require invoices or certificates of origin, or both, to be produced for any goods imported or exported, he may require such invoices or certificates of

origin, or both, to be submitted in duplicate and may retain the duplicates, or if such invoices or certificates of origin, or both, are not submitted in duplicate, he may retain the originals.

226 Translation

Where any document required for the purposes of the customs laws contains any words not in the English language, the person required to produce such document shall produce therewith a correct translation thereof in English.

227 Samples

Any officer may on the entry of any goods, or at any time afterwards, take samples of such goods for such purpose as the Customs Officer may deem necessary, and such samples shall be disposed of and accounted for in such manner as the Customs Officer may direct.

228 Examination and handling of goods

All goods subject to the customs laws shall be liable to such examination as the Customs Officer may direct and the unloading, loading and removal of goods and bringing them to the proper place for examination and weighing, putting them into scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where such operations respectively are necessary or permitted, and removing to and placing them in the proper place of deposit until delivered or put on board an exporting aircraft or ship, shall be performed by or at the expense of the owner of such goods; and the owner shall unpack, sort, pile or otherwise prepare any goods either before or after entry thereof in such manner as the proper officer shall require to enable him to examine or take account of the same.

229 Repacking, etc., sampling of goods by owner

The Customs Officer may direct what goods may be skipped in a customs area or warehouse, or bulked, sorted, lotted, packed and repacked there, and the manner thereof, and direct in what manner and subject to what conditions the owner of any goods may take samples thereof:

Provided that no goods may in any such building or place be repacked into packages of a size in which the same are prohibited to be imported or exported, unless express provision therefor is made by law.

230 Remission of duty on goods lost, destroyed or abandoned

If any goods are lost or destroyed by unavoidable accident before the same have been delivered out of the care of any officer, either on board an aircraft, or ship, or

in removing, loading, unloading, or receiving into a customs area or warehouse, or in the customs area or warehouse, or in course of delivery therefrom, the Customs Officer, if satisfied that such goods have not been and will not be consumed in Tuvalu, may remit or return the duties due or paid thereon, and any goods which may be abandoned by the owner thereof as not worth the duty while in the charge of any officer may be destroyed or otherwise disposed of as the Customs Officer shall direct at the cost and charges of such owner, and the Customs Officer may thereupon remit or return the duties due or paid thereon.

231 Drawback on goods lost

Where it is proved to the satisfaction of the Customs Officer that any goods after being duly put on board an aircraft or ship for exportation or use as stores have, either before or after exportation, been destroyed by accident on board such aircraft or ship, any drawback or allowance payable on the goods shall be payable in the same manner as if the goods had been actually exported or used as stores.

232 Drawback on goods abandoned

Where it is proved to the satisfaction of the Customs Officer that any goods after being duly put on board an aircraft or ship for exportation or use as stores have been materially damaged on board such aircraft or ship, any drawback or allowance payable in respect of the goods shall, if they are with the consent of the Customs Officer discharged in Tuvalu and abandoned to the Crown, be payable as if the goods had been actually exported or used as stores.

233 Modification of declaration

The Customs Officer may modify the form of declaration required under section 39 in such manner as he may think necessary for adapting it to the provisions of sections 231 and 232.

234 Authority to be produced by person acting for another

- (1) Whenever any person makes application to any officer to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf such application is made, and in default of the production of such authority may refuse to transact such business; and any document required by the customs laws to be signed by any particular person, if signed by any person authorised as aforesaid on behalf of the person required to sign the same, shall be deemed for all purposes to be signed by the person required to sign the same:

Provided that the Customs Officer may in his discretion refuse to allow any such application as aforesaid.

- (2) The Minister may make regulations for the licensing of persons to transact business with the customs on behalf of others.

235 Witnessing of signature

Where any document or declaration is required by the customs laws to be signed in the presence of the Customs Officer, or any particular officer, if such document or declaration is signed in the presence of a witness whose signature is known to and who is approved by the Customs Officer or the officer who receives the same, then in such case such document or declaration shall be as valid as if it had been signed in the presence of the Customs Officer or the officer in whose presence it is required to be signed.

236 Master to attend before Customs Officer if so required

Where under the customs laws the master or agent of any aircraft or ship is required to answer questions put to him by the Customs Officer or any officer, and such aircraft or ship shall be within Tuvalu and shall not have left her final position, anchorage or berth preparatory to leaving Tuvalu it shall be lawful for the Customs Officer or such officer to require the master to attend before him at the office of the Customs Officer or such officer, and in such case the requirements of the customs laws shall not be deemed to have been fulfilled unless the master shall so attend when so required:

Provided that it shall be lawful for the master with the consent of the Customs Officer or such officer to depute a senior officer of such aircraft or ship to attend for the purpose of answering such questions, and in such case any reply made to any questions aforesaid shall for the purposes of any proceedings brought under section 209 be deemed to have been made by the person required to answer such questions.

237 Time of importation, exportation, etc.

- (1) The provisions of this section shall have effect for the purposes of this Act and of any other enactment relating to customs.
- (2) The time of importation of any goods shall be deemed to be —
 - (a) where the goods are brought by sea, the time when the ship carrying them comes within the limits of a port;
 - (b) where the goods are brought by air, the time when the aircraft carrying them lands in Tuvalu or the time when the goods are unloaded in Tuvalu, whichever is the earlier.
- (3) The time of exportation of any goods from Tuvalu shall be deemed to be, where the goods are exported by sea or air, the time when the goods are shipped for exportation:

Provided that in the case of goods of a class or description with respect to the exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment which are exported by sea or by air, the time of exportation shall be deemed to be the time when the exporting ship or aircraft departs from the last port or customs aerodrome at which it is cleared before departing for a destination outside Tuvalu.

- (4) A ship shall be deemed to have arrived at or departed from a port at the time when the ship comes within or, as the case may be, leaves the limits of that port.

238 Special packages and coverings deemed goods

All packages and coverings in which goods are imported or exported and which in the opinion of the Customs Officer —

- (a) are not the usual or proper packages or coverings for such goods, or
- (b) are designed for separate use, other than as packages or coverings for the same or similar goods, subsequent to importation or exportation, as the case may be,

shall for all purposes of the customs laws be deemed to be separate articles except in cases where a contrary provision shall be made.

239 Power of arrest

In addition to any other power of arrest or detention conferred by the customs laws, any officer may arrest and detain any person whom he finds committing an offence, or is suspected on reasonable grounds of having committed an offence against the customs laws, and take him before a magistrate to be dealt with according to law.

240 Arrest after escape

If any person liable to arrest under the customs laws escapes from any officer attempting to arrest him, or if any officer is for any reason whatever unable or fails to arrest any such person, such person may afterwards be arrested and detained by any officer at any place in Tuvalu within 7 years from the time such offence was committed, and dealt with as aforesaid, as if he had been arrested at the time of committing such offence.

241 Sales under the customs laws

The Licences Act shall not apply to sales under the customs laws when conducted by an officer, which officer is hereby authorised to conduct such sales.

242 Value of articles sold by auction

When the duty on goods sold at any customs sale shall be chargeable ad valorem, the value for duty of such goods shall be the price realised at the sale, or the value appraised by the proper officer, whichever is the greater.

243 Receipts for duties and other payments made on bills of entry

Any person requiring a receipt for duties payable under the customs laws or for any other moneys which are brought to account in accordance with the directions of the Customs Officer on a bill of entry may have the same upon his furnishing the proper officer with an additional copy of the bill of entry; and such additional copy of the bill of entry, after having been compared with the original entry and signed by the proper officer, shall be delivered as a receipt to the person requiring it.

PART XII - LEGAL PROCEEDINGS

244 Legal protection of officers

Without prejudice to any protection afforded to the Customs Officer or any officer by this or any other Act or law, no legal proceeding or claim shall lie against the Customs Officer or any officer for any act done in good faith and without gross negligence in the exercise of any power or the performance of any duty conferred or imposed upon him by or under this Act.

245 Jurisdiction of courts in customs proceedings

- (1) If before the delivery of any imported goods from customs charge any dispute arises as to what duty, if any, is payable on such goods, the importer shall pay the amount demanded by the proper officer but may, within 3 months after the date of payment, apply to a magistrate's court for a declaration as to the amount of duty, if any, properly payable on such goods; and if the court upon such application determines that a lesser or no amount of duty was properly payable the amount overpaid shall be repaid by the Customs Officer with such interest as the court may determine.
- (2) Subject to the express provisions of the customs laws, the provisions of any other Act to the contrary notwithstanding, any offence under the customs laws shall be prosecuted before a magistrate's court:

Provided that any term of imprisonment or fine imposed by a magistrate's court for an offence under the customs laws shall not exceed 1 year or \$200 respectively:

Provided further that on the application of the Customs Officer an offence the penalty for which under the customs laws exceeds imprisonment for a term of

1 year or a fine of \$200 shall, subject to the provisions of Part VII of the Criminal Procedure Code,⁷ be prosecuted before the Senior Magistrate's Court.

- (3) Subject to the express provisions of the customs laws, but notwithstanding any other Act, any forfeiture and condemnation under such laws or any duty, rent, charge or fee may be sued for, recovered or enforced, as the case may be, before a magistrate's court:

Provided that on the application of the Customs Officer such proceedings shall be transferred for hearing before the High Court or before the Senior Magistrate's Court.

- (4) It is hereby declared that any act or omission in respect of which any pecuniary penalty (however described) is imposed by this Act is an offence against this Act.

246 Proceedings to be taken within 7 years

Proceedings under the customs laws may be commenced at any time within 7 years after the date of the offence.

247 Alternative prison sentence

Where any court has imposed a penalty for an offence against the customs laws, and such penalty is not paid, the court may, notwithstanding anything contained in any other law, order the defendant who is convicted of such offence, in default of payment of the penalty adjudged to be paid, to be imprisoned for any term not exceeding 6 months, where the penalty does not exceed \$200, or 12 months where the penalty exceeds \$200.

248 Imprisonment for second offence

Where a penalty of \$200 or upwards has been incurred under the customs laws, and the defendant has previously been convicted for an offence against the customs laws, or has previously incurred a pecuniary penalty or forfeiture under the customs laws which has been enforced in any court, the court may, if it thinks fit, in lieu of ordering payment of a pecuniary penalty, order the defendant to be imprisoned for any period not exceeding 1 year.

249 Limitation as to pleading

The fact that any duties of customs have been secured by bond or otherwise shall not be pleaded or made use of in answer to or in stay of any proceedings under the customs laws.

250 Place of offence

Every offence under the customs laws shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which it actually was committed or arose, or in any place on land where the offender or person prosecuted may be or be brought.

251 Officer may prosecute

Any officer may prosecute and conduct any information or other proceeding under the customs laws in respect of any offence or penalty.

252 Costs

In all proceedings under the customs laws the same rules as to costs shall be observed as in proceedings between private persons.

253 Claims to seized goods to be made in name of owner

- (1) No claim or appearance shall be entered to any information or any other process or proceeding filed or exhibited or brought for the forfeiture of any animal, carriage, aircraft, ship or goods seized for any cause of forfeiture in any court unless such claim or appearance be made by or in the real name of the owner thereof, describing his place of residence and occupation; and if such claimant shall reside in Tuvalu, oath shall be made by him before the court before which such information or other process or proceeding shall be exhibited or brought, that the said animal, carriage, aircraft, ship or goods were his property at the time of seizure; but if such person shall reside outside of Tuvalu, then oath shall be made by the attorney by whom such claim or appearance shall be entered that he has full authority from such claimant to make or enter the same and that to the best of his knowledge and belief the same were at the time of seizure the bona fide property of the claimant; and on failure of making such proof of ownership such animal, carriage, aircraft, ship or goods shall be condemned, as if no claim or appearance had been made; and if such animal, carriage, aircraft, ship or goods shall at the time of the seizure thereof be the bona fide property of any number of owners exceeding 5, it shall not be necessary for more than 2 of them to enter such claim or appearance on the part of themselves and their co-owners, or to make such oath as aforesaid; and if such animal, aircraft, ship or goods shall be at the time of seizure the property of a corporation, such claim and appearance may be entered and oath made by the secretary or director of such corporation.
- (2) For the purpose of this section a corporation means a corporation registered in Tuvalu under the provisions of the Companies and Businesses Registration

Act⁸ or registered or incorporated in Tuvalu under any Act providing for the registration or incorporation of companies.

254 Certificate of probable cause of seizure

In case any proceedings are commenced or brought to trial on account of the seizure of any animal, carriage, aircraft, ship or goods, or pursuant to any act done by any officer in the execution or intended execution of his duty under the customs laws, and such proceedings are dismissed, and it appears to the court before which the same shall have been tried that there was probable cause for such seizure or act the court shall certify on the record that there was such probable cause, and in such case the person who made such seizure or performed such act shall not be liable to any action, suit or prosecution on account of such seizure or act; and a copy of such certificate, verified by the signature of the officer of the court, shall at the request of the officer concerned be given to him, and the same shall for all purposes be sufficient evidence of such certificate; and in case any action, suit or prosecution shall be commenced and brought to trial against any person on account of any seizure or act as aforesaid (whether any information be brought to trial in respect of the same or not, or, having been brought to trial, the court shall not have certified that there was a probable cause for such seizure or act), wherein a verdict shall be given against the defendant, if the court shall be satisfied that there was probable cause for such seizure or act, then the plaintiff shall recover any things seized or the value thereof without costs of suit, but no conviction shall be recorded against the defendant.

PART XIII - PROOF IN PROCEEDINGS

255 Onus of proof on defendant in certain cases

In any prosecution under the customs laws, the proof that the proper duties have been paid in respect of any goods, or that the same have been lawfully imported, delivered or exported, or lawfully put into or out of any aircraft or ship, or lawfully transferred from one aircraft or ship to another aircraft or ship shall lie on the defendant.

256 Averment in any proceedings under the customs laws

The averment that the Customs Officer has elected that any particular penalty should be sued for or recovered, or that any goods thrown overboard, staved or destroyed were thrown overboard, staved or destroyed to prevent seizure, or that any person is an officer, or that any person was employed for the prevention of smuggling, or that the offence was committed, or that any act was done within the limits of any port, or in the waters of Tuvalu, or over Tuvalu, or where the offence is committed in any port or place in Tuvalu, the naming of such port or place in any information or

proceedings shall be deemed sufficient, unless the defendant in any such case shall prove the contrary.

257 Evidence of officers

If upon any trial a question shall arise whether any person is an officer, his own evidence thereof shall be deemed sufficient prima facie proof thereof, and every such officer shall be deemed a competent witness upon the trial of any suit or information on account of any seizure or penalty, notwithstanding such officer may be entitled to any reward upon the conviction of the party charged in such suit or information.

258 Valuation of goods for penalty

- (1) In all cases where any penalty the amount of which is to be determined by the value of any goods is sued for under the customs laws, such value shall, as regards proceedings in any court, be estimated and taken according to the rate and price for which goods of the like kind but of the best quality upon which the duties of customs shall have been paid were sold at or about the same time of the offence, or according to the rate and price for which the like kind of goods were sold in bond at or about the time of the offence with the duties due thereon added to such rate or price in bond.
- (2) A certificate under the hand of the proper officer of the value of such goods shall be accepted by the court as prima facie evidence of the value thereof.

259 Copies of documents valid

In case any book Of document required by the customs laws be required to be used as evidence in any court as to the transactions to which it refers, copies thereof certified by an officer shall be admissible for that purpose without production of the original; and certificates and copies of official documents purporting to be certified under the hand and seal or stamp of office of any of the principal officers of Customs and Excise in the United Kingdom, or of any collector of revenue in any British possession, or of any British Consul or Vice-Consul in a foreign country shall be received as prima facie evidence.

260 Admissibility of marks on goods, containers etc.

In any prosecution for an offence under the customs laws and in any proceedings for the recovery or enforcement of any penalty under those laws, where direct oral evidence of a fact would be admissible any statement contained in any marking made or impressed upon or otherwise in or upon any goods or their wrappings or containers shall be admissible as evidence of that fact.

261 Proof of order of Minister, etc., or of certificate of a pharmacist

- (1) If upon the trial of any issue touching any seizure, penalty or forfeiture, or other proceedings under the customs laws or incident thereto, it may be necessary to give proof of any direction issued by the Minister, Customs Officer or any person in the employment of the Government, the direction, or any letter or instructions referring thereto, shall be admitted and taken as sufficient evidence of such direction, if any such document purports to be signed by any such functionary, or shall appear to have been officially printed or issued, unless the contrary be proved.
- (2) In any proceedings under the customs laws the production of a certificate purporting to be signed by a pharmacist shall be sufficient evidence of all matters therein stated unless the contrary be proved.

262 Certificate of condemnation

Condemnation by any court under the customs laws may be proved in any court by the production of a certificate of such condemnation purporting to be signed by an officer of such court.

PART XIV - MISCELLANEOUS

263 Discretionary power of Customs Officer in special circumstances

The Customs Officer may permit the entry, unloading, delivery, removal and loading of goods, and the report and clearance of aircraft and ships in such form and manner as he may direct to meet the exigencies of any case to which the customs laws may not be conveniently applicable.

264 Power to accept compensation for offences

Notwithstanding any other provisions of this Act the Customs Officer may, in any case he deems proper and in substitution for any proceedings in a court, accept on behalf of the Crown a sum of money by way of compensation from any person reasonably suspected of a contravention of the Act or any regulations made thereunder:

Provided that such compensation shall be accepted only where the person reasonably suspected of such contravention has expressed his willingness, in such form as may be directed by the Customs Officer, that the contravention as aforesaid shall be so dealt with.

265 Commissioned aircraft or ships

The captain or other officer having charge of any aircraft or ship having commission from Her Majesty or from any foreign state, having on board any goods laden at any port or place outside Tuvalu shall, on arrival at any port or place in Tuvalu, and before any part of such goods be taken out of such aircraft or ship, or when called upon so to do by any officer, deliver an account in writing under his hand to the best of his knowledge of the quality and quantity of every package or parcel of such goods, and of the marks and numbers thereon, and of the names of the respective consignors and consignees of the same, and shall make and subscribe a declaration at the foot of such account declaring to the truth thereof and shall also truly answer to the Customs Officer or other proper officer such questions concerning such goods as shall be required of him, and on failure thereof such captain or other officer shall incur a penalty of \$200; and all such aircraft and ships shall be liable to such searches as merchant aircraft or ships are liable to, and officers may freely enter and go on board all such aircraft or ships, and bring thence on shore into the Queen's warehouse any goods found on board any such aircraft or ship as aforesaid, subject nevertheless to such regulations in respect of aircraft or ships of war belonging to Her Majesty as shall be made in that respect by the Minister.

266 Customs Officer may prescribe forms

Subject to the provisions of this Act and any regulations made thereunder, the Customs Officer may from time to time direct what forms are required to be used for the purposes of the customs laws and any such forms so prescribed shall be published by notice 1 month before such forms shall be required to be used.

267 Power to make regulations modifying application of customs laws to air cargo

- (1) The Minister may make regulations for the purpose of modifying or excepting the application of any of the customs laws to air cargo.
- (2) A contravention of the regulations made under this section shall be deemed to be a contravention of the customs laws and shall involve accordingly the like punishment of persons guilty thereof and the like forfeiture of goods.

268 Power to make regulations

The Minister may make regulations for the further, better or more convenient effectuation of any of the provisions or purposes of the customs laws, and without derogation from the generality of the foregoing power may, in such regulations, prescribe fees, rents or charges to be paid in respect of any matter therein referred to.

SCHEDULE 1

(Section 7)

GENERAL PROVISIONS, TARIFF AND EXEMPTIONS

1. This Schedule embodies a classification of goods for import and goods for export for both tariff and statistical purposes.
2.
 - (a) The headings to the sections of this Schedule shall be deemed part of the tariff.
 - (b) Reference to a section, division, group or subgroup in any item of the tariff shall be deemed to refer to the corresponding section, division, group or subgroup of the Commodity Indexes specified in the first proviso to paragraph 4 of this Schedule.
3. The following abbreviations and symbols have the following meanings —

Abbreviations and Symbols	Meaning
%	The symbol % appearing against any rate of duty means per centum <i>ad valorem</i> , and in all other cases means per centum.
C	celsius
c or ¢	cent (s)
cl	centilitre(s)
cm	centimetre(s)
cm ²	square centimetre(s)
cm ³	cubic centimetre(s)
g	gram(s)
hl	hectolitre(s)
kg	kilogram(s)
l	litre(s)
m	metre(s)

m ²	square metre(s)
m ³	cubic metre(s)
mg	milligram(s)
mm	millimetre(s)
mm ²	square millimetre(s)
n.e.s.	not elsewhere specified or included in the tariff
No.	number
Pk	Pack not exceeding 55 cards
Pr.	pair(s)
\$	dollar(s)
—	-degree(s)
t	1,000 kilograms (metric tonne)
vol. of alc.	volume of alcohol

4. The Customs Officer may for the purpose of applying this Schedule assimilate goods not specified therein by name to the goods which appear to him most closely to resemble the same in character:

Provided that in cases of doubt as to the classification of any items reference shall be made to the Customs Co-Operation Council Nomenclature:

Provided further that in cases where the classification of any article in this Schedule differs from the classification as contained in the said Commodity Indexes the classification of this Schedule shall have effect.

5. When the unit for classification is shown as value, this shall mean the current domestic value, c.i.f. value, or f.o.b. value as the case may be.
6. The current domestic value, c.i.f. value or f.o.b. value shall be stated on the appropriate customs entry forms for statistical purposes whether or not it is specifically required for classification purposes.
7. The item number, description, unit quantity where specified, value, and country of origin shall be shown on all entries.

IMPORTS

(1) CLASSIFICATION AND TARIFF

(Specifically omitted)

NOTE. The Classification (harmonised coding) and Tariff of Imports are fixed regularly by a Customs Order.

Copies of the Tariff are obtainable from the Customs Officer, Funafuti, Tuvalu.

(2) EXEMPTIONS FROM CUSTOMS DUTIES ON IMPORTATION OR TAKING OUT OF BOND

1 Airport ground equipment etc., aircraft fuel, consumable stores for aircraft, etc.

- (a) Ground equipment and technical supplies required for use within the limits of an airport in connection with the establishment or maintenance of international air services or air services operating within Tuvalu:
- (b) fuel and lubricants solely for use in aircraft specified in subparagraph (a) or in aircraft used for other purposes approved by the Minister;
- (c) consumable stores for use in aircraft employed in international services, provided that the Customs Officer shall be satisfied that such goods are for the services stated.

2 Containers, coverings, packages, etc.

- (a) Goods of all kinds which —
 - (i) are required by or on behalf of a manufacturer or producer exclusively for use as containers for the packing of any local product or manufacture, or
 - (ii) will be used exclusively in the manufacture or repair of containers and will form part of such containers;

subject to such conditions as to the keeping or rendering of accounts as to the use or disposal of such goods as the Customs Officer may require:

Provided that this exemption shall not apply to such goods as the Minister shall by notice exclude from this exemption;

- (b) packages or coverings in which any goods not liable to *ad valorem* duty are imported:

Provided the Customs Officer is satisfied that they are the usual and proper packages or coverings for such goods;

- (c) cylinders for importing ammonia and gas.

3 Cultural and educational articles

- (a) Articles of an educational, scientific or cultural nature of the following description being products of any State which is a party to the Agreement on the importation of Educational, Scientific and Cultural Materials approved by the General Conference of the United Nations Educational, Scientific and Cultural Organisation during its Fifth Session at Florence in June 1950, subject to the satisfaction of the Customs Officer as to their description and use —
 - (i) books, documents (printed or produced by duplicating processes, but excluding stationery), periodicals, current newspapers, manuscripts (including typescripts), musical compositions, maps and charts;
 - (ii) paintings and drawings (excluding manufactured wares), handpainted impressions signed and numbered by the artist, original works of art of statuary or sculpture; collectors' pieces and objects of art consigned to approved public institutions and not intended for resale; antiques more than 100 years old;
 - (iii) films, slides and sound recordings;
 - (iv) architectural, industrial and engineering plans, models, wall charts and scientific instruments and apparatus;

Provided that articles specified in paragraphs (iii) and (iv) of this paragraph (except newsreels with or without sound track) may only be imported free of duty by a person, society or body approved for that purpose by the Minister;

- (b) books, stationery, school apparatus and equipment including apparatus and equipment for games and physical training shown to the satisfaction of the Customs Officer to be imported for use in schools and other educational establishments approved by the Minister of Social Services solely for educational purposes and remaining the property of such schools and other educational establishments;
- (c) printing paper and bookbinding materials imported by any person approved by the Minister which are to be used solely for the printing and binding of books, newspapers, magazines, directories and similar publications on the signed undertaking by some person acceptable to the Customs Officer that they will be so used;
- (d) greeting and Christmas cards produced for and sold on behalf of the United Nations Organisation, the United Nations Educational, Scientific and Cultural Organisation, or any charitable organisation approved by the Minister.

4 Fire-fighting and decontamination equipment and protective clothing

- (a) Fire-fighting and decontamination equipment including fire engines, hoses, couplings, extinguishers, and materials for use therein and decontamination sprayers (other than household and domestic sprayers);
- (b) articles of specialised protective clothing admitted as such by the Customs Officer for use exclusively in industry, fire-fighting, agriculture, forestry, marine and mining undertakings, and hospitals, including helmets, gloves, goggles, gas-masks, safety belts, X-ray aprons, diving suits and similar articles;
- (c) crash helmets admitted by the Customs Officer as suitable for motorcyclists and safety belts specially designed for motor vehicles and aircraft.

5 Fishing gear

Goods which the Customs Officer is satisfied are for use by commercial fishermen in the capture of fish for sale as follows-

- (i) fishing nets and gear therefor;
- (ii) fishing lines of all types;
- (iii) fish hooks;
- (iv) fish wire;
- (v) seine twine and synthetic netting twine;
- (vi) net preservatives admitted as such by the Customs Officer;
- (vii) deck equipment designed solely for use in the fishing industry including line-haulers, capstans, winches, trolling gurdies, hand and powered handline reels, and rope-leads and fair leads used with such equipment.

6 Health aids and goods for the relief etc. of the permanently disabled etc.

- (a) Goods for the relief, employment, rehabilitation and cultural needs of the permanently bodily and mentally disabled when such goods are imported or taken from bond by organisations approved by the Minister.
- (b) drugs and made up articles of equipment and medical supplies, imported by or on behalf of any hospital, veterinary hospital, dispensary or dressing station:

Provided that the Customs Officer is satisfied that such goods are necessary for the proper functioning of such hospital, veterinary hospital, dispensary or dressing station and that such hospital, dispensary or dressing station has been approved by the Minister of Social Services or such veterinary hospital has been approved by the Minister of Commerce and Natural Resources for the purpose of this concession;

- (c) goods donated to the Red Cross Society and certified by the person for the time being in charge that they are for free distribution;
- (d) goods imported as charitable gifts admitted as such by the Customs Officer imported by any organisation approved by the Minister on production of a certificate from the head of such organisation that such articles are imported for free distribution.

7 H.M. Forces goods and goods for approved volunteer organisations

- (a) Goods required solely for the use of any unit of Her Majesty's Forces on the declaration in writing to that effect signed by the officer from time to time in command of any such unit;
- (b) arms, ammunition, uniforms, accoutrements and equipment required for the use of any Volunteer Force, Cadet Force or Rifle Association approved by the Minister on the signed declaration of the officer for the time being in command of any such force or of the president or chairman of such association as the case may be;
- (c) arms, accoutrements, equipment and uniforms the property of officers of Her Majesty's Armed Forces or of the Armed Forces of Her Majesty's Allies or any Volunteer Force or Cadet Force or Rifle Association approved by the Minister imported by such officers for their personal use and as required by the regulations of their respective services and admitted as such by the Customs Officer;
- (d) mess equipment and band instruments imported by and for the use of Her Majesty's Armed Forces or of the Armed Forces of Her Majesty's Allies on the signed declaration of the officer for the time being in command of such forces.

8 Her Majesty's Civil Service uniforms etc.

Uniform imported by members of the Civil Service for their own use as prescribed by Regulations, the legal profession, and academic robes, hoods, and headwear of the teaching profession.

9 H.M. Government

Goods required for the use of Her Majesty's Government of Tuvalu.

10 Governor General

Goods required for the use of the Governor-General and his family.

11 Legacies etc.

Goods (other than consumable goods such as tobacco products, alcoholic beverages) which the Customs Officer is satisfied were belonging to or in the possession of a deceased person and were used by him before his death and were not used or held for business purposes and that the importation thereof is by or for a person resident in Tuvalu who becomes entitled thereto by virtue of any testamentary disposition or intestacy.

12 Marine and port equipment and boat and life-saving equipment

The following equipment which the Customs Officer is satisfied is required for the purposes of ships and shipping —

- (i) life-saving equipment including life jackets, life buoys, buoyant apparatus, and sea marking dye, distress flares, rockets and other pyrotechnic devices for use in life saving;
- (ii) boat equipment including anchors, sea anchors chains, oars, row locks, logs, turnbuckles, thimbles and mooring bitts;
- (iii) communication and signal equipment including morse signalling lamps, code flags, semaphore flags, fog horns and sirens;
- (iv) materials required solely for the purpose of sheathing and caulking ships;
- (v) fixed port navigational and mooring equipment including bollards, buoys, beacons.

13 Medals and official decorations

Medals and official decorations approved by the Minister to be worn by persons in Tuvalu.

14 Mining machinery etc.

The following goods when required by or on behalf of an undertaking licensed to mine or prospect under any law for the time being in force in Tuvalu relating to minerals —

- (a) Explosives, milling, smelting, refining and welding supplies, mining and milling machinery and equipment and other related articles admitted as such by the Customs Officer.
- (b) Trucks and trailers (including component parts) having a load carrying capacity of 1.5 metric tons or more for use exclusively for mining or prospecting purposes on the signed undertaking by some person acceptable to the Customs Officer that they will be so used.

15 Patterns. samples. advertising matter and documents

- (a) Patterns and samples cut, mutilated, or otherwise spoiled to the satisfaction of the Customs Officer so as to render them un-merchantable and show cards, trade catalogues, price lists, and printed posters advertising goods sold by firms having no established place of business in Tuvalu.
- (b) Waybills, consignment notes, bills of lading, exchange orders, tickets and labels when imported on behalf of shipping companies and air-lines domiciled outside Tuvalu.

16 Religious goods and vestments employed in places of worship and tombstones and memorial tablets

- (a) Goods of a non-consumable nature which the Customs Officer is satisfied are solely for use, furnishing or decoration in consecrated places of divine worship, or as vestments for use during public worship, on the signed declaration of the head of the denomination for which they are intended that the goods and vestments will be used only for such purposes.
- (b) Altar bread and altar wines imported for the purpose of administering the Sacrament, on the signed declaration of the head of the denomination for which they are intended.
- (c) Candles and incense which the Customs Officer is satisfied are imported solely for use in consecrated places of divine worship.
- (d) Tombstones whether engraved or not and commemorative and memorial tablets.
- (e) Textbooks, Bible card pictures, visual aids, stationery and other items intended solely for use in, or free distribution by, Sunday or Sabbath schools maintained by any religious body registered under the Religious Bodies Registration Act.

17 Scientific and Meteorological research

Technical equipment admitted as such by the Customs Officer for scientific research or meteorological observation imported by persons or organisations approved by the Minister.

18 United Nations Organisation and agencies, South Pacific Commission and South Pacific Air Transport Council

Goods required for the use of the United Nations and its specialised agencies, the South Pacific Commission and the South Pacific Air Transport Council.

19 Equipment for agricultural, forestry and stock control purposes

- (a) Trucks and trailers (including component parts), having a load-carrying capacity of 1.5 metric tons or more, for use exclusively for agricultural or forestry purposes on a signed undertaking by some person acceptable to the Customs Officer that they will be so used;
- (b) branding irons, ear tags and clips and related equipment for use exclusively for agricultural or stock control purposes on a signed undertaking by some person acceptable to the Customs Officer that it will be so used;
- (c) bags and pots of polythene or similar material for use exclusively for agricultural purposes on a signed undertaking by some person acceptable to the Customs Officer that they will be so used.

20 Trophies

Cups, medals, shields and similar trophies when won abroad or proved to the satisfaction of the Customs Officer to be specially for bestowal as honorary distinctions or prizes, provided that the purpose for which the trophy is to be presented is indelibly inscribed thereon and that this exemption shall not apply or extend to the importation or stocking of the articles for the purposes of trade.

21 Portraits, photographs, films and sound recordings

Unframed portraits, developed photographs, developed negatives, developed films and sound recordings which the Customs Officer is satisfied have only a personal or sentimental value to the importer and which are not intended for sale or for public exhibition or performance.

22 Uniforms and insignia for youth organisations etc.

Uniforms and insignia required for the use of the Order of St. John, the Red Cross Society, the Boy Scouts' Association, the Girl Guides' Association and such other youth organisation as may be approved by the Minister on the signed declaration of the person for the time being in charge of such branch organisations in Tuvalu.

23 Sports goods and equipment for clubs

Sports goods and sporting equipment for use in outdoor sports and games in such quantities as the Customs Officer may deem reasonable and imported by or on behalf of any sports club or organisation approved by the Minister on the signed undertaking by some person acceptable to the Customs Officer that such goods and equipment will remain the property of such club or organisation and are not imported for sale or hire:

Provided that this exemption shall not extend to clothing or footwear other than special items of protective clothing including pads, gloves, arm guards and masks.

24 Handicrafts produced in Forum Island Countries

Handicrafts produced and imported from Forum Island Countries for sale by any organisation or private individuals approved by the Minister.

25 Cars etc of office-holders⁹

Cars and motorcycles to which office-holders are entitled under item 5(vi) of Schedule 2 to the Prescription of Salaries Act.

26 TANGO projects¹⁰

Goods imported into Tuvalu by the TANGO (Tuvalu Association of Non-Governmental Organizations) for the exclusive use and purpose of projects (developments for the advancement of the people of Tuvalu).

Such exemption applies subject to the TANGO providing to the satisfaction of the customs officer the following —

- (i) Copy of project proposal,
- (ii) Certificate of project acceptance, and
- (iii) Relevant documents, and

the onus rests upon the TANGO to prove that the goods imported are goods of a project.

EXPORTS**(1) CLASSIFICATION AND TARIFF**

<i>Item of Commodity</i>	<i>Description</i>	<i>Rate</i>	<i>Statistical Unit</i>
031	Fish, fresh, chilled or frozen	Free	Kg
05	Agricultural & horticultural produce n.e.s.	Free	—
051	Fresh coconuts	Free	Kg
221.21	Copra produced in Tuvalu	20% of balance of f.o.b. value above \$75.00 per tonne	tonne
221.22	Copra n.e.s.	20% of f.o.b. value	tonne
271	Phosphate	Free	tonne
276	Other minerals - Scrap metal	Free	tonne
282	Ferrous	\$3.00 per tonne	tonne
284	Non-ferrous*	15 % ad valorem	tonne
291	Sea shells, unworked	Free	—
732	Motor vehicles	Free	No.
734	Aircraft	Free	No.
735	Boats & ships	Free	No.
899	Exports n.e.s. specify kind	Free	—
899.1	Basket-ware and other locally produced handicrafts	Free	—
931.02	Personal & Household effects	Free	—

*Duty payable on f.o.b. value.

(2) EXEMPTIONS FROM EXPORT DUTY

- (1) Goods entered for re-exportation or exported on drawback when so exported.
- (2) Bona fide samples of produce or manufactures of Tuvalu.

SCHEDULE 2

(Section 34)

PROHIBITED AND RESTRICTED IMPORTS*List of Prohibited Imports***1 Coin and currency counterfeit**

Base or counterfeit coin, or imitation currency or bank notes of any country.

2 Food unfit for consumption

Articles of foods intended for human consumption declared by the competent sanitary authority to be unfit for such purpose.

3 Indecent articles

Indecent or obscene prints, paintings, photographs, books, cards, lithographic or other engravings or any other indecent or obscene articles.

4 Infected cattle etc.

Infected cattle, sheep or other animals, or carcasses thereof, and hides, skins, horns, hoofs or any other part of cattle or other animals which may be prohibited by order of the Minister to prevent the introduction or spread of any communicable disease.

5 Matches

Matches containing white or yellow phosphorus.

6 Merchandise marks

All goods of foreign manufacture bearing any name or trade mark being or purporting to be the name or trade mark of any manufacturer, dealer or trader in Tuvalu or the United Kingdom, unless such trade name or trade mark is accompanied by a definite indication of the country in which the goods were made or produced.

7 Opium prepared

Prepared opium and pipes or other utensils for use in connection with the smoking of opium or the preparation of opium for smoking.

8 Royal Arms

Goods bearing the Royal Arms of Great Britain or arms so closely resembling the same as to be calculated to deceive unless the manufacturer of such goods holds Her Majesty's authority to use them in connection with his trade, business, calling or profession.

9 Shaving brushes

Shaving brushes manufactured in or exported from Japan, China, Hong Kong, India, Ceylon or the Philippines Islands, and all goods packed in the same inner container as such shaving brushes.

10 Stamps

Fictitious stamps and any die, plate, instrument or materials capable of making any such stamps.

11 Rick knives, gravity knives and knuckle dusters

- (a) All knives having a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife;
- (b) all knives having a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which when so released is locked in place by means of a button, lever or other device;
- (c) solid contraptions made or adapted to be gripped in the fist or fitted to or over 1 or more fingers, equipped with any projection or striking surface and made or adapted for causing injury to the person.

12 Imitation firearms

Imitation firearms so closely resembling firearms as to be calculated to deceive.

13 Gaming machines

Machines for playing games of chance, being games which require no action by any player other than the actuation or manipulation of the machine.

14 General

Goods the importation of which is prohibited by any other law in force in Tuvalu.

List of Restricted Imports

1 Alcohol

- (a) Absolute alcohol other than such quantities of absolute alcohol as the Customs Officer shall be satisfied are to be used for purposes approved by the Minister.
- (b) Ethyl alcohol as defined in the British Pharmacopoeia other than such quantities of such ethyl alcohol as the Customs Officer shall be satisfied are to be used for purposes approved by the Minister.

2 Arms and ammunition

Arms and ammunition except with the written permission of the proper authority.

3 Brandy, whisky and rum

- (a) Brandy and whisky unless certified to the satisfaction of the Customs Officer that it has been matured by storage in wood for not less than 3 years.
- (b) Rum unless certified to the satisfaction of the Customs Officer that it has been matured by storage in wood for not less than 2 years.

4 Cannabis sativa, etc.

Cannabis sativa (known as Indian hemp or bhang), cannabis indica, choras, or any preparation or mixture thereof, except under licence of the Senior Medical Officer.

5 Autoclave Certificate Required

Part worn or second hand clothing, blankets, bedding and other fabrics for sale or distribution within Tuvalu may only be imported on production of an autoclave certificate from the exporting country accompanying the consignment.

6 Earth, soil, etc.

Earth, soil, loam, sand, mud, dust, clay and other similar substances. and ashes, from any source whatsoever other than soil which has originated naturally in, and been exported directly from, Australia, New Zealand, Fiji, the Solomon Islands or Hawaii and which is accompanied by a certificate given by an agricultural or scientific officer in the employment of the government of the country of origin proving to the

satisfaction of the Customs Officer that such soil is free from disease and any harmful form of animal, insect or plant life.

7 Tear gas

Stupefying or tear gas in any form whatsoever and all weapons, instruments or appliances for firing or using such gas, and gas containers or cartridges for such weapons or other instruments or appliances except with the licence of the Commissioner of Police.

8 Tobacco extracts, etc.

Tobacco extracts, essences or other concentrations of tobacco, or any admixture thereof, tobacco stalks and tobacco stalk flour except under such conditions as the Customs Officer, with the approval of the Minister may either generally or in any particular case allow.

9 General

Goods the importation of which is regulated by any other law in force in Tuvalu except in accordance with such law.

10 Certain motor-bicycles and engines and parts intended therefor

Except with the written permission of the Minister, any motor-bicycle having as its means of propulsion an internal combustion engine, the cylinder capacity of which is greater than 250 cubic centimetres and any such engine, or other part, intended for use in such motor-bicycle. For the purposes of this paragraph, "cylinder capacity" means the total volume of the space within the cylinder or cylinders of the engine swept by the piston or pistons thereof.¹¹

11 Honey Products

Honey, products containing a substantial proportion of honey, live or dead bees at any stage of the life cycle, and second-hand equipment, appliances or clothing used for beekeeping, except with the written permission of the Agricultural Officer.

SCHEDULE 3

(Section 35)

PROHIBITED AND RESTRICTED EXPORTS**1 Totally prohibited exports**

All goods of whatsoever nature or kind which are by virtue of any law for the time being in force in Tuvalu absolutely prohibited from being exported.

2 Restricted exports

Any goods of whatsoever nature or kind the exportation of which is restricted under any other law for the time being in force in Tuvalu except in accordance with such law.

ENDNOTES

¹ 1990 Revised Edition, Cap. 55 Acts 11 of 1963, 15 of 1964, 10 of 1967, 8 of 1968, 8 of 1971, 9 of 1971, 3 of 1972, 13 of 1972, 6 of 1974, 32 of 1974; LN's 48/64, 52/64, 50/66, 8 /71, 20/71, 16/72, 17/72, 51/72, 42/74, 5/78, 14/83, 32/83, 35/83, 7/84, 4/85, 3/86, 5/86, 18/86, 11/88, 7/90

² LN 13/1978 — The wharf on Funafuti situated to the north of the village of Funafuti in the area sometimes known as Tegie.

GN 51/1980 — All that area occupied by the Funafuti Airport Terminal, including the grassed area within 20 feet thereof and the Government warehouse situated adjacent thereto.

³ LN 12/1978 - The warehouse building standing adjacent to the jetty approved for the loading and unloading of sea cargo on Funafuti and owned or managed by the Government

⁴ Cap. 28.32

⁵ Goods imported for temporary use or purpose which, by declaration under section 31, may not be imported without payment of duty thereon —

LN22/1964

1. Foodstuffs of any nature or kind whatsoever;
2. Films for public exhibition; and
3. Goods of whatsoever nature or kind imported by or for a resident of Tuvalu other than machinery, implements, tools and instruments for use in connection with any prospecting or building undertaking or undertaking of a like nature:

Provided however that the proper officer may, in his discretion, permit the temporary importation of warm clothing by a resident who is intending to leave Tuvalu within a reasonable period.

⁶ Goods which, by declaration under section 90, may be warehoused upon first importation without payment of duty thereon

L.N. 16/73

1. Alcoholic beverages;
2. Tobacco and tobacco manufactures; and
3. Goods entered for export.

⁷ Cap. 10.05

⁸ Cap. 40.12

⁹ Inserted by Act 5 of 2001

¹⁰ This exemption was made by the Minister under section 7 of the Act, in LN 5/2006

¹¹ Amended by LN 3/1993