

# Customs Act 1993

REPUBLIC OF KIRIBATI

(No. 13 of 1993)

I assent,

(Sgd: T. Teannaki)

Beretitenti

25/2/1994

## AN ACT RELATING TO THE COLLECTION AND MANAGEMENT OF CUSTOMS DUTIES IN KIRIBATI; AND FOR CONNECTED PURPOSES

*Commencement: 1 January 1993*

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

### PART I PRELIMINARY

#### Short Title and commencement

1. (1) This Act may be cited as the [Customs Act 1993](#) and shall come into operation on 1 January 1994.

(2) Subject to subsection (3), section 14(2) shall come into operation on such date as the Minister may by notice appoint.

(3) A notice appointed under subsection (2) shall be laid before the Maneaba ni Maungatabu within forty eight hours of the day on which the next meeting of the Maneaba commences and such notice shall stand unless the Maneaba by resolution rejects it.

#### Interpretation

2. In this Act unless the context otherwise requires –

"aerodrome" means any place designated under section 114 as an aerodrome for the landing and departure of aircraft;

"agent" means –

(a) an individual authorised in writing by the master or owner of an aircraft or ship to act on his behalf;

(b) the owner of an aircraft or ship if he is a resident of or represented in Kiribati; and

(c) any other person who notifies the Board in writing that he is acting as the agent of another;

"aircraft" includes a balloon, kite, glider, airship, helicopter, flying machine, and any other means of aerial locomotion, but excludes ships and vehicles;

"approved place of loading" and "approved place of unloading" means any place including any part of an aerodrome designated under section 114 as a place where goods may be loaded or unloaded;

"boarding station" means any place designated under section 114 as a place for an aircraft or ship to bring to for the boarding or setting down of officers;

"bonded warehouse" means any place designated under section 115 as a bonded warehouse in which goods entered to be warehoused may be lodged, kept or secured pending payment of duty, but does not include a public warehouse or a State warehouse;

"burden" in relation to a ship, means not registered tonnage, or tonnage calculated in the manner prescribed by law for ascertaining not registered tonnage;

"Board" means the Internal Revenue Board established under the [Internal Revenue Board Act 1990](#);

"cargo" means all goods imported or exported in any aircraft or ship except –

(a) goods required as stores for consumption or use by or for the aircraft or ship, its master, crew, and passengers; or

(b) the personal accompanied baggage of the master, crew, and passengers;

"coasting trade" means trade by sea or by air from the one part to any other part of Kiribati except to the extent determined by the Board as not constituting coasting trade and, subject to section 105, all aircraft or ships while employed in coasting trade shall be coasting aircraft and coasting ships;

"Collector", in respect of any port or a Custom matter, means the principal officer authorised by the Comptroller to be the Collector at that port or in respect of that matter; "the Comptroller" means the Comptroller of Customs designated under section 108 or any officer or other person authorised in writing by the Comptroller to act on his behalf; "the Customs" means the Division of Customs of the Ministry of Finance and Economic Planning;

"customs agent" means a person licensed under sections 79;

"customs area" means any place designated under section 115 as a place for the deposit of goods subject to customs control;

"customs area occupier" means the occupier of a customs area and any person or authority in control of a customs area, other than an officer;

"customs laws" includes this Act and any other Act of Kiribati relating to customs;

"drawback" means a refund of all or part of any import duty of customs authorised under this Act in respect of goods exported or used in any particular manner;

"duty" includes any tax imposed under the customs laws;

"entered", as used with respect to goods imported or exported, means that such goods are entered when –

(a) for all goods warehoused, put on board an aircraft or ship as stores –

(i) an officer accepts and signs an entry, specification, or shipping bill;

(ii) the importer or exporter signs the declaration on the prescribed form in the prescribed manner; and

(iii) the importer or exporter pays all rents and charges due to the Republic in respect of the goods;

(b) for dutiable goods (except on the entry for warehousing of imported goods) –

(i) the importer or exporter pays the duties thereon; or

(ii) where permitted, the deposit of a sum of money or giving of security for the duties as provided by law is made; and

(c) for goods for which security by bond is required on the exportation –

(i) such goods have been put on board an aircraft or ship as stores or removed; or

(ii) such security has been given.

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

"exporter" means –

- (a) any person by whom any goods (including goods transferred from an importing aircraft or ship) are exported from Kiribati or supplied for use as aircraft's or ship's stores;
- (b) the owner of such goods, or any person acting on the owner's behalf in connection with the export or supply of such goods; and
- (c) any person who for customs purposes signs any document relating to goods exported or intended for supply as aircraft's or ship's stores;

"foreign port" means any place in a country other than Kiribati to which an aircraft or ship as the case may be, may have access;

"goods" includes an aircraft, ship, and all kinds of movable personal property;

"import" means to bring or to cause to be brought into Kiribati from outside Kiribati;

"importer" includes –

- (a) the owner of goods or any other person possessed of or beneficially interested in any goods from the time of their importation until they are duly delivered out of the charge of an officer; and
- (b) any person who signs any document relating to imported goods required by the customs laws to be signed by the importer;

"Kiribati" means the Republic of Kiribati as defined in the Constitution, and also includes the archipelagic waters and territorial seas;

"master" means the person in charge or command of an aircraft or ship other than a pilot appointed for the conduct of a ship into or out of a port;

"name" includes the registration mark of an aircraft or ship;

"occupier" includes any person who signs, as principal, any bond under the customs laws in respect of any place used for the deposit of goods under customs control;

"offence against the customs laws" includes any act of any person contrary to the customs laws and any failure of any person to perform an act required by the customs laws to be performed by that person;

"officer" means any person employed in the Customs Division of the Ministry of Finance and Economic Planning (excluding accounting, secretarial, clerical, and outdoor

employees) and any person appointed pursuant to section 108, to be a customs officer or to discharge any duties in connection with the administration of this Act;

"owner", in relation to goods, includes any person who is or claims to be possessed of or beneficially interested in the goods, or to have control or power of disposition of the goods;

"pharmacist" means a pharmacist registered under the provisions of the [Pharmacy and Poisons Ordinance](#) (Cap. 70);

"port" means any place designated under section 114 as a port for the purposes of the customs laws;

"postal packet" includes any article transmissible by post;

"prohibited goods" means any goods the importation or exportation of which is prohibited under section 29(3) and (5);

"public warehouse" means any place under the control of the Government designated under section 115 as a place where goods to be warehoused may be lodged and secured;

"restricted goods" means any goods the importation or exportation of which is restricted under section 29(3) and (6);

"ship" includes a barge, boat, hovercraft, lighter, steamship, submarine, yacht, or other fleeting craft whether propelled by engine or otherwise or towed, but excludes an aircraft and a vehicle;

"State warehouse" means any place designated under section 115 as a place for the deposit of unentered, unexamined, detained or seized goods, or of other goods required by the customs laws to be deposited in a State warehouse for their security or of the security of the duty on them;

"sufferance wharf" means any place other than an approved place of loading designated under section 115 as a place for any goods to be loaded or unloaded under the conditions and in the manner the Board may direct, either generally or in any particular case;

"transhipment" means the procedure under which goods are transferred under customs control from an aircraft or ship on which they were imported to an aircraft or ship for exportation within the same customs areas;

"uncustomed goods" means –

- (a) any goods liable to duty on which the full duties have not been paid or secured; and

(b) any goods, whether liable to duty or not, which are in any way dealt with contrary to the customs laws;

"vehicle" includes any mechanical means of conveyance but excludes an aircraft and a ship;

"warehoused" means deposited in a bonded warehouse or public warehouse;

"warehouse keeper" means the owner or occupier of a bonded warehouse.

### **Time of import and export**

3. (1) The time of import of any goods into Kiribati is –

(a) for goods brought by ship, the time when the ship carrying them comes within the limits of a port; and

(b) for goods brought by aircraft, the time when the aircraft carrying them lands in Kiribati.

(2) The time of export of any goods from Kiribati; is the time when the goods are shipped for exportation, whether the goods are exported by sea or air.

(3) In the case of goods subject to any prohibition or restriction on export, the time of export is the time when the exporting ship or aircraft departs from the last port at which it is cleared before departing for a destination outside Kiribati.

(4) An aircraft or ship shall be deemed to have arrived at or departed from a port at the time when it comes within or leaves the limits of the port.

## **PART II**

### **CUSTOMS DUTIES**

#### **Customs duty imposed**

4. (1) The Beretitenti, acting in accordance with the advice of the Cabinet, may by order (to be known as a Tariff Order) –

- (a) impose;
- (b) amend;
- (c) suspend; or
- (d) exempt,

import or export duties of customs upon any goods whatsoever which may be imported into or exported from Kiribati.

(2) Subject to subsection (1) the goods set out in Schedule 1 shall be exempt from import duties.

#### **Effect of change in customs duty**

5. Any change to import or export customs duty shall take effect on the day of publication of the order making the change, or on any later day specified in the order.

#### **Derelict goods liable to duty**

6. (1) All –

- (a) goods derelict, jetsam, flotsam, and wreck brought or coming into Kiribati; and
- (b) droits of Admiralty sole in Kiribati;

shall be subject to the same duty payable on goods of the like kind on import into Kiribati.

(2) No customs duty shall be payable in respect of goods referred to in subsection (1) if it can be shown to the satisfaction of the Board that such goods are damaged in which case a claim for abatement of the duty may be made.

### **Duty chargeable on quantity specified on package**

7. If a specific duty applies to goods imported in the package in which they are sold at retail, then –

- (a) the duty shall be determined on the basis of the quantity stated on the package; or
- (b) if no quantity is stated, on the quantity customarily contained in such packaging.

### **Duty calculated on gross weight in certain cases**

8. (1) If goods subject to a specific duty determined on the basis of weight are imported in packages in which they are to be sold at retail, the duty shall be determined –

- (a) on the basis of the net weight stated on the package; or
- (b) if no net weight is stated, on the net weight customarily contained in such package.

(2) Where –

- (a) no net weight is stated on the package; and
- (b) the Board is not satisfied that the net weight customarily contained in the package can be ascertained with reliability;

the duty shall be imposed on the basis of the gross weight of the package unless the importer demonstrates the net weight of the contents to the satisfaction of the Board.

### **Board may fix standard content for package containing liquids**

9. (1) The Board may prescribe by notice standard measures of liquid content for goods imported in containers it determines to be of standard capacity.

(2) The duty payable in respect of the volume of liquid in such containers shall be determined on the basis of such standard measures without regard to any statement of



liquid content appearing on the container.

### **Definition for assessment of value of goods**

10. (1) The value of goods for which the duty is determined on the basis of value shall be determined under this Part.

(2) For purposes of this Part unless the context otherwise requires –

"associate", in relation to any person, means any other person who acts or is likely to act in accordance with the directions, requests, suggestions or wishes of such person whether or not the directions, requests, suggestions or wishes are communicated to such other person;

"goods of the same class or kind" means goods which fall within a group or range of goods produced by a particular industry or industry sector and includes identical or similar goods;

"identical goods" means goods which are the same in all respects, including physical characteristics, quality and reputation, without regard to minor differences in appearance;

"produced" and "production" include grown, manufactured and mined;

"relative", in relation to an individual, means –

- (a) mother or father of the individual or of the spouse of the individual;
- (b) brother or sister of the individual or of the spouse of the individual;
- (c) uncle or aunt of the individual or of the spouse of the individual;
- (d) nephew, niece, or cousin of the individual or of the spouse of the individual;
- (e) spouse of a person mentioned in paragraphs (b) to (d) or a child of the individual;
- (f) child of a person mentioned in paragraph (b) to (e); or
- (g) lineal ascendant or descendant of the individual or of the spouse of the individual, not mentioned in the foregoing paragraphs;

"similar goods" means goods which, although not alike in all respects, have like characteristics and like components materials which enable them to perform the same functions and to be commercially interchangeable, taking into account the quality of the goods, their reputation, and the existence of a trademark; and

"transaction value" means the price actually paid or payable for the goods when sold for export to Kiribati.

(3) The following goods shall not be treated as identical or similar –

- (a) goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under section 12(1)(b)(iv) because such elements were undertaken in Kiribati;
- (b) goods not in the same country as the goods being valued; and
- (c) goods produced by a different person unless there are no identical goods or similar goods produced by the same person as the goods being valued.

(4) For the purposes of this Part, persons shall be related only if they are associates or relatives.

### **Transaction value**

11. (1) Subject to subsection (2) the value of imported goods shall be the transaction value of such goods.

(2) Subsection (1) shall only apply if –

- (a) there are no restrictions as to the disposition or use of the goods by the importer other than restrictions which –
  - (i) are imposed or required by law or by the Government in Kiribati;
  - (ii) limit the geographical area in which the goods may be resold; or
  - (iii) do not substantially affect the value of the goods;
- (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (c) subject to section 12, no part of the proceeds of any subsequent resale, disposal, or use of the importer will accrue directly or indirectly to the exporter; and

(d) the importer and exporter are not related, or, if the importer and exporter are related, then the transaction value is acceptable for customs purposes under the provisions of subsection (3).

(3) In determining whether the transaction value is acceptable for the purposes of subsection (2)(d), the circumstances surrounding the sale shall be examined and the transaction value –

(a) shall be accepted if it is established to the satisfaction of the Board that the relationship of the exporter and importer did not influence the price; and

(b) closely approximates the transaction value in sales to unrelated importers of identical or similar goods for export to Kiribati in a transaction occurring at or about the same time.

(4) In applying this section, due account shall be taken of demonstrated differences in commercial levels, quantity levels, and costs incurred by the exporter in sales to an importer not related to the exporter that are not incurred by the exporter in sales to a related importer.

### **Adjustment to transaction value**

12. (1) For the purposes determining the transaction value of goods, there shall be added to the price actually paid or payable for the imported goods the sum of –

(a) to the extent incurred by the importer but not included in the price actually paid or payable for the goods –

(i) commissions and brokerage, except buying commissions;

(ii) the cost of containers which are treated as being one for customs purposes with the goods in question; and

(iii) the cost of packing, whether for labour or materials;

(b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the importer free of charge at reduced cost for the use in

connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable –

- (i) materials, components, parts, and similar items incorporated in the imported goods;
- (ii) tools, dies, moulds, and similar items used in the production of the imported goods;
- (iii) materials consumed in the production of the imported goods; and
- (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Kiribati and necessary for the production of the imported goods;

- (c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable; and
- (d) the value of any part of the proceeds of any subsequent resale, disposal, or use of the imported goods that accrues directly or indirectly to the exporter.

(2) Additions to the price actually paid or payable shall be made under subsection (1) only on the basis of objective and quantifiable data.

(3) No additions shall be made to the price actually paid or payable in determining the transaction value except as provided in this section.

(4) The price actually paid or payable includes all payments actually made as a condition of sale of the imported goods, by the importer to the exporter, or by the importer to a third party to satisfy an obligation of the exporter.

### **Other value**

13. (1) If the value of the imported goods cannot be determined under the provisions of

the preceding sections, the value shall be determined using any means that the Board considers reasonable on the basis of data available in Kiribati.

(2) In making a determination under subsection (1), the Board shall, in so far as is reasonable in the circumstances of Kiribati, apply the principles of the General Agreement on Trade and Tariffs Valuation Code.

(3) No value shall be determined under this section on the basis of –

- (a) the selling price in Kiribati of goods produced in Kiribati;
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) the price of goods on the domestic market of the country of export;
- (d) the price of the goods for export to a country other than Kiribati;
- (e) minimum values; or
- (f) arbitrary or fictitious values.

#### **Valuation on fob and cif bases**

14. (1) The value of imported goods for which the duty is determined on the basis of value shall, subject to subsection (2), exclude –

- (a) the cost of transport of the goods from the place of exportation to the place of importation;
- (b) loading, unloading, and handling charges associated with the transport of the goods from the place of exportation to the place of importation; and
- (c) the cost of insurance and all other costs and expenses incidental to the transport of the goods from the place of exportation to the place of importation.

(2) The value of imported goods for which the duty is determined on the basis of value shall be –

- (a) the cost of transport of the goods to the place of importation;

- (b) loading, unloading, and handling charges associated with the transport of the goods to the place of importation; and
- (c) the cost of insurance and all other costs and expenses incidental to the transport of the goods to the place of importation.

### **Valuation in Australian dollars**

15. (1) The value of imported goods shall be calculated in Australian dollars.

(2) In the case of goods the value of which exceeds \$1, their value for customs purposes shall be calculated to the nearest whole dollar.

(3) Where the conversion of currency is necessary for the determination of the value of imported goods, the rate of exchange to be used shall be the "sell" spot rate published daily by the Bank of Kiribati or any other bank in Kiribati specified by notice by the Board.

(4) The conversion rate to be used shall be that in effect at the time of import of the goods into Kiribati.

(5) The Board may be authorised by notice in a particular case or generally the use of a different rate of exchange or of a different date for conversion to those referred to in subsections (3) and (4), where it considers that a change is reasonable in the circumstances.

### **Time that governs duty payable**

16. (1) The import or export customs duties payable on goods shall be calculated on the basis of the Tariff Order in force at the following times in the case of goods –

- (a) entered for use in Kiribati after the time of import of the goods, the time of entry of the goods;

- (b) entered for use in Kiribati before the time of import of the goods, the time of import of the goods;
- (c) entered for warehousing after the time of import of the goods, the time that the goods are cleared from the warehouse for use in Kiribati;
- (d) not entered for use in Kiribati that are consumed on an aircraft or ship while in Kiribati, the time of import of the goods; and
- (e) for export, the time of entry of the goods for export.

(2) If –

- (a) goods are dealt with in contravention of the customs laws at a time before that mentioned in paragraphs (a) to (d); and
- (b) the contravention gives rise to an obligation to pay customs duties on the goods,

then the duty payable shall be calculated on the basis of the Tariff Order in force at the time when the contravention occurs (or the time of the first contravention if more than one).

### **Change in warehoused goods**

17. (1) The duties to be paid when imported goods entered for warehousing are cleared for use within Kiribati shall not be less in amount than would have been payable according to the value or quantity of the goods at the time of import.

(2) Tobacco in leaf, oil in casks, malt liquor in casks, and spirits in casks entered for warehousing shall be chargeable upon the quantity of such goods ascertained by weight, measure or alcoholic strength by volume, as the case may be, at the time of their removal.

(3) If at any time an officer considers that there is any deficiency beyond that which can be accounted for by natural waste or other legitimate cause in goods warehoused, or operated on in warehouse, the warehouse keeper or the owner of the goods shall on the

written demand of an officer be liable immediately to pay according to the account of the goods as warehoused.

### **Person obliged to pay duty**

18. (1) The following persons shall be liable to payment of customs duties –

- (a) in all cases, the owner of the goods;
- (b) in cases where goods are entered or cleared by an agent of the owner, that agent; and
- (c) in cases where this Act imposes the duty to pay duties on a person other than the owner or the owner's agent, that person.

(2) Where a person other than the owner of the goods is made liable for the payment of customs duties, that person may recover the duties from the owner, in the absence of an agreement to the contrary.

(3) Where a person other than the owner of the goods is made liable by this Act for a penalty, that person may not recover the penalty from the owner of the goods.

### **Recovery of duty**

19. (1) When 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 Board.

(2) When an owner is liable in respect of goods that are no longer under customs control to pay any unpaid duties, charges, rents, fees, or penalties (including under subsection (1)), the Board may refuse to release any other goods of that owner that are subject to customs control until the amounts owing are satisfied, whether or not duty is owing on those other goods.



(3) Where an owner or an owner's agent becomes entitled to a repayment or refund of duties and the owner is liable in respect of goods that are no longer under customs control to pay any unpaid duties, charges, rents, fees, or penalties, then the Board may set off the whole or part of the repayment or refund in order to satisfy in whole or in part the unpaid amounts.

(4) Without limiting any other provisions of this Act providing for the recovery of customs duties, any amount due by way of customs duties may be recovered as a debt due to the Republic.

### **Payment of duty for provisional entry; additional sum in certain cases**

20. (1) Where imported goods are subject to provisional entry under section 50, the person liable to duty shall pay, in addition to the amount estimated as the duty for the purpose of making the provisional entry, such further amount as an officer may require, not exceeding one half of the estimated duty.

(2) If the importer, within 6 months or such further period as the Board may in any special circumstances allow –

- (a) produces to the Board the required documents;
- (b) explains his initial failure to do so to the satisfaction of the Board; and
- (c) makes final entry of the 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 final entry.

(3) If the importer, within 6 months of such further period as the Board may in any special circumstances allow –

- (a) produces to the Board satisfactory evidence of the value of the goods; and
- (b) makes final entry of the 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 final entry.

### **Refund of duty overpaid**

21. (1) Subject to the preceding section, 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 to the satisfaction of the Board of such overpayment.

(2) Subsection (1) shall not confer any right to a refund on the owner of goods or other person liable to pay the amount for which a refund is claimed.

### **Goods used contrary to purpose for which imported**

22. Whenever goods which are liable to duty at a given rate are entered at a lower rate of duty or free of duty –

(a) on any special conditions;

(b) for use for some specified purpose or in some particular place; or

(c) because they are the property or intended for use by some particular person, and

(i) the conditions are not observed;

(ii) the goods are used for any other purpose or in any other place within ? years after the date of import; or

(iii) they are –

(aa) sold; or

(bb) transferred

to a different person or functionary (or retained after the individual ceased to be such functionary);

then the goods shall become subject to duty at the full rate based upon the duty applicable at the time of importation, unless the Board determines that a lower rate of duty shall be charged.

## **Abatement of duty**

23. (1) Where imported goods are damaged at any time prior to their delivery out of customs control, the damage shall be assessed by the Board which shall allow abatement of the duty in proportion to such damage.

(2) No claim for any abatement of duty in respect of any imported goods 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 customs control.

(3) When –

- (a) the carrier is liable for damage to any goods; or
- (b) the 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 Kiribati or droits of Admiralty sole in Kiribati) except on proof that the carrier or insurer of the goods has made an allowance to the importer in respect of the damage.

(4) The abatement in cases within subsection (3) shall not exceed such proportion of the duty as the amount of the allowance made by the carrier bears to the value of the goods undamaged, calculated in accordance with this Part.

## **Remission or refund of duty on goods lost, damaged, destroyed, or abandoned**

24. (1) If any of the goods are lost, damaged, or destroyed by accident or force majeure while under customs control before clearance of the goods, then the Board may –

- (a) grant total or partial exemption from payment of import duties on such goods; or
- (b) refund in whole or in part any such duties paid on such goods.

(2) Subject to any order made by the Board, remnants of such goods that are damaged or destroyed may be –

- (a) cleared for home use in their existing state as if they had been imported in that state;
- (b) re-exported;
- (c) rendered commercially valueless under Customs control, and the Board may thereupon remit or refund the duties due or paid thereon; or
- (d) abandoned with the consent of the Board, which may thereupon remit or refund the duties due or paid thereon.

(3) The Board may permit goods in temporary store to be abandoned, destroyed, or rendered commercially valueless under customs control at the request of the person entitled to dispose of them, and the Board may remit or refund any duties due or paid on such goods.

(4) Any waste or scrap remaining after destruction of goods shall be liable, if taken into home use, to the import duties applicable to such waste and scrap imported into Kiribati.

(5) Nothing in this section shall be interpreted to confer any right to a remittance or refund upon the owner of goods, or any other person liable to pay the amount for which a remittance or refund is claimed.

### **Duty on re-imported goods**

25. (1) The duty payable on goods re-imported into Kiribati after export shall be determined under this section if the importer demonstrates to the satisfaction of the Board that –

- (a) any duty chargeable on the goods prior to export was paid and no drawback was allowed on export, (or any drawback received has been repaid); and
- (b) the goods were produced for identification and marking by an authorised officer before export, unless such requirement is waived by the Board.

(2) Goods meeting the requirements of subsection (1) that have not been subjected to any process abroad shall be exempt from duty, except to the extent provided by subsection (4).

(3) Goods meeting the requirements of subsection (1) that have been subject to a process of repair, renovation, or improvement abroad without changing their form or character shall be subject to duty on the increase in the value of the goods attributable to such process.

(4) The increase in the value of the goods referred to in subsection (3) shall be the cost of

—

- (a) the repair;
- (b) renovation; or
- (c) improvement;

unless the importer demonstrates otherwise to the satisfaction of the Board.

(5) If the rate of duty applicable to goods described in subsection (2), (3), or (4) at the time of re-importation exceeds the rate that was applicable when they were first imported, then duty is payable at the time of their re-importation in an amount determined by multiplying the value of such goods at the time of their first importation by the excess of the rate in effect on the date of re-importation over the rate in effect on the date of first importation.

### **Goods imported for temporary use or purpose**

26. (1) Goods described in subsection (4) may be imported for a temporary use or purpose for a period of time not exceeding 6 months without payment of duty if the amount of duty otherwise payable, or security for the payment of such duty, is deposited with the Board.

(2) The deposit shall be refunded, or the security cancelled, upon exportation of any such goods at or before the end of the period for which they were authorised to be used for such temporary use or purpose. If the importer of any such goods fails to export them within such period, then the deposit shall be forfeited or the security realised.

(3) In order to carry out the provisions of this section, the Board –

- (a) may authorise the extension of the period for such temporary use or purpose for goods that are the property of any person on a temporary visit to Kiribati;
- (b) may provide by notice that particular goods or classes of goods shall not be eligible for such temporary entry free of duty; and
- (c) may provide by notice for the payment of partial duty on any goods imported for a temporary use or purpose in lieu of the exemption from payment of duty provided by subsection (1).

(4) Subject to subsection (3), the following goods may be entered free of duty for a temporary use or purpose under subsection (1) –

- (a) packings, as referred to in Article 2 of the Customs Convention on the temporary importation of packings, signed at Brussels, 6 October, 1960;
- (b) goods for display for use at exhibitions, fairs, meetings, or similar events, as referred to in Article 2, paragraph 1, of the Customs Convention concerning facilities for the importation of goods for display or use at exhibitions, fairs, meetings, or similar events, signed at Brussels, 8 June, 1961;
- (c) professional equipment, as referred to in Annexes A to C of the Customs Convention on the temporary importation of professional equipment, signed at Brussels, 8 June, 1961;
- (d) pedagogic material, as referred to in Article 1, paragraph (a) of the Customs Convention on the temporary importation of pedagogic material, signed at Brussels, 8 June, 1970;
- (e) tourist publicity material, as referred to in Article 3 of the Additional Protocol to the Convention concerning Customs facilities for touring, relating to the importation of tourist publicity documents and material, signed at New York, 4 June, 1954;

- (f) containers, as referred to in Article 1(c) of the Customs Convention on containers, signed at Geneva, 2 December, 1972;
- (g) pallets, as referred to in Article 1 of the European Convention on Customs treatment of pallets used in international transport, signed at Geneva, 9 December, 1960;
- (h) commercial road vehicles, as referred to in Article 1 of the Customs Convention on the temporary on the temporary importation of commercial road vehicles, signed at Geneva, 18 May, 1956;
- (i) used removable articles belonging to a person who takes up temporary residence in Kiribati;
- (j) articles, including vehicles, which by their nature are unsuitable for any purpose other than advertising of specific articles or publicity for a specific purpose;
- (k) data-carrying media for use in automatic data processing;
- (l) matrices, blocks, plates, and similar articles, on loan or hire, for printing illustrations in periodicals or books;
- (m) matrices, blocks, plates, moulds, and similar articles, on loan or hire, to be used in the manufacture or articles that are to be delivered abroad;
- (n) instruments, apparatus, and machines to be tested or checked;
- (o) instruments, apparatus, and machines made available free of charge to a customer by or through a supplier or repairer, pending the delivery or repair of similar goods;
- (p) costumes and scenery items sent on loan or on hire to dramatic societies or theatres;
- (q) goods which have to undergo a change of packing prior to delivery abroad;
- (r) goods such as apparel, articles of jewellery, and carpets, sent on "sale or return" terms to persons not engaged in trade in such goods;
- (s) animals, sports requisites, and other articles belonging to an individual resident abroad, for use by that individual in sports contests and demonstrations;
- (t) horses and other animals imported for shoeing or weighing, or for treatment or other veterinary purposes; and
- (u) specialised equipment arriving by ship and used on shore at sports of call for the loading, unloading, and handling of cargo.

**Goods entered for export or use as aircraft's or ship's stores**

27. (1) No duty shall be payable on –

- (a) goods entered under bond for export;
- (b) goods entered for use as aircraft's or ship's stores; or
- (c) goods remaining on board an importing aircraft or ship for re-export or use as stores on such aircraft or ship.

(2) If any goods entered, or remaining on board, without payment of duty under subsection (1) are not exported, used as stores, or re-exported or used as stores, then duty shall be paid on such goods by the owner, or, in the event of default by the owner, by the exporter.

(3) Stores on board aircraft or ship shall be allowed –

- (a) to be cleared for home use or to be placed under another customs procedure, subject to compliance with the applicable requirements; or
- (b) with prior authorisation of the Board, to be transferred to other aircraft or ship in international traffic.

### **Granting of drawback**

28. (1) If goods placed on board an aircraft or ship for export or as stores –

- (a) are destroyed by accident or force majeure, then any drawback or allowance payable shall be paid as if the goods were actually exported or used as stores; or
- (b) are materially damaged by accident or force majeure, then any drawback or allowance payable shall be paid if they are, with the consent of an officer, discharged in Kiribati and abandoned to the Republic.

(2) The owner of any goods on which drawback is claimed shall make a declaration on a prescribed form of debenture that the conditions under which drawback is allowed have been fulfilled.



(3) The drawback of all or a portion of the duty paid with respect to goods on their re-exportation or under other circumstances authorised by law shall be granted by the Board in the manner and subject to the conditions prescribed by regulations.

### **PART III**

#### **PROHIBITED AND RESTRICTED GOODS**

##### **Prohibition and restriction of import, carriage coastwise, or export**

29. (1) The Beretitenti, acting in accordance with the advice of the Cabinet, may by order prohibit or restrict the importation, exportation, or carriage coastwise of any goods whatsoever.

(2) An order issued under subsection (1) –

- (a) may prohibit the importation, exportation, or carriage coastwise of any good until its revocation, or during such period as may be specified;
- (b) may either absolutely prohibit the importation, exportation, or carriage coastwise of any good, or permit it in compliance with any conditions which may be specified in the order;  
or
- (c) may prohibit importation from, exportation to, or carriage coastwise from or to, any particular place named in the order.

(3) Subject to subsection (1), the goods referred to in Schedule 2 shall be prohibited imports.

(4) Subject to subsection (1), the goods referred to in Schedule 3 shall be restricted imports.

(5) Subject to subsection (1) the goods referred to in Schedule 4 shall be prohibited exports.

(6) Subject to subsection (1) the goods referred to in Schedule 5 shall be restricted exports.

### **General prohibition or restriction not to apply to stores or goods for transshipment**

30. No prohibition of, or any restriction on, the importation of any good shall apply to goods imported for use as stores of any aircraft or ship, or for transshipment, unless the order imposing such prohibition or restriction expressly provides for its application to such goods.

## **PART IV CUSTOMS CONTROL**

### **Customs control of goods**

31. (1) All imported goods, including goods imported through the post office, shall be subject to customs control from the time of import until, in the case of goods –

- (a) entered for use in Kiribati, cleared and delivered from the Customs;
- (b) entered for warehousing, cleared and delivered from a warehouse for use in Kiribati;
- (c) entered for export, the aircraft or ship carrying the goods out of Kiribati leaves its last port of call in Kiribati; or
- (d) imported through the post office, delivered to the addressee, left at his address, destroyed in lieu of delivery, or, if returned to sender, the aircraft or ship carrying the goods out of Kiribati leaves its last port of call in Kiribati.

(2) All goods for export, other than goods described in subsection (1)(c) or (d), including goods to be exported through the post office shall be subject to customs control in the case of goods –

- (a) exported through the post office, from the time the goods are delivered to the post office until the aircraft or ship carrying the goods out of Kiribati leave its last port of call in Kiribati;
- (b) under drawback, from the time of the claim of drawback until the aircraft or ship carrying the goods out of Kiribati leaves its last port of call in Kiribati; or
- (c) not described in paragraphs (a) or (b), from the time that the goods are brought to a warehouse or customs area for storage pending exportation or to an approved place of loading or sufferance wharf (whichever first occurs) until the aircraft or ship carrying the goods out of Kiribati leaves its last port of call in Kiribati.

### **Dealing with goods subject to customs control**

32. No person shall deal or interfere with goods subject to customs control except as permitted by this Act or by an officer.

## **PART V IMPORT OF GOODS**

### **Procedure on arrival**

33. (1) The master of an aircraft or ship arriving in Kiribati from any place outside Kiribati shall –

- (a) not cause or permit the aircraft or ship to land or touch at any place in Kiribati other than a port, except from stress of weather or other reasonable cause, or with the prior permission of the Collector;
- (b) on arriving at the port, cause the aircraft or ship to proceed as quickly to the proper place of mooring or unloading as the conditions of the port will admit, without touching at any other place, and comply with the directions of the Collector as to the particular part of any port where the aircraft or ship shall moor or discharge its cargo;
- (c) in so proceeding, stop the aircraft or ship at the boarding station for the port (if any) and, in any event, provide the necessary means to facilitate boarding by the Collector;

- (d) not, after arriving at such proper place, cause or permit the aircraft or ship to depart from it except directly to some other place of mooring or unloading permitted by the Collector, or directly to some other port in Kiribati with the authority of the Collector, or directly on any flight or voyage to a place outside Kiribati in accordance with the provisions of the customs laws; and
- (e) not, after departing on any flight or voyage to a place outside Kiribati, cause or permit the aircraft or ship to land, touch at any other place, or bring to in Kiribati, except in accordance with the customs laws, or with the prior permission of the Collector, or from stress of weather or other reasonable cause.

(2) Where the Collector gives permission under subsection (1)(a) or (e) for an aircraft or ship to land, touch at or bring to in Kiribati, the master shall comply with any directions of the Collector in relation thereto.

### **Restriction on boarding aircraft or ship**

34. No person shall board any aircraft or ship on arrival in Kiribati before the Collector, except to carry out duties authorised by law in relation to arriving aircraft or ship, or with the permission of the Collector.

### **Dealing with goods on arrival**

35. (1) Where any lock, mark, or seal has been placed by the Collector upon any goods or stores on board an aircraft or ship, except with the permission of the Collector, no person shall open, break, or alter the lock, mark, or seal –

- (a) before due delivery of the goods or stores; or
- (b) until the aircraft or ship leaves its last port of call in Kiribati.

(2) Where any place where an aircraft or ship is located has been secured by the Collector, no person shall enter or open the place, except with the permission of the

Collector.

(3) If the Collector requires any goods to be unloaded or removed for examination or for their security, the master shall cause or permit the goods to be immediately unloaded and removed as required.

### **Accommodation and visit of officers**

36. (1) The master of a ship on board which the Collector is stationed shall provide the Collector with proper and sufficient food and suitable bedding accommodation in a cabin of the ship to the satisfaction of the Board.

(2) The master of an aircraft or ship shall provide the Collector with safe entry to or exit from the aircraft or ship.

### **Simplified procedures for small pleasure craft**

37. (1) Where a ship of less than 100 tonnes burden which is primarily used for pleasure, sport, or recreation activities arrives in or touches at Kiribati, the master shall with all reasonable speed (and in any event within 48 hours) inform the Collector of the ship's arrival.

(2) The Collector may direct the ship to the nearest port or to any convenient place for boarding the vessel, or if satisfied that the ship will depart from Kiribati within 48 hours of the report without loading or unloading goods in Kiribati, may direct the master or a member of the crew of the ship to the nearest officer for report without boarding of the ship.

(3) The Collector may give any directions as to report and outward clearance of the ship as are appropriate in the circumstances.

(4) If the master of the ship complies with the obligations imposed and any directions given under this section, then the master shall be relieved of the obligation as to arrival, report, and clearance imposed by sections 33, 39 and 93.

### **Commissioned aircraft or ship**

38. (1) The master of any aircraft or ship (other than a merchant aircraft or ship) commissioned by the Republic of Kiribati or any other country which arrives at any place in Kiribati with goods on board that were loaded at any place outside Kiribati shall –

- (a) deliver a report of the goods and the names of the consignors and consignees of such goods to the Collector; and
- (b) answer any questions the Collector may ask.

(2) The report referred to in subsection (1) shall be delivered –

- (a) before any of the goods are unloaded in Kiribati; or
- (b) when requested by the Collector.

(3) Any such commissioned aircraft or ship is subject to the same boarding procedures and search as a merchant aircraft or ship operating in the customs territory of Kiribati.

(4) Any goods found on board such an aircraft or ship in the course of such a search may be unloaded at the direction of the Collector and shall be brought to a State warehouse.

### **Report of aircraft or ship**

39. (1) The master or agent of every aircraft or ship, whether laden or in ballast, shall within 24 hours after arrival from any place outside Kiribati at any port or at any place permitted under section 33 make report to the Collector in the prescribed form of the aircraft or ship, its stores and cargo, and any goods for which there is no bill of lading.

(2) The report referred to in subsection (1) shall show separately any goods for transshipment, any goods which are to remain on board for other ports in Kiribati and any goods for re-exportation on the same aircraft or ship.

(3) The master or agent of every aircraft or ship shall deliver to the Collector at the time of making report the outward clearance of the aircraft or ship from the port or ports from which the aircraft or ship has arrived.

(4) Where the Collector is satisfied that –

(a) the report referred to in subsection (1) is in order; and

(b) the laws of Kiribati have been observed in relation to the arrival of the aircraft or ship,

the Collector shall clear the aircraft or ship inwards.

(5) Notwithstanding anything contained in subsection (4) the Collector may, with or without conditions, permit an aircraft or ship to be cleared inward and the master or agent shall comply with such conditions (if any).

(6) Except with the permission of the Collector, bulk shall not be broken until the aircraft or ship is cleared inwards.

(7) The Collector may permit or require a different procedure or longer period for reporting in particular cases, and the master and agent will discharge the obligations as to the reporting of cargo imposed by this section by following that different procedure or reporting in that longer period.

### **Report of cargo when discharging at more than one port**

40. (1) If any aircraft or ship has cargo on board that is to be delivered at more than one port or place in Kiribati, then the master or agent may make report at the first port or

place of arrival in Kiribati for the whole cargo, indicating separately the cargo intended for each port or place of call by the aircraft or ship in Kiribati.

(2) After the discharge of cargo at the first port or place, the master may proceed to any other port or place or unloading permitted under section 33 in Kiribati where the portion of the cargo intended for that port or place shall be reported by the master or agent before its discharge.

(3) The Master or agent so reporting any aircraft or ship, and all persons concerned in discharging the cargo under subsection (2) shall be subject to all the provisions on the reporting and discharging of cargo contained in the customs laws except to the extent modified by the special reporting provisions of section 39(7).

(4) If an aircraft or ship has cargo on board to be delivered in Tarawa, then the master or agent shall make report for the whole cargo in Tarawa and shall only make report at any other port or place in Kiribati for the cargo intended for that port or place.

### **Report where aircraft lands or ship wrecks other than at port**

41. (1) Where from stress of weather or other reasonable cause, aircraft lands on a ship touches at or brings to in Kiribati in accordance with the exception in section 33(1)(a) or (e), the master or agent shall with all reasonable speed make report of the aircraft or ship of its cargo and stores to the Collector.

(2) Where a report is received under subsection (1), the procedures and conditions as to reporting and clearance inwards of this Act shall be observed, subject to the directions of the Collector to meet the circumstances of the particular case.

(3) If the Board determines that it was not reasonable in the circumstances for the master to cause or permit the aircraft or ship to land, touch at or bring to in Kiribati,



(4) Where an aircraft or ship is lost or wrecked in Kiribati, the master, senior surviving officer or agent (if any) shall with all reasonable speed make report of the loss or wreck of the aircraft or ship and its cargo and stores to the Collector.

### **Master to answer questions**

42. Upon arrival in Kiribati, the master and agents shall –

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

### **Liability to duty where goods missing**

43. (1) If any package which is duly reported (except where it remains on board for re-exportation or, with the permission of the Collector, for direct transfer to another aircraft or ship for use as stores or for re-exportation) is not duly –

- (a) unloaded;
- (b) removed; and
- (c) deposited, in a customs area or other place approved by the Board;

then the master or agent shall pay the duty thereon unless it is proved to the satisfaction of the Board that the package –

- (i) has not been imported;
- (ii) has been re-exported; or

(iii) has been surrendered into the custody of a customs area occupier.

(2) Where the master or agent proves that any package or parcel has been duly surrendered into the custody of a customs area occupier, the customs area occupier shall pay the duty thereon unless such customs area occupier proves to the satisfaction of the Board that the package or parcel –

- (a) has been duly delivered to the consignee or the consignee's agent; or
- (b) duly surrendered to and received by the Collector.

(3) Where a package consists of a sealed metal container, the master or agent shall be deemed to have proved that such package has been surrendered into the custody of a customs area occupier if the master or agent shows that the container has been unloaded.

(4) Where a master or agent has paid duty under subsection (1) and subsequently shows that the package has been unloaded in accordance with subsection (3), the master or agent shall be entitled to recover the duty from the customs area occupier.

(5) Where it is necessary for the purpose of determining the amount of any duty payable under this section –

- (a) to classify any goods; and
- (b) to assess their quality, value, quantity, weight, measurement or strength,

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 Collector having regard to the available information unless the actual –

- (i) description;
- (ii) quantity;
- (iii) value;
- (iv) quality;
- (v) weight;

- (vi) measurement; or
- (vii) strength;

is proved to the satisfaction of the Board.

### **Unloading of cargo**

44. (1) No cargo or goods shall be unloaded from any aircraft or ship arriving from any place outside Kiribati unless permission for unloading has been given by the Collector.

(2) Where cargo or goods have been unloaded from any aircraft or ship arriving from any place outside Kiribati into any vessel to be landed –

- (a) the goods shall not be transhipped, or removed into any other vessel prior to their being landed;
- (b) the goods shall be taken directly and without delay to an approved place of loading or sufferance wharf approved for the purpose within the same port, and landed forthwith; and
- (c) the vessel into which the goods after being unloaded from a ship are put shall, if required by the Board, be a ship licensed under section 101.

(3) With the exception of goods unloaded into a vessel to be landed in accordance with subsection (2), no cargo or goods shall be unloaded from any aircraft or ship arriving from any place outside Kiribati except at an approved place of loading or sufferance wharf approved for the purpose.

(4) All cargo or goods unloaded or landed at an approved place of loading or sufferance wharf shall immediately be conveyed in the care of the Collector into the customs area, or to a State warehouse in the Collector shall so require.

(5) Any cargo or goods that the Collector considers to be unsuited for storage in a

customs area or State warehouse shall be deposited in such place as the Collector may direct, at the risk and expense of the importer, and the provisions of section 71 shall then apply.

### **Goods other than cargo**

45. (1) No goods other than cargo duly reported as such shall be –

- (a) taken out of any aircraft or ship arriving from any place outside Kiribati; or
- (b) delivered to any person aboard the aircraft or ship;

other than for the consumption or use of the crew or passengers, 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 under this Act or as directed by the Board in any particular case.

(2) In this section, "goods" includes passengers' baggage, stores, and any goods which may be taken on board any aircraft or ship arriving from any place outside Kiribati while such aircraft or ship is within Kiribati.

### **Aircraft or ship may be detained until goods landed**

46. (1) Whenever any goods remain on board any importing aircraft or ship beyond the period of 14 days after the arrival of the aircraft or ship, or beyond any further period that the Collector may permit, the aircraft or ship may be detained by the Collector until the goods are landed.

(2) The aircraft or ship may also be detained by the Collector until all expenses of watching or guarding the goods beyond that period, and removing the goods or any of them to the State warehouse, in case the Collector causes them to be removed, are paid.

### **Restriction as to passenger and other person**

47. 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 Kiribati except at such times, by such means, and by such ways as may be prescribed or otherwise as the Collector may allow.

### **Type of entry or imported goods**

48. Imported goods which form part of the cargo of an aircraft or ship reported as such may be entered –

- (a) for use in Kiribati;
- (b) for warehousing;
- (c) for export or delivery at another port or place in Kiribati; or
- (d) for transshipment.

### **Time for making entry of imported goods**

49. (1) Unless the time for making entry is extended by the Collector, imported goods which form part of the cargo of an aircraft or ship shall be entered within 5 days after unloading begins.

(2) Entries for goods may be delivered to the Collector before the arrival at the place of unloading of the aircraft or ship in which the goods are carried. Upon receipt of such an entry, the Collector may permit the goods to be entered up to five days before the expected date of arrival of the aircraft or ship.

(3) The time of entry for passenger's baggage and for goods imported into Kiribati by post shall be the time of delivery of such baggage or goods to the passenger or the addresses, respectively.

### **Provisional entry**

50. (1) If the importer of any goods is not able to furnish full particulars of such goods for want of any document or information, the importer shall make a declaration in the prescribed form to that effect before the Collector.

(2) The Collector shall thereupon permit the importer to examine and enter the goods if satisfied that –

- (a) the description of the goods for tariff and statistical purposes is correct;
- (b) in the case of goods liable to duty *ad valorem*, the value declared on the entry is approximately correct; and
- (c) in the case of goods liable to duty according to weight, measurement, or alcoholic strength by volume, the weight, measurement, or strength declared on the entry is correct.

(3) If –

- (a) an importer fails to perfect an entry as provided in the declaration; or
- (b) an officer is not satisfied as required under subsection (2) (in which case any entry which shall have been made shall be void);

the Collector shall cause the goods referred to in the declaration to be deposited in a State warehouse and shall be dealt with in accordance with section 68.

(4) If –

- (a) the Board is satisfied, whether before or after the deposit in the State warehouse under subsection (3) 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
- (b) in any case the documentary evidence of the value of such goods, though not complete, is in the opinion of the Board sufficient to enable a reliable estimate of the value to be made;

the Board may permit such goods to be entered according to a value which 2 officers are

satisfied is, as nearly as may be estimated, and not less than, the correct value of the goods.

### **Delivery of goods**

51. (1) Goods entered for use in Kiribati shall not be removed from any part of the customs area or from the State warehouse into which they have been conveyed unless such goods shall first have been duly reported and entered, and clearance for the removal or delivery of the goods has been given by the Collector.

(2) Goods entered to be warehoused shall be removed by the importer, in accordance with the directions of the Collector, to the warehouse for which the goods are entered and delivered into the care of the person in charge of the warehouse.

(3) If the Collector so required, the importer shall enter a bond for the due warehousing of goods before their removal under subsection (2).

(4) Goods entered for transshipment shall be loaded, in accordance with the directions of the Collector, on the aircraft or ship in which they are to be carried out of Kiribati.

(5) Where goods have been subject to a provisional entry, the Collector may permit the delivery of the goods without perfecting of the entry.

### **Delivery of bullion, currency, and perishable goods requiring refrigeration**

52. (1) The Collector may permit the delivery to the importer of any goods entered for use in Kiribati being bullion, currency notes, coin, or perishable goods requiring storage under refrigeration, prior to the goods being entered.

(2) Where goods are delivered under subsection (1) the importer shall enter and clear the goods within 72 hours, (excluding Sundays and public holidays), after delivery.

### **Refund or credit of excess duty: amendment of declaration**

53. If it is found that errors in the goods declaration or in the assessment of import duties caused the collection of an amount of import duties greater than that legally chargeable, then the amount overcharged shall be refunded or credited to the payer.

## **PART VI WAREHOUSING**

### **Charges**

54. (1) Goods warehoused in a public warehouse or customs area in the occupation or use of the Government shall be subject to the payment by the owner of the goods, at the prescribed times, of the prescribed rent and charges.

(2) If at any time rent or other charges on any goods under this section are not paid to the Collector when due and payable, the 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 68.

### **Collector may deal with warehoused goods**

55. (1) The Collector shall have power at the expense of the owner of the goods warehoused in a public warehouse, or deposited in a customs area in the occupation or use of the Government, to do any reasonable act for the proper custody and preservation of the goods, and shall have a lien on the goods for expenses so incurred.

(2) Nothing shall be done under subsection (1) until the expiration of 24 hours after the owner of goods has been notified what acts are required, unless the Collector shall decide that immediate action is necessary for the proper custody or preservation of the goods.



(3) The importer or owner of the goods shall pay any expenses incurred under subsection (1) at such times and in such manner as the Board shall direct.

(4) If any expenses are not paid as directed, then the 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 68.

**Republic not liable for loss in warehousing or customs areas**

56. (1) No compensation shall be payable by the Republic to the importer, owner, or consignee of any goods deposited in a public warehouse or in a customs area in the occupation or use of the Republic by reason of any loss or damage which occurs while the goods are so deposited, unless the loss or damage occurs as the direct result of the wilful act or negligence of the Collector.

(2) No action shall be brought against the Republic or any officer for loss or damage sustained by goods while in any bonded warehouse or private customs area or for any wrong or improper delivery of goods therefrom unless the loss or damage occurs as a direct result of the wilful act or negligence of an officer.

(3) Goods deteriorated, spoiled, or damaged by accident or force majeure before leaving temporary storage in customs control shall be allowed to be cleared as if they had been imported in their deteriorated, spoiled, or damaged state, and, if destroyed or abandoned to the Republic, shall not be subject to import duties.

(4) Any waste or scrap remaining after the destruction or loss of such goods shall be liable. If taken into home use, to the import duties that would be applicable to such waste and scrap imported in that condition.

(5) Where a person entitled to dispose of any warehoused goods under custom control request the Board –

- (a) to abandon in whole or in part;
- (b) to destroy; or
- (c) to render commercially valueless;

then such warehoused goods may be abandoned, destroyed, or rendered commercially valueless as the Board may decide.

### **Warehouse keeper not to enter warehouse without permission**

57. Neither the owner, occupier of any customs area or a warehouse keeper, nor an employee of such a person shall open or gain access to any building in a customs area or bonded warehouse except in the presence or with the knowledge and consent of the Collector.

### **Warehouse keeper to provide facilities**

58. The owner or occupier of any bonded warehouse or customs area shall provide the Collector, sanitary and lavatory accommodation, and weights, scales, measures and other facilities for examining and taking an account of goods and for securing the warehouse or customs area as the Board may require.

### **Procedure as to warehousing**

59. (1) Upon the presentation of any entry for goods to be warehoused, the Collector, subject to any other direction of the Board, shall –

- (a) take account of the goods at the approved place of loading; and
- (b) enter in a book prepared for that purpose –
  - (i) the name of the importing aircraft or ship;
  - (ii) the person in whose name the goods are entered;
  - (iii) the number of packages;
  - (iv) the mark and number of each package;

(v) the description of the goods; and

(vi) the name of the warehouse in which the goods are to be deposited.

(2) When the goods are deposited at the direction of the Collector –

(a) the warehouse keeper, in the case of goods warehoused other than in a public warehouse, shall acknowledge in writing at the foot of the account the receipt of the goods into the warehouse; and

(b) the Collector at the warehouse shall certify that the entry and warehousing of the goods is complete,

and the goods shall from that time be considered goods duly warehoused.

**Goods to be warehoused in package in which imported, and may be required to be marked**

60. (1) All goods warehoused shall be deposited in the packages in which they are imported, except such goods as are permitted to undergo usual forms of handling to improve–

(a) their packaging or marketable quality; or

(b) to prepare them for shipment, such as –

(i) breaking bulk;

(ii) grouping packages;

(iii) sorting and grading; and

(iv) repacking,

in which case they shall be deposited in the packages in which they are contained when the account thereof is taken by the Collector on the completion of the operation.

(2) The importer or owner of any warehoused goods shall mark such particulars on the packages containing the goods or any of them and in such manner as the Board may

direct.

### **Stowage of goods in bonded warehouse or customs area**

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

### **Warehouse keeper neglecting to arrange, stow, and maintain goods**

62. Where goods are not arranged, stowed, and maintained to the satisfaction of the Board, the occupier of the bonded warehouse or customs area shall, on receipt of a written notice from the Board, comply with any directions given under section 61 within a period of 7 days (Sundays and public holidays excluded).

### **Goods to be produced to officer**

63. (1) If the occupier of any bonded warehouse or customs area does not produce to the Collector on request any goods deposited in the warehouse or customs area which have not been duly entered or delivered therefrom, the Collector shall send to the occupier a written notice requiring that person –

- (a) to produce the goods to the Collector; or
- (b) to account to the satisfaction of the Collector for the goods, within a period of 7 days (Sundays and public holidays excluded).

(2) The occupier shall pay the duties (in addition to any penalty) due upon any package not produced or accounted for.

### **Payment of duty on unlawful removal of warehoused goods**

64. If any goods required to be previously entered are unlawfully taken out of any

warehouse or customs area where such goods have been deposited without being duly entered—

- (a) the warehouse keeper; or
- (b) the customs area occupier;

shall be liable to pay immediately upon their removal the duties due upon the goods.

### **Procedure on removal of goods between warehouses**

65. (1) On the delivery of any goods for removal from a warehouse to any other warehouse, an account containing the particulars of the goods shall be transmitted by the Collector at the place of removal to the Collector at the place of destination.

(2) The person requiring the removal of the goods shall enter into a bond, with such security as the Board shall require, in a sum equal at least to the duty chargeable on the goods, for their due arrival and rewarehousing at the place of destination within such time as the Collector may direct.

(3) The bond entered into under subsection (2) shall not be discharged –

- (a) unless the goods are produced to the Collector and duly re-warehoused at the place of destination within the time directed;
- (b) unless full customs duties are paid on the goods as provided in subsection (5);
- (c) unless the goods are otherwise accounted for to the satisfaction of the Board; or
- (d) until the full duties due upon any deficiency of the goods not so accounted for are paid.

(4) Upon the arrival of the goods at the place of destination, they shall be warehoused in the same manner, 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 import thereof except that further entry of the goods shall not be required.

(5) If, upon the arrival of the goods at the place of destination, the person requiring the removal wishes to export the goods or to pay duty on them for use within Kiribati, without actually lodging them in the warehouse, the Collector at the place may permit the goods –

- (a) to be entered and delivered for use within Kiribati; or
- (b) to be entered and loaded for export,

as if the goods had been actually lodged in the warehouse.

### **Board may remove goods warehoused in a public warehouse**

66. The Board may remove goods at the cost of the Republic from one public warehouse to another for any purpose and in any manner the Board considers reasonable.

### **Re-warehousing**

67. (1) All warehoused goods shall be entered and delivered either for use within Kiribati or as aircraft's or ship's stores, or for export not later than 2 years after the day on which they were warehoused unless the owner wishes to rewarehouse them.

(2) If the owner of the goods wishes to rewarehouse them, such goods shall be re-examined by the Collector.

(3) Where the goods are re-examined under subsection (2) –

- (a) the duties due upon any deficiency or difference between the quantity ascertained on warehousing;
- (b) the quantity found to exist on the examination, together with the necessary expenses attendant thereon; and
- (c) any charges incurred in respect of the goods;

shall, subject to such allowances as are by law permitted in respect of such goods, be paid to the Board at the rates in force at the time of re-examination.

(4) The quantity found on re-examination shall be rewarehoused in the name of the owner of the goods in the same manner as on first warehousing.

(5) No goods shall be rewarehoused under this section unless the Collector certifies that the goods are in proper condition to be rewarehoused.

(6) If the owner of the warehoused goods desires, with the concurrence of the warehouse keeper, to rewarehouse them according to the account taken at the time of warehousing without re-examination, the re-examination may be dispensed with if the Collector is satisfied that –

- (a) the goods are still in the warehouse; and
- (b) there is no reason to suspect that there is any undue deficiency.

(7) 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 at any earlier time where the goods are not re-examined in accordance with subsection (6).

#### **Disposal of goods not re-warehoused**

68. (1) If –

- (a) any warehoused goods are not duly entered for use within Kiribati, or as aircraft's or ship's stores, or exported or re-warehouse;
- (b) the duties ascertained to be due on the deficiencies under section 67; and
- (c) any charge and expenses are not paid at the expiration of 2 years from the previous entry and warehousing;

the goods shall be advertised by public notice, or in such other manner as the Board may direct, and shall be sold by public auction 3 months after the advertisement.

(2) The proceeds of the goods from public auction shall be applied –

- (a) to payment of the duties, auction expenses, and of any rent and charges due to the Republic;
- (b) in discharge of any lien for freight and other charges due to the Republic; and
- (c) in discharge of any lien for freight and other charges;

and the surplus, if any, shall be paid to the owner of the goods on application within 1 year from the time of sale, but otherwise shall be paid into the general revenue of Kiribati.

(3) If the goods, on being offered for sale, cannot be sold for a sufficient sum to pay all duties, expenses, rent and charges due to the Republic, then the goods may be destroyed or otherwise disposed of as the Board may direct and the duties due upon any deficiency in any warehoused goods not allowed for under this Act shall be paid by the owner of the goods.

(4) If any goods remain in any warehouse for a period of 14 days after –

- (a) being entered for use within Kiribati; or
- (b) being sold by public auction under the customs laws;

such goods shall be forfeited and disposed of in such manner as the Board may direct, unless the failure to remove the goods is explained to the satisfaction of the Board.

### **Delivery from warehouse in special circumstances**

69. (1) The Board may permit any goods to be taken out of any warehouse or customs area with or without payment of duty –



- (a) for such purpose;
- (b) for such period as may appear expedient;
- (c) in such quantities;
- (d) under such regulations and restrictions; or
- (e) with such security of bond for their due return;

as the Board may direct or require.

(2) If any goods are dealt with in any way contrary to the terms of the permission or to such regulations or restrictions under subsection (1), the goods shall be forfeited.

(3) The Board may permit warehoused goods to be delivered as stores for an aircraft or ship of not less than 30 tonnes burden in accordance with section 83.

(4) If any goods taken from a warehouse for use as stores are not duly put on board the aircraft or ship for which the goods are entered, or otherwise accounted for to the satisfaction of the Board, or are dealt with in any way contrary to the customs laws, the goods shall be forfeited.

### **Goods not entered or delivered to be deposited in a State warehouse**

70. (1) If any goods imported in any aircraft or ship having been unloaded are not entered and delivered from the customs area –

- (a) within 10 days (exclusive of Sundays and public holidays) from the date of the completion of unloading; or
- (b) within such further period as the Collector may in any special circumstances allow,

then such goods shall be deposited in a State warehouse as the Collector shall direct.

(2) Goods to be deposited in a State warehouse under subsection (1) shall be so deposited

–

- (a) by the agent of the aircraft or ship;
- (b) where such goods have been surrendered into the custody of any other person, by that other person; or
- (c) if –
  - (i) there be no agent or other person; or
  - (ii) the agent or other person shall not act forthwith as required by this section, then at the direction of the Collector.

(3) Goods so deposited shall be subject to rent and other charges as the Board shall direct by notice.

(4) No compensation shall be payable by the Republic to –

- (a) any importer;
- (b) owner; or
- (c) consignee;

for any goods deposited in a State warehouse for any loss or damage which occurs to such goods while so deposited, unless the loss or damage occurs as the direct result of the wilful act or negligence of the Collector.

### **Goods deemed to be in a State warehouse**

71. (1) If the Collector decides that it is undesirable or inconvenient to deposit goods required under the customs laws to be deposited in a State warehouse, then the goods shall for all purposes be deemed to have been deposited in a State warehouse as from the time that they are required to be deposited in a State warehouse.

(2) In addition to rent and other charges payable under section 70, goods deemed to have

been deposited in a State warehouse under subsection (1) shall be chargeable with such expenses –

- (a) for securing;
- (b) for watching;
- (c) for guarding; and
- (d) of removing them from the original to some other place of deposit (if an officer shall so require),

as the Collector shall deem reasonable.

(3) No officer shall be liable to make good any damage which goods subject to this section may sustain by reason, or during the time, of being deposited and dealt with as provided in this section.

(4) Rent or other charges shall not be payable under this section where the goods remain in a customs area and are subject to rent or other charges payable to the owner or occupier of the customs area.

### **Goods deposited in a State warehouse may be sold**

72. (1) Where any goods are deposited or deemed to have been deposited in a State warehouse and the goods are of a perishable nature, then the Collector may sell the goods forthwith by public auction.

(2) If any goods, though not perishable, are of a kind not permitted by any provision of law to be deposited in a State warehouse, the Collector may sell the goods by public auction after 14 days notice of intended sale given by public notice or in such other manner as the Board may determine.

(3) Where –

- (a) any goods are deposited or deemed to have been deposited in a State warehouse;
- (b) the goods are not entered for warehousing or delivery within 1 month after the deposit or within such further period as an officer may direct; and
- (c) all charges for removal, freight, rent, and all other expenses incurred in respect thereof duly paid;

an officer may sell the goods by public auction after 1 month's notice of intended sale given by public notice or in such other manner as the Board may determine.

(4) In all cases where goods are sold under the provisions of this section, the proceeds shall be applied first in discharge of –

- (a) duties (if any);
- (b) the expense of removal and sale;
- (c) rent and charges due to the Republic; and
- (d) the 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 application within 1 year from the time of the sale of the goods, but otherwise shall be paid into the general revenue of Kiribati.

(5) If any goods offered for sale under the provisions of this section cannot be sold for a sum sufficient to pay all duties, expenses, rent, and charges, the goods may be –

- (a) destroyed; or
- (b) otherwise disposed of,

as the Board may direct.

(6) Where the identity of the consignee of any such goods is known such steps as may be reasonable in the particular circumstances of each case shall, prior to the sale of the goods under this section, be taken to notify the consignee of the intention to sell the goods.

(7) When the consignee is not present in Kiribati, then it shall not be necessary to notify the consignee if the agent of the aircraft or ship in which the goods were imported is notified.

### **Freight, rent on goods deposited in a State warehouse to be paid**

73. Subject to section 72, any officer having the custody of any goods under this Act may refuse delivery of them from a State warehouse until proof be given to the officer's satisfaction that the customs rent, freight, landing, and storage charges due on the goods have been paid.

### **Goods deposited in a State warehouse may be examined**

74. The Board may cause any goods which are required to be removed to a State warehouse to be opened for examination by any officer, as often as may be required, at the expense of the owner of the goods.

### **Licence to unload or load at a sufferance wharf**

75. (1) Before any goods are unloaded from or loaded into an aircraft or ship at a sufferance wharf the master of the aircraft or ship shall furnish the Board with particulars on the prescribed form of the goods to be unloaded or loaded, and this form when signed by an officer shall be the licence for the aircraft or ship to proceed to the sufferance wharf.

(2) The master of an aircraft or ship unloading or loading goods at a sufferance wharf shall, if the Board 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 Board may impose.

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

(4) After unloading or loading any goods at a sufferance wharf the master shall, unless the Collector shall otherwise direct, proceed with the 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 the goods had been unloaded at the port.

(5) The Minister may by notice addressed to the Board direct that any or all of the provisions of this section shall not apply to aircraft either generally or in any particular case during any period specified in the notice, and the Board shall give effect to the Minister's direction.

### **Goods wrongfully removed from warehouse**

76. If –

- (a) any goods are taken from a warehouse for removal, export, or use as aircraft or ship stores –
  - (i) other than with the authority of an officer; or
  - (ii) in any way other than is permitted under this Act; or
- (b) they are illegally removed or carried away before being put on board the exporting aircraft, ship, or vehicle;

then any bond given with respect to such goods shall be forfeited immediately, even though the time for exporting or rewarehousing the goods has not expired, and the goods shall be forfeited.

## **PART VII LICENCES AND BONDS**

### **Bonded warehouse and private customs area**

77. (1) No building or place may be used as a bonded warehouse or as a private customs area unless approved by the Board.

(2) The approval of the Board under subsection (1) shall not take effect until a bond, in such sum as may from time to time in each case be required by the Board, is given by –

- (a) the warehouse keeper; or
- (b) the owner or occupier of the customs area with one or more sufficient sureties;

conditioned on due payment of all duties and the due observance of the provisions of the customs laws.

(3) The Board may with the consent of the Minister in any case dispense with the requirement under subsection (2) that there be one or more sufficient sureties.

### **Revocation of order approving warehouse**

78. (1) The Board for reasonable cause may revoke the designation of any bonded warehouse or customs area under section 114 and on such revocation –

- (a) the duties on all goods warehoused there shall be paid; or
- (b) the goods shall be exported or removed to another warehouse or customs area within such time, not less than 3 months,

as the Board may direct.

(2) Notice in writing of revocation addressed to the warehouse keeper of the bonded warehouse or customs area and left there shall be deemed to be notice to all persons interested in the goods.

(3) If any goods are not duly exported or removed in conformity with this section such goods—

- (a) shall be taken to a State warehouse by an officer; and
- (b) may be sold, or otherwise dealt with;

and any proceeds applies as if the goods were goods which might be sold or otherwise dealt with under section 67.

### **Authority to be produced by person acting for another**

79. (1) Whenever any person makes application to the Board to transact any business on behalf of another person, the Board –

- (a) may require the person applying to produce a written authority from the person on whose behalf the application is made; and
- (b) in default of the production of such authority may refuse to transact business.

(2) Subject to subsection (3), any document required by the customs laws to be signed by a particular person, if signed by any person authorised in writing on behalf of the person required to sign it, shall be deemed for all purposes to be signed by the person required to sign.

(3) The Board may in its discretion refuse to allow any application to transact business on behalf of another.

(4) The terms and conditions for the licensing of a person to transact business with the customs on behalf of others (customs agent) shall be as may be made in the prescribed manner.

### **Agents of large ship**



80. Where the owner of any ship of not less than 100 tonnes burden is not resident in Kiribati, it shall be the duty of the master or owner of the ship to appoint an agent in Kiribati for the purpose of performing any act which may under the customs laws be performed by the agent of the master of aircraft or ship.

### **Bond and other security required under the customs laws**

81. (1) The Board may require any person to give security by bond or otherwise for the observance of any condition in connection with customs.

(2) All bonds and other securities relating to customs or for the performance of any conditions or matter incidental thereto shall be taken to or for the use of the Republic.

(3) All bonds and other securities under the customs laws may, after expiration of 3 years from their commencement, or from the time, if any, limited in the bond or security for the performance of its conditions, be cancelled by the Board.

(4) All bonds and other securities given under the customs laws by persons under 21 years of age shall valid.

(5) No bon or security given under the customs laws shall be invalid by reason only of –

- (a) a formal defect in the execution thereof; or
- (b) by reason of the last of a witness to such execution.

### **Surety to be deemed a principal debtor**

82. (1) Without prejudice to any rights of a surety under any bond or other security required by the customs against the person for whom the person is surety, a surety shall –

- (a) be deemed a principal debtor and not merely a surety; and
- (b) not be discharged nor shall the person's liability be affected by –

- (i) any giving of time for payment; or
- (ii) by an omission to enforce the bond or other security; or
- (iii) any other act or omission or means whereby the liability of the surety would not have been discharged for 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;
- (b) becomes a bankrupt or enters into any arrangement or composition with or for the benefit of his creditors;
- (c) departs from Kiribati 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 Board, unable or likely to be unable to satisfy the bond or other security if called upon,

the Board may, as it deems necessary, require a new bond or other security to be executed.

### **Continuing validity of existing bonds and other securities**

83. 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 VIII EXPORT OF GOODS**

### **Entry of ship outwards**

84. (1) The master or agent of a ship in which goods are to be exported shall, before any

goods are taken on board, deliver to the Collector at the port at which the ship first arrived an entry outwards of the ship if so required by the Collector.

(2) The entry shall be in the prescribed form verified by the master's or agent's signature and shall declare that no imported goods are left on board the ship other than such goods and stores as are specified in the entry outwards.

### **Rummage Certificate**

85. (1) The master of every ship shall obtain from the Collector a certificate of rummage if so required by the Collector.

(2) If the master of a ship desires to obtain a rummage certificate before the whole of the inward cargo of the ship has been discharged, the master shall –

- (a) remove and stow the inward cargo remaining on board the ship in such manner as the Collector directs in order to enable the Collector to rummage the ship; and
- (b) after the ship has been rummaged, stow the inward cargo remaining on board separately and keep it separated to the satisfaction of the Collector from any coastwise or any outward cargo that may subsequently be put into the ship.

### **Loading of goods for export or carriage coastwise by small ships**

86. (1) Where a ship of less than 100 tonnes burden –

- (a) arrives at a place in Kiribati from a place outside Kiribati;
- (b) is about to deliver cargo at more than one place in Kiribati; and
- (c) has on board goods duly reported for export in the same ship,

it shall be lawful, subject to such conditions as the Board may deem necessary, to allow the entry outward of the ship, carriage coastwise as provided in section 105, before the whole of the goods imported in the ship are discharged from it.

(2) The complete separation of the goods entered outwards under subsection (1) from the inward cargo and from any cargo remaining on board for export shall be effected to the satisfaction of the Collector.

### **Transshipment**

87. (1) The Board may by order provide that goods admitted for transshipment shall not be subject to the payment of import duties or export duties and if they meet the requirements established by the Board for such treatment.

(2) Under such order, total or partial exemption from payment of any import duties normally chargeable shall be granted for goods damaged, destroyed, or lost by accident or force majeure, or that are short for reasons due to their nature, during a transshipment operation.

(3) At the request of the person concerned, remains of goods described in subsection (2) may be –

- (a) cleared for home use in their existing condition as if they had been imported in that condition;
- (b) exported;
- (c) rendered commercially valueless under customs control; or
- (d) abandoned;

with the consent of the Board.

(4) Any person having the right to dispose of the goods shall be entitled to declare them for transshipment.

(5) Priority shall be given to the customs operations relating to live animals, perishable goods, and other urgent consignments which are to be transhipped and for which rapid

transport is essential.

(6) Only one goods declaration shall be required for the purposes of transshipment and commercial or transport document setting out clearly the necessary particulars shall be accepted as the descriptive portion of the goods declaration for transshipment.

### **Restriction on export of certain goods**

88. No person shall export or attempt to export or enter or attempt to enter for exportation in a ship of less burden than 35 tonnes –

- (a) warehoused goods;
- (b) goods liable to customs duties transferred from an importing aircraft or ship; or
- (c) good entitled to drawback on export (not being wines, spirits, tobacco, cigars, cigarillos, or cigarettes);

unless the Board otherwise allows.

### **Loading and export of goods**

89. (1) No goods shall be put on board any aircraft or ship for export or use as stores, or be put on board any vessel for the purpose of being put on board any aircraft or ship for export or use as stores –

- (a) from any place not being an approved place of loading;
- (b) without the authority of the Collector;
- (c) before due entry outwards of the exporting aircraft or ship, if the same is by required to be entered outward; or
- (d) before such goods are duly entered.

(2) No goods put into any vessel to be waterborne to any aircraft or ship for export or use as stores shall be put on board the exporting aircraft or ship outside the limits of a port.

(3) The Collector may open and examine goods put on board any aircraft or ship or brought to a place to be put on board any aircraft or ship for export or use as stores, but such examination shall be limited to counting the packages and verifying the description of the goods and the quantities exported.

(4) Notwithstanding anything contained in the preceding subsections, the Board 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 it may either generally or in any particular case direct, and in like manner the Board may direct what goods need not be entered by the exporter until after the departure of any aircraft or ship.

(5) Goods entered after departure under subsection (4) shall be entered within 48 hours of the departure or such further time as the Board may allow.

(6) Any goods which have been put into any vessel to be waterborne to any aircraft or ship for export or use as stores shall be taken directly and without delay to the aircraft or ship in which they are to be exported or used as stores, and put on board immediately.

(7) No goods having put on board any aircraft or ship for export or use as stores shall be discharged in any part of Kiribati without the written permission of the Collector, and except in accordance with such conditions as the Board shall impose.

(8) Any exporter who has entered for export in any aircraft or ship any non-bonded goods shall, in case the goods are not put on board the aircraft or ship for which they are entered, attend before an officer within 24 hours after the departure of the aircraft or ship, or such further period as the Board may allow, and notify the Collector of the short loading of the goods.

**Bond may be required in certain cases**

90. (1) An exporter shall give security by bond if the Collector requires it in such amount as the Collector may require before any –

- (a) warehouse goods;
- (b) goods entitled to any drawback on being put on board an aircraft or ship for export or use as stores;
- (c) goods exportable only under particular regulations, or restrictions; or
- (d) goods liable to customs duties intended for transfer from an importing or an exporting aircraft or ship;

shall be permitted to be entered for use as stores, for export, or for transfer as the case may be.

(2) The exporter shall undertake by the bond that the goods shall be duly put on board the aircraft or ship for which they 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 Collector may deem reasonable, or be otherwise accounted for to the satisfaction of the Board.

(3) Any person who has entered any goods for which bond is required under this section shall, if the goods are not put on board the aircraft or ship for which they have been entered –

- (a) attend before the Collector within 24 hours of the time of clearance of the aircraft or ship or such further period as the Collector may allow, and notify the Collector of the short loading of the goods; and
- (b) re-warehouse or re-enter for export 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 export or use as stores.

**Master may be required to sign for goods**

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

### **Board may allow shipment of stores**

92. (1) Notwithstanding anything to the contrary in the customs laws, and subject to any regulations made under this Act, the Board may permit the master of any aircraft or ship departing from any port in Kiribati upon a flight or voyage to any place outside Kiribati to take on board stores (not being goods prohibited to be exported) for the use of –

- (a) such aircraft or ship; and
- (b) of the master, crew and passengers,

upon –

- (i) such terms and conditions as the Board may direct; and
- (ii) in such quantities as the Board in its discretion shall deem reasonable.

(2) A request for permission under subsection (1) shall be made on the prescribed form and shall be signed by the master or agent.

### **Clearance of aircraft and ship**

93. (1) No aircraft or ship shall depart from any place in Kiribati to any place outside Kiribati, either direct or via another place in Kiribati, until the master or agent has satisfied the Collector that all the provisions of the customs laws have been fulfilled.

(2) Unless clearance is to be withheld in accordance with any other provision of law, the Collector shall deliver to the master or agent a clearance in the prescribed form and the clearance shall be the authority for the departure of the aircraft or ship.



(3) For the purpose of detention in pursuance of any power or duty under any Act, or for the purpose of securing compliance with customs laws relating to the importation or exportation of goods –

- (a) the Collector may refuse the clearance of any aircraft or ship; and
- (b) where clearance has been granted to an aircraft or a ship, the Collector may while the aircraft or ship is within the limits of any port demand that the clearance be returned and the clearance shall forthwith become void.

(4) Any demand under subsection (3) may be made either orally or in writing on the master of the aircraft or ship, and if made in writing may be served –

- (a) by delivering it to the master personally; or
- (b) by leaving it at the master's last known place of abode; or
- (c) by leaving it on board the aircraft or the ship with the person appearing to be in charge or command.

(5) If it appears to the Collector that an aircraft is intended or likely to depart for a destination outside Kiribati from a place in Kiribati before customs clearance is given, the Collector may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear necessary to prevent the flight.

### **Master to deliver account of cargo**

94. (1) The master or agent of every aircraft or ship shall –

- (a) immediately before the departure of the aircraft or ship from a place in Kiribati deliver to the Collector a content in the prescribed form of such aircraft or ship as far as the same can be known to the master or agent;
- (b) make a written declaration in the presence of the Collector; and
- (c) answer all such questions as shall be put by the Collector concerning –
  - (i) the aircraft or ship;
  - (ii) the cargo;

- (iii) the stores;
- (iv) the baggage;
- (v) the officers;
- (vi) crew;
- (vii) passengers; and
- (viii) the voyage.

(2) The Board may require the master or agent to furnish a list of the officers, crew and passengers to the Collector at least 1 hour before the scheduled time of departure of any aircraft or ship.

#### **Clearance in ballast**

95. (1) If any ship is departing in ballast from Kiribati to any place outside Kiribati, not having any goods on board except stores duly shipped as such, nor any goods reported inwards for export in the ship, the Collector shall, on the application of the master or agent, clear the ship in ballast.

(2) Where the Collector clears the ship in ballast under subsection (1) the master or agent of such ship shall comply with customs laws as if such ship had cargo on board, except that the words "in ballast" shall be written on the prescribed form in the places which are provided for particulars of cargo.

(3) For the purpose of subsection (1) ships having only passengers with their bona fide baggage on board in addition to stores shall be deemed to be in ballast.

#### **Clearance to be produced to the Collector on demand**

96. (1) The Collector may –

- (a) go on board any aircraft or ship within Kiribati;
- (b) demand production of the clearance of the aircraft or ship; and
- (c) ask any questions concerning the aircraft or ship, the cargo, stores, baggage, officers, crew, passengers and intended flight or voyage.

(2) The master shall comply with any demand made and answer truthfully any questions put under subsection (1).

### **Deficiency in stores**

97. If the Collector, on boarding any aircraft or ship returning to Kiribati after departing from Kiribati on a flight or voyage to a place outside Kiribati, discovers a deficiency in the aircraft's or ship's stores in excess of the quantity which might fairly have been consumed on the flight or voyage, then the master shall pay the duties on the deficiency at the rate chargeable on similar goods imported.

## **PART IX IMPORT AND EXPORT BY POST**

### **Application of customs laws to import and export by post**

98. (1) Subject to subsection (5) the provisions of the customs laws shall apply *mutatis mutandis* to any postal packet.

(2) For the avoidance of any doubt any –

- (a) offence, penalty, punishment or fine created or imposed; or
- (b) power of examination, seizure, arrest or detention of goods or persons, or any other power conferred upon an officer; and

(c) legal proceedings that may be taken accordingly;

under the customs laws shall also apply *mutatis mutandis* to any postal packet whether imported or exported as the case may be.

(3) In the case of goods exported from Kiribati by post, the time of entry of such goods shall be deemed to be the time of costing.

(4) The Controller of Postal Services shall have the same right of recovering any sum paid in pursuance of the customs laws in respect of any postal packet as the Controller would have if the sum so said were a rate of postage.

(5) The Minister, acting in accordance with the advice of Cabinet may make regulations providing or –

- (a) modification of or exception from the application of any of the customs laws to postal packets;
- (b) securing the observance of the customs laws with regard to postal packets;
- (c) enabling the officers of the post office to perform for the purpose of the customs laws any of the duties of the importer and exporter;
- (d) carrying into effect any arrangements with the government or postal administrator  
?????????????;
- (e) prescribing penalties for any contravention of the customs laws or of the regulations made for the purposes of this section.

### **Goods contained in postal packets contrary to law**

99. (1) 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 a senior officer.

(2) A senior officer may open and examine the postal packet referred to in subsection (1)

–

- (a) in the presence of the person to whom such postal packet is addressed;
- (b) in the presence of such person's accredited representative; or
- (c) in the absence of such person, if, after notice in writing from the officer requiring the attendance of the person left at or forwarded by post to the address on the postal packet, if any, the person or the accredited representative fails to attend.

(3) Where such senior officer finds the postal packet described in subsection (1) and (2) (after opening and examining it) to contain –

- (a) such goods;
- (b) letter;
- (c) printed matter;
- (d) document; or
- (e) any other thing;

the conveyance of which and the importation of which is prohibited or restricted by law, then such officer may detain such postal packet and deal with it and its contents as goods imported contrary to the customs laws.

(4) Where the finding of an officer under subsection (3) shows that the conveyance by post and the importation of the packet and its contents is neither prohibited nor restricted by law then such officer shall forward and deliver such packet –

- (a) either to the person to whom it is addressed;
- (b) to that person's accredited representative upon payment of the postage or other sum, if any, chargeable thereon; or
- (c) if both these persons are absent, by post to the person to whom it is to be delivered.

**Part not in derogation of [Post Office Ordinance](#)**

100. The provisions of sections 98 and 99 of this Part shall be in addition to and shall not derogate from the provisions of the [Post Office Ordinance](#) (Cap. 74).

**PART X**  
**COASTING TRADE**

**Coasting aircraft or ship to take only coastwise cargo**

101. (1) No coasting aircraft or ship shall carry uncustomed goods coastwise unless such aircraft or ship is licensed by the Board to do so.

(2) In this Part "coasting aircraft or ship" means an aircraft or ship licensed by the Board under subsection (1).

(3) 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 Kiribati.

(4) No uncustomed tobacco products, wines and spirits (except spirits the product of Kiribati removed under the provisions of the excise laws or with the permission of the Board), shall be put on board any coasting aircraft or ship for carriage coastwise except –

- (a) at an approved place of loading or sufferance wharf; and
- (b) in the presence or with the authority of the Collector.

(5) When the carriage of goods in any coasting aircraft or ship is interrupted by accident or force *majeure*, the master or other person concerned shall –

- (a) take precautions to prevent the goods from entering into unauthorised circulation; and
- (b) advise the Collector of the nature of the accident or other circumstance which interrupted the journey.

(6) When a coasting aircraft or ship carrying goods coastwise is carrying –

- (a) unentered imported goods; or
- (b) goods placed under any other customs procedure;

the Collector shall allow the goods carried coastwise to be loaded or unloaded as soon as possible after the arrival of the ship at the place of loading or unloading.

(7) The Board, subject to such conditions as it may require to be observed, may permit the master of any coasting aircraft or ship bringing any goods coastwise to an approved port to enter –

- (a) such aircraft or ship and goods; or
- (b) any of them outwards for export without first discharging the same.

(8) The Board may, notwithstanding anything contained in any provisions of this Part, permit the loading, clearance the entry and unloading of any coasting aircraft's or ship and any uncustomed good order such conditions as it may, in any particular cases, impose.

(9) The Board may by notice require –

- (a) the owners of goods to be shipped coastwise to furnish to the Board prior to shipment an account of such goods in such manner as may be specified in the notice; and
- (b) the master or agent or coasting aircraft or ships to deliver to the Board, prior to the departure from any port or place, an account of all cargo and stores taken on board in such manner as may be specified in the notice.

### **Cargo books**

102. (1) The master of any coasting aircraft or ship shall keep 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 ship it is bound on each flight or voyage.

(2) Unless the Board otherwise directs, the master of any coasting aircraft or ship shall enter in the cargo book –

- (a) at every port or place of loading, the name of the port or place;
- (b) an account of all goods taken on board 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;
- (c) At every port or place of discharge of such goods, the respective days on which any of them are unloaded and delivered; and
- (d) The respective time of departure from every port or place of loading and of arrival at every port or place of discharge.

(3) Before any coasting aircraft or ship departs from any port or place of loading, the cargo book shall be delivered to the Collector, who shall return it dated and signed, and such signature in the cargo book shall be the clearance of the aircraft or ship for the voyage.

(4) Any coasting aircraft or ship –

- (a) taking cargo on board to be carried coastwise at a place where no officer is stationed, may depart from such place without delivering the cargo book to an officer; and
- (b) having cargo duly loaded to be carried coastwise may discharge at a place where no officer is stationed without delivering the cargo book to an officer.

(5) The master of the aircraft or ship referred to in subsection (4) shall produce the cargo book to the Collector at the first place where the Collector is stationed at which the aircraft or ship arrives after loading or discharge, and the Collector shall thereupon date and sign the cargo book, if satisfied as to its correctness.

(6) Immediately after the arrival of any coasting aircraft or ship at any port or place of



discharge and before any goods be unloaded, the cargo book noted with the name of the place or wharf where the cargo is to be discharged shall be delivered to the Collector, who shall note in the cargo book the date of delivery.

(7) The master of any coasting aircraft or ship who is required to keep a cargo book shall produce it for the inspection of the Collector, who shall be at liberty to make any note or remark therein.

(3) If upon examination –

- (a) any package entered in the cargo book as containing imported goods is found not to contain such goods, such package with its contents shall be forfeited; or
- (b) any package is found to contain imported goods not entered in the cargo book, such goods shall be forfeited.

### **Search of coasting aircraft or ship**

103. (1) The Collector may –

- (a) go on board any coasting aircraft or ship in any port or place in Kiribati or on any coasting ship at any time;
- (b) search the aircraft or ship;
- (c) examine all goods on board, and all goods then being loaded or unloaded; and
- (d) demand all books or documents which ought to be on board such aircraft or ship and require any such books or documents to be brought to him for inspection.

(2) The master of such aircraft or ship shall answer all questions concerning the aircraft or ship and its cargo, officers, crew, passengers and the flight or voyage as may be put to him by the Collector.

### **Dealing with unauthorised goods**

104. The master of any coasting aircraft or ship which has taken on board any wreck or other goods and discharged any uncustomed goods in the course of a flight or voyage from one part of Kiribati to another shall –

- (a) proceed forthwith direct to the nearest port in Kiribati;
- (b) render an account of the circumstances and of any goods so taken on board or discharges;
- (c) declare and explain the same to the satisfaction of the Collector; and
- (d) deliver all goods so taken on board into the Collector's care.

### **Aircraft and ship from a place outside Kiribati**

105. (1) Where any aircraft or ship arrives in Kiribati from any place outside Kiribati –

- (a) having on board cargo for delivery at more than one port in Kiribati; or
- (b) for the purpose of loading cargo for a foreign port at more than one port in Kiribati,

the Collector may permit the aircraft or ship to convey goods from any port at which it partially discharges its cargo or loads cargo for a foreign port to its port of destination within Kiribati for delivery there.

(2) The goods referred to in subsection (1) shall be completely separated from the inward cargo still on board, to the satisfaction of the Collector.

(3) Goods imported at a port in Kiribati but consigned to and intended for delivery at another port in Kiribati may, subject to such conditions as the Board may impose, be transhipped at the port of first import 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.

(4) At the latter port referred to in subsection (3), the goods shall be dealt with as goods imported direct from a place outside Kiribati.

(5) Any aircraft or ship referred to in subsections (1) and (3) which is conveying goods from one port within Kiribati to another port within Kiribati shall not for that reason be deemed a coasting aircraft or ship.

(6) This section applies notwithstanding any provisions in the customs laws to the contrary.

## PART XI

### ADMINISTRATION OF CUSTOMS

#### **Powers of Board**

106. The Board shall carry out any function and exercise any power assigned to it under this or any other Act but to the extent that the function or power conferred by other laws is inconsistent with the customs laws, the customs laws shall prevail with respect to collection and management of customs duties.

#### **Continuance of officers**

107. All officers serving in the Customs at the commencement of this Act shall be deemed to have been duly appointed under this Act.

#### **Customs officers**

108. (1) There shall be an official designated the Comptroller of Customs who shall be a public officer and to whom the Board on the commencement of this Act shall be deemed to have delegated to him all its functions under this Act including the administration of this and any other relating to Customs (except this power of delegation).

(2) Other officers may be appointed by the Board, acting in accordance with the advice of the Public Service Commission, who shall act as customs officers under the direction of

the Comptroller.

(3) Every officer appointed as aforesaid shall be liable to serve in any place in Kiribati and shall perform such duties as may be required of him by the Comptroller.

### **Delegation by the Comptroller**

109. (1) The Comptroller may by instrument under his hand delegate to any officer in relation to any particular matter or class of matters any of his function under any customs laws (except this power of delegation).

(2) A function so delegated under section 108 and 109 when performed by the Comptroller or an officer shall, for the purposes of the Customs laws, be deemed to have been performed by the Board.

### **General powers of the Comptroller**

110. In all cases not otherwise provided for in this Act, the Comptroller may exercise any power exercisable by the Customs.

### **Customs seal**

111. (1) The seal of the Customs is the National Emblem of Kiribati with the words "Kiribati Customs" encircling the Emblem, and with the name of the port added.

(2) Judicial notice shall be taken of the seal.

### **Customs flag, etc.**

112. The vessels, boats and aircraft employed in the service of the customs shall be distinguished from other vessels, boats and aircraft by such flag or in such other manner

as is prescribed.

### **Oaths administration**

113. Where proof on oath is required by any law, or is necessary in any matter relating to the Customs, such oath may be taken before the Comptroller who is hereby authorised to administer oaths.

### **Designation of ports, etc**

114. (1) The Beretitenti, acting in accordance with the advice of the Cabinet, may by order in writing designate and fix the limits of –

- (a) a port;
- (b) a place of loading and unloading within a port;
- (c) a boarding station within a port; and
- (d) an aerodrome.

(2) A port, and a place of loading and unloading, may be designated for specified limited purposes or without any limitation.

### **Designation of customs areas, etc**

115. (1) The Board may, by notice in writing designate –

- (a) a customs area;
- (b) a sufferance wharf;
- (c) a place for the landing and embarkation of a person;
- (d) a place for the examination of goods (including baggage);
- (e) an entrance and exist, whether general or specific, to and from any customs area or aerodrome;

- (f) a road or route in Kiribati over which goods in transit or goods transferred between ports shall be conveyed;
- (g) a public warehouse;
- (h) a State warehouse; and
- (i) a bonded warehouse.

(2) Any designation made under the provisions of subsection (1) may be subject to such conditions including the provision of suitable furnished accommodation for officer) as the Board may think fit, and the Board may, in any particular case and subject to such condition as he may deem necessary, permit any boarding station area, wharf, place, road, route, entrance or exit to be used as if it had been so designated and in any such case the provisions of this Act shall apply thereto, as if it had been so designated.

(3) Any designation made under the provisions of subsection (1) may be revoked or varied by the board by notice in writing.

### **Existing ports, etc., continuation**

116. All ports, places of loading and unloading, boarding stations, customs areas, sufferance wharves, places for landing, embarkation or examination, bonded warehouses, roads, routes, entrances and exists in actual use by the Customs at the commencement of this Act shall be deemed to have been designated in accordance with the provisions of this Act.

### **Working days and hours and overtime charges**

117. (1) The working days and hours of the Customs shall be such as may be prescribed and, except with the permission of the Board, no work connected with embarkation or disembarkation of passengers, the discharge, landing, loading, or receipt of any cargo or other goods shall be performed outside the prescribed working days and hours.

(2) When work is permitted by the Board to be performed outside the prescribed working days and hours, the services of the officers involved shall be charged for at the prescribed rates.

### **Tax file number**

118. (1) The Board may require that the tax file number referred to in section 129 of the [Income Tax Act 1990](#) shall be included in any document prescribed under section 143, or in any other document used for the purposes of the customs laws.

(2) The Board may refuse to accept any document produced by a person which does not contain a tax file number.

(3) A person who does not have a tax file number may apply to the Board under section 129 of the [Income Tax Act 1990](#) for a number and the Board shall issue a number in accordance with that section.

(4) Notwithstanding the secrecy provisions of the [Internal Revenue Board Act 1990](#) and section 133 of the [Income Tax Act 1990](#), the Board may disclose the tax file number of a person to any other person for the lawful purpose of the administration of the customs laws.

### **Receipt for duty and other payment made on bill of entry**

119. (1) Any person requiring a receipt –

- (a) for duties payable under the customs laws; or
- (b) for any other moneys which are brought to account in accordance with the directions of the Board; or
- (c) for a bill of entry;

may have the same upon furnishing an officer with an additional copy of the bill of entry.

(2) The additional copy of the bill of entry, after having been compared with the original entry any signed by an officer, shall be delivered as a receipt to the person requiring it.

## **PART XII**

### **POWERS OF CUSTOMS OFFICER**

#### **Search and arrest of person**

120. (1) If an officer has reason to believe that a person who –

- (a) is on board an aircraft or ship;
- (b) lands from an aircraft or ship; or
- (c) receives goods from such a person;

has possession of (including in personal baggage) any uncustomed goods, then the officer may search that person.

(2) If a person described in subsection (1) refuses to answer the questions of an officer about such goods or denied having them, and such goods are then found in that person's possession, then such goods shall be forfeited.

(3) An individual has the right to be taken with all reasonable despatch before a magistrate or a superior officer before being searched by an officer under this section, and shall be informed of this right by the officer before any such search is commenced.

(4) An individual shall be searched by a person of the same sex.

(5) In addition to any other power of arrest or detention conferred by the customs laws, any officer may arrest detain any person who is –

- (a) found committing an offence; or



(b) suspected on reasonable grounds of having committed an offence against the customs laws;

and take the person before a magistrates' courts to be dealt with according to law.

(6) If –

(a) any person liable to arrest under the customs laws escapes from any officer attempting an arrest; or

(b) any officer for any reason fails to arrest the person;

such person may afterwards be arrested and detained by any office at any place in Kiribati within 7 years from the time offence was committed, as if the person had been arrested at the time of committing such offence.

### **Search warrants and writs of assistance for entering any place**

121. (1) If any officer has reasonable cause to suspect that any –

(a) uncustomed or prohibited goods; or

(b) books or documents relating to uncustomed or prohibited goods;

are kept in any house or other place in Kiribati, the officer may apply by information on oath for a search warrant from any magistrate in Kiribati.

(2) A court may by a general or special warrant in Form 1 or 2 set out in Schedule 6 authorise an officer who applies under subsection (1) –

(a) to enter and search the house or other place, by day or night; and

(b) to seize and carry away any uncustomed or prohibited goods, or any books or documents relating to uncustomed or prohibited goods, as may be found there.

(3) The Board may apply to the court for a writ of assistance and the court shall grant the

Board's application in Form 3 set out in Schedule 6.

(4) All writs of assistance issued from the court under subsection (3) shall continue in force for a period of 12 months.

(5) Any officer having a writ of assistance issued under subsection (3) –

(a) enter and search any house or other place; and

(b) seize and carry away any uncustomed or prohibited goods, or any books or documents relating to uncustomed or prohibited goods;

as may be found there, and deposit them in a State warehouse.

(6) Entry under subsection (5) may not be made at night, except in the company of a police officer.

(7) In case of resistance, an officer executing a warrant issued under subsection (2) or a writ of assistance issued under subsection (3) may use such reasonable force to break open any door, and force and remove any other impediment or obstruction to entry or seizure in that house or other place.

### **Stoppage and examination of aircraft, ship, or vehicle by an officer**

122. (1) Any officer may upon reasonable suspicion stop and search any aircraft, ship or vehicle within Kiribati to ascertain whether there are any uncustomed or prohibited goods on board.

(2) If no goods are found from a search under subsection (1), the officer shall not be liable to any prosecution or action of law for stoppage and search.

(3) Any officer may board any aircraft or ship within Kiribati and stay on board for any period, and shall have free access to every part, with power –

- (a) to secure any part by such means as are considered necessary;
- (b) to examine any goods, and take account of them;
- (c) to require any goods to be unloaded, and removed for examination, or for their security;
- (d) to unload and remove any goods at the expense of the master or owner, or the agent of either;
- (e) to examine any goods in the course of being unloaded or removed, or when unloaded or removed; and
- (f) to lock up, seal, mark, or otherwise secure any goods on board such aircraft or ship.

(4) If –

- (a) any officer acting under the provisions of subsection (3) finds that there is no free access to any place or any box or chest; or
- (b) 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 shall not be liable to prosecution or action at law for so doing.

(5) Any officer may seize any aircraft or ship found abandoned within Kiribati and such aircraft or ship shall be delivered into the custody of the Board.

(6) Any officer may detain any derelict or other aircraft or ship coming, driven, or brought into Kiribati under legal process, by stress of weather, or for safety.

(7) Where an aircraft or ship is detained under subsection (6), and an officer is stationed either on board or otherwise, for the protection of the revenue, the aircraft or ship may continue to be detained until the expenses of so stationing the officer are paid.

## **Patrol**

123. (1) Any officer, when on duty, may patrol any part of Kiribati other than a dwelling-house.

(2) Any officer in charge of any aircraft, ship, or vehicle employed to the prevention of smuggling may take the aircraft, ship, or vehicle to any place convenient for that purpose, and keep it at that place for such time as necessary.

### **Production of documents and answers to questions**

124. (1) The importer, exporter, or any person concerned in the import or export of any goods shall, on the request of any officer, produce for the inspection of such officer invoices, books of account, computer stored records and any other documents of whatever nature relating to the goods which the officer requires.

(2) The importer, exporter, or any person concerned in the import or export of any goods shall –

(a) answer such questions and make and subscribe to such declarations regarding–

(i) the weight, measure, strength, value, cost, selling price, origin and destination of such goods; and

(ii) the name of the place whence or where any imported goods were consigned to or transferred from one aircraft or ship to another,

as shall be put to him by an officer; and

(b) produce such evidence as the officer may consider necessary in support of any information so furnished.

(3) Action may be taken by an officer under subsections (1) and (2) at any time within 3 years of the date of –

(a) import or export, as the case may be; or

(b) delivery to an officer of an entry for the goods;

if the goods have been entered.

(4) If the importer or exporter or other person concerned shall without reasonable cause neglect or refuse to carry out or comply with any of the provisions of this section, the Board may –

- (a) refuse entry or delivery or prevent shipment if the goods have not been entered or delivered or shipped; or
- (b) 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 it shall see fit to impose or require.

(5) The deposit made in accordance with subsection (4) shall be forfeited unless within 3 months of the time of deposit, or such further period as the Board may allow, the person making the deposit produces the required documents or declaration to the Board.

(6) Where under the customs laws the master or agent or any aircraft or ship within Kiribati is required to answer questions put by any officer, it shall be lawful for the officer to require the master to attend at a specified time and place, and the requirements of the customs laws shall be deemed not to have been fulfilled unless the master attends when required.

(7) In lieu of appearing personally, the master or agent may depute a senior officer of such aircraft or ship to attend for the purpose of answering questions, and in such case any answer to any questions shall for the purposes of subsection (6) be deemed to have been made by the person required to answer such questions.

### **Other powers**

125. (1) 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, in addition to the other powers given by the customs laws.

(2) Any officer may on the entry of any goods, or at any time afterwards, take samples of such goods and such samples shall be disposed of and accounted for in such manner as the Board may direct.

(3) The Board may permit –

- (a) the entry, unloading, delivery, removal, and loading of goods; and
- (b) the report and clearance of aircraft or ship in such form and manner as it may direct to meet the exigencies of any case to which the customs laws may not be conveniently applicable.

### **Legal protection of officers**

126. (1) Without prejudice to any protection afforded to the Board or any officer by this Act or any other law, no criminal or civil proceeding shall lie against the Board or any officer for any act done –

- (a) in good faith; and
- (b) without gross negligence;

in the exercise of any power or the performance of any duty conferred or imposed by or under this Act.

(2) Neither the Board nor any officer acting within the scope of the authority under this Act shall be liable to any criminal or civil proceeding on account of any search made under section 120.

(3) Neither the Board nor any officer shall be liable on account of stoppage and examination under section 123 to any criminal or civil proceedings.

(4) Neither the Board nor any officer shall be liable to any criminal or civil proceedings for patrol in accordance with section 123.

**PART XIII**  
**COURT PROCEEDINGS**

**Customs proceedings**

127. (1) If before the delivery of any imported goods from customs charge any dispute arises as to the amount of duty, if any, is payable on such goods, the importer shall pay the amount demanded by the Collector but may, within 3 months after the date of payment, apply to a court for a declaration as to the amount of duty, if any, properly payable on such goods.

(2) 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 Board with such interest as the court may determine.

(3) Any forfeiture and condemnation under the customs laws or any duty, rent, charge, or fee due under such laws may be sued for, recovered, or enforced before a court of competent jurisdiction with interest as the court may determine.

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

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

**Proceedings to be taken within 7 years**

128. Prosecutions and other proceedings arising from an offence under the customs laws may be commenced at any time within 7 years after the date of the offence.

## **Offences**

129. (1) 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.

(2) Subject to subsection (4) of section 42 of the Constitution any officer may prosecute and conduct any information or other proceeding under the customs laws in respect of any offence or penalty.

## **Seizure of goods**

130. (1) No claim shall be entered to any action or process for the forfeiture of any animal, vehicle, aircraft, ship, or goods seized for any cause of forfeiture in any court unless such claim is made by or in the real name of the owner.

(2) If the owner resides in Kiribati, then oath shall be made by that person before the court before which the action is brought, that the animal, aircraft, ship, vehicle or goods were that person's property at the time of seizure.

(3) If the owner resides outside Kiribati, then oath shall be made by the attorney by whom the claim is made that –

- (a) the attorney has full authority from the owner to enter the claim; and
- (b) to the best of the attorney's knowledge and belief that animal, vehicle, aircraft, ship, or goods were at the time of seizure the property of the claimant.

(4) On failure of making the proof of ownership required by subsections (2) or (3) the animal, vehicle, aircraft, ship or goods shall be condemned, as if no claim had been made.

(5) If the animal, vehicle, aircraft, ship, or goods is at the time of the seizure the property



of any number of owners exceeding 5, it shall not be necessary for more than 2 of them to make the claim on the part of themselves and their co-owners.

(6) If the animal, aircraft, ship or goods is at the time of seizure the property of a corporation, the claim may be entered upon oath made by the secretary or a director of the corporation under subsection (2) or by the attorney for the secretary or a director under subsection (3).

### **Certificates of probable cause**

131. (1) This section applies to proceedings –

- (a) on account of the seizure of any animal, aircraft, ship, vehicle or goods; or
- (b) pursuant to any act done by any officer in the execution or intended execution of the officer's duty;

under the customs laws.

(2) If the proceedings are dismissed, and it appears to the court that there was probable cause for the seizure or act, the court shall certify the record that there was such probable cause.

(3) In such case the person who made the seizure or performed such act shall not be liable to any action, suit or prosecution on account of such seizure or act.

(4) A copy of the certificate, verified by the signature of the officer of the court, shall at the request of the officer concerned be given to the officer, and the certificate shall for all purposes be sufficient evidence of such by the court.

(5) In case any proceeding is commenced against any person on account of any seizure or

act referred to in subsection (1) and a verdict is given against the defendant, then the plaintiff shall only recover –

- (a) any goods or thing seized; or
- (b) the value thereof without costs of suit;

and no conviction shall be recorded against the defendant, if the court is satisfied that there was probable cause for such seizure or act.

### **Onus of proof**

132. (1) In any prosecution under the customs laws, the proof that –

- (a) the proper duties have been paid in respect of any goods; or
- (b) 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.

(2) The averment that –

- (a) the Board has elected that any particular penalty should be sued for or recovered;
- (b) any goods thrown overboard, staved, or destroyed were thrown overboard, staved, or destroyed to prevent seizure;
- (c) any person is an officer, or that any person was employed for the prevention of smuggling; or
- (d) the offence was committed, or that any act was done within the limits of any port, or in Kiribati waters, or over Kiribati, or where the offence is committed in any port or place in Kiribati, 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.

(3) If upon any trial a question arises whether any person is an officer –

- (a) the person's own evidence thereof shall be deemed sufficient prima facie proof; and
- (b) every such officer shall be deemed a competent witness upon the trial of any suit or information on account of any seizure or penalty;

even if the officer may be entitled to any reward upon the conviction of the party charged in such suit or information.

## **PART XIV PENALTIES**

### **General provisions as to offences and penalties**

133. (1) Any act or omission in respect of which any pecuniary penalty (however described) is imposed by this Act is an offence against this Act.

(2) Subject to subsection (3) and (4), any person who is convicted of any offence against the customs laws for which no specific penalty is provided shall be liable to a fine not exceeding \$1,000.

(3) Where by reason of the commission of an offence under this Act the payment of any customs duty has been evaded, any fine imposed by the court upon the conviction of any person for that offence shall be not less than treble the amount of duty payable unless the court for special reasons thinks fit to order otherwise.

(4) Where anything becomes liable to forfeiture under the customs laws, any person who is knowingly concerned in the act or omission which renders it liable to forfeiture commits an offence, and shall be liable to the penalty provided by this Act in respect of that offence.

(5) If no such penalty is provided under subsection (4), then the person shall be liable to a fine not exceeding \$2,000, or treble the duty paid value of any goods seized, whichever is

higher.

(6) Where any court has imposed a fine for an offence against the customs laws and the fine is not paid, the court may, notwithstanding anything contained in any other law, order the defendant who is convicted of the offence, in default of payment of the fine to be imprisoned for any term not exceeding 6 months where the fine does not exceed \$1,000 or 24 months where the penalty exceeds \$1,000.

(7) Where a fine of \$1,000 or more has been incurred under the customs laws, and the defendant has previously –

- (a) been convicted for an offence against the customs laws; or
- (b) incurred a fine 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 fine, order the defendant to be imprisoned for any period not exceeding 24 months.

(8) In a case where a fine is to be determined by the value of any goods, the value shall be –

- (a) estimated in accordance with section 11; or
- (b) if such value is not available, taken according to the rate and price for which the goods of the like kind but of the best quality upon which the customs duties have been paid were sold

–

(i) at or about the same time of the offence; or

(ii) 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 the rate or price in bond.

(9) A certificate under the hand of an officer of the value of such goods shall be accepted by the court as prima facie evidence of the value thereof.

(10) The Board may, with the approval of the Minister in the case of a reward exceeding \$20, reward any person who provides information on any offence against the customs laws or assists in the recovery of any fine or penalty.

(11) Subject to subsection (4) of section 42 of the Constitution and notwithstanding any other provisions of this Act, the Board may, in substitution for any proceedings in a court, accept on behalf of the Republic a sum of money by way of compensation from any person reasonably suspected of a contravention of the customs laws.

(12) Such compensation shall be accepted only where the person reasonably suspected of the contravention has expressed willingness contravention shall be so dealt with.

### **General offences against customs laws**

134. (1) Any person who, in any matter relating to the customs laws, or under the control or management of the Board in relation to customs –

- (a) makes or causes to be made any false statement orally or in writing; or
- (b) when required by the customs laws to answer questions put by any officer, refuses to answer such questions;

commits an offence.

(2) Any person who –

- (a) imports into Kiribati any prohibited or restricted goods, contrary to the prohibition or restriction, whether the goods be unloaded or not;
- (b) knowingly is concerned in unloading any prohibited or restricted goods, contrary to the prohibition or restriction;
- (c) knowingly keeps any prohibited, restricted, or uncustomed goods;

- (d) exports from Kiribati or uses as stores on any aircraft or ship any prohibited or restricted goods contrary to the prohibition or restriction;
- (e) knowingly is concerned in acquiring possession of or dealing with any goods with intent to defraud the revenue or any duties thereon, or to evade any prohibition or restriction applicable to such goods; or
- (f) knowingly is concerned in any fraudulent evasion or attempt or evasion of any import or export customs duties, or of the customs laws;

commits an offence.

(3) Any person who –

- (a) imports or exports any goods;
- (b) causes any goods to be imported or exported; or
- (c) attempts to import or export any goods; and
- (d) conceals such goods in any way; or
- (e) packs such goods in any package or parcel –
  - (i) in a manner calculated to deceive an officer; or
  - (iii) containing goods not corresponding with the entry thereof;

commits an offence.

(4) Where any goods which are ordinarily liable to duty at a given rate were entered in accordance with the law at a lower rate of duty or free of duty on the basis of the purpose for which they were imported, an importer and any other person who –

- (a) knowingly is concerned in the use of goods contrary to that purpose without the prior payment of duties in accordance with section 26; or
- (b) is unable to produce the goods to any officer or otherwise account for them in accordance with section 27;

commits an offence.

(5) The master or owner of any ship who fails to appoint an agent as requires under section 80, commits an offence.

(6) Any person in charge of any ship or aircraft or any person driving or conducting a vehicle who refuses to stop or allow such examination when required by any officer contrary to section 122, commits an offence.

(6) Any importer or exporter or other person concerned who without reasonable cause neglects or refuses to carry out any of the provisions of section 124, commits an offence.

(7) In respect of each offence under this section any person convicted shall be liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 24 months or to both such fine and imprisonment.

(8) In respect of an offence under subsection (2), (3), or (4), any goods involved in the offence shall be forfeited whether or not the person committing the offence is prosecuted.

(9) In respect of an offence under subsection (2), (3), or (4), a fine not exceeding three times the value of any goods involved in the offence shall apply where that amount is higher than the amount referred to in subsection (8).

(10) In respect of an offence under subsection (7), the Board may –

- (a) or such neglect or refusal, refuse entry or delivery or prevent shipment if the goods have not entered or delivered or shipped; or
- (b) allow entry, delivery, or shipment upon such terms and conditions, an upon deposit of such sum, pending the production of the proper documents and declaration;

as it shall see fit to impose or require.

### **Offences in relation to the arrival and unloading of an aircraft or ship**

135. (1) The persons described in the paragraphs below commit an offence by the conduct referred to in each paragraph:

- (a) The master of any aircraft or ship who fails to follow the procedure prescribed under section 33 which deals with arrival of aircraft and ships.
- (b) Any person for breach of section 35 which deals with goods on arrival.
- (c) The master of any aircraft or ship who is unable to give due account of the lawful discharging of goods which were on the aircraft or ship after its arrival.
- (d) The master or agent of any aircraft or ship who fails to make due report or makes a report that is false in any particular.
- (e) The master or agent of any aircraft or ship who breaches section 42 or provides incorrect or incomplete information under section 42 which deals with questions by an officer on arrival.
- (f) The master or agent of any aircraft or ship where bulk is broken contrary to section ? which deals with the report of an aircraft or ship unless cause be shown to the satisfaction the Board.
- (g) The master or agent of any aircraft or ship where without the permission of an officer goods
  - 
  - (i) on board the aircraft or ship are destroyed, moved, or opened before the aircraft or ship arrives at its place of unloading; and
  - (ii) are duly given into the possession of a customs area occupier;unless cause be shown to the satisfaction of the Board.
- (h) Any person, who, before delivery of any goods from customs control, wilfully staves or destroys them or opens any package without consent of an officer.
- (i) The master of any aircraft or ship who permits any person to leave the aircraft or ship after arrival in Kiribati except as permitted under the customs laws.
- (j) A customs area occupier if any goods or packages without consent of an officer are destroyed or opened after surrender of them into the occupier's custody and before due delivery by the occupier.



(k) Any agent of an aircraft or ship or other person who fails without reasonable cause in comply with section 70 which deals with deposit of goods in a State warehouse.

(2) The penalty for committing an offence described in subsection (1) is \$5,000. In addition to the fine for the offence described in paragraph (c), there may be assessed a penalty of up to treble the duty paid value. In addition to the fine for the offence described in paragraph (d) goods not duly reported shall be forfeited unless the omission is explained to the Board's satisfaction.

(3) Where the Board is satisfied that the failure of the agent of an aircraft or ship or other person to comply with the provisions of section 70 is due to the fault of the importer of the goods, the importer shall incur a fine of \$5 per tonne or cubic metre for each day after the prescribed period that such goods remain in the customs area.

### **Offences in relation to warehousing**

136. (1) The persons described in the paragraphs below commit an offence by the conduct referred to in each paragraph:

- (a) The occupier of the bonded warehouse or customs area who fails, on receipt of a written notice from the Board, to comply with any directions given under section 61 within a period of 7 days (Sundays and public holidays excluded).
- (b) A customs area occupier who fails to produce the goods to an officer or to account for them satisfactorily within the period required in accordance with section 53.
- (c) Any person who, without the authority of an officer or without just and sufficient cause opens any bonded warehouse or customs area or gains access to the goods therein.
- (d) Any person who enters any bonded warehouse or customs area when not authorised by the warehouse keeper or when forbidden by an officer, or who refuses to leave any bonded warehouse or customs area when requested to do so by an officer.
- (e) Any person who unlawfully takes any goods out of any bonded warehouse or customs area without the goods having been duly entered, or assists or is concerned in such taking.

- (f) Any person who destroys, steals or in any way misappropriates or converts any goods duly warehoused or deposited in a customs area.
- (g) The warehouse keeper or owner of goods who fails to pay duty in accordance with section 17 which deals with changes in warehoused goods.

(2) The penalty for offences describes in subsection (1) is –

- (a) for paragraph (a), .....?..... plus \$15 per day for each day such package or parcel is not properly arranged or stowed;
- (b) for paragraph (b), \$200 per package or parcel;
- (c) for paragraph (c), \$5000;
- (d) for paragraph (e) or (f), \$3000 or 2 years imprisonment, or both; and
- (e) for paragraph (g), double the duty otherwise payable.

(3) If any person convicted under subsection (1)(e) or (f) is an officer, no duty shall be payable in respect of the goods, and any damage sustained by reason of the conduct shall, be made good to the importer, consignee, or owner.

### **Offences in relation to export and clearance**

137. (1) The persons described in the paragraphs below commit an offence by the conduct referred to in each paragraph.

- (a) The master or agent of an aircraft or ship who takes any goods on board at any port contrary to sections 84 and 85, who unload or loads any goods at a sufferance wharf contrary to sections 85, 86 and 89, or who fails to observe any of the requirements of Part VIII.
- (b) An exporter who fails to enter goods in accordance with section 89.
- (c) Any person who 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 section 90.

- (d) Any exporter who puts on board any aircraft or ship or brings to any place for putting on board any aircraft or ship any goods which are found by an officer not to agree with the particulars in the entry for export, being goods –
- (i) for which bond is required under section 90; or
  - (ii) which are liable to export duties.
- (e) Any exporter who puts on board any aircraft or ship or brings to any place for putting on board any aircraft or ship any goods on which drawback is being claimed or allowed and which are found by an officer to be goods not entitled to drawback.
- (f) The master or agent of any aircraft or ship on which goods are placed after being entered, being goods for which bond is required under section 90 where the goods –
- (i) are used otherwise than as stores (if so entered);
  - (ii) are not duly exported to an discharged at the declared destination (such goods not having been discharged in Kiribati with the permission of an officer under section 90.
- (g) Any exporter who fails to notify an officer of short loading of goods.
- (h) The master of an aircraft or ship who fails to return a clearance where demand is made under section 93(3) which deals with the clearance of aircraft and ships.
- (i) Any person who contravenes any instructions given under section 93 which deals with the clearance of aircraft and ships.
- (j) The owner and master of an aircraft who flies in contravention of any instruction given under section 93(5) which deals with the clearance of aircraft.
- (k) The master of any aircraft or ship who fails to produce a clearance or to answer questions truthfully when requested under section 96.
- (l) The master of any aircraft or ship which departs from any port or place without authority being granted as required by section 93 which deals with the clearance of aircraft and ships.
- (m) The master or agent of any aircraft or ship who fails to comply with section 94 which deals with the delivery of an account of cargo.

- (n) The master of any aircraft or ship departing from Kiribati which does not stop at the proper boarding station for setting down officers, or for any other purposes required by the customs laws, or departs on a flight or voyage with any officer on board without the assent in writing of the office.
- (o) The master of any aircraft or ship on which there are any goods not contained in the content or account required to be signed as the clearance of such aircraft or ship (if any).
- (p) The master of any aircraft who is liable for duty under section 97 which deals with deficiencies in stores.
- (q) The master of any aircraft or ship where any goods were loaded in Kiribati as stores or for export or which at the time of clearance remained on board from the inward voyage and –
  - (i) the goods are no longer on board such aircraft or ship unless they have been discharged in Kiribati, with the permission of an officer, as provided in section 90; or
  - (ii) the goods, being stores remaining on board from the inward voyage, are in the opinion of an 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 Kiribati.

(2) The penalty for offences described in subsection (1) is –

- (a) for paragraph (a), (d), (m), or (n), a fine of \$5000, unless the violation is explained to the satisfaction of the Board;
- (b) for paragraph (b), (h), (k), or (l), a fine of \$5000;
- (c) for paragraph (c), (e), (f), or (o) –
  - (i) the greater of a fine of \$5000 or treble the duty-paid value for the goods; and
  - (ii) forfeiture of the goods,
- (d) for paragraph (g), a fine of \$200;
- (e) for paragraph (i) or (f), a fine of \$5000 and imprisonment for not more than 24 months;

- (f) for paragraph (p), a fine of \$1000; and
- (g) for paragraph (f), the greater of a fine of \$1000 for each package or parcel or treble the duty-paid value of such goods.

### **Offences in relation to the coasting trade**

138. (1) The persons described in the paragraphs below commit an offence by the conduct referred to in each paragraph:

- (a) The master of any coasting aircraft or ship where any goods are loaded or conveyed coastwise in contravention of the customs laws or of such conditions as the Board may impose.
- (b) The master of any coasting aircraft or ship which deviates from its flight or voyage, unless forced by unavoidable circumstances, the proof of which shall lie on the master.
- (c) The master of any coasting aircraft or ship who fails to comply with section 104 which deals with unauthorised dealing in goods.
- (d) Any person who is concerned in the carriage or attempted carriage coastwise of any goods prohibited to be carried coastwise, or any goods the carriage coastwise of which is restricted, contrary to the restriction.
- (e) The master of any coasting aircraft or ship who fails to keep or deliver up a cargo book in accordance with section 102.
- (f) The master of any coasting aircraft or ship –
  - (i) on which there is found any goods not entered in the cargo book as loaded, or any goods noted as delivered; or
  - (ii) if any goods entered in the cargo book as loaded and not noted as delivered are not on board.
- (g) Any owner who fails to furnish information required under section 101(g) which deals with the coasting trade.
- (h) The master and owner of any coasting aircraft or ship which departs contrary to any notice issued under section 101(9) which deals with the coasting trade.

(i) The master of a coasting aircraft or ship who refuses to produce books or documents on demand, or to bring them to an officer when required under section 102.

(2) The penalty for offences described in subsection (1) is –

(a) for paragraph (a), a fine of \$1000 and the goods shall be forfeited;

(b) for paragraph (b) or (c), a fine of \$5000 and detention of the aircraft or ship until the fine is paid;

(c) for paragraph (d), a fine of \$5000 and the goods shall be forfeited;

(d) for paragraph (e) or (i), a fine of \$1000 and detention of the aircraft or ship until the fine is paid; and

(e) for paragraph (f), (g), or (h), the greater of a fine of \$5000 or treble the duty-paid value of the goods.

### **Offences connected with smuggling**

139. (1) The persons described in the paragraphs below commit an offence by the conduct referred to in each paragraph:

(a) Any person who is or was on board any aircraft or ship which is found or discovered to have been within or over Kiribati and –

(i) which has any secret or disguised place adapted for concealing goods or any device adapted for running goods;

(ii) on or attached to which are or have been any goods imported contrary to the customs laws or goods intended for export contrary to the customs laws;

(iii) from which any part of its contents has been thrown overboard to prevent seizure; or

(iv) on which any goods have been staved or destroyed to prevent seizure.

- (b) The master of any ship exceeding 100 tonnes burden on which any officer finds any goods of which the master is not able to give a satisfactory account.
- (c) A person other than an officer who displays on a ship the Customs flag, referred to in section 112.
- (d) The master of any aircraft or ship liable to seizure or examination under the customs laws who does not bring to when required so to do and so remain for such period as the boarding officer requires.
- (e) Any person who –
  - (i) maliciously shoots at aircraft or ships in use by an officer for the enforcement of the customs laws;
  - (ii) maliciously shoots at, aims, or wounds any officer in the execution of the officer's duty; or
  - (iii) with violence commits any of the offences mentioned in paragraph (h).
- (f) Any person engaged, or who has been engaged, in the commission of any offence against the customs laws –
  - (i) who is armed with firearms or other offensive weapons;
  - (ii) who is disguised in any way; or
  - (iii) who being so armed or disguised is found with any goods liable to forfeiture under the customs laws.
- (g) Any person who 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.
- (h) Any person who –
  - (i) staves, breaks or destroys any goods to prevent seizure thereof by an officer or other person authorised to seize the same;
  - (ii) rescues, or staves, breaks or destroys to prevent the securing thereof of any goods seized by an officer or other authorised to seize the same;

- (iii) rescues any person apprehended for any offence under the customs laws, or prevents the apprehension of any such person; or
- (iv) obstructs any officer going, remaining or returning from on board an aircraft or ship within Kiribati, 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 the officer's duty.
- (i) Any person, not being an officer, who takes or assumes the name, designation, appearance or character of an officer for the purpose of obtaining admission into any aircraft, ship, house or other place, or of doing or procuring to be done any act which the person would not be entitled to do or procure to be done of the person's own authority, or for any other unlawful purpose.
- (j) All persons to the number of 3 or more who assemble for the purpose of evading any of the customs laws, or who having so assembled evade any such laws.
- (k) Any person who by any makes any signals or transmits any message from any part of Kiribati or from any ship or aircraft for the information of a person in any aircraft or ship being a signal or message connected with the smuggling or intended smuggling of goods into or out of Kiribati.
- (l) Any 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 ? the use of service of the customs.
- (m) Any person, not being an officer or otherwise authorised by law, who 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.

(2) The penalty for offences described in subsection (1) is –

- (a) for paragraph (a), a fine of \$5000 and the goods shall be forfeited;
- (b) for paragraph (b), (d), or (h), a fine of \$500;
- (c) for paragraph (c), a fine of \$2000;
- (d) for paragraph (e), imprisonment for not more than 30 years;
- (e) for paragraph (f), imprisonment for not more than 5 years;



- (f) for paragraph (g) or (j), imprisonment for not more than 24 months;
- (g) for paragraph (i), imprisonment for not more than 12 months;
- (h) for paragraph (k), a fine of \$5000, imprisonment for not more than 24 months or both, and the equipment or apparatus employed shall be forfeited;
- (i) for paragraph (l), a fine of \$2000; and
- (j) for paragraph (m), a fine of \$1000 and the goods shall be forfeited.

(2) No person shall be liable under subsection (1)(a) unless there is reasonable cause to believe that such person was concerned in the illegal act proved to have been committed.

(3) Every ship of less than 100 tonnes burden on board which, or in respect of which any offence against subsection (1)(a) has been committed, shall be forfeited.

(4) Any aircraft or any ship of not less than 100 tonnes burden on board in respect of which any offence against subsection (1)(a) has been committed shall not be forfeited for such offence, but every responsible officer of such aircraft or ship who is implicated actually or by neglect shall be liable to a fine not exceeding \$10,000.

(5) In subsection (5) –

"reasonable officer" includes –

- (a) the master, mates, and engineers of any ship;
- (b) in the case of a ship carrying a passenger certificate, the purser or chief steward;
- (c) in the case of an aircraft, the pilot, navigator, chief steward, or chief engineer; and

"neglect" 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.

(6) In subsection (1)(e)(iii) "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 the person or to the person's property.

(7) If any officer has reasonable grounds for suspecting that any signal or message referred to in subsection (1)(?) is being or is about to be made or transmitted from any aircraft, ship, vehicle, house or place, the officer 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.

(8) If, in any proceedings under subsection (1)(k), any question arises as to whether any signal or message was connected with smuggling or intended smuggling, the burden of proof shall lie upon the defendant or claimant.

### **Offences related to bribery**

140. (1) The persons described in the paragraphs below commit an offence by the conduct intended to in each paragraph:

- (a) Any officer who demands or accepts any fee, perquisite, or reward whether ? or otherwise, directly or indirectly, from any person on account of anything core or to be done or omitted to be done by the officer in the performance of the officer's duties other than what the officer is permitted to demand or receive in the performance of those duties.
- (b) Any person who gives, offers, or promises to give a fee, perquisite, or reward referred to in paragraph (a).
- (c) Any officer who –
  - (i) makes any collusive seizure, or delivers up, or makes any agreement to deliver up or not to seize any aircraft, ship, vehicle or goods liable to forfeiture;

(ii) demands or takes any bribe, gratuity, recompense or reward for the neglect or non-performance of the officer's duty; or

(iii) conspires or connives with any person to commit an offence against the customs laws for the purpose of seizing any aircraft, ship, vehicle, or goods, and obtaining any reward for such seizure or otherwise.

(d) Any person who gives, offers, promises to give or procures to be given any bribe, recompense, or reward to, or makes any collusive agreement with an officer –

(i) to induce neglect of the officer's duty; or

(ii) to do, conceal or connive at any act whereby any customs laws may be evaded.

(2) The penalty for offences described in subsection (1) is –

(a) for paragraph (a), dismissal from office;

(b) for paragraph (b), a fine of \$5000;

(c) for paragraph (c), a fine of \$5000, or imprisonment for not more than 5 years, and disqualification from holding any public office in Kiribati; and

(d) for paragraph (d), a fine of \$5000 or imprisonment for not more than 5 years.

### **General provisions as to forfeiture and seizure**

141. (1) Subject to subsection (5) of section 139 anything made use of in the import, attempted import, landing, removal, conveyance, export, or attempted export of any uncustomed, prohibited, or restricted goods, or any goods liable to forfeiture under the customs laws shall be forfeited.

(2) Any such thing liable to forfeiture, and all persons liable to be detained for any offence ? 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 Board to seize or detain the same.

(3) Anything so seized shall forthwith be delivered into the care of the Board.

(4) The forfeiture of any aircraft, ship, vehicle, 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.

(5) Where –

- (a) any seizure is made of any goods forfeited under the provisions of the customs laws or any law enabling officers to make seizures; and
- (b) 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, if known, by delivering the notice personally, or by sending the notice by post to the master's or owner's usual place of abode or business premises, if known, or in the case of a body corporate, at its registered or principal office, and when the address is unknown, the notice of seizure is to be by public notice.

(6) 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 Board may direct, unless the person from whom the seizure has been made, or the master or owner or some person by them duly authorised, gives notice to the Board within 1 calendar month from the date of the seizure of a claim for the goods.

(7) In the event of such a claim –

- (a) proceedings shall be taken for the forfeiture and condemnation of the goods;

(b) 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; and

(c) the court may, except in the case of goods subject to any prohibition or restriction, order delivery of the goods seized to the claimant on security being given for the payment to the Board of their value in case of condemnation.

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

(9) No sale made by an officer under the customs laws shall be subject to any provision of any Act or Ordinance requiring –

(a) the issuance or granting of a licence or permit by a certain specified authority; and

(b) the payment of a certain amount of a fee,

in respect of such sale if it were not made by an officer under the customs laws.

(10) Officers are hereby authorised to conduct such sales.

### **Additional goods that shall be forfeited**

142. In addition to forfeiture under other provisions of the customs laws and any other laws administered by officers, the things referred to in the following paragraphs shall be forfeited in the circumstances mentioned in each paragraph.

(a) Any goods found concealed on board an aircraft or ship by an officer acting pursuant to section 122 which relates to an aircraft or ship.

(b) Any goods unloaded, removed, or dealt with contrary to section 44 or 45, or to the terms and conditions contained in any written permission of the Board.

(c) Any goods warehoused in a bonded warehouse where –

(i) any alteration is afterwards 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 an officer; or

(ii) the goods are removed from the part of the warehouse in which they were deposited without the knowledge of an officer, except for delivery after they have been duly entered, and under the authority of any officer.

(d) Any goods entered to be warehoused which are not duly warehoused by the importer in pursuance of the entry.

(e) Any goods duly warehoused or deposited in a customs area which are 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.

(f) Any goods in relation to which section 77 which deals with bonded goods has not been complied with.

(g) Any goods taken from a warehouse for removal or for export or use as aircraft's or ship's stores which are illegally removed or carried away –

(i) prior to being put on board the exporting or removing aircraft, ship or vehicle; or

(ii) in or on from any exporting or removing aircraft, ship or vehicle, in or on which the goods have been put.

(h) Uncustomed tobacco products, wines and spirits which are put on board or attempted to be put on board a coasting aircraft or ship contrary to section 101(4).

(i) Any goods which are loaded on board any aircraft or ship and carried coastwise, or are brought to any port or place in Kiribati for that purpose, contrary to the customs laws.

(j) Any ship within Kiribati where –

(i) the ship does not stop upon the proper signal made by a ship in the service of the Republic or in use by or subject to the control of the

Board for the purposes of enforcement of the customs laws and flying the Customs flag;

(ii) chase is given to the ship; and

(iii) any person on board such ship during chase or before such ship stops or upon stopping throws overboard any part of its contents, or staves or destroys any part thereof to prevent seizure.

(k) Any goods offered for sale under pretence that they are prohibited, or have been unloaded and removed without payment of duties, whether or not the goods are prohibited or liable to any duties.

## **PART XV MISCELLANEOUS PROVISIONS**

### **Regulations**

143. (1) The Beretitenti, acting in accordance with the advice of the Cabinet, may make regulations generally –

- (a) prescribing any matter that is necessary or convention or required to be prescribed under this Act; or
- (b) for carrying out the purposes and provisions of, or giving full effect to this Act and for its due administration.

(2) The regulations made under subsection (1) may in particular provide for the following –

- (a) the powers, duties and hours of attendance of any officer or other person employed in carrying out the provisions of this Act;
- (b) the conduct of all matters relating to the assessment and collection customs duties, including the time of payment thereof;

- (c) the services for which charges or fees shall be payable on account of the attendance of officers on aircraft or ships or in any port, warehouse or other place, and the conditions applicable to such services;
- (d) the forms, bills and documents necessary for the carrying out of the provisions of this Act;
- (e) the issue of licence;
- (f) the days and hours during which ships and aircraft may arrive and depart from ports and the procedure in connection therewith, and in connection with the embarkation and disembarkation of passengers, the discharge, landing and loading of goods from and in ships and aircraft, and with regard to ships and aircraft stores;
- (g) the conditions for the licensing of the carriage of goods under customs control;
- (h) the conditions for the licensing of the carriages, boats and lighters for the carriage of goods under customs control;
- (i) the conditions under which refunds of duty may be made on goods purchased locally by particular bodies or authorities;
- (j) the nature, size, material and marking of packages and the minimum or maximum weight which may be contained in any one package;
- (k) the conditions under which bonded warehouses may be approved and for the control and regulation of bonded warehouses;
- (l) the control and regulation of State warehouses, public warehouses, customs areas, customs sheds and other customs establishments;
- (m) the conditions under which drawback shall be allowed and the determination and variation of the rates of such drawback;
- (n) the conditions under which temporary importation of goods may be permitted;
- (o) the manner in which goods may be transhipped or goods in transit may be ?;
- (p) the charging of rent, fees and other charges and the amounts thereof; or
- (q) the manner in which goods may be sold in accordance with the provisions of this Act.

## **Repeal**

144. Subject to section 145, 146, 147 and 148, the Customs Ordinance (Cap. 22) (in this Part referred to as the "former legislation") is repealed.



### **Continuance of subsidiary legislation**

145. All subsidiary legislation –

- (a) made under the former legislation; and
- (b) in force immediately prior to the coming into force of this Act,

shall, so far as it is not inconsistent with the provisions of this Act, continue in force as if made under this Act until other such subsidiary legislation is prescribed under this Act.

### **Continuance of pending civil proceedings**

146. Notwithstanding the repeal of the former legislation by this Act any civil proceedings instituted before the commencement of this Act may be continued under the former legislation as if this Act had not passed.

### **Continuance of pending criminal proceedings**

147. Where proceedings for an offence against any provisions of the former legislation were commenced before the coming into force of this Act –

- (a) the offence shall, after the coming into force of this Act be dealt with, enquired into, tried and determined in accordance with this Act; and
- (b) any penalty, forfeiture or punishment to be imposed upon conviction for that offence shall be the penalty, forfeiture or punishment authorised or required to be imposed by this Act.

### **Offences under former legislation**

148. Where an offence is committed against any provisions of the former legislation before the coming into force of this Act –

- (a) the offence shall, after the coming into force of this Act be dealt with, enquired into, tried and determined in accordance with this Act; and
- (b) any penalty, forfeiture or punishment to be imposed upon conviction for that offence shall be the penalty, forfeiture or punishment authorised or required to be imposed by this Act.

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## **SCHEDULE 1**

(Section 4(2))

### **EXEMPTIONS FROM DUTIES**

#### **International transport**

1. The following goods shall be exempt from import duties

- (a) ground equipment and technical supplies required for use within the limits of an airport in connection with the aircraft, establishment or maintenance of international air services, or of air services operating within Kiribati;
- (b) fuel and lubricants solely for use in aircraft specified in sub-paragraph (a) or in aircraft used for other purposes;
- (c) consumable stores for use in aircraft employed in international services provided that the Board as satisfied that the goods are for the services stated;
- (d) waybills, consignment notes, bills of lading, exchange orders, tickets and labels when imported on behalf of shipping companies and airlines domiciled outside Kiribati; and
- (e) special equipment for the loading, unloading, handling, and protection of cargo, which is imported with the commercial means of transport and is intended to be re-exported therewith.

#### **Shipping**

2. The following goods shall be exempt from import duties if required for the purposes of ships and shipping:

- (a) 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;
- (b) boat equipment including anchors, sea anchors, chains, cars, rowlocks, logs, turnbuckles, thimbles, and mooring bitts;
- (c) communication and signal equipment including Morse signalling lamps, code flags, semaphore flags, foghorns, and sirens;
- (d) material equipped solely for the purpose of breathing and ? ships; and
- (e) fixed port navigational and mooring equipment including bollards, buoys, and beacons.

### **Commercial fishing equipment**

3. The following goods are exempt from import duties if imported for use by commercial fishermen in the capture of fish for sale:

- (a) fishing nets and gear;
- (b) fishing lines of all types;
- (c) fish hooks;
- (d) fish wire;
- (e) ?;
- (f) net preservatives admitted as such by the Board; and
- (g) deck equipment designed solely for use the fishing industry including line-haulers, capstans, winches, trolling gurdies, hand and powered hardline reels, and rope-leads and fair leads used with such equipment.

### **Commercial samples**

4. The following goods shall be exempt from import duties:

- (a) patterns and samples cut, mutilated, or otherwise spoiled so as to render them unmerchantable;
- (b) showcards, trade catalogues, price lists, and printed posters advertising goods sold by firms having no established place of business in Kiribati; and

(c) small samples of any goods approved by an officer.

### **Safety and scientific equipment**

5. The following goods shall be exempt from import duties:

- (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 Board 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 Board as suitable for motor-cyclists and safety belts specially designed for motor vehicles and aircraft; and
- (d) technical equipment for scientific research or meteorological observation imported by persons or organisations.

### **Goods for health and relief of disability and poverty**

6. The following goods shall be exempt from import duties:

- (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 importing organisations;
- (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, if the Cabinet is satisfied that the goods are necessary for the proper functioning of the hospital, veterinary hospital, dispensary or dressing station;
- (c) goods donated to the Red Cross Society and certified by the person for the time being in charge in Kiribati that they are for free distribution; and

- (d) goods imported as charitable gifts for the relief of poverty and the importing organisation produces a certificate from the head of the organisation in Kiribati that the articles are imported for free distribution.

### **Educational, religious, sporting, and youth organisations**

7. The following goods shall be exempt from import duties:

- (a) books, stationery, school apparatus, and equipment (including apparatus and equipment for games and physical training) to be imported for use in schools and other educational establishments solely for educational purposes and remaining the property of such schools and other educational establishment;
- (b) goods of a non-consumable nature which 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 in Kiribati of the denomination for which they are intended that the goods and vestments will be used only for such purpose;
- (c) altar bread and altar wines imported for the purpose of administering the Sacrament, on the signed declaration of the head in Kiribati of the denomination for which they are intended;
- (d) candles and incense, which are imported solely for use in consecrated places of divine worship;
- (e) tombstones whether engraved or not and commemorative and memorial tablets;
- (f) sports goods and sporting equipment (except clothing or footwear other than special items of protective clothing including pads, gloves, arm guards and masks) for use in out-door sports and games and imported by or on behalf of many sports club or organisation on the signed undertaking by some person representing such club or organisation that such goods and equipment will remain the property of the club or organisation and are not imported for sale or hire; and
- (g) 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 Cabinet on the signed declaration of the person in charge of the organisations in Kiribati.

## **Goods for the Government**

8. Goods required for the use of the Government.

## **Exemptions under international law**

9. The following goods shall be exempt from import duties:

- (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 provided 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 Board 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), hand painted 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 galleries, museums and other public institutions and not intended for resale;
  - (iii) films, slides, and sound recordings;
  - (iv) architectural, industrial and engineering plans, models, wall charts, and scientific instruments and apparatus;  
cut 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 Cabinet.
- (b) greeting and Christmas cards produced for and sold on behalf of the United Nations Organisation or the United Nations Educational, Scientific and Cultural Organisation;

- (c) goods required for the exclusive use of any international organisation of which the Republic of Kiribati is a member or with which the Republic of Kiribati has concluded an agreement permitting the importation of such goods;
- (d) goods sufficient to satisfy the reasonable requirements of persons constituting a special mission to Kiribati within the meaning of the United Nations Convention on Special Missions;
- (e) goods sufficient to satisfy the reasonable requirements of the official representatives of an international organisation to whom the Government of Kiribati has accorded diplomatic status;
- (f) goods imported by and for the exclusive use of diplomatic or consular missions established in Kiribati; and
- (g) goods sufficient to satisfy the reasonable requirements of members of diplomatic and consular missions in Kiribati.

### **Military goods**

10. The following goods shall be exempt from import duties:

- (a) arms, accoutrements, equipment, and uniforms the property of officers of the armed forces of any ally of the Republic, imported by such officers for their personal use and as required by the regulations of their respective services, and admitted as such by the Cabinet; and
- (b) goods, mess equipment, and band instruments imported by and for the exclusive consumption or use of members of the armed forces of any ally of the Republic, on the signed declaration of the officer in charge of such armed forces concerning the nature and use of the goods.

### **Formal clothing and uniforms**

11. Uniforms imported by members of the Civil Service for their own use as prescribed by regulations, the professional robes and wigs of members of the legal profession, and academic robes, hoods, and headwear of the teaching professional shall be exempt from

import duties.

### **Personal goods**

12. The following goods shall be exempt from import duties:

- (a) goods (other than consumable goods such as tobacco products and alcohol beverages) which the Board 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 Kiribati who becomes entitled to them by virtue of any testamentary disposition or intestacy;
- (b) medals and official decorations approved by the Cabinet to be worn by persons in Kiribati;
- (c) cups, medals, shields, and similar trophies when won abroad or proved to the satisfaction of the Board to be specially for bestowal as honorary distinctions or prizes, if the purpose for which the trophy is to be presented is indelibly inscribed thereon, but exemption under this subdivision shall not apply or extend to the importation or stocking of the articles for the purposes or trade;
- (d) films, and sound recordings which the Board 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;
- (e) removable articles belonging to an individual or to members of his household imported on transfer of that individual's residence to Kiribati; and
- (f) personal gifts (excluding alcohol, alcoholic beverages, tobacco, and tobacco products), the aggregate value of which, determined on the basis of retail prices in the country where purchased, does not exceed \$20.

### **Duty-free allowance**

13. (1) In addition to the consumable products allowed to be imported free of import duties within specified quantitative limits, an individual who is a resident of Kiribati may import, free of import duties, goods ?????



(2) Without regard to the aggregate value, a non-resident individual may not import free or duty under subsection (1) in excess of –

- (a) 200 cigarettes, 50 cigars, 250 grams of tobacco, or a combination of such goods with a total weight of 250 grams;
- (b) 2 litres of wine and 1 litre of spirits; and
- (c) ¼ litre of toilet water and 50 grams of perfume.

(3) The Minister may by regulation limit the application of this section to –

- (a) goods imported by individuals who have reached a certain age;
- (b) goods that are for personal consumption by the individual bringing the goods into Kiribati, or members of his family, or to be disposed of as gifts in Kiribati; or
- (c) goods that are carried in accompanied baggage or on an individual's person or in his hand-carried baggage.

(4) The Minister, acting in accordance with the advice of the Cabinet, may by regulation provide that the provisions of this section do not apply, or apply in reduced amounts only, to goods imported by individuals less than 15 years of age, or by individuals who frequently enter Kiribati from abroad.

## **SCHEDULE 2**

(Section 29(3))

### **PROHIBITED IMPORTS**

List of Prohibited Imports

#### **Coin and currency counterfeit**

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

#### **Food unfit for consumption**

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

### **Indecent articles**

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

### **Infected cattle, etc.**

4. 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, acting in accordance with the advice of the Cabinet, to prevent the introduction or spread of any communicable disease.

### **Matches**

5. Matches containing white or yellow phosphorus.

### **Merchandise marks**

6. 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 Kiribati unless such trade name or trade mark is accompanied by a definite indication of the country in which the goods were made or produced.

### **Opium prepared**

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

### **Armorial bearings**

8. Goods bearing the Armorial Bearings of the Republic of Kiribati or arms or bearings so closely resembling the same as to be calculated to deceive unless the manufacturer of such goods holds lawful authority to use them in connection with his trade, business, calling or profession.

### **Stamps**

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

### **Flick knives, gravity knives and knuckle dusters**

10. (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 for more fingers, equipped with any projection or striking surface and made or adapted for causing injury to the person.

### **Imitation firearms**

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

### **Gaming machines**

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

## **General**

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

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### **SCHEDULE 3**

(Section 29(4))

#### **RESTRICTED IMPORTS**

List of Restricted Imports

#### **Alcohol**

1. (a) Absolute alcohol other than such quantities of absolute alcohol as the Minister, acting in accordance with the advice of the Cabinet, may approve;
- (b) Ethyl alcohol as defined in the British Pharmacopoeia other than such quantities of such ethyl alcohol as the Minister, acting in accordance with the advice of the Cabinet, may approve.

#### **Arms and ammunition**

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

#### **Brandy, whisky and rum**

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

#### **Cannabis sativa, etc**

4. Cannabis sativa (known as Indian hemp or bhang), cannabis indica, choras, or any preparation or mixture thereof, except under licence according to law.

### **Clothing worn**

5. Part-worn or second-hand clothing, blankets, bedding and other fabrics for sale or distribution within Kiribati other than –

- (i) part-worn or second-hand clothes and clothing material required by the importer for his own personal use or for that of his family;
- (ii) second-hand linen to be used for bandages for medical or surgical purposes which the importer proves to the satisfaction of the Board to have been efficiently sterilized before shipment;
- (iii) used clothing, blankets and bedding as charitable gifts for free distribution by any organisation which the importer proves to the satisfaction of the Board to have been efficiently disinfested and disinfected.

### **Earth, soil, etc.**

6. 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 Board that such soil is free from disease and any harmful form of animal, insect or plant life.

### **Tear gas**

7. 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.

**Tobacco extracts, etc.**

8. Tobacco extracts, essence ????????????

**General**

9. Goods the importation of which is regulated by any other law in force in Kiribati except in accordance with such law, and all other goods.

**Certain motor-bicycles and engines and parts intended therefor**

10. Any motor-bicycle having as its means of propulsion an internal combustion engine, the cylinder capacity of which is greater than 150 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.

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**SCHEDULE 4**

(Section 29(5))

**PROHIBITED EXPORTS**

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

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**SCHEDULE 5**

(Section 29(6))

## **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 Kiribati except in accordance with such law.

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### **SCHEDULE 6**

#### **WRITS OF ASSISTANCE TO CUSTOMS WARRANTY**

REPUBLIC OF KIRIBATI

Customs Act 1992

Sec. 121 Form 1

#### **CUSTOMS GENERAL WARRANT UNDER SECTION 121**

To:

You are authorised, at any time in the day, or in the night if necessary, to enter into and search any house, premises or place, and to break it open and to search in and any chests, trunks or packages in which goods may be or are supposed to be, and to seize and take away any goods that are forfeit to the Republic, and any goods that you have reasonable cause to believe are forfeit to the Republic, that you find in the house, premises or place, and without delay to put them and secure them in a State warehouse or such other place of security as the Collector directs.

Unless earlier revoked, this warrant remains in force for a period of from its date.

Dated 20 .

Magistrate

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REPUBLIC OF KIRIBATI

Customs Act 1992

Sec: 121 Form 2

**CUSTOMS SPECIAL WARRANT UNDER SECTION 121**

To:

\*WHEREAS written information on oath has been given to me that goods have been unlawfully imported, exported, undervalued or entered, or illegally dealt with, or that it is intended to unlawfully import, export, undervalue or enter, or to unlawfully deal with, goods:

\*WHEREAS goods have been seized or detained:

You are authorised, if fails to comply with delay with any requirement under Section 121 of the Customs Act 1992, at any time in the day or night to enter into and search any house, premises or place in which any books or documents relating to the goods may be, or are supposed to be, and to break it open and to search any person in or on it and any chests, trunks and packages in or on it, and to take possession of, remove and impound any such books and documents that are found.

This warrant remains in force for one month from its data.

Dated 20 .

Magistrate



\*Strike out if inapplicable

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REPUBLIC OF KIRIBATI

Customs Act 1992

Sec: 121 Form 3

**WRIT OF ASSISTANCE**

To All members of the Kiribati Police and to all whom it may concern:

You are commanded to permit , of , an officer (or officers) of the Customs of Kiribati, and his (or their) assistants, at any time in the day or night, to enter into and search any house, premises or place, and to break it open and to search it and any chests, trunks or packages in which goods may be or are supposed to be, and to seize any goods that are forfeited to the Republic and any goods that he has (or they have) reasonable cause to believe are forfeit to the Republic, and to take them to the nearest State warehouse or to such other places of security as the Collector directs.

All powers that can be granted under a writ of assistance are granted to (name(s) of officer of officers in respect of whom writ granted, as set out above).

All members of the Kiribati Police and other persons in Kiribati are commanded, on sight of this writ and on being required to do so by him, to assist any person named in this writ in the matters set out above.

Dated 20 .

By the Court.

