



THE STATUTES OF THE GELEPHU MINDFULNESS
CITY,
KINGDOM OF BHUTAN

CUSTOMS ACT 2025

Customs Act 2025

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY

Section

- 1 Short title and commencement
- 2 Scope of Act
- 3 Interpretation
- 3A References to Singapore dollar read to be United States dollar

PART 2

APPOINTMENT OF OFFICERS

- 4 Appointment of Director-General and other officers
- 5 Powers of Director-General to delegate
- 6 [*Not in use*]
- 6A Officers of customs to be armed
- 7 Powers of police officers
- 8 Authority card to be produced
- 9 Persons employed on customs duty to be deemed proper officers of customs

PART 3

LEVYING OF DUTY AND TAX

- 10 Levying of duties
- 11 Power of Director-General to waive duty, etc.
- 12 Measuring and testing by proper officers of customs
- 13 Power of designated officer to exempt
- 14 Reimposition of customs duty or excise duty
- 15 Remission of customs duty or excise duty on goods lost, damaged or destroyed before removal from customs control
- 16 [*Not in use*]
- 17 [*Not in use*]

17A [*Not in use*]

17B [*Not in use*]

18 [*Not in use*]

19 Claims for duties, taxes, fees and other charges overpaid or erroneously paid

20 Payment of duty, etc., short levied or erroneously refunded

21 Calculation of duty

22 Value of imported or locally-manufactured goods, other than motor spirit, for excise duty

22A Value of imported goods for customs duty

22B Objection and appeal on valuation

23 Value of imported and locally-manufactured motor spirit

24 Value of motor spirit where variation in price

25 Value of motor spirit which is uncustomed, not retailed in GMC under a trade name or where
retailers' pump price is not available

26 Question as to price of motor spirit to be decided by Director-General

27 Removal of dutiable goods from customs control

28 Time of importation when duty is imposed

29 Customs rulings

30 Import of trade samples

PART 4

IMPORTATION AND EXPORTATION

31 Place of import, export or transhipment

32 Registration of importers and agencies in respect of goods made dutiable

33 Import and export to be in accordance with regulations

34 Permit to remove goods

35 [*Not in use*]

36 Goods removed in accordance with declaration not to be relanded

37 Declaration

38 Power to prohibit imports and exports

39 Particulars of goods inwards to be furnished

40 Correction to be made on completion of discharge

41 Particulars of goods exported to be furnished

42 Liability in respect of duty for goods unaccounted for, etc.

PART 5

GENERAL PROVISIONS AFFECTING AIRCRAFT AND TRAINS

43 [*Not in use*]

44 Goods not specified in manifest to be deemed uncustomed

45 Missing goods deemed to have been illegally landed

46 [*Not in use*]

47 Power to lock up goods dutiable on import

48 [*Not in use*]

PART 6

WAREHOUSING

49 Government warehouses

50 [*Not in use*]

51 Licensed warehouses

52 Dutiable goods to be deposited in free trade zone

53 Warehouse deposit receipts

54 Power to open and examine goods or packages

55 Detention of goods where doubt exists

56 Protection of GMCA from liability

57 Protection of officers of customs from liability

58 Payment of warehouse rent

59 Removal of dutiable goods from customs control

60 Landing of dutiable goods for transhipment

61 Storage of dutiable goods

62 Weighing and handling

PART 7

MANUFACTURE AND BOTTLING

63 Licence to manufacture dutiable goods

64 No person except licensee to keep a still, etc.

65 [*Not in use*]

66 Bottling warehouse

67 Prohibition on keeping of utensil, apparatus, etc., for bottling, blending, etc.

68 Exemption

69 Power to enter licensed premises

PART 8

[NOT IN USE]

70 [*Not in use*]

71 [*Not in use*]

72 [*Not in use*]

73 [*Not in use*]

74 [*Not in use*]

75 [*Not in use*]

76 [*Not in use*]

77 [*Not in use*]

PART 9

DRAWBACK

78 Drawback on imported tobacco manufactured in GMC

79 Drawback on imported goods on which duty has been paid

80 Declaration by claimant

81 Drawback on goods used in manufacture

PART 10

DUTY FREE SHOPS FOR TOURISTS

82 Duty free shops for tourists

PART 11

COMPOSITE LICENCE

83 Grant of composite licence

84 [*Not in use*]

PART 12

MISCELLANEOUS PROVISIONS

85 Documents to be produced on demand

86 Computer service

87 Preservation of records

- 88 Power of Director-General to obtain information and furnishing of information
- 89 Information not to be published or disclosed
- 90 Retention of trade documents
- 91 Persons bound to give information or produce documents
- 92 Service of notices
- 93 Baggage of passengers
- 94 Proper officer of customs may take samples
- 95 Addition or deduction of new or altered duties in the case of contract
- 96 Declarations to give a full and true account
- 97 Agents and employees
- 98 Director-General may charge rates, etc.
- 98A Late payment charges and interest
- 98B Power to appoint agent, etc., for recovery of duty
- 98C Indemnification of agent
- 99 Securities for payment of duty and compliance with this Act
- 100 Appeal from decision of Director-General

PART 13

SEARCH, SEIZURE AND ARREST

- 101 Issue of search warrant
- 102 Power of senior officer to enter and search
- 103 When search may be made without warrant
- 103A [*Not in use*]
- 104 Power to search aircraft
- 105 Senior officer of customs to exercise powers of search
- 106 Officers of customs may stop and search conveyances
- 107 Road barrier
- 108 Power to open packages and examine goods
- 109 Search of persons arriving in GMC
- 109A General power to search person
- 110 Seizure of goods the subject of an offence and cash
- 110A Inspection of computers, etc.

111 Release of conveyance under bond

112 Powers of arrest

PART 14

PROVISIONS AS TO TRIALS AND PROCEEDINGS

113 Who may prosecute

114 Jurisdiction of court

115 Burden of proof

115A Presumptions of possession of dutiable, prohibited or uncustomed goods

116 Proportional examination or testing of goods seized to be accepted by courts

117 Proof as to registration or licensing of vehicles and aircraft

118 Analyst's certificate

119 Imprisonment for non-payment of fine

120 Manner of seizure not to be inquired into on trial before court or on appeal

121 Protection of informers from discovery

122 Goods liable to seizure liable to forfeiture

123 Court to order disposal of goods seized

124 Goods seized in respect of which there is no prosecution, deemed to be forfeited if not claimed within one month

125 Conviction under other law

125A Customs ticket notice

126 Composition of offences

127 No costs or damages arising from seizure to be recoverable unless seizure without reasonable or probable cause

127A Procedure governing seizure of computer, etc., other than certain goods

PART 15

OFFENCES AND PENALTIES

128 Offences in relation to making and signing untrue or incorrect or incomplete declarations, certificates and documents

128A Offences in relation to falsifying documents

128B Offences in relation to failure to make declarations

128C Offences in relation to failure to produce trade documents

128D Offences in relation to fraudulent evasion

- 128E Offences in relation to goods found in person's baggage or upon his or her person, etc.
- 128F Offences in relation to importation of uncustomed or prohibited goods
- 128G Offences in relation to exportation of uncustomed or prohibited goods
- 128H Offences in relation to loading, unloading, etc., of uncustomed or prohibited goods
- 128I Offences in relation to possession, storage, conveying and harbouring of goods
- 128J Offences in relation to duty-free allowances
- 128K Offences in relation to illegal removal of goods from customs control, etc., and carrying on of certain activities without licence
- 128KA Additional offences relating to goods in respect of which offence under section 128D, 128F, 128G, 128H, 128I or 128K is committed
- 128L Penalty for various offences
- 129 Penalty on refusing to answer questions or on giving false information or false document
- 130 [*Not in use*]
- 131 Evading duty by unauthorised modification of computer program or data
- 132 Knowingly advancing or furnishing money for business comprising sale, purchase, etc., of uncustomed goods
- 133 Penalty for adding deleterious substances to intoxicating liquor, or storing, keeping, etc., such liquor
- 134 Offence in connection with claims for drawback
- 135 Penalty for possession of a still, etc.
- 136 [*Not in use*]
- 137 Penalty for assaulting or obstructing officers of customs, rescuing goods, resisting arrest and escaping from custody
- 138 Penalty for offering or receiving bribes
- 139 Penalty for offences not otherwise provided for
- 140 Attempts and abetments
- 141 Offences by bodies of persons and by agents and employees
- 142 Action of officers no offence

PART 16

REGULATIONS

- 143 Power to make regulations
- 144 [*Not in use*]

THE SCHEDULE

In exercise of the powers under Article 4(2) of the GMC Royal Charter No. 1 of 2024, and with the assent of the Druk Gyalpo, the GMC Authority hereby makes the following Act:

An Act relating to customs and excise and to repeal and re-enact with amendments to the Customs Act 1960 specified in item 3 of Schedule A to the Application of Laws Act 2024 (Law No. 1 of 2024).

PART 1

PRELIMINARY

Short title and commencement

1.— (1) This Act is the Customs Act 2025 and is deemed to have come into operation on 26 December 2024.

(2) The Customs Act 1960 specified in item 3 of Schedule A to the Application of Laws Act 2024 (Law No. 1 of 2024) is repealed.

Scope of Act

2. This Act does not apply to any act or thing lawfully done or permitted to be done within a free trade zone, subject to the provisions of this Act or any other written law.

Interpretation

3.— (1) In this Act —

“aircraft” includes any kind of craft which may be used for the conveyance of passengers or goods by air;

“alcohol” means ethanol;

“authentication code” means any identification or identifying code, password or any other authentication method or procedure which has been assigned to a registered user of the computer service mentioned in section 86 for the purposes of identifying and authenticating the access to and use of the computer service by the registered user;

“bottle” includes any container for intoxicating liquors capable of being corked or sealed;

“bottling”, in the case of intoxicating liquors, includes blending, compounding and varying any intoxicating liquor with intent that the blend, compound or varied intoxicating liquor so formed be sold for human consumption, but does

not include any such blend, compound or varied intoxicating liquor prepared at the order of a purchaser, and for immediate consumption;

“bottling warehouse” means a warehouse licensed by the Director-General for the bottling, blending, compounding or varying of intoxicating liquor under section 66(1) or 83(4);

“captain of an aircraft” means every person having or taking command or charge of an aircraft;

“complete month” means the period from the first day of a month to the last day of the month, both days inclusive;

“conveyance” means and includes an aircraft, vehicle, vessel, animal or any other means of transport;

“court”, in relation to any provision in the Act, means such judicial body that the Druk Gyalpo may designate for the purposes of that provision;

“customs airport” means any place which has been designated as a customs airport;

“customs duty” means duty on goods imported into GMC, excluding any excise duty;

“customs territory” means GMC but excluding any free trade zone;

“database report” means any automatic log, journal or other report which is automatically generated by the computer service mentioned in section 86 for the purposes of recording the details of a transaction relating to an electronic notice including the authentication code, date and time of receipt, storage location and any alteration or deletion relating to the notice;

“deleterious substance” means any matter —

- (a) which is unfit for human consumption; or
- (b) the consumption of which is harmful to human beings,

as certified by an analyst employed by such laboratory as the Director-General may specify;

“denatured” means rendered unfit for human consumption to the satisfaction of the Director-General;

“designated officer” means a person appointed by the Druk Gyalpo as the officer designated for the purposes of this Act;

“Director-General” means the Director-General of Customs appointed under section 4(1);

“dutiable goods” means any goods subject to the payment of customs duty or excise duty on entry into customs territory or manufactured in GMC (including any free trade zone) and on which customs duty or excise duty has not been paid and includes goods manufactured in a free trade zone from materials of a class dutiable on entry into customs territory for consumption within the customs territory;

“electronic notice” has the meaning given by section 86(1);

“excise duty” means duty on goods whether manufactured in GMC or elsewhere;

“export” means to take or cause to be taken out of the customs territory by any means or to place goods in any form of conveyance for the purpose of taking the goods out of the customs territory by any means to any place including a free trade zone; except that goods bona fide in transit, including goods which have been transhipped, are not deemed to be exported unless they are or become uncustomed goods;

“free trade zone” means any area in GMC which has been declared to be a free trade zone under any Act enacted by the GMCA;

“GMCA” means Gelephu Mindfulness City Authority established under Article 3 of the Royal Charter;

“goods” includes animals, birds, fish, plants and all kinds of movable property;

“Government warehouse” means a warehouse established by the Director-General under section 49 for the deposit of dutiable goods;

“Green Channel” means any passage or area in a customs airport or customs station clearly indicated with a sign in the shape of a regular octagon and marked in green with the words “Customs” and “Nothing To Declare”;

“heavy oil or diesel oil” includes any liquid, other than petroleum, which is or may be used as a fuel in the engine of a traction engine or motor vehicle;

“import” means to bring or cause to be brought into the customs territory by any means from any place including a free trade zone; except that goods bona fide in transit, including goods which have been taken into any free trade zone from outside the customs territory or transhipped, are not, for the purpose of the levy of customs duties or excise duties, deemed to be imported unless they are or become uncustomed goods;

“importer” includes and applies to any owner or other person for the time being possessed of or beneficially interested in any goods at and from the time of importation thereof until the goods are duly removed from customs control;

“intoxicating liquor” means —

- (a) a mixture of alcohol and some other substances containing more than 0.5 per cent alcohol by mass; or
- (b) a mixture of alcohol and other liquids containing more than 0.5 per cent alcohol by volume, which is fit, or intended, or can by any means be converted, for use as a beverage, but does not include denatured spirit;

“in transit” means taken out or sent from any country and brought into GMC by land or air (whether or not landed or transhipped in GMC) for the sole purpose of being carried to another country either by the same or another conveyance;

“licensed FTZ operator” has the meaning given under any written laws providing for the establishment and regulation of activities in free trade zones;

“licensed warehouse” means a warehouse or other place licensed or deemed to be licensed under section 51(1), 63(1), or 83(4) (if the licence granted under section 83(3) covers an activity for which a licence under section 51(1), 63(1) or 66(1) is required);

“manufacture” —

- (a) in the case of intoxicating liquors, includes the process of distillation, fermentation and any process of converting raw materials into an intoxicating liquor, but does not include blending, compounding and varying of any intoxicating liquor;
- (b) in the case of tobacco, includes the process of converting any raw or leaf tobacco into tobacco fit for smoking, snuffing or chewing and the making of cigarettes by power-operated machinery; and
- (c) in the case of any other goods or substitutes thereof, includes any process of production, assembly, purification, blending or conversion of materials, substances or components of such goods or substitutes into a finished product;

“mobile communication device” means —

- (a) a mobile phone; or
- (b) any wireless handheld device (such as a tablet computer) or wearable device (such as a smart watch) designed or capable of being used for a communication function;

“motor fuel” means any fuel used in the propulsion of any conveyance;

“motor spirit” includes gasoline, petrol or any inflammable hydrocarbon liquid fuel for spark ignited engines;

“motor vehicle” means a mechanically-propelled vehicle primarily intended or adapted for use in the conveyance of goods or in the carriage of passengers (including any person driving the vehicle) on roads maintained at the public expense, and includes any vehicle constructed to tow any other vehicle along such roads, but does not include such vehicles as excavators, crawlers, bulldozers, tractors and any similar vehicles which are not primarily intended for use on such roads;

“officer of customs” means —

- (a) the Director-General;
- (b) any Deputy Director-General of Customs or Assistant Director-General of Customs appointed under section 4(2);
- (c) any senior officer of customs appointed under section 4(4);
- (d) any officer of customs appointed under section 5(2); and
- (e) any police officer;

“owner” includes a hirer under a hire-purchase agreement;

“per cent alcohol by mass” means the measure of alcoholic strength of a mixture of alcohol and some other substances shown by the ratio, expressed as a percentage, of the mass of alcohol present in the mixture to the total mass of the mixture;

“per cent alcohol by volume” means the measure of alcoholic strength of a mixture of alcohol and water shown by the ratio, expressed as a percentage, of the volume of alcohol present in the mixture at a temperature of 20 degrees Celsius to the total volume of the mixture;

“petroleum” includes the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosene and kerosene substitutes, paraffin oil, petrol, gasoline, benzol, benzoline, benzine, naphtha and any other similar inflammable liquid, whether a natural product or one that is made from petroleum, coal, schist, shale or any other bituminous substance, or from any products thereof;

“prohibited goods” means goods the import or export of which is prohibited, either conditionally or absolutely, by notification made under section 38;

“proper officer of customs” means any officer of customs acting in the fulfilment of his or her duties under this Act, whether such duties are assigned to him or her specially or generally or expressly or by implication;

“Red Channel” means any passage or area in a customs airport or customs station clearly indicated with a sign in the shape of a square marked in red with the words “Customs” and “Goods To Declare”;

“registered user” means a person who has been registered with and authorised by the Director-General to gain access to and use the computer service mentioned in section 86;

“Registrar” means a designated officer appointed under any written law relating to the regulation of road traffic, use of vehicles and the user of roads;

“senior officer of customs” means —

- (a) the Director-General;
- (b) any Deputy Director-General of Customs or Assistant Director-General of Customs appointed under section 4(2);
- (c) any senior officer of customs appointed under section 4(4);
- (d) any officer of customs conferred with the powers of a senior officer of customs under section 5(3); and
- (e) any police officer having the powers of a senior officer of customs by virtue of section 7(a);

“tobacco” includes all tobacco other than growing tobacco, whether manufactured or not;

“toddy” means the fermented juice of coconut or other palm;

“tourist” means any person whose entry into GMC is dependent upon the presentation of a passport or other travel document and whose stay in GMC does not exceed 6 months, and includes persons in transit and such other class of persons as the Director-General may, by notification in the *Gazette*, specify;

“uncustomed goods” means goods in respect of which a breach of the provisions of this Act has been committed.

(2) For the purposes of this Act, goods are deemed to be under customs control while they are deposited or held in any free trade zone, Government warehouse, licensed warehouse, or bottling warehouse or post office or in any conveyance or any place from which they may not be removed except with the permission of the proper officer of customs.

(3) In this Act, a reference to a document or record includes, in addition to a document or record on paper, a reference to any, or part of any —

- (a) document or record kept on any magnetic, optical, chemical or other medium;
- (b) photograph;
- (c) map, plan, graph, picture or drawing;
- (d) film (including a microfilm and a microfiche), negative, disc, tape, soundtrack or any other device in which one or more visual images, sounds or other data are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom.

(4) In this Act, a reference to a document or record in writing or the making of a document or record in writing, unless the context otherwise requires, includes any electronic notice, or the making, serving or submitting of such a notice under the provisions of this Act.

References to Singapore dollar read to be United States dollar

3A. In this Act, all references to the Singapore dollar (“\$” or “S\$” or “SGD”) are read as references to the United States dollar.

PART 2

APPOINTMENT OF OFFICERS

Appointment of Director-General and other officers

4.— (1) The designated officer may appoint an officer to be styled the Director-General of Customs who has the superintendence of all matters relating to this Act, subject to the direction and control of the designated officer.

(2) The designated officer may appoint such number of Deputy Directors-General of Customs and Assistant Directors-General of Customs as the designated officer thinks fit.

(3) Subject to the general direction and supervision of the Director-General of Customs, the Deputy Directors-General of Customs and Assistant Directors-General of Customs have and may exercise all the powers conferred on the Director-General by this Act.

(4) The designated officer may appoint such number of other senior officers of customs as the designated officer thinks fit for the purpose of carrying out the provisions of this Act.

Powers of Director-General to delegate

5.— (1) The Director-General may confer on any senior officer of customs appointed under section 4(4) all or any of the powers conferred on the Director-General by this Act, subject to such conditions or restrictions as the Director-General thinks fit.

(2) The Director-General may appoint such number of other officers of customs as the Director-General thinks fit for the purpose of carrying out the provisions of this Act.

(3) The Director-General may confer on any officer of customs appointed under subsection (2) all or any of the powers of a senior officer of customs.

6. [Not in use]

Officers of customs to be armed

6A. Every officer of customs must be provided with such batons, arms, ammunition and other accoutrements as may be necessary for the effective discharge of his or her duties.

Powers of police officers

7.— (1) For the purposes of this Act, the designated officer may, by notification in the *Gazette*, appoint such police officers as the designated officer thinks fit and may by that notification confer upon those officers all or any of the powers conferred by this Act.

- (2) In the absence of such appointment in subsection (1) —
 - (a) all police officers not below the rank of sergeant have and may exercise all the powers conferred by this Act on senior officers of customs; and
 - (b) all police officers below the rank of sergeant have and may exercise all the powers conferred by this Act on officers of customs.

(3) Every officer of customs must be provided with such staves, guns, ammunition and other accoutrements as may be prescribed.

Authority card to be produced

8.— (1) Every officer of customs when acting against any person under this Act must, if not in uniform, on demand declare his or her office and produce to the person against whom the officer is acting such authority card as the Director-General or, in the case of a police officer, the Commissioner of Police, may direct to be carried by such officers.

(2) It is not an offence for any person to refuse to comply with any request, demand or order made by any officer of customs acting or purporting to act under this Act if the officer is not in uniform and refuses to declare his or her office and produce his or her authority card, on demand being made by the person.

Persons employed on customs duty to be deemed proper officers of customs

9.— (1) Every person employed on any duty or service relating to customs by the orders or with the concurrence of the Director-General (whether previously or subsequently expressed) is deemed to be the proper officer of customs for that duty or service.

(2) Every act required by law at any time to be done by or with any particular officer nominated for such purpose, if done by or with any person appointed by the Director-General to act for such particular officer is deemed to be done by or with that particular officer.

PART 3

LEVYING OF DUTY AND TAX

Levying of duties

10.— (1) There shall be charged, levied and paid to the Director-General such customs duties and excise duties on any goods imported into the customs territory or manufactured in GMC as may be prescribed by the designated officer by order in the *Gazette*.

(2) Any excise duty imposed by or under this Act on any goods must be imposed on a non-discriminatory basis regardless of the place of origin or manufacture of the goods.

(3) Without affecting any other remedy, any customs duty or excise duty or any tax, fee or other charge payable under this Act may be recovered by the Director-General as a civil debt due to the GMCA.

(4) All amounts collected as duties, taxes, fees and other charges under this Act must be paid to the account designated by the GMCA Department of Revenue and Customs.

Power of Director-General to waive duty, etc.

11. The Director-General or an officer of customs authorised by the Director-General for the purpose of this section may waive the payment, or recovery of payment, of the whole or any part of any customs duties, excise duties, taxes, fees or other charges, except that the amount which may be waived must not exceed \$20 or any other amount that the designated officer may by order prescribe.

Measuring and testing by proper officers of customs

12.— (1) The proper officer of customs may value, weigh, measure, test or otherwise examine, or may cause to be weighed, measured, tested or otherwise examined, any dutiable or uncustomed goods for the purpose of ascertaining the customs duty or excise duty leviable thereon.

(2) When a valuation of any goods has been made by the proper officer of customs, the valuation is presumed to be correct until the contrary is proved.

Power of designated officer to exempt

13.— (1) The designated officer may, by order in the *Gazette*, exempt any class of goods or persons from —

- (a) any provision of this Act; or
 - (b) the payment of the whole or any part of any customs duties, excise duties, taxes, fees or other charges which may be payable.
- (2) The designated officer may, in any particular case —
- (a) exempt any person from —
 - (i) any provision of this Act; or
 - (ii) the payment of the whole or any part of any customs duties, excise duties, taxes, fees or other charges which may be payable by that person; or
 - (b) direct the remission or refund of the whole or any part of any customs duties, excise duties, taxes, fees or other charges which may be payable or which may have been paid by any person.
- (2A) An exemption under subsection (2)(a) need not be published in the *Gazette*.

(3) In granting an exemption or directing a remission or refund, the designated officer may impose any conditions (including, for an exemption, conditions subsequent) that the designated officer considers fit.

(4) Any goods in respect of which an exemption from the payment of customs duties, excise duties, taxes, fees or other charges has been granted under subsection (1) or (2) are —

- (a) deemed to be dutiable goods until the conditions (if any) subject to which the exemption from customs duties, excise duties, taxes, fees or other charges was granted are fulfilled; and
- (b) liable to all other charges, not being customs duties, excise duties, taxes, fees or other charges, to which they would be subject if no such exemption had been granted.

Reimposition of customs duty or excise duty

14.— (1) If —

- (a) customs duty or excise duty is not paid on any goods by reason of an exemption granted under section 13; and
- (b) any condition to which the exemption is subject is contravened,

then the goods, upon the contravention, become liable to customs duty or excise duty in accordance with the rate and valuation (if any) specified in the exemption.

(1A) For the purpose of subsection (1), the rate and valuation (if any) specified in the exemption must be those —

- (a) that would have applied if not for the exemption; or
- (b) in force on the date on which the condition of the exemption is contravened.

(2) The person to whom the exemption was granted and any person found in possession of those goods shall be jointly and severally liable to pay the customs duty or excise duty.

(3) If any goods, which are liable to customs duty or excise duty under subsection (1) and on which customs duty or excise duty has not been paid, are found in the possession or on the premises of any person other than the person authorised to possess them under the terms of the exemption, those goods are, until the contrary is proved, deemed to be uncustomed goods.

Remission of customs duty or excise duty on goods lost, damaged or destroyed before removal from customs control

15. (1) If any dutiable goods are by unavoidable accident lost, damaged or destroyed or are lost through theft or through evaporation at any time before removal from customs control, the Director-General may remit the whole or any part of the customs duty or excise duty payable thereon.

(2) After removal of any goods from customs control, no abatement of customs duties or excise duties is allowed on any such goods on account of loss or damage, or on account of any claim —

- (a) to pay customs duty or excise duty at a preferential rate; or
- (b) that the weight, measure, volume or value as determined by the proper officer of customs for the purpose of ascertaining the customs duty or excise duty on such goods, or any other factor affecting the goods, is incorrect,

unless written notice of the claim has been given at or before the time of the removal.

16. *[Not in use]*

17. [Not in use]

17A. [Not in use]

17B. [Not in use]

18. [Not in use]

Claims for duties, taxes, fees and other charges overpaid or erroneously paid

19.—(1) Except as provided in this section, no person is entitled to any refund or return of any money that —

- (a) was overpaid or erroneously paid as customs duties, excise duties, taxes, fees or other charges under this Act; or
- (b) was erroneously collected for the composition of offences under this Act.

(2) A person who overpaid or erroneously paid, or who was the subject of any erroneous collection, mentioned in subsection (1) may make a written claim to the Director-General for the refund or return of any money overpaid, erroneously paid or erroneously collected.

(3) A refund or return of the money to a person under subsection (2) may be made only if —

- (a) the person makes the claim within 5 years after the overpayment, erroneous payment or erroneous collection; and
- (b) the Director-General is satisfied of the overpayment, erroneous payment or erroneous collection.

Payment of duty, etc., short levied or erroneously refunded

20.—(1) Where any customs duty, excise duty, tax, fee or other charge under this Act has been short levied or erroneously refunded for any reason or owing to any cause, the person who should have paid the amount short levied or to whom the refund has erroneously been made must pay the deficiency or repay the amount erroneously refunded, to the Director-General on a valid demand being made.

- (1A) A demand is valid under subsection (1) if it satisfies the following:
 - (a) it is in writing;
 - (b) it is made within 5 years after the date of payment of the duty, tax, fee or other charge stated in the demand as having been short levied or erroneously refunded;
 - (c) it specifies —

- (i) the amount of the short levy or erroneous refund that the Director-General requires to be paid or repaid; or
- (ii) the circumstances or the goods in relation to which the Director-General has reason to believe the short levy or erroneous refund arose.

(1B) Subsection (1A)(b) does not apply if the short levy or erroneous refund was the result of fraud or evasion on the part of the person liable to pay the short levy, or who claimed for or to be entitled to the refund erroneously made, as the case may be.

(2) Without affecting any other remedy for the recovery of the amount due, any dutiable goods belonging to that person which may be in customs control may be detained until the deficiency is paid or the refund is repaid, as the case may be.

(3) Where the short levy or erroneous refund does not exceed \$20 or such other amount as the designated officer may by order prescribe in any one case, the Director-General may waive the recovery of the short levy or erroneous refund.

Calculation of duty

21. The rate of customs duty or excise duty and the valuation (if any) applicable to any goods is —

- (a) in the case of goods lawfully imported or manufactured in GMC —
 - (i) if the goods are in a Government warehouse or licensed warehouse, the rate and valuation in force at the time when those goods are removed from the Government warehouse or licensed warehouse, as the case may be;
 - (ii) if the goods are imported by post, the rate and valuation in force at the time when customs duty or excise duty is assessed by the proper officer of customs; and
 - (iii) in any other case, the rate and valuation in force at the time when the goods are released by the proper officer of customs; and
- (b) in the case of uncustomed goods, the rate and valuation in force at the time when the goods became uncustomed goods, if known, or the rate and valuation in force at the time of seizure, whichever is the higher.

Value of imported or locally-manufactured goods, other than motor spirit, for excise duty

22.— (1) For the purposes of levying excise duty under this Act, the value of any imported or locally-manufactured goods, other than motor spirit, must be determined

according to the regulations made by the designated officer for the purposes of this section.

(2) Regulations made under subsection (1) may require any importer, local manufacturer or other person concerned with the importation or local manufacture of goods —

- (a) to furnish to a proper officer of customs, in such form as he or she may require, such information as is in his or her opinion necessary for a proper valuation of the goods; and
- (b) to produce any book of accounts or other document of whatever nature relating to the purchase, importation or sale of the goods by that person.

Value of imported goods for customs duty

22A.—(1) For the purposes of levying customs duty under this Act, the value of any imported goods must be determined according to the regulations made by the designated officer for the purposes of this section.

(2) Regulations made under subsection (1) may provide for requiring any importer or other person concerned with the importation of goods —

- (a) to furnish to a proper officer of customs, in such form as he or she may require, such information as is in his or her opinion necessary for a proper valuation of the goods; and
- (b) to produce any book of accounts or other document of whatever nature relating to the purchase, importation or sale of the goods by that person.

Objection and appeal on valuation

22B.—(1) If any person disagrees with any determination by the proper officer of customs of the value of any goods under section 22 or 22A, the person may object to that value by making an application to the Director-General, stating the grounds of the person's objection and the amount that the person considers should be the value of the goods.

(2) An objection under this section must be given in writing to the Director-General within 14 days after any determination made under section 22 or 22A or within such longer time as the Director-General may allow.

(3) The Director-General must consider the objection and inform the importer in writing of his or her decision.

(4) Where a proper officer of customs amends his or her determination of the value of any goods pursuant to this Act otherwise than as a result of an objection received from the importer of the goods, he or she must give notice to the importer of the amended determination.

(5) If any person is dissatisfied with the decision of the Director-General in respect of the person's objection under subsection (1), the person may appeal to the court against that decision.

(6) Every appeal under subsection (5) must be made by giving notice of appeal within 28 days after the date on which the importer is notified in writing under subsection (3) of the decision or within such further period as the court may allow.

(7) On any appeal under subsection (5), the court may confirm, vary or set aside the decision of the Director-General and make such further or other order on such appeal, whether as to costs or otherwise, as the court thinks fit.

(8) Despite anything to the contrary in this section, where, in the course of determining any appeal, it becomes necessary to delay the final determination of the appeal, the importer must be given delivery of the importer's goods from customs control subject to the Director-General receiving any security that the Director-General thinks sufficient to cover the full amount of customs duty or excise duty on the goods.

Value of imported and locally-manufactured motor spirit

23. For the purposes of this Act, the value of any grade of imported or locally-manufactured motor spirit with a trade name or trade mark is taken to be the price inclusive of excise duty but excluding sales tax charged thereon for that grade with that trade name or trade mark prevailing in GMC at retailers' motor spirit pumps at the time when excise duty becomes payable.

Value of motor spirit where variation in price

24. For the purpose of section 23, if there is any difference in the price of a grade of motor spirit with the same trade name or trade mark, the highest price inclusive of excise duty but excluding sales tax charged thereon for that grade with that trade name or trade mark is taken to be the value of that grade of motor spirit.

Value of motor spirit which is uncustomed, not retailed in GMC under a trade name or where retailers' pump price is not available

25. Despite sections 23 and 24, the value of any grade of motor spirit which is uncustomed or which is not being retailed in GMC under a trade name or trade mark or which is being retailed in GMC under a trade name or trade mark but the retailers' motor spirit pump price is not available, is the highest price inclusive of excise duty but excluding sales tax charged thereon for that grade regardless of trade names or trade marks prevailing in GMC at the retailers' motor spirit pumps.

Question as to price of motor spirit to be decided by Director-General

26. If any question arises as to the price of motor spirit at the retailers' motor spirit pumps, the question is to be decided by the Director-General.

Removal of dutiable goods from customs control

27.—(1) Dutiable goods must not be removed from customs control except —

- (a) after payment of the customs duty or excise duty payable thereon;
- (b) under such conditions as the Director-General may impose for deposit in a Government warehouse or licensed warehouse; or
- (c) under such conditions as the Director-General may impose in any particular case.

(2) Goods must not be removed from a Government warehouse until all warehouse rent and other charges due in respect thereof have been paid.

(3) The Director-General may allow dutiable goods in a licensed warehouse to be removed therefrom before payment of the customs duty or excise duty but before doing so the Director-General may, in the Director-General's discretion, require that security be lodged to the Director-General's satisfaction to guarantee the payment of the customs duty or excise duty within such time as the Director-General may allow.

Time of importation when duty is imposed

28. When, by virtue of an order made under section 10(1), a customs duty or excise duty is fixed on any goods which previously were not dutiable goods or any customs duty or excise duty on goods is abolished or when the importation or exportation of any goods is prohibited or any such prohibition abolished by a notification made under section 38 and it becomes necessary for the purpose of this Act to determine the time at which an importation or exportation of any goods made and completed is deemed to have had effect, the importation or exportation is, despite anything in this Act, deemed to be —

- (a) *[Not in use]*
- (b) in the case of importation by road or rail, the time at which the goods come within GMC;
- (c) in the case of importation by air, the time at which the aircraft lands at a customs airport;
- (d) in the case of importation from a free trade zone, the time at which the goods enter the customs territory;
- (e) *[Not in use]*
- (f) in the case of exportation by road or rail, the time at which the goods leave GMC;

- (g) in the case of exportation by air, the time at which the aircraft leaves a customs airport; and
- (h) in the case of goods removed from the customs territory into a free trade zone for export, the time at which the goods are brought into the free trade zone.

Customs rulings

29.—(1) The Director-General may, on an application made in accordance with the Schedule, make a ruling on any of the matters specified in the Schedule in accordance with the Schedule.

(2) The Schedule applies to and in connection with an application under subsection (1) and any ruling made by the Director-General under that subsection.

(3) The designated officer may, by order in the *Gazette*, amend, add to or revoke the whole or any part of the Schedule.

Import of trade samples

30.—(1) Where dutiable goods are declared at the time of their importation to be bona fide trade samples, the Director-General may allow such goods to be imported without payment of customs duty or excise duty subject to any conditions that the Director-General considers fit to impose.

(2) In this section, “trade samples” means articles which are imported solely—

- (a) for the purpose of being shown or demonstrated in GMC to enable manufacturers in GMC to produce those articles to fulfil orders from abroad or for the soliciting of orders for goods to be supplied from abroad; or
- (b) by a manufacturer for the purposes of copying, testing or experimenting before the manufacturer produces those articles in GMC,

and which are used solely for the purposes set out in paragraph (a) or (b) and are not sold or consumed or put to normal use or used in any way for hire or reward while in GMC.

PART 4

IMPORTATION AND EXPORTATION

Place of import, export or transhipment

31.—(1) Despite any other written law, a person must not import or export dutiable goods or tranship goods of a class dutiable on import except—

- (a) [Not in use]
 - (b) by air, at a customs airport;
 - (c) by rail, at the customs station along the railway; or
 - (d) by road.
- (1A) [Not in use]
- (2) Dutiable goods, other than accompanied personal effects and baggage, must not be imported by road except during such times and under such conditions as may be approved by the Director-General.

Registration of importers and agencies in respect of goods made dutiable

32. Where any goods previously not dutiable have become dutiable by virtue of an order published under section 10(1), a senior officer of customs may require any importer importing the goods or local agency acting on behalf of a foreign exporter of the goods to register the importer's or local agency's business particulars at a customs office.

Import and export to be in accordance with regulations

33. A person must not import or export dutiable goods or tranship goods of a class dutiable on import except under and in accordance with such regulations or restrictions as are prescribed.

Permit to remove goods

34.—(1) Subject to subsections (2) and (3), dutiable goods imported and goods of a class dutiable on import intended for transhipment or in transit must not on arrival be removed —

- (a) [Not in use]
- (b) from the customs airport at which the goods arrived;
- (c) from the customs station along the railway at which the goods arrived;
- (d) beyond any customs station if the goods were brought into GMC by road; or
- (e) from the free trade zone in which the goods were deposited or landed,

except under and in accordance with the conditions contained in a permit issued by the proper officer of customs in such form as may be determined by the Director-General.

- (2) No permit is required for the removal —

- (a) by a licensed FTZ operator administering a free trade zone of any dutiable goods from a conveyance directly into the free trade zone, if a full and correct inward manifest as required under section 39 has been furnished to the proper officer of customs;
 - (b) of dutiable goods (other than intoxicating liquors or tobacco) the duty on which does not exceed such amount as the designated officer may by order prescribe and which is in the possession or in the baggage of any person arriving in GMC;
 - (c) of intoxicating liquors or tobacco of such type and quantity as —
 - (i) the designated officer may by order prescribe; or
 - (ii) the Director-General or an officer of customs authorised by the Director-General for the purpose of this subsection may, subject to any general or special directions of the designated officer, determine,
 - and which is in the possession or in the baggage of any person arriving in GMC;
 - (d) of motor fuel for use in the propulsion of any motor vehicle or aircraft which —
 - (i) in relation to a motor vehicle —
 - (A) is carried in a fuel supply tank of the motor vehicle; or
 - (B) is of such amount as the designated officer may by order prescribe and which is carried in a spare container of the motor vehicle; and
 - (ii) in relation to an aircraft, is carried in the fuel supply tank of the aircraft.
 - (iii) [Not in use]
 - (e) of dutiable goods imported by post unless so required by the proper officer of customs; and
 - (f) of such dutiable goods as the Director-General may, subject to any general or special directions of the designated officer, determine.
- (3) The Director-General may, subject to any conditions that the Director-General may impose, authorise any person to remove, without a permit, goods of a class dutiable on import intended for transhipment or in transit —

- (a) from an aircraft into the free trade zone in a customs airport and to be transhipped from that free trade zone directly into another aircraft at the same airport.
- (b) [Not in use]

35. [Not in use]

Goods removed in accordance with declaration not to be relanded

36. A person must not —

- (a) reland or permit the relanding of any goods placed on any aircraft or loaded into any railway wagon in accordance with any declaration made under section 59; or
- (b) knowingly neglect or omit to cause the goods to be exported or transhipped (as the case may be) in accordance with the declaration without the prior consent of the proper officer of customs.

Declaration

37. Every importer or exporter of dutiable goods and every person transhipping goods of a class dutiable on import must, before removing any such goods or any part thereof from customs control or from any of the following places (whether or not the goods are under customs control):

- (a) [Not in use]
- (b) the customs airport at which the goods arrived;
- (c) the customs station along the railway at which the goods arrived;
- (d) any customs station if the goods were brought into GMC by road; or
- (e) the free trade zone in which the goods were deposited or landed,

make personally or by an agent to the proper officer of customs a declaration, in accordance with section 96, of the particulars of the goods imported or exported or to be transhipped.

Power to prohibit imports and exports

38.—(1) The designated officer may, by notification in the *Gazette*, prohibit, absolutely or conditionally, the importation into, or exportation from, GMC of such dutiable goods as are specified in the notification.

(1A) To avoid doubt, the dutiable goods that may be specified in the notification include goods whose import or export is prohibited, absolutely or conditionally, under any other written law.

(2) If any question arises as to whether any particular goods are or are not included in a class of goods appearing in a notification made under subsection (1), that question is to be decided by the Director-General.

Particulars of goods inwards to be furnished

39.—(1) The pilot, owner or agent of every aircraft arriving in GMC, and the station-master at the customs station along the railway on the arrival of every train, must, within 24 hours after the arrival of the aircraft or train, or within such longer period as the Director-General may in his or her discretion allow, furnish to the proper officer of customs at the customs office designated by the Director-General —

- (a) a full and correct inward manifest, certified by the pilot, owner, agent or station-master, containing full particulars as to the quantities, marks and description of goods brought into GMC;
- (b) a full and correct statement of goods in transit discharged in GMC; and
- (c) if so required by the Director-General —
 - (i) a full and correct manifest of all goods in transit not landed in GMC; and
 - (ii) a correct list of air or railway stores on board the aircraft or train.

(2) The Director-General may, if he or she thinks fit and subject to such conditions as he or she may impose, permit the owner or agent of the aircraft or the station-master mentioned in subsection (1) to authorise any other person to furnish on behalf of the owner, agent or station-master the whole or any part of any manifest or statement mentioned in subsection (1).

Correction to be made on completion of discharge

40.—(1) Within one month of the arrival of an aircraft or train, the pilot, owner or agent of the aircraft or the station-master or the person authorised under section 39(2) must present to the proper officer of customs a certified amendment to the manifest required by section 39 due to short-landing, overlanding or such other cause as the designated officer may by order specify.

(2) The Director-General may refuse to accept any amendment made after the Director-General has been notified that investigations into any offence under any written law have commenced in connection with goods to which the manifest relates.

(3) If any dutiable goods are not accounted for to the satisfaction of a senior officer of customs —

- (a) within 2 months of the presentation of the amendment or within such longer period as the officer may allow; or
- (b) in any case where the amendment has not been presented within 3 months of the completion of the discharge of cargo from an aircraft or a train,

the pilot, owner or agent of the aircraft or the station-master or the person authorised under section 39(2), is liable to pay on demand to the senior officer of customs twice the amount of duty leviable thereon or, when the correct duty cannot be assessed, an amount not exceeding \$1,000.

(4) If the person liable to the penalties laid down in subsection (3) refuses or fails to pay the penalties demanded of the person, any senior officer of customs may sue for and recover the penalties in a court.

Particulars of goods exported to be furnished

41.—(1) Within 48 hours of the departure of every aircraft or train or within such longer period as the Director-General may in his or her discretion allow, the owner or agent of the aircraft or the station-master at the customs station along the railway must furnish to the proper officer of customs at the customs office designated by the Director-General —

- (a) a full and correct outward manifest of all goods exported thereon, or which have been taken aboard the aircraft as air stores;
- (b) a full and correct statement of all goods transhipped; and
- (c) a full and correct loadlist in the form approved by the Director-General and certified by such owner, agent or station-master to contain full particulars of all the dutiable goods which have been received for loading onto the aircraft or train.

(2) The Director-General may, if he or she thinks fit and subject to such conditions as he or she may impose, permit the owner, agent or station-master mentioned in subsection (1) to authorise any other person to furnish on behalf of the owner, agent or station-master the whole or any part of any manifest, statement or loadlist mentioned in that subsection.

Liability in respect of duty for goods unaccounted for, etc.

42.—(1) All dutiable goods unshipped or landed in a free trade zone or approved landing place, or deposited in a transit warehouse, are, until —

- (a) lawfully removed therefrom for export or entry into customs territory; or
- (b) received for storage by the licensed FTZ operator administering the free trade zone or the occupier or operator of the premises in which the goods are stored within the zone,

at the risk of the pilot, owner or agent of the aircraft or any person authorised under section 39(2) (as the case may be) as if those goods had not been unshipped.

(2) The pilot, owner or agent of the aircraft or any person authorised under section 39(2) is each liable to pay the duty on such of the goods as are not accounted for to the satisfaction of a senior officer of customs as if those goods had been imported.

(3) Despite the provisions of any written law to the contrary, where any dutiable goods have been received for storage by —

- (a) the licensed FTZ operator administering a free trade zone; or
- (b) the occupier or operator of the premises in which the goods are stored within a free trade zone,

then, the licensed FTZ operator, occupier or operator is liable to pay the customs duty or excise duty on such of the goods as are not accounted for to the satisfaction of a senior officer of customs, as if those goods had been imported.

(3A) Despite the provisions of any written law to the contrary, where any dutiable goods landed in a free trade zone are used or consumed in the free trade zone, the following persons are liable to pay the customs duty or excise duty on the goods so used or consumed, as if the goods had been imported:

- (a) subject to paragraph (b), every relevant person mentioned in subsection (3B) at whose risk the goods remained under subsection (1);
- (b) if, at the time of their use or consumption, the dutiable goods were stored by —
 - (i) the licensed FTZ operator administering the free trade zone; or
 - (ii) the occupier or operator of any premises within the free trade zone, the licensed FTZ operator, occupier or operator, as the case may be.

(3B) In subsection (3A), a relevant person is, in the case of an aircraft, the pilot, owner or agent or person authorised under section 39(2).

(3C) For the purpose of calculating the customs duty or excise duty under subsections (3) and (3A), the rate of duty and the valuation (if any) applicable to the goods are those in force on the date the goods were brought into the free trade zone.

- (4) For the purpose of subsection (1) and section 45 —
 - (a) the value of any grade of motor spirit which is not being retailed in GMC under a trade name or trade mark is the highest price inclusive of excise duty but excluding sales tax charged thereon for that grade regardless of

trade names or trade marks prevailing in GMC at retailers' motor spirit pumps; and

- (b) the value of any grade of motor spirit which is being retailed in GMC under a trade name or trade mark is determined in accordance with section 23.

PART 5

GENERAL PROVISIONS AFFECTING AIRCRAFT AND TRAINS

43. *[Not in use]*

Goods not specified in manifest to be deemed uncustomed

44. If dutiable goods, or goods in transit of a class dutiable on import, other than bona fide air or railway stores, are found by a proper officer of customs in any aircraft or train in GMC and those goods are not specified in the manifest of the aircraft or train, then those goods are —

- (a) deemed to be uncustomed goods; and
- (b) liable to seizure and the aircraft or train may be detained by the proper officer of customs.

Missing goods deemed to have been illegally landed

45. If in any aircraft or train in GMC the quantity of dutiable goods, or goods of a class dutiable on import intended for transhipment or in transit, entered in the manifest or other document of the aircraft or train, is found missing and the deficiency is not accounted for to the satisfaction of the proper officer of customs, then the pilot, owner or agent of the aircraft, or the station-master at the customs station along the railway or any person authorised under section 39(2) or 41(2), is —

- (a) unless the contrary is proved, deemed to have illegally removed those goods and landed them in GMC; and
- (b) without affecting any proceedings under this Act, liable to pay immediately to the proper officer of customs the duty leviable on the goods found deficient or missing and the aircraft or train may be detained by the proper officer of customs until the customs duty or excise duty has been paid.

46. *[Not in use]*

Power to lock up goods dutiable on import

47.—(1) When, in exercise of the powers conferred by this Act, a proper officer of customs boards any aircraft or train, the officer —

- (a) has free access to every part of the aircraft or train;
- (b) has the power to mark any dutiable goods before landing; and
- (c) has the power to lock up, seal, mark or otherwise secure any dutiable goods, including air or railway stores on board the aircraft or train.

(2) Any lock, seal or mark must not be opened, broken or altered without the consent of the proper officer of customs while the aircraft or train is within the limits of the airport or before any such goods are delivered to be landed.

(3) The Director-General may, in his or her discretion, permit or refuse to permit the taking of any dutiable goods without payment of duty into a aircraft as air stores.

(4) In granting permission for the embarkation of any dutiable goods under subsection (3), the Director-General may impose any conditions that the Director-General considers fit.

(5) The Director-General may, in his or her discretion, permit or refuse to permit the use of any air stores on which duty has not been paid.

(6) All goods dutiable on import which are part of any air or railway store on board —

- (a) a train must be secured in a locked store specifically provided for the purpose; and
- (b) an aircraft must be secured in a locked cabin box or other receptacle specifically provided for the purpose.

(7) If any air or railway stores are found in any place other than those stated in subsection (6), those air or railway stores are deemed to be uncustomed goods.

48. [Not in use]

PART 6

WAREHOUSING

Government warehouses

49.—(1) The Director-General may establish and maintain Government warehouses in which dutiable goods may be deposited and kept without payment of duty.

(2) The Director-General may, in his or her discretion, limit the quantity of dutiable goods which, and the period during which any such dutiable goods, may be deposited and kept in any Government warehouse, at any customs office or customs station.

(3) The Director-General may, in his or her discretion, permit the storage of non-dutiable or duty-paid goods in a Government warehouse subject to any conditions that the Director-General may impose.

50. [Not in use]

Licensed warehouses

51.—(1) The Director-General may, in his or her discretion, on payment of such fees as may be prescribed, grant a licence to any person (called in this section the licensee) and when granted suspend or withdraw any licence for warehousing goods liable to duty in a place or places specified in that licence.

(2) Any such licence is for such period and subject to such conditions as the Director-General may in each case specify in the licence.

(3) A senior officer of customs, or any officer of customs deputed by a senior officer of customs for the purpose, has at all times access to any licensed warehouse.

(4) If it appears at any time that in any licensed warehouse there is a deficiency in the quantity of dutiable goods which ought to be found therein, the licensee of the warehouse is—

- (a) in the absence of proof to the contrary, presumed to have illegally consumed or removed the goods; and
- (b) without affecting any proceedings under this Act, liable to pay immediately to the proper officer of customs the duty leviable on the goods found deficient.

(5) If, it is shown to the Director-General's satisfaction that the deficiency has been caused by theft or by unavoidable leakage, breakage or other accident, or by evaporation, the Director-General may remit the whole or any part of the duty leviable on the goods found deficient.

(6) The licensee of a licensed warehouse must remove all dutiable goods from the warehouse before—

- (a) the expiry of the period of the licence; or
- (b) if the Director-General serves on the licensee a notice of withdrawal of the licence, the date of withdrawal specified in the notice.

(7) A licensee who, without reasonable excuse, fails to comply with subsection (6) shall be guilty of an offence.

(8) If a licensee fails to comply with subsection (6), the Director-General may do all or any of the following:

- (a) remove all dutiable goods from the warehouse;
- (b) store the dutiable goods in a Government warehouse or licensed warehouse;
- (c) forfeit the dutiable goods after one month from the date of the expiry or withdrawal (as the case may be) of the licence;
- (d) dispose of all dutiable goods forfeited under paragraph (c) in accordance with this Act.

(9) Any costs incurred by the Director-General pursuant to subsection (8) are recoverable by the Director-General from the licensee as a debt due to the GMCA.

(10) To avoid doubt, subsection (6) does not affect the operation of sections 27 and 59.

Dutiable goods to be deposited in free trade zone

52.—(1) All dutiable goods imported into GMC —

- (a) by air or road, must on first arrival be landed and deposited by the importer or the importer's agent in a free trade zone; and
- (b) by any other means, must on first arrival or landing be deposited by the importer or the importer's agent in a Government warehouse or licensed warehouse or, if so required, a customs office or customs station or in any other place approved by the Director-General in writing.

(2) If the Director-General is satisfied that for any reason it is not practicable to land or deposit any dutiable goods in a free trade zone or in a Government warehouse or licensed warehouse, or a customs office or a customs station or in any other place approved by the Director-General in writing, the Director-General may exempt those goods from being so landed or deposited, subject to any conditions that the Director-General may impose.

(3) Despite subsection (1), such goods as may be prescribed by the designated officer under any written law providing for the establishment and regulation of activities in free trade zones —

- (a) must be deposited in a Government warehouse or licensed warehouse; and

- (b) are liable to warehouse rent at such rates as may be prescribed for those goods.
- (4) Any dutiable goods imported by rail may be consigned to, and are deemed to have first arrived on reaching, the customs station along the railway.
- (5) This section does not apply to goods lawfully imported —
 - (a) by post; and
 - (b) by rail as stores for use in railway restaurant cars.

Warehouse deposit receipts

53.—(1) A warehouse deposit receipt must be issued by the proper officer of customs for all goods deposited in a Government warehouse or a customs office or customs station or in any other place approved by the Director-General in writing.

(2) Where the warehouse deposit receipt is lost, a copy of the receipt, duly certified by the proper officer of customs, must be supplied to the owner of the goods or the owner's agent on delivery to a senior officer of customs at the customs office of an indemnity bond approved by the senior officer of customs, securing the GMCA against any claim for loss owing to wrong delivery of the goods deposited.

(3) The holder or endorsee in due course of a warehouse deposit receipt or a certified copy thereof issued under subsection (2) is deemed, for the purposes of this Act, to be the owner of the goods deposited.

(4) Delivery to the holder or endorsee or the agent of the holder or endorsee of the warehouse deposit receipt or certified copy thereof or delivery against the production of a delivery order authenticated by the holder or endorsee or the agent of the holder or endorsee of the warehouse deposit receipt or certified copy thereof is a good and lawful delivery.

(5) When delivery is made against such delivery order, the quantity of goods covered by the deposit receipt or certified copy thereof is deemed to have been endorsed accordingly and when all the goods have been so delivered the warehouse deposit receipt or certified copy thereof is deemed to be cancelled.

Power to open and examine goods or packages

54. A senior officer of customs may, at any time, direct that any goods or package lodged in any Government warehouse or licensed warehouse or customs office or customs station or in any other place approved by the Director-General in writing be opened, weighed or otherwise examined, and, after the goods or package has been so opened or examined, may cause the same to be sealed or marked in any manner that the senior officer of customs thinks fit.

Detention of goods where doubt exists

55.—(1) The proper officer of customs may detain in a Government warehouse or customs office or customs station or in any other place approved by the Director-General in writing any goods if the proper officer of customs is in doubt whether the goods are dutiable or not.

(2) In every such case, the proper officer of customs must immediately make a report to a senior officer of customs, who must, without undue delay, decide whether the goods are dutiable or not.

(3) If any such goods are found not to be dutiable, no warehouse rent is payable in respect thereof.

Protection of GMCA from liability

56. The GMCA shall not be liable to make good any loss sustained in respect of any goods by fire, theft, damage or other cause, while the goods are in any Government warehouse or customs office or customs station or in any other place approved by the Director-General in writing or in the lawful custody or control of any officer of customs, unless the loss has been caused by the wilful neglect or default of an officer of customs or of a person employed by the GMCA in connection with the customs.

Protection of officers of customs from liability

57. No officer of customs or other person employed by the GMCA in connection with the customs shall be liable to make good any loss sustained in respect of any goods by fire, theft, damage or other cause while the goods are in any Government warehouse or customs office or customs station or in any other place approved by the Director-General in writing or in the lawful custody or control of such officer or any other officer of customs or person employed in connection with the customs unless the loss has been caused by his or her wilful neglect or default.

Payment of warehouse rent

58.—(1) The owner of any goods deposited in a Government warehouse, or the owner's agent, must pay to the proper officer of customs at the prescribed rates the warehouse rent which may be due in respect of the goods.

(2) Such rent is payable on demand, and in any event before the goods are removed from the Government warehouse.

(3) If any bill for warehouse rent presented in accordance with subsection (1) is not discharged within 14 days from the date of its presentation, the Director-General may immediately order the goods in respect of which the warehouse rent is payable to be forfeited to the GMCA, with effect from the day next following that (if any) in respect of which storage charges have been paid.

Removal of dutiable goods from customs control

59.—(1) Every owner of goods warehoused under section 51, 52, 60 or 83 must, before removal of the goods or any part thereof from customs control, make personally or by the owner's agent to the proper officer of customs a declaration, in accordance with section 96, of the goods to be removed.

(2) Goods deposited in a licensed warehouse may be removed therefrom without such prior declaration subject to any conditions that the Director-General may impose.

Landing of dutiable goods for transhipment

60.—(1) Dutiable goods arriving in GMC for transhipment and landed to await the arrival of the conveyance in which they are intended to be transhipped must be landed and deposited in a free trade zone.

(2) The Director-General may exempt any particular goods from the operation of this section.

Storage of dutiable goods

61. A person must not store, keep or have in the person's possession any dutiable goods except under customs control.

Weighing and handling

62.—(1) All necessary operations relating to the loading, unloading, landing, carrying, weighing, measuring, testing, opening, unpacking, repacking, bulking, sorting and marking of goods, including passengers' baggage, whether warehoused or not, must be performed by or at the expense of the owner, importer, exporter, consignor, consignee or agent, as the case may be.

(2) Where the presence of officers of customs is required or necessary for the proper performance of such operations as are described in subsection (1), the owner, importer, exporter, consignor, consignee or agent (as the case may be) must at his, her or its own expense provide such officers of customs with the necessary transport between the customs office and the place where those operations are to be performed.

PART 7

MANUFACTURE AND BOTTLING

Licence to manufacture dutiable goods

63.—(1) Subject to subsection (1A), a person must not manufacture any dutiable goods except under and in accordance with the provisions of a licence granted by the GMCA and at the place or places of manufacture specified in the licence.

(1A) Subsection (1) does not apply to a person who does not distil, ferment or otherwise manufacture intoxicating liquors, tobacco or dutiable goods on a commercial scale, as determined by the Director-General, by notification in the *Gazette*.

(2) Such licence is, on payment of such fee as may be prescribed, granted at the discretion of the GMCA for such period as may be prescribed and subject to —

- (a) such conditions as may be prescribed; and
- (b) such further conditions as the GMCA may direct to be endorsed on the licence in any particular case.

(3) Such licence may be suspended or withdrawn at any time by the GMCA on a justifiable ground by issuing a prior notice of not less than 30 days.

(4) A licence to manufacture any dutiable goods is deemed to include the following:

- (a) a licence for warehousing such dutiable goods as provided for in section 51(1); and
- (b) where the dutiable goods consist of intoxicating liquors, a licence for the bottling of such intoxicating liquors as provided for in section 66(1).

(5) Any regulations made under section 143(1) to regulate the control of licensed warehouses or bottling warehouses apply to warehouses deemed to be so licensed under subsection (4) to such an extent as the GMCA may direct.

No person except licensee to keep a still, etc.

64.—(1) Subject to subsection (1A), a person who is not the holder of a licence under section 63(1), or under section 83(3) for manufacturing dutiable goods, must not knowingly keep or have in the person's possession any still, utensil or other apparatus for distilling, fermenting or otherwise manufacturing intoxicating liquors or any power-operated machinery for the manufacture of tobacco or any other apparatus for the manufacture of dutiable goods.

(1A) Subsection (1) does not apply to a person who knowingly keeps or has in the person's possession any still, utensil or other apparatus for distilling, fermenting or otherwise manufacturing intoxicating liquors or any power-operated machinery for the manufacture of tobacco or any other apparatus for the manufacture of dutiable goods if such still, utensil, other apparatus or such power-operated machinery is not used to distil, ferment or otherwise manufacture intoxicating liquors, tobacco or dutiable goods on a commercial scale, as determined by the Director-General, by notification in the *Gazette*.

(2) The owner and the occupier of any land or premises upon which any still, utensil or other apparatus for distilling, fermenting or otherwise manufacturing

intoxicating liquors or any power-operated machinery for the manufacture of tobacco or any apparatus for the manufacture of dutiable goods is found are each deemed, until the contrary is proved, knowingly to have kept or had in the owner's or occupier's possession such still, utensil or other apparatus or power-operated machinery for the manufacture of tobacco or apparatus for the manufacture of dutiable goods, as the case may be.

(3) Nothing in subsection (1) applies to stocks held by a bona fide trader in scientific apparatus or in machinery or, with the approval of the Director-General, to stills, utensils or other apparatus for distilling, fermenting or otherwise manufacturing intoxicating liquors or machinery for the manufacture of tobacco or any other apparatus or machinery for the manufacture of dutiable goods in the possession of a person constructing a distillery, brewery or other factory with the approval of the Director-General or of a person in occupation of premises temporarily closed down, in respect of which a licence had previously been held.

65. [Not in use]

Bottling warehouse

66.—(1) Subject to subsection (1A), a person must not bottle any intoxicating liquors imported or manufactured in GMC, or blend, compound or vary any intoxicating liquors except under and in accordance with the provisions of a licence granted by the Director-General and at the bottling warehouse or warehouses specified in the licence.

(1A) Subsection (1) does not apply to a person who does not bottle any intoxicating liquors imported or manufactured in GMC, or blend, compound or vary any intoxicating liquors on a commercial scale, as determined by the Director-General, by notification in the *Gazette*.

(2) Such licence is granted at the discretion of the Director-General upon payment of the prescribed fee, and is for such period and subject to such conditions as may be prescribed by regulations made under this Act, and may be suspended or withdrawn at any time by the Director-General on the justifiable ground of issuing a prior notice not less than 10 days.

(2A) A licence to bottle any intoxicating liquors imported or manufactured in GMC, or to blend, compound or vary any such intoxicating liquors at a bottling warehouse specified therein is deemed to be a licence for warehousing such dutiable goods at the bottling warehouse as provided for in section 51(1).

Prohibition on keeping of utensil, apparatus, etc., for bottling, blending, etc.

67.—(1) Subject to subsection (1A), a person who is not the holder of a licence under section 66(1), or under section 83(3) for bottling intoxicating liquors imported or manufactured in GMC, or blending, compounding or varying any intoxicating liquors, must not knowingly keep or have in the person's possession any utensil, apparatus,

material or ingredient for bottling, blending, compounding or varying intoxicating liquors.

(1A) Subsection (1) does not apply to a person who is exempted from holding a licence under section 66(1) or section 83(3) by the Director-General.

(2) The owner and the occupier of any land or premises upon which any utensil, apparatus, material or ingredient for bottling, blending, compounding or varying intoxicating liquors is found are each deemed, until the contrary is proved, knowingly to have kept or had in the owner's or occupier's possession such utensil, apparatus, material or ingredient for the bottling, blending, compounding or varying of intoxicating liquors, as the case may be.

(3) Nothing in subsection (1) applies to stocks held by a bona fide trader in scientific apparatus or in machinery or, with the approval of the Director-General, to any utensil, apparatus, material or ingredient for bottling, blending, compounding or varying intoxicating liquors in the possession of a person constructing a bottling warehouse, distillery, brewery or other factory with the approval of the Director-General or of a person in occupation of premises temporarily closed down, in respect of which a licence had previously been held.

Exemption

68. Nothing in this Act applies to —

- (a) any bottling, blending, compounding or varying of intoxicating liquors by a legally qualified medical practitioner or by any chemist in the service of the GMCA or by any person registered as a pharmacist under any written law relating to the registration of pharmacists and has in force a valid practising certificate issued under that written law or, with the approval of the Director-General, by a qualified chemist which is proved to be for genuine medicinal or scientific purposes; and
- (b) any distillation by a legally qualified medical practitioner or by any chemist in the service of the GMCA or by any person registered as a pharmacist under any written law relating to the registration of pharmacists and has in force a valid practising certificate issued under that written law or, with the approval of the Director-General, by a qualified chemist which is proved to be for genuine medicinal or scientific purposes or, with the approval of the Director-General, to any distillation of essential oils.

Power to enter licensed premises

69. A senior officer of customs, or any officer of customs deputed by him or her for the purpose, has at all times access to any premises licensed under this Part.

70. [Not in use]

71. [Not in use]

72. [Not in use]

73. [Not in use]

74. [Not in use]

75. [Not in use]

76. [Not in use]

77. [Not in use]

PART 9

DRAWBACK

Drawback on imported tobacco manufactured in GMC

78. Where any tobacco on which duty has been paid is manufactured in GMC and is re-exported as part or ingredient of the manufactured tobacco, the Director-General may, on such re-export, allow to the manufacturer a drawback of the whole or such proportion of the duty paid as the designated officer may prescribe if —

- (a) the tobacco has been manufactured in a factory licensed under section 63(1) or under section 83(3) for manufacturing dutiable goods;
- (b) provision to the satisfaction of the Director-General has been made for the control and supervision in the factory of the deposit and issue for use of the tobacco on which duty has been paid;
- (c) the tobacco has been imported by the manufacturer or purchased by the manufacturer before removal from customs control;
- (d) the tobacco is re-exported within 6 months from the date upon which excise duty was paid; and
- (e) the prescribed monthly supplementary licence fee has been paid before the removal into the factory of the tobacco as it is intended to re-export after manufacture.

Drawback on imported goods on which duty has been paid

79.—(1) This section and sections 80, 81 and 134 apply to all goods which have become dutiable by virtue of an order published under section 10(1).

- (2) This section does not apply to goods affected —

- (a) by section 13, unless the designated officer otherwise directs; or
 - (b) by section 15 or 28.
- (3) When any goods, mentioned in subsection (1), upon which customs duty or excise duty has been paid and not drawn back are re-exported, the whole or such proportion of the duty paid as the designated officer may prescribe calculated in accordance with subsection (4) may, in the discretion of the Director-General, be repaid as drawback, if —
- (a) the goods are identified to the satisfaction of a senior officer of customs at any customs airport or station at which goods are loaded for re-export, or at the place of re-export;
 - (b) the drawback claimed in respect of any one consignment of re-exported goods is at least \$100;
 - (c) the goods are re-exported within 6 months of the date upon which the customs duty or excise duty was paid;
 - (d) payment of drawback upon goods of a class to which the goods to be re-exported belong has not been prohibited by any subsidiary legislation made under this Act;
 - (e) written notice has been given to a senior officer of customs at or before the time of re-export that a claim for drawback will be made and established to the satisfaction of a senior officer of customs within 3 months of the date of re-export;
 - (f) the goods have not been used after importation; and
 - (g) a declaration has been made by the person entitled to drawback that the conditions on which drawback is payable have been fulfilled.
- (4) The amount of drawback allowed is calculated at the rate of customs duty or excise duty levied at the time of import or at the rate of customs duty leviable on goods of a like description at the time of re-export of the goods, whichever is the lower.

Declaration by claimant

80. Every person claiming drawback on any goods re-exported must, personally or by the person's agent, make to a senior officer of customs a declaration, in accordance with section 96, that the goods have actually been re-exported and have not been relanded and are not intended to be relanded at any place in GMC.

Drawback on goods used in manufacture

81. Where any goods are prescribed to be goods in respect of which drawback may be allowed on exportation as part or ingredient of any goods manufactured in GMC and

the prescribed goods are so exported by the manufacturer as part or ingredient of any goods manufactured in GMC, then if customs duty or excise duty has been paid on the prescribed goods and not drawn back the Director-General may, on such exportation, allow to the manufacturer a drawback of the duty so paid at such rates as may be prescribed, if—

- (a) the prescribed goods exported have been manufactured on premises approved by the Director-General;
- (b) provision to the satisfaction of the Director-General has been made for the control and supervision on the premises of the deposit and issue for use of the prescribed goods;
- (c) such books of account are kept as the Director-General may require for the purpose of ascertaining the quantity of the prescribed goods used in the manufacture;
- (d) the prescribed goods are exported within 12 months from the date upon which customs duty or excise duty was paid or within such longer period as may be approved by the Director-General; and
- (e) a declaration has been made by the person entitled to drawback that the conditions on which drawback is payable have been fulfilled.

PART 10

DUTY FREE SHOPS FOR TOURISTS

Duty free shops for tourists

82.—(1) The Director-General may, on payment of any fees prescribed, grant a licence to any person (called in this Act the licensee) to sell goods to tourists and returning or departing residents of GMC free of duty in the premises designated in the licence.

(2) Any licence is for such period and subject to such conditions as may be specified in the licence.

(3) Such premises are deemed to be a licensed warehouse for the purposes of section 51 except that a licensee of those premises is not required to take out a separate licence for warehousing goods in those premises.

(4) A senior officer of customs, or any officer of customs deputed by him or her for the purpose, has at all times access to any such licensed premises for the purpose of checking accounts and records and for such other purposes as may be considered necessary.

(5) The licensee must, for the proper conduct of the licensee's business, furnish such security as may be required by the Director-General.

(6) Any licence granted under subsection (1) may, in the discretion of the Director-General, be suspended or withdrawn at any time.

(7) [Not in use]

(8) A person, other than a licensee, must not issue, display or distribute or cause to be issued, displayed, or distributed any advertisement, writing, pamphlet, price list or other document which may imply or give reasonable cause for the public to believe that the person has for sale on the person's premises goods which are duty free or tax free.

(9) Any person who contravenes subsection (8) shall be guilty of an offence.

PART 11

COMPOSITE LICENCE

Grant of composite licence

83.—(1) Any person who intends to carry out 2 or more specified activities for which 2 or more licences under this Act or any written laws relating to the imposition and collection of sales tax are required may, on payment of such fees as may be prescribed, apply for a single composite licence authorising the person to carry out those specified activities.

(2) An application for a composite licence for specified activities must be made to —

- (a) the Director-General; or
- (b) if any of the specified activities is an activity referred to in paragraph (b) of the definition of “specified activity” in subsection (9), the Director-General and the Comptroller.

(3) On receipt of an application under subsection (2), the Director-General, or the Director-General and the Comptroller (as the case may be) may grant a composite licence to the applicant.

(4) Every composite licence granted under subsection (3) must specify the person to whom, the premises in respect of which, and the activities for which, the licence is granted.

(5) Every composite licence granted under subsection (3) is for such period and subject to such conditions as may be specified in the licence.

(6) The Director-General may suspend or withdraw the whole of any composite licence granted under subsection (3), or such part of any such composite licence relating to any of the activities referred to in paragraph (a) of the definition of “specified activity” in subsection (9).

(7) The Comptroller may suspend or withdraw the part of any composite licence granted under subsection (3) relating only to the activity referred to in paragraph (b) of the definition of “specified activity” in subsection (9).

(8) Where a composite licence has been granted under subsection (3) in respect of 2 or more specified activities specified in the licence —

- (a) the licensee is not required by this Act or any written laws relating to the imposition and collection of sales tax to take out a separate licence for each of those activities; and
- (b) the premises in respect of which the composite licence is granted are deemed to be licensed under the relevant provisions of this Act or any written laws relating to the imposition and collection of sales tax, as the case may be.

(9) In this section —

“Comptroller” means the Comptroller of Sales Tax, appointed by the designated officer to be responsible for the due administration of any written laws relating to the imposition and collection of sales tax, and includes any person authorised by the Comptroller to grant a composite licence;

“specified activity” means —

- (a) in relation to any goods liable to duty —
 - (i) warehousing dutiable goods for which a licence is required under section 51;
 - (ii) manufacturing dutiable goods for which a licence is required under section 63;
 - (iii) bottling intoxicating liquors imported or manufactured in GMC, or blending, compounding or varying any such intoxicating liquors, for which a licence is required under section 66; or
 - (iv) selling goods to tourists and to returning or departing residents of GMC free of duty for which a licence is required under section 82; or
- (b) in relation to any goods liable to goods and services tax on the import of goods into GMC under any written laws relating to the imposition and collection of sales tax, storing goods without payment of such tax for which a licence is required under regulations made pursuant to section 37(5)(b) of that Act.

84. [Not in use]**PART 12****MISCELLANEOUS PROVISIONS****Documents to be produced on demand**

85.—(1) On demand by the proper officer of customs, the importer or exporter of any dutiable goods or the importer's or exporter's agent must produce to that officer all invoices, bills of lading, certificates of origin or of analysis and any other documents, which that officer may require to test the accuracy of any declaration made by the importer or exporter to any officer of customs.

(2) On demand by a senior officer of customs, the importer or exporter of any dutiable goods or the importer's or exporter's agent must produce to that officer all books of accounts, invoices, bills of lading, certificates of origin, or of insurance or of analysis and any other documents including documents on terms of trade relating to the purchase, importation or sale of the goods by the importer or exporter or the importer's or exporter's agent.

Computer service

86.—(1) The Director-General may establish and operate a computer service and make provision for any manifest, return, list, statement, declaration, direction, notice, permit, receipt or other document required or authorised by this Act to be made, served or submitted by electronic transmission (called in this Act an electronic notice).

(2) A registered user may, in accordance with the regulations made under subsection (13), make and serve an electronic notice to the computer account of the Director-General.

(3) The Director-General or any person authorised by the Director-General may, in accordance with the regulations made under subsection (13), make and serve an electronic notice to the computer account of a registered user.

(4) Where an electronic notice is transmitted to the computer account of the Director-General using the authentication code assigned to a registered user —

- (a) with or without the authority of the registered user; and
- (b) before the notification to the Director-General by the registered user in the prescribed manner, of cancellation of the authentication code,

that notice is, for the purposes of this Act, presumed to be made by the registered user unless the registered user adduces evidence to the contrary.

(5) Where the registered user alleges that the registered user has transmitted no such electronic notice mentioned in subsection (4), the burden is also on the registered user to adduce evidence of that fact.

(6) For the purposes of this Act, an electronic notice or a copy thereof is not inadmissible in evidence merely on the basis that it was transmitted without the making or delivery of any equivalent document or counterpart in paper form.

(7) Despite any other written law, in any proceedings under this Act, an electronic notice or a copy thereof (including a print-out of that notice or copy) or any database report (including a print-out of that report) relating to that notice —

- (a) certified by the Director-General to contain all or any information transmitted in accordance with this section; and
- (b) duly authenticated in the manner specified in subsection (8) or is otherwise duly authenticated by showing that there is no material discrepancy between the electronic notice or copy thereof certified by the Director-General and the copy of the same electronic notice kept by an independent record keeper appointed under any regulations made under subsection (13),

is admissible as evidence of the facts stated or contained therein.

- (8) For the purposes of this section, a certificate —

 - (a) giving the authentication code and other particulars of any user and device (if known) involved in the production and transmission of, and identifying the nature of, the electronic notice or copy thereof; and
 - (b) purporting to be signed by the Director-General or by a person occupying a responsible position in relation to the operation of the computer service at the relevant time,

is sufficient evidence that the electronic notice or copy thereof has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

(9) Where an electronic notice or a copy thereof is admissible under subsection (7), it is presumed, until the contrary is proved, that the contents of the electronic notice or copy thereof have been accurately transmitted.

(10) The Director-General may, for the purpose of facilitating any electronic transmission under this section, approve the use in any such electronic transmission of symbols, codes, abbreviations or other notations to represent any particulars or information required under this Act.

(11) Any officer of customs or any other person employed in the administration of this Act is not treated as having contravened any provision of any

written law relating to confidentiality or secrecy merely because he or she communicates to the independent record keeper or the independent record keeper's employee or permits the independent record keeper or the independent record keeper's employee to have access to any electronic notice or any information contained therein.

(12) The independent record keeper, the independent record keeper's employee and any person transmitting an electronic notice on behalf of another person must not divulge or disclose the contents of any electronic notice or a copy thereof without the prior written consent of the Director-General.

(13) The designated officer may make regulations —

- (a) prescribing the conditions for subscription to the computer service, including the manner in which the authentication codes are to be assigned;
- (b) prescribing the manifests, returns, lists, statements, declarations, directions, notices, permits, receipts or any other document which may be transmitted through the computer service including the form and manner in which they are to be transmitted;
- (c) for the correction of errors in or amendments to electronic notices;
- (d) prescribing the procedure for use of the computer service including the procedure in circumstances where there is a breakdown or interruption in the service;
- (e) for the appointment of an independent record keeper to be charged with the duty to maintain for a prescribed period a record of all the electronic notices and transactions made through the data service provider between the Director-General and the registered users, such a duty to include keeping the database reports;
- (f) for the independent record keeper to produce a copy of the relevant record pertaining to any electronic notice or a copy thereof to either the Director-General or the registered user, whose electronic notice is in issue, when requested by either party to do so;
- (g) for the standards of security, confidentiality, data integrity and conduct of the computer service and for the review of the operations and activities of the data service provider by such authority or expert as may be prescribed; and
- (h) generally for the better provision of the computer service.

Preservation of records

87.—(1) Any duty under this Act to keep or preserve any books of account, register, stock book or other records may, after the goods to which such records relate have been removed from customs control, be discharged by the preservation of the information contained therein by such means as the Director-General may approve.

(2) Where the information mentioned in subsection (1) is so preserved, a copy of any document forming part of the records is, subject to subsections (3) and (4), admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(3) The Director-General may, as a condition of approving under subsection (1) any means of preserving information contained in any books of account, register, stock book or other records, impose such reasonable requirements as appear to the Director-General necessary for securing that the information will be as readily available to the Director-General as if the books of account, register, stock book or records themselves had been preserved.

(4) A statement contained in a document produced by a computer is not by virtue of subsection (2) admissible in evidence whether in civil or criminal proceedings except in accordance with any written law providing for the law of evidence.

Power of Director-General to obtain information and furnishing of information

88.—(1) The Director-General or any officer of customs authorised by the Director-General has at all times full and free access to all buildings, places, books, documents and other records for any of the purposes of this Act, and may inspect, copy or make extracts from any such books, documents or records.

(2) The Director-General or any officer of customs authorised by the Director-General may take possession of any such books, documents or records where in his or her opinion —

- (a) the inspection, copying thereof or extraction therefrom cannot reasonably be performed without taking possession;
- (b) the books, documents or records may be interfered with or destroyed unless possession is taken; or
- (c) the books, documents or records may be required as evidence in proceedings for an offence under this Act or in proceedings for the recovery of customs duty, excise duty, tax or penalty, or in proceedings by way of an appeal against an assessment of customs duty, excise duty or tax.

(3) The Director-General may require any person to give orally or in writing, as may be required, all such information concerning the person's or any other person's transactions made in the course of a business as may be demanded of the firstmentioned person by the Director-General for the purposes of this Act.

(4) No person is, by virtue of this section, obliged to disclose any particulars as to which the person is under any statutory obligation to observe secrecy.

Information not to be published or disclosed

89.—(1) Any particulars, information or document furnished for the purposes of this Act must not, unless with the prior written consent of the person having the control, management or superintendence of the goods in relation to which the same was given or furnished —

- (a) be published; or
- (b) be communicated or disclosed to any person,

except where it is necessary for the purposes of —

- (c) a prosecution under this Act or any written laws relating to the imposition and collection of sales tax;
- (d) enabling an officer of customs to enforce a provision of this Act;
- (e) enabling the Comptroller or an officer of customs to enforce a provision of any written laws relating to the imposition and collection of sales tax;
- (f) enabling an officer of customs to investigate a suspected offence under this Act;
- (g) enabling the Comptroller or an officer of customs to investigate a suspected offence under any written laws relating to the imposition and collection of sales tax;
- (h) a prosecution of such offence under such written law (other than this Act and any written laws relating to the imposition and collection of sales tax) as may be prescribed;
- (i) enabling a public agency to enforce such provision of such written law (other than this Act and any written laws relating to the imposition and collection of sales tax) as may be prescribed;
- (j) enabling a public agency to investigate such suspected offence under such written law (other than this Act and any written laws relating to the imposition and collection of sales tax) as may be prescribed;
- (k) enabling a public agency to take steps to protect individuals and communities from risks or threats to public health or safety, or to protect against risks or threats to the security of GMC (including her financial and economic security), provided the approval of the designated officer has been given for the publication, communication or disclosure for such purpose; or

- (l) satisfying a request for information under in accordance with any provision in any other written law.
- (1A) The approval of the designated officer mentioned in subsection (1)(k) may be given in respect of —
- (a) a specific public agency or a class of public agencies; and
 - (b) a specific request for particulars, information or documents, or requests for particulars, information or documents falling within such class as the designated officer may in his or her approval specify.
- (1B) Nothing in subsection (1) prevents the designated officer, and any public officer assisting the designated officer and duly authorised by the designated officer for the purposes of this subsection, from having access to such particulars, information or document mentioned in subsection (1) as may be necessary for the performance of his or her official duties in connection with this Act or any written laws relating to the imposition and collection of sales tax.
- (2) Any officer of customs or any person employed or engaged in the administration of this Act who makes use of, publishes or permits any other person to see or communicates or discloses to any other person the contents of any such particulars, information or document to any other person otherwise than with such consent or for such purpose as is referred to in subsection (1), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 12 months or to both.
- (3) Any person, having possession of any information which to the person's knowledge has been communicated, disclosed or published in contravention of this section, who publishes or communicates that information to any other person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding 12 months or to both.
- (4) In this section —
- “Comptroller”, in relation to sales tax, has the meaning given by any written laws relating to the imposition and collection of sales tax;
- “public agency” means a public officer, an organ of state or a ministry or department of the Government, or a public authority established by or under any public Act for a public purpose or a member, an officer or an employee, or any department, thereof.

Retention of trade documents

90.—(1) Every importer or exporter of dutiable goods or the importer's or exporter's agent must keep the following documents and records relating to the goods:

- (a) invoices;
 - (b) books of accounts;
 - (c) bills of lading;
 - (d) packing lists;
 - (e) certificates of origin;
 - (f) certificates of analysis;
 - (g) certificates of insurance;
 - (h) any document or record on the terms of trade relating to the purchase, importation, sale or exportation of the goods by the importer or exporter or the importer's or exporter's agent;
 - (i) such other documents or records as may be prescribed; and
 - (j) any information or data stored on an electronic data storage device.
- (2) The documents and records mentioned in subsection (1) must be retained
-

- (a) in relation to goods in a Government warehouse or licensed warehouse, for a period of at least 5 years from the date those goods are removed from the Government warehouse or licensed warehouse, as the case may be; or
- (b) in any other case, for a period of at least 5 years from the date on which the goods are released by the proper officer of customs.

(2A) The duty under this section to retain documents and records may be discharged by the keeping, or preservation of the information contained therein, in accordance with section 87.

(2B) Subsection (2A) does not affect any obligation relating to the retention of any document or record under such treaty, memorandum of understanding or other agreement between GMC and the government of a country or territory outside GMC, as may be prescribed.

(3) Any person who, without reasonable excuse, fails to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

Persons bound to give information or produce documents

91.—(1) Every person required by the proper officer of customs to give information or to produce any travel document or any document on any subject into which it is the officer’s duty to inquire under this Act and which it is in that person’s power to give or produce, is bound to give the information or to produce the document for inspection.

(2) The proper officer of customs may specify the customs office or station or other place at which that person is required to give information or to produce any document.

(2A) The Director-General may authorise in writing any person who is employed on any duty or service relating to customs to exercise any power under this section with respect to such duty or service.

(2B) Any person authorised under subsection (2A) is deemed to be a proper officer of customs for the purposes of this section.

(3) In subsection (1), “travel document” means a passport furnished with a photograph of the holder or some other similar document establishing to the satisfaction of the proper officer of customs the identity of the holder and his or her nationality, domicile or place of permanent residence.

Service of notices

92.—(1) Every notice or document required by this Act to be served on any person may be served —

- (a) by delivering the notice or document to the person;
- (b) by sending the notice or document by registered post addressed to the person at the person’s usual or last known place of residence or business;
- (c) where the person is a body of persons or a company —
 - (i) by delivering the notice or document to the secretary or other similar officer of the body of persons or company at its registered office or principal place of business; or
 - (ii) by sending the notice or document addressed to the body of persons or company at its registered office or principal place of business; or
- (d) by an electronic notice transmitted in accordance with section 86.

(2) Any notice or document sent by registered post to any person in accordance with subsection (1) is deemed to be duly served on the person to whom the letter is addressed at the time when the letter would in the ordinary course of post be delivered and in proving service of the notice or document it is sufficient to prove that the envelope containing the notice or document was properly addressed, stamped and posted by registered post.

Baggage of passengers

93.—(1) Despite anything in this Act but subject to subsection (2), every passenger or other person arriving in GMC must —

(a) declare to the proper officer of customs at the customs station all dutiable goods in his or her possession, whether on his or her person or in any baggage or in any vehicle —

- (i) which exceed his or her duty free allowance; or
- (ii) for which no duty free allowance is granted; and

(b) pay the customs duty or excise duty leviable thereon before he or she proceeds.

(2) Despite anything in this Act, every passenger or other person arriving in GMC at a point of entry which has a Red Channel and a Green Channel must —

(a) proceed to the Red Channel to declare to the proper officer of customs all dutiable goods in his or her possession, whether on his or her person or in any baggage or in any vehicle —

- (i) which exceed his or her duty free allowance; or
- (ii) for which no duty free allowance is granted; and

(b) pay the customs duty or excise duty leviable thereon before he or she proceeds.

(3) Where a passenger or person fails to pay any customs duty or excise duty on any dutiable goods in accordance with subsection (1) or (2), those dutiable goods are deemed to be uncustomed goods.

(4) Any passenger or other person arriving in GMC who proceeds to the Green Channel with dutiable goods which exceed his or her duty free allowance, or any goods for which no duty free allowance is granted in his or her possession, either on his or her person or in any baggage or in any vehicle is presumed, until the contrary is proved, to be in possession of uncustomed goods.

(5) The baggage of passengers may be examined and delivered in any manner as a senior officer of customs may direct, and it is the duty of the person in charge of the baggage to produce, open, unpack and repack the baggage.

Proper officer of customs may take samples

94.—(1) The proper officer of customs may at any time, if the officer's duties so require, take samples of any goods —

- (a) to ascertain whether they are goods of a description liable to any customs duty or excise duty;
 - (b) to ascertain the customs duty or excise duty payable on the goods; or
 - (c) for such other purposes as the proper officer of customs may consider necessary.
- (2) The samples may be disposed of in any manner that the Director-General directs.
- (3) No payment is to be made for the cost of any sample taken but the proper officer of customs must give a receipt for any sample so taken.

Addition or deduction of new or altered duties in the case of contract

95.—(1) Where any new customs duty or excise duty is imposed or where any customs duty or excise duty is increased, and any goods in respect of which the customs duty or excise duty is payable are delivered on or after the day on which the new or increased customs duty or excise duty takes effect in pursuance of a contract made before that day, the seller of the goods may, in the absence of agreement to the contrary, recover from the purchaser as an addition to the contract price, a sum equal to any amount paid by the seller in respect of the goods on account of the new customs duty or excise duty, or the increase of the customs duty or excise duty, as the case may be.

(2) Where any customs duty or excise duty is decreased or abolished, and any goods affected by the customs duty or excise duty are delivered on or after the day on which the decrease or abolition takes effect in pursuance of a contract made before that day, the purchaser of the goods, in the absence of any agreement to the contrary, may, if the seller has had in respect of those goods the benefit of the decrease or abolition of the customs duty or excise duty, deduct from the contract price a sum equal to the amount of the decrease of customs duty or excise duty, or the customs duty or excise duty, as the case may be.

Declarations to give a full and true account

96.—(1) The declarations mentioned in sections 37, 59 and 80 must, unless the Director-General allows under subsection (2), be made and submitted by an electronic notice in accordance with section 86 and such declaration must give a full and true account of such particulars as are required by the Director-General.

(2) The Director-General may, in the Director-General's discretion and subject to any conditions that the Director-General may impose, allow any declaration mentioned in sections 37, 59 and 80 to be made on a form determined by the Director-General.

(3) Such declaration must —

- (a) give a full and true account of the particulars for which provision is made in the form; and
- (b) be in duplicate or in such other number of copies as the person to whom the declaration is required to be made may direct.

Agents and employees

97.—(1) The agent or employee of any person or firm may transact business generally at any customs office on behalf of the person or firm subject to the following provisions:

- (a) a senior officer of customs may refuse to transact business with the agent or employee unless the person or a member of the firm identifies the agent or employee to the officer as empowered to transact the business and deposits with that officer a signed authority authorising the agent or employee to transact the business on behalf of that person or firm; or
 - (b) a senior officer of customs may in addition require that person or firm to give any security that the officer may consider adequate for the faithful and incorrupt conduct of the agent or employee acting on behalf of that person or firm.
- (2) The Director-General may forfeit the whole or any part of the amount secured under subsection (1)(b) as the Director-General may think fit if the Director-General is satisfied that the agent or employee has committed or attempted to commit or abetted the commission of an improper or corrupt act.

Director-General may charge rates, etc.

98.—(1) Where, upon the application of a person having the possession and management of any place (called in this section the applicant), that place or any part thereof—

- (a) [Not in use]
- (b) is prescribed by regulations under section 143 to be a customs airport reserved for the separate and exclusive import, export and transhipment by air of goods by a particular person or class of persons associated with the applicant; or
- (c) is prescribed by regulations under section 143 to be a customs office or a customs station reserved for the separate and exclusive import, export and transhipment of goods by a particular person or class of persons associated with the applicant,

the Director-General may, with the approval of the designated officer, require the applicant to pay to the Director-General a rate at such intervals and at such amount or

rate as may be prescribed, for or in connection with acts required by or under this Act to be done by officers of customs at that place or part thereof.

(2) The number of officers of customs to be deployed at any customs airport, customs office or customs station mentioned in subsection (1) is to be determined at the discretion of the Director-General.

(3) In this section and section 143, any reference to the separate and exclusive import, export and transhipment of goods includes a reference to the separate and exclusive import, export and transhipment of goods carried out only during a particular period or periods in a day by a particular person or class of persons.

(4) *[Not in use]*

Late payment charges and interest

98A.—(1) The Director-General may impose —

- (a) charges for the late payment of any customs duty, excise duty, tax, fee or other charge payable under this Act; and
- (b) interest payable on any outstanding amount of any customs duty, excise duty, tax, fee or charge or for any payment thereof by instalment.

(2) *[Not in use]*

Power to appoint agent, etc., for recovery of duty

98B.—(1) The Director-General may by written notice if the Director-General thinks it necessary, declare any person to be the agent of any other person.

(2) The person (*X*) declared the agent under subsection (1) is the agent of that other person for the purposes of this Act and may be required to pay any duty due or which may become due from any moneys, including pensions, salaries, wages or any other remuneration, which, at the date of receipt of the notice or at any time not later than 90 days thereafter may be held by *X* for or due by *X* to the person whose agent *X* has been declared to be, and in default of such payment, the duty is recoverable from *X* in the manner provided by section 10(3).

(3) For the purposes of this section, the Director-General may require any person to give the Director-General information as to any moneys, funds or other assets which may be held by the person for, or of any moneys due by the person to, any other person.

(4) For the purposes of payment of any duty due from any moneys mentioned in subsection (2) in a joint account at any bank or from the proceeds of sale of any immovable property owned by 2 or more persons as joint owners, the following provisions apply:

- (a) the person declared by the Director-General under subsection (1) to be the agent of any person who is an owner of such moneys must —
 - (i) within 14 days after the receipt of the notice under subsection (1), send a notice by registered post addressed to every owner of such moneys at the address last known to the agent informing the owner of such declaration; and
 - (ii) retain such amount of the moneys as is presumed under paragraph (b) to be owned by the person from whom duty is due and, subject to paragraph (c), within 42 days after the receipt of the notice under subsection (1), or within such longer period as the Director-General in his or her discretion may allow, pay over the duty due from such amount to the Director-General;
- (b) it is presumed, until the contrary is proved, that the holders of a joint account at any bank have equal share of the moneys in the account as at the date of receipt of the notice under subsection (1) and that the joint owners of any immovable property share the proceeds of sale of the property equally;
- (c) any owner of such moneys who objects to the share presumed under paragraph (b) must give written notice of the owner's objection to the person declared to be the agent under subsection (1) within 28 days after the receipt of the notice of the agent under paragraph (a)(i), or within such longer period as the Director-General in his or her discretion may allow, and furnish proof as to the owner's share of the moneys;
- (d) where an objection under paragraph (c) has been received, the person declared to be the agent must —
 - (i) retain the amount of such moneys mentioned in paragraph (a)(ii) until such time as the Director-General by notice under paragraph (e) informs the person of the Director-General's decision on the objection; and
 - (ii) inform the Director-General of the objection within 7 days after the receipt of the objection;
- (e) the Director-General must consider the objection and must by written notice inform the person declared to be the agent of the Director-General's decision and the agent must, despite any appeal under paragraph (f), pay over any duty due from the share of moneys decided by the Director-General as the amount, not exceeding the amount presumed under paragraph (b) to be the share of the person by whom the duty is payable, held by the agent for or due by the agent to the person;

- (f) any owner of such moneys aggrieved by the decision of the Director-General under paragraph (e) may, despite section 100, appeal against the decision to the court; and
- (g) for the purpose of this subsection, “joint account” means any account in the names of 2 or more persons but excludes any partnership account, trust account and any account where a minor is one of the joint account holders.

(5) Where an agent makes any payment of moneys to the Director-General under this section —

- (a) the agent is deemed to have been acting under the authority of the person by whom the duty is payable (called in this section the person in default);
- (b) the amount of the duty due from the person in default is reduced by the amount paid by the agent to the Director-General; and
- (c) the amount of the reduction is, to the extent of that amount, deemed to have been paid to the person in default in accordance with any law, contract or scheme governing the payment of moneys held by the agent for or due from the agent to the person in default.

(6) Where —

- (a) an amount of duty is due from any person under this Act otherwise than as an agent under this section;
- (b) except for this subsection, an amount is or would, at any time during the period of 90 days after the date of the receipt of the notice in paragraph (c), be payable by the GMCA to the person in default by or under any written law, contract or scheme; and
- (c) before payment of the amount mentioned in paragraph (b) is made to the person in default, the Director-General serves notice on any public officer by whom the payment is to be made that the duty is due from the person in default,

then the public officer is, despite any other written law, contract or scheme, entitled to reduce the amount mentioned in paragraph (b) by the amount of the whole or any part of the duty mentioned in paragraph (a), and if the public officer makes such a reduction

-
- (d) the amount of the duty mentioned in paragraph (a) is reduced by the amount of the reduction; and
 - (e) the amount of the reduction is, to the extent of such amount, deemed to have been paid to the person in default in accordance with any law,

contract or scheme governing the payment of moneys mentioned in paragraph (b) to the person in default.

(7) In this section, “duty” includes any penalty or any other money which a person is liable to pay to the Director-General under this Act.

Indemnification of agent

98C. Every person liable under section 98B for the payment of duty on behalf of another person may retain out of any money coming to the firstmentioned person’s hands on behalf of the other person so much thereof as is sufficient to pay the duty; and is to be indemnified against any person for all payments made by the firstmentioned person in pursuance and by virtue of this Act.

Securities for payment of duty and compliance with this Act

99.—(1) The Director-General has the right to require and take securities for payment of duty and generally for compliance with this Act and for the protection of the revenue.

(2) Pending the giving of the required security, a proper officer of customs may refuse to do any act in the execution of his or her office in relation to any matter in respect of which the security is required.

(3) The security must be given in the manner and form approved by the Director-General and may, subject to that approval, be by bond, guarantee, cash deposit or any other method or by the combination of 2 or more such methods.

(4) Any such security may be given in relation to any particular transaction or generally with respect to any class of transactions or to all transactions and for such period and amount as the Director-General thinks fit and under such conditions as to forfeiture, penalty or otherwise as the Director-General may determine.

(5) If at any time the Director-General is not satisfied with the sufficiency of any security, the Director-General may require a new security in substitution for or in addition to the security which has been given.

Appeal from decision of Director-General

100. Where it is provided in this Act that the decision on any matter rests with the Director-General then unless it is specifically provided that the decision is at the discretion of the Director-General, any person aggrieved by the Director-General’s decision may appeal to the designated officer whose decision is final.

PART 13

SEARCH, SEIZURE AND ARREST

Issue of search warrant

101.—(1) This section applies if it appears to any court, or any senior officer of customs not below the rank of Assistant Director-General of Customs, upon information and after any inquiry which he or she thinks necessary, that there is reasonable cause to believe that in any dwelling house, shop or other building or place, there are concealed or deposited —

- (a) any dutiable or uncustomed goods;
- (b) any goods liable to forfeiture under this Act;
- (c) any goods as to which any offence under this Act has been committed;
- (d) any books, records, documents or other articles, directly or indirectly relating to any transaction or dealing in any of the goods mentioned in this subsection;
- (e) any computers or associated devices, or mobile communication devices, containing or to which is available any data relating to any transaction or dealing in any of the goods mentioned in this subsection; or
- (f) any cash that may afford evidence as to the commission of an offence under this Act.

(1A) The court or senior officer of customs may issue a warrant authorising any officer of customs named in the warrant, by day or by night and with or without any assistance —

- (a) to enter the dwelling house, shop or other building or place and there to search for and seize —
 - (i) any goods reasonably suspected of being dutiable or uncustomed goods, or goods liable to forfeiture under this Act, or goods as to which any offence under this Act is suspected to have been committed;
 - (ii) any books, records, documents or other articles that are reasonably believed to directly or indirectly relate to any transaction or dealing in any of the goods mentioned in this subsection;
 - (iii) any computers or associated devices, or mobile communication devices, which are reasonably believed to contain any data relating to any transaction or dealing in any of the goods mentioned in this subsection or to which such data is reasonably believed to be available; and
 - (iv) any cash reasonably believed to afford evidence as to the commission of an offence under this Act;

- (b) to arrest any person being in the dwelling house, shop, building or place, in whose possession anything mentioned in paragraph (a) may be found, or whom the officer of customs may reasonably suspect to have concealed or deposited anything mentioned in that paragraph;
 - (c) to inspect the operation of, and any data contained in or available to, anything mentioned in paragraph (a)(iii);
 - (d) to, without payment, make copies of, or take extracts from —
 - (i) anything mentioned in paragraph (a)(ii); or
 - (ii) any data contained in or available to anything mentioned in paragraph (a)(iii); and
 - (e) to take any reasonable steps to preserve anything mentioned in paragraph (a)(ii), (iii) or (iv).
- (2) Such officer may if it is necessary to do so —
- (a) break open any outer or inner door of the dwelling house, shop or other building or place and enter therein;
 - (b) forcibly enter that place and every part thereof;
 - (c) remove by force any obstruction to such entry, search, seizure and removal as that officer is empowered to effect; and
 - (d) detain every person found in that place until that place has been searched.
- (3) In this section and section 103, “data” includes any computer program or computer software installed in a computer and any computer output (within the meaning given by section 2(1) of the Computer Misuse Act 1993).

Power of senior officer to enter and search

102. A senior officer of customs not below the rank of Assistant Director-General of Customs may himself or herself do what he or she may under section 101 empower an officer of customs to do whenever the senior officer of customs is competent to issue a warrant under that section.

When search may be made without warrant

103.—(1) This section applies if —

- (a) it appears to any senior officer of customs that there is reasonable cause to believe that in any dwelling house, shop or other building or place there are concealed or deposited —

- (i) any dutiable or uncustomed goods;
 - (ii) any goods liable to forfeiture under this Act;
 - (iii) any goods as to which any offence under this Act has been committed;
 - (iv) any books, records, documents or other articles, directly or indirectly relating to any transaction or dealing in any of the goods mentioned in this subsection;
 - (v) any computers or associated devices, or mobile communication devices, containing or to which is available any data relating to any transaction or dealing in any of the goods mentioned in this subsection; or
 - (vi) any cash that may afford evidence as to the commission of an offence under this Act; and
- (b) the senior officer of customs has reasonable grounds to believe that, by reason of any delay in obtaining a search warrant, anything mentioned in paragraph (a) is likely to be removed.
- (2) The senior officer of customs may exercise in, upon and in respect of that dwelling house, shop or other building or place —
- (a) all the powers mentioned in section 101 as if the officer were authorised to do so by a warrant issued under that section, except in relation to any computer or associated device; and
 - (b) all the powers mentioned in section 110A with respect to any computer or associated device.

103A. [Not in use]

Power to search aircraft

- 104.—(1)** A proper officer of customs may —

- (a) go on board any aircraft in any customs airport or place in the GMC and remain on board as long as the aircraft remains in GMC;
- (b) require the captain of the aircraft to give such information relating to the aircraft, cargo, stores, crew, passengers or flight as the officer may consider necessary;
- (c) rummage and search all parts of the aircraft for uncustomed goods;
- (d) examine all goods on board and all goods then being loaded or unloaded;

- (e) demand all documents which ought to be on board the aircraft;
- (f) require all or any such documents to be brought to the officer for inspection; and
- (g) if necessary, retain any such documents brought to the officer for inspection.

(2) The captain of any aircraft refusing to allow the proper officer of customs to board or search the aircraft, or refusing to give such information or to produce such documents on demand shall be guilty of an offence.

(3) If any place, box or chest on board the aircraft is locked and the key withheld, the proper officer of customs may open any such place, box or chest.

(4) If any goods of a class dutiable on import are found concealed on board any aircraft, they are deemed to be uncustomed goods.

Senior officer of customs to exercise powers of search

105.—(1) Every senior officer of customs is entitled to exercise in and upon and in respect of any aircraft, landing place, free trade zone or railway all the powers mentioned in section 101 in as full and ample a manner as if the officer were authorised to do so by a warrant issued under that section.

(2) Despite anything in any other written law, every senior officer of customs, or any officer of customs deputed by him or her for the purpose, in exercise of his or her powers under subsection (1) has free access to the aircraft or any of the places specified in that subsection.

(3) In this section, “railway” has the meaning given any written law providing for the definition.

Officers of customs may stop and search conveyances

106.—(1) Any officer of customs may stop and examine any conveyance for the purpose of ascertaining whether any dutiable or uncustomed goods are contained therein.

(1A) The Director-General may authorise in writing any person who is employed on any duty or service relating to customs to exercise the power under subsection (1).

(1B) Any person authorised under subsection (1A) is deemed to be an officer of customs for the purposes of this section.

(2) The person in control or in charge of the conveyance must, if required to do so by the officer of customs —

- (a) stop the conveyance and allow the officer to examine it or move his or her conveyance to another place for examination; and
 - (b) not proceed until permission to do so has been given by the officer.
- (3) The person in control or in charge of any conveyance stopped for examination under subsection (1) must, on request by the proper officer of customs —
- (a) where possible, open all parts of the conveyance for examination by the officer; and
 - (b) take all measures necessary to enable any examination that the officer considers necessary to be made.

Road barrier

107.—(1) Despite any other written law, any senior officer of customs may, if the officer considers it necessary to do so for the prevention of smuggling of dutiable goods or detection of revenue evasion —

- (a) erect or place barriers in or across any public road or street or in any public place in such manner as the officer may think fit; and
 - (b) take all reasonable steps to prevent any conveyance from being driven or ridden past any such barrier mentioned in paragraph (a).
- (2) Any driver or rider of any conveyance who fails to comply with the signal of an officer of customs requiring the person to stop his or her conveyance before reaching any barrier mentioned in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or to both.
- (3) Any officer of customs may, without warrant, arrest any driver or rider mentioned in subsection (2) unless the driver or rider gives his or her name, identification documents and a place of address within GMC and if the officer of customs has reason to believe that the name, identification documents or address so given by the driver or rider is false, the officer may exercise such power of arrest and detention or seizure of the conveyance.
- (4) No officer of customs shall be liable for any loss or damage resulting to any conveyance or for any injury to the driver or rider or any other occupant of the vehicle or pillion rider as a result of any barrier erected by any officer under subsection (1).

Power to open packages and examine goods

108. Any proper officer of customs may —

- (a) examine any goods in the course of being imported or exported or intended to be imported or exported;
- (b) for the purposes of such examination direct the goods to be brought to a customs office or a customs station; and
- (c) open any package or receptacle.

Search of persons arriving in GMC

109.—(1) Subject to this section, any person landing, or being about to land, or having recently landed, from any conveyance, or leaving any conveyance in the GMC, whether for the purpose of landing or otherwise, or entering or having recently entered GMC by road or rail must, on demand by any proper officer of customs —

- (a) permit his or her person, goods and baggage to be searched by the officer; or
- (b) together with the goods and baggage accompany the officer to a customs office or customs station or police station and there permit his or her person, goods and baggage to be searched by an officer of customs.

(2) Any person who requests that his or her person be searched in the presence of a senior officer of customs must not be searched except in the presence of and under the supervision of that officer, but the person may be detained until the arrival of that officer, or taken to any customs office or customs station or police station where that officer may be found.

(3) The goods and baggage of any person who requests to be present when they are searched and so presents himself or herself within a reasonable time must not be searched except in his or her presence.

(4) The body search of a person shall be done by a person of the same gender.

General power to search person

109A.—(1) If a proper officer of customs reasonably suspects that a person has committed or is committing an offence under this Act, the officer may stop that person and do either or both of the following:

- (a) search any bag or thing belonging to or in the possession of that person;
- (b) require that person to reveal the contents of that person's pockets, if any.

(1A) A proper officer of customs may direct a person to be taken to a radiologist for an X-ray or other test, if that person:

(a) is reasonably suspected of concealing inside that person's body prohibited goods or goods liable to seizure under this Act or any other written law which officers of customs are authorised to enforce; and

(b) does not volunteer to bring out the goods.

(2) The Director-General may authorise in writing any person who is employed on any duty or service relating to customs to exercise any power under subsection (1).

(3) Any person authorised under subsection (2) is deemed to be a proper officer of customs for the purposes of this section.

Seizure of goods the subject of an offence and cash

110.—(1) All goods in respect of which there has been, or there is reasonable cause to suspect that there has been, committed any offence under this Act or any breach of the provisions of this Act or of any restriction or condition subject to or upon which any licence or permit has been granted, together with any receptacle, package, or conveyance, in which the same may have been found or which has been used in connection with the offence or breach, and any books, documents or mobile communication devices which may reasonably be believed to have a bearing on the case may be seized by any officer of customs in any place in GMC.

(1A) The Director-General may authorise in writing any person employed on any duty or service relating to customs, to seize any goods under subsection (1) as follows:

- (a) for any goods reasonably suspected to be 400 sticks or less of dutiable or uncustomed cigarettes — on his or her own accord;
- (b) for any goods reasonably suspected to be more than 400 sticks of dutiable or uncustomed cigarettes, or other types of dutiable or uncustomed goods — at the direction of a senior officer of customs.

(2) All such goods and such receptacles, packages, conveyances, books, documents or mobile communication devices must, as soon as practicable, be delivered into the care of a proper officer of customs whose duty it is to receive the same.

(2A) In addition, if an officer of customs has reasonable cause to suspect that any cash found in any place in GMC or on any person may afford evidence as to the commission of any offence under this Act or breach of a provision of this Act, the officer of customs —

- (a) may seize the cash; and
- (b) must deliver the seized cash, as soon as practicable, into the care of a proper officer of customs whose duty it is to receive the same.

(2B) The Director-General may authorise in writing any person employed on any duty or service relating to customs to exercise any power under subsection (2A) at the direction of a senior officer of customs.

(2C) Any person authorised under subsection (1A) or (2B) is deemed to be an officer of customs for the purposes of this section.

(3) Whenever any goods, conveyance, book, document, mobile communication device or cash is seized under this Act, the seizing officer must immediately give written notice of the seizure and the grounds thereof to the owner of the goods, conveyance, book, document, mobile communication device or cash, if known, either by delivering the notice to the owner personally or by post at the owner's place of abode, if known.

(4) The notice mentioned in subsection (3) is not required to be given where the seizure is made on the person, or in the presence of the offender or the owner or the owner's agent, or in the case of an aircraft, in the presence of the pilot.

(5) The provisions of this section relating to —

- (a) the seizure of goods apply to all the contents of any package or receptacle in which the same are found and to any article used to conceal the same;
- (b) the seizure of any aircraft apply also to the equipment and furnishings of the aircraft; and
- (c) the seizure of conveyances apply to all equipment thereof and to any animal by which the same is drawn.

(6) Any goods of a perishable nature or any animal or bird seized under this section may be sold immediately and the proceeds of sale held to abide the result of any prosecution or claim.

(7) Any goods which are of a dangerous character or which cannot be removed without undue expense may be destroyed on the instructions of a senior officer of customs.

(8) A senior officer of customs may release any goods seized under this section to the importer or owner thereof subject to such conditions and on such security as that officer may determine.

(9) The security required under subsection (8) may be by cash deposit or bank guarantee or both.

Inspection of computers, etc.

110A.—(1) This section applies where —

- (a) a senior officer of customs not below the rank of Assistant Director-General of Customs personally exercises any power under section 102;
 - (b) a senior officer of customs exercises any power under section 103;
 - (c) an officer of customs exercises any power under a warrant under section 101 or any power under section 110; or
 - (d) any person exercises any power under an authorisation under section 110.
- (2) Without affecting any powers under section 101 or 110, the senior officer of customs, officer of customs or any person mentioned in subsection (1)(d) (as the case may be) (each called *X*) may, in connection with the exercise of any power mentioned in subsection (1), do all or any of the following in respect of any computer or associated device found in or at the dwelling house, shop or other building or place concerned, as the case may be:
- (a) inspect the operation of the computer or associated device, and any data contained in or available to it, if *X* reasonably believes that the computer or associated device contains data, or data is available to it, that —
 - (i) relates to any transaction or dealing in any of the goods mentioned in section 101, 103 or 110, as the case may be; or
 - (ii) is evidential material that is relevant to an offence under this Act, any breach of the provisions of this Act or of any restriction or condition subject to or upon which any licence or permit has been granted;
 - (b) require —
 - (i) the person by whom or on whose behalf the computer or associated device is or has been so used; or
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer or associated device,

to provide *X* with any reasonable assistance that he or she may require for the purpose of paragraph (a);
 - (c) without payment, make copies of, or take extracts from, any data contained in or available to the computer or associated device;
 - (d) without payment, take possession of the computer or associated device where, in *X*'s opinion —
 - (i) the inspection of the computer or associated device, or the inspection or copying of or the taking of any extract from, any data

contained in or available to the computer or associated device, cannot reasonably be performed without taking possession;

- (ii) the computer or associated device may be interfered with or destroyed unless possession is taken; or
 - (iii) the computer or associated device may be required as evidence in proceedings instituted or commenced for any purpose of, or in connection with, this Act;
 - (e) take onto the premises any equipment and material that *X* requires for the purpose of exercising any power under this section;
 - (f) operate any electronic equipment on the premises for the purpose of exercising any power under this section.
- (3) In this section, “data” includes any computer program or computer software installed in a computer and any computer output (within the meaning given by any written law providing for the definition).

Release of conveyance under bond

111. When any conveyance has been seized under this Act, a senior officer of customs may temporarily return the conveyance to the owner of the same on security being furnished to the satisfaction of the officer that the conveyance will be surrendered to the officer on demand.

Powers of arrest

112.—(1) Any officer of customs may arrest without warrant —

- (a) any person found committing or attempting to commit, or employing or aiding any person to commit, or abetting the commission of, an offence under this Act;
- (b) any person whom the officer may reasonably suspect to have in the person’s possession any dutiable or uncustomed goods or any goods liable to seizure under this Act; or
- (c) any person against whom a reasonable suspicion exists that the person has been guilty of an offence under this Act,

and may search or cause to be searched, any person so arrested.

(2) The body search of a person shall be done by a person of the same gender.

(3) An officer of customs making an arrest without warrant must, without unnecessary delay and subject to this section as to bail or previous release, take or send the person arrested before a court.

(4) An officer of customs must not detain in custody a person arrested without a warrant for a longer period than under the circumstances of the case is reasonable.

(5) The period must not exceed 48 hours exclusive of the time necessary for the journey from the place of arrest to the court.

(6) A person who has been arrested by an officer of customs must not be released except on his or her own bond or on bail or under the special written order a senior officer of customs.

(7) If any person liable to arrest under this Act is not arrested at the time of committing the offence for which the person is so liable, or after arrest makes his or her escape, the person may, at any time afterwards, be arrested and be dealt with as if the person had been arrested at the time of committing the offence.

(8) Subject to subsection (9), the Director-General may authorise in writing any person employed on any duty or service relating to customs (called *X*), to arrest without warrant —

- (a) any person found committing or attempting to commit, or employing or aiding any person to commit, or abetting the commission of, an offence under this Act;
- (b) any person whom *X* reasonably suspects to have in the person's possession any dutiable or uncustomed goods or any goods liable to seizure under this Act; or
- (c) any person whom *X* reasonably suspects has been guilty of an offence under this Act,

and may search, or cause to be searched, any person so arrested.

(9) *X* may exercise any power under subsection (8) only at the direction of a senior officer of customs.

(10) Subsections (2) to (7) apply to an arrest and a search of an arrested person made by *X* under subsection (8), and any reference in those provisions to an officer of customs is a reference to *X*.

PART 14

PROVISIONS AS TO TRIALS AND PROCEEDINGS

Who may prosecute

113. Prosecutions, in respect of offences committed under this Act, may, with the authorisation of the Public Prosecutor, be conducted by a senior officer of customs or

any officer of customs specially authorised in writing in that behalf by the Director-General.

Jurisdiction of court

114. Despite any written law to the contrary, a court has jurisdiction to try any offence under this Act and has the power to impose the full penalty or punishment in respect of the offence.

Burden of proof

115. If, in any prosecution in respect of any goods seized for non-payment of customs duties or excise duties or for any other cause of forfeiture or for the recovery of any penalty or penalties under this Act, any dispute arises —

- (a) whether the customs duties or excise duties have been paid in respect of those goods;
- (b) whether they have been lawfully imported or lawfully landed, or lawfully manufactured;
- (c) whether any goods are exempt from customs duty or excise duty under section 13;
- (d) concerning the place from where those goods were brought; or
- (e) whether drawback has been lawfully claimed,

in every such case the burden of proof thereof shall lie on the defendant in such prosecution.

Presumptions of possession of dutiable, prohibited or uncustomed goods

115A.—(1) Any person who is proved to have had in the person's possession or custody or under the person's control —

- (a) any thing containing any dutiable, prohibited or uncustomed goods;
- (b) the keys of any thing containing any dutiable, prohibited or uncustomed goods;
- (c) the keys of any place or premises or any part thereof in which any dutiable, prohibited or uncustomed goods are found; or
- (d) a document of title relating to any dutiable, prohibited or uncustomed goods or any other document intended for the delivery of any dutiable, prohibited or uncustomed goods,

is, until the contrary is proved, presumed to have had those dutiable, prohibited or uncustomed goods in the person's possession.

(2) If any dutiable, prohibited or uncustomed goods are found in any aircraft, it is, until the contrary is proved, presumed that those dutiable, prohibited or uncustomed goods have been imported in that aircraft with the knowledge of the commander or captain thereof.

(3) If any dutiable, prohibited or uncustomed goods are found in any vehicle, it is, until the contrary is proved, presumed to be in the possession of the owner of the vehicle and of the person in charge of the vehicle for the time being.

Proportional examination or testing of goods seized to be accepted by courts

116.—(1) When any goods suspected of being uncustomed or otherwise liable to seizure have been seized, it is sufficient to open, examine, and if necessary test the contents of such proportion of the goods seized as the proper officer of customs may determine.

(2) The court is to presume that the goods contained in the unopened packages or receptacles are of the same nature, quantity and quality as those found in the similar packages or receptacles which have been opened.

Proof as to registration or licensing of vehicles and aircraft

117.—(1) Where, in any prosecution under this Act, it is relevant to ascertain particulars as to the registration or licensing of any vehicle or aircraft registered or licensed in GMC or in Kingdom of Bhutan, a certificate purporting to be signed by the officer responsible under any written law for the time being in force in GMC or in Kingdom of Bhutan or any part thereof for such registration or licensing is *prima facie* evidence as to all particulars concerning such registration or licensing contained therein.

(2) The burden of proving the incorrectness of any particulars stated in the certificate is on the person denying the same.

Analyst's certificate

118.—(1) A certificate purporting to be signed by an analyst employed by such laboratory as the Director-General may specify (called in this section an analyst) and purporting to be a report by the analyst upon any matter or thing duly submitted to the analyst for examination or analysis may be used as evidence in any proceedings for an offence under this Act on its production by the prosecution without proof of signature and is *prima facie* evidence of all matters contained therein.

(2) Where the accused person desires to examine an analyst on the analyst's report, the accused person may require the court to summon that analyst to give evidence and the court is to then summon that analyst as a witness for the prosecution.

(3) An analyst is bound to state the truth in a report made under the analyst's hand.

Imprisonment for non-payment of fine

119. Despite the provisions of any written law providing for criminal procedures in GMC, the period of imprisonment imposed by any court in respect of the non-payment of any fine under this Act, or in respect of the default of a sufficient distress to satisfy any such fine, is such period as in the opinion of the court will satisfy the justice of the case, but must not exceed in any case the maximum fixed by the following scale:

<i>Where the fine</i>	<i>The period may extend to</i>
does not exceed \$50	2 months
exceeds \$50 but does not exceed \$100	4 months
exceeds \$100 but does not exceed \$200	6 months

with one additional month for every \$100 after the first \$200 of the fine until a maximum period of 6 years is reached.

Manner of seizure not to be inquired into on trial before court or on appeal

120. On any trial before any court and in any proceedings on appeal in a court that is not the lowest level of court, relating to the seizure of goods subject to forfeiture under this Act, the court is to proceed to the trial or hear the appeal on the merits of the case only, without inquiring into the manner or form of making any seizure, except insofar as the manner and form of seizure may be evidence on such merits.

Protection of informers from discovery

121.—(1) Subject to this section, no witness in any civil or criminal proceedings is obliged or permitted to disclose the name or address of an informer or the substance of the information received from the informer or to state any matter which might lead to the informer's discovery.

(2) If any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceedings contain any entry in which any informer is named or described or which might lead to the informer's discovery, the court is to cause all such passages to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

(3) If, on the trial for any offence under this Act, the court, after full inquiry into the case, believes that the informer wilfully made in the informer's complaint a

material statement which the informer knew or believed to be false or did not believe to be true, or if in any other proceedings the court is of the opinion that justice cannot be fully done between the parties to the proceedings without the discovery of the informer, it is lawful for the court to require the production of the original complaint, if in writing, and permit inquiry, and require full disclosure, concerning the informer.

Goods liable to seizure liable to forfeiture

122.—(1) All goods liable to seizure under the provisions of this Act are liable to forfeiture.

(2) In this section and sections 123, 124 and 127, “goods” includes receptacles, packages, and conveyances other than aircraft engaged on international carriage.

Court to order disposal of goods seized

123.—(1) An order for the forfeiture or for the release of anything liable to forfeiture under the provisions of this Act shall be made by the court before which the prosecution with regard thereto has been held.

(2) An order for the forfeiture of goods shall be made if it is proved to the satisfaction of the court that an offence under this Act has been committed and that the goods were the subject matter of, or were used in the commission of, the offence, even though no person may have been convicted of the offence.

(3) All goods forfeited must be delivered to a proper officer of customs and must be disposed of in accordance with the directions of the Director-General.

Goods seized in respect of which there is no prosecution, deemed to be forfeited if not claimed within one month

124.—(1) If there is no prosecution with regard to any goods seized under this Act, the goods are to be taken and deemed to be forfeited at the expiry of one month from the date of seizure unless a claim thereto is made before that date in the manner provided in this section.

(2) Any person asserting that the person is the owner of the goods may personally or by the person’s agent authorised in writing give written notice to a senior officer of customs that the person claims the goods.

(3) On receipt of the notice, the senior officer of customs must refer the claim to the Director-General who may direct that the goods be released or may direct the senior officer of customs, by information in the prescribed form, to refer the matter to a judge for his or her decision.

(4) The judge shall issue a summons requiring the person asserting that the person is the owner of the goods and the person from whom they were seized, if the person is known, to appear before the judge.

(5) Upon the person's appearance or default to appear, due service of the summons being proved, the judge shall proceed to the examination of the matter and on proof that an offence under this Act has been committed and that the goods were the subject matter, or were used in the commission, of the offence, shall order the goods to be forfeited or may in the absence of such proof order their release.

(6) In any proceedings under subsection (5), section 115 applies to the person asserting that the person is the owner of the goods and to the person from whom they were seized as if the owner or person had been the defendant in a prosecution under this Act.

Conviction under other law

125. Nothing in this Act is deemed to prevent the prosecution, conviction and punishment of any person according to the provisions of any other written law for the time being in force in GMC, except that a person must not be punished more than once for the same offence.

Customs ticket notice

125A.—(1) Where an officer of customs has reasonable grounds for believing that a person has committed an offence under this Act which is prescribed as an offence to which this section applies, the officer may, in lieu of applying to a court for a summons, immediately serve upon that person a prescribed notice requiring that person to attend at the court described, at the hour and on the date specified in the notice.

(2) A duplicate of the notice must be prepared by the officer of customs and, if so required by a court, produced to the court.

(3) The notice may be served on the person alleged to have committed the offence in the manner provided by section 92(1).

(4) On an accused person appearing before a court pursuant to such a notice, the court is to take cognizance of the offence alleged and proceed as though the person were produced before it in pursuance of any written law providing for the issue of a warrant summons for attendance of the accused person.

(5) If a person, upon whom such a notice has been served, fails to appear before a court in person or by counsel in accordance therewith, the court may, if satisfied that the notice was duly served, issue a warrant for the arrest of the person unless, in the case of an offence which may be compounded, that person has before that date been permitted to compound the offence.

(6) Upon a person arrested pursuant to a warrant issued under subsection (5) being produced before a court, the court is to proceed as though the person were produced before it in pursuance of any written law providing for the issue of a warrant or summons for attendance of the accused person.

(7) [Not in use]

(8) A senior officer of customs or an officer empowered with the power of senior officer of customs may, at any time before the date specified in the notice, cancel the notice.

Composition of offences

126.—(1) Any senior officer of customs may compound any offence under this Act that is prescribed to be a compoundable offence by collecting from the person reasonably suspected of having committed the offence a sum not exceeding \$5,000.

(2) On payment of the sum of money, the person reasonably suspected of having committed an offence, if in custody, must be discharged, any properties seized must be released and no further proceedings are to be taken against that person or property unless the property consists of goods the import of which is absolutely prohibited under section 38 or of goods manufactured in GMC without a licence in contravention of this Act, in which case the goods are to be forfeited.

No costs or damages arising from seizure to be recoverable unless seizure without reasonable or probable cause

127. No person is, in any proceedings before any court in respect of the seizure of any goods seized in exercise or the purported exercise of any power conferred under this Act, entitled to the costs of the proceedings or to any damages or other relief other than an order for the return of the goods or the payment of their value unless the seizure was made without reasonable or probable cause.

Procedure governing seizure of computer, etc., other than certain goods

127A.—(1) Subject to subsection (2), any written laws relating to the procedure governing seizure of property apply, with the necessary modifications, when any officer of customs or any persons authorised by the Director-General seizes any computer or associated device, mobile communication device or cash under any provision of this Act.

(2) Subsection (1) does not apply to computers or associated devices, or mobile communication devices, that are goods —

(a) in respect of which there has been committed, or there is reasonable cause to suspect that there has been committed, any offence under this Act or any breach of the provisions of this Act or of any restriction or condition subject to or upon which any licence or permit has been granted; and

- (b) that are seized under any provision of this Act.

PART 15

OFFENCES AND PENALTIES

Offences in relation to making and signing untrue or incorrect or incomplete declarations, certificates and documents

128.—(1) Any person who —

- (a) makes or causes to be made, orally or in writing, or signs or causes to be signed any declaration, certificate or other document required by this Act, which is untrue or incorrect in any particular or which is incomplete by omitting any material particular therefrom;
- (b) makes or causes to be made, orally or in writing, or signs or causes to be signed any declaration or document, made for consideration of any officer of customs on any application presented to the officer, which is untrue or incorrect in any particular or which is incomplete by omitting any material particular therefrom; or
- (c) makes or causes to be made a declaration required by this Act of the value of dutiable goods imported into or manufactured in GMC for the purpose of assessment of customs duty or excise duty, which declaration is untrue or incorrect in any particular or is incomplete by any material particular having been omitted therefrom,

shall be guilty of an offence.

(2) When any such declaration, whether oral or written, or any such certificate or other document has been proved to be untrue or incorrect or incomplete in whole or in part, it is no defence to allege —

- (a) that the declaration, certificate or other document was made or used inadvertently or without criminal or fraudulent intent, or that the person signing the same was not aware of, or did not understand the contents of, the document; or
- (b) where the declaration was made or recorded in English by interpretation from any other language, that the declaration was misinterpreted or not fully interpreted by any interpreter provided by the declarant.

Offences in relation to falsifying documents

128A.—(1) Any person who —

- (a) counterfeits or falsifies, or uses, when counterfeited or falsified —

- (i) any document which is or may be required under this Act; or
- (ii) any document used in the transaction of any business or matter relating to customs; or
- (b) fraudulently alters any document, or counterfeits the seal, signature, initials or other mark of, or used by, any officer of customs for the verification of any such document or for the security of any goods or any other purpose in the conduct of business relating to customs,

shall be guilty of an offence.

(2) When any such document has been proved to be counterfeited or falsified in whole or in part, it is no defence to allege that the document was made or used inadvertently or without criminal or fraudulent intent.

Offences in relation to failure to make declarations

128B.—(1) Any person who, being required by this Act to do so —

- (a) fails to make a declaration of dutiable goods which are imported into, exported from or transhipped in GMC; or
- (b) fails to make a declaration of the value of dutiable goods imported into or
- (c) manufactured in GMC for the purpose of the assessment of customs duty or excise duty,

shall be guilty of an offence.

(2) When a failure to make a declaration has been proved, it is no defence to allege that the failure was inadvertent or without criminal or fraudulent intent, or that it was not known that such a declaration is required to be made.

Offences in relation to failure to produce trade documents

128C. Any person who fails or refuses to produce to a proper officer of customs any document required to be produced under section 85 shall be guilty of an offence.

Offences in relation to fraudulent evasion

128D. Any person who is in any way concerned in any fraudulent evasion of, or attempt to fraudulently evade, any customs duty or excise duty shall be guilty of an offence.

Offences in relation to goods found in person's baggage or upon his or her person, etc.

128E. Any person who after he or she denies having, is found to have, any dutiable or prohibited goods in the person's baggage or upon his or her person or otherwise in the person's possession shall be guilty of an offence.

Offences in relation to importation of uncustomed or prohibited goods

128F. Any person who is in any way concerned in importing any uncustomed or prohibited goods shall be guilty of an offence.

Offences in relation to exportation of uncustomed or prohibited goods

128G. Any person who is in any way concerned in exporting any uncustomed or prohibited goods shall be guilty of an offence.

Offences in relation to loading, unloading, etc., of uncustomed or prohibited goods

128H. Any person who loads, unloads, lands or delivers, or who assists or is concerned in the loading, unloading, landing or delivery of, any uncustomed or prohibited goods, whether or not the goods are loaded, unloaded, landed or delivered, shall be guilty of an offence.

Offences in relation to possession, storage, conveying and harbouring of goods

128I.—(1) Any person who —

- (a) stores, keeps or has in the person's possession any —
 - (i) dutiable or prohibited goods, except under customs control; or
 - (ii) uncustomed goods;
- (b) is in any way concerned in conveying, removing, depositing or dealing with any dutiable, uncustomed or prohibited goods with intent to defraud the GMCA of any customs duty or excise duty thereon, or to evade any of the provisions of this Act; or
- (c) knowingly harbours or conceals, or permits, suffers, causes, or procures to be harboured or concealed, any dutiable, uncustomed or prohibited goods,

shall be guilty of an offence.

(2) Nothing in paragraph (a) of subsection (1) prevents any person from storing, keeping or having in the person's possession goods mentioned in that paragraph if the Director-General has allowed the person to store, keep or have the goods in the person's possession under section 27(3).

Offences in relation to duty-free allowances

128J. Any person who sells, exchanges or gives away, or offers to sell, exchange or give away, to any person in GMC goods which are the person's duty-free allowances in GMC shall be guilty of an offence.

Offences in relation to illegal removal of goods from customs control, etc., and carrying on of certain activities without licence

128K. Any person who —

- (a) illegally removes or withdraws, or in any way assists or is concerned in the illegal removal or withdrawal of, any goods from any customs control;
- (b) is in any way concerned in the manufacture of any dutiable or prohibited goods —
 - (i) in contravention of section 63; or
 - (ii) without a licence granted under section 83 for manufacturing dutiable goods; or
- (c) is in any way concerned in bottling, blending, compounding or varying any intoxicating liquors —
 - (i) in contravention of section 66; or
 - (ii) without a licence granted under section 83 for bottling intoxicating liquors imported or manufactured in GMC, or blending, compounding or varying any intoxicating liquors,

shall be guilty of an offence.

Additional offences relating to goods in respect of which offence under section 128D, 128F, 128G, 128H, 128I or 128K is committed

128KA.—(1) An owner or occupier of any land or premises who —

- (a) stores or keeps any goods; or
- (b) permits or allows any other person to store or keep any goods,

on the land or premises shall be guilty of an offence if the goods are specified goods, unless the owner or occupier has exercised due care to ascertain that the goods are not specified goods.

(2) The owner of a vehicle or, if the vehicle is hired out by the owner to another person (called the hirer), the hirer who —

- (a) uses the vehicle to store or keep, or convey, any goods; or

- (b) permits or allows any other person to use the vehicle to store or keep, or convey, any goods,

shall be guilty of an offence if the goods are specified goods, unless the owner or hirer has exercised due care to ascertain that the goods are not specified goods.

(3) A person who is guilty of an offence under subsection (1) or (2) shall be liable on conviction to a fine not exceeding \$10,000.

- (4) In this section, “specified goods” means —
 - (a) any goods in respect of which an offence under section 128D, 128F, 128G,
 - (b) 128H or 128I is committed; or
 - (c) any goods or intoxicating liquor in respect of which an offence under section 128K is committed.

Penalty for various offences

128L.—(1) Any person who is guilty of an offence under section 128(1), 128A(1), 128B(1) or 128C shall be liable on conviction to a fine not exceeding \$10,000, or the equivalent of the amount of the customs duty, excise duty or tax payable, whichever is the greater amount, or to imprisonment for a term not exceeding 12 months, or to both.

(2) Subject to subsection (3), any person who is guilty of a specified offence shall be liable on conviction to a fine of —

- (a) not less than 10 times the amount of the customs duty, excise duty or tax the payment of which would have been evaded by the commission of the offence or \$5,000, whichever is the lesser amount, subject to a minimum of \$1,000 where the specified offence involves goods consisting wholly or partly of relevant tobacco products; and
- (b) not more than 20 times the amount of the customs duty, excise duty or tax the payment of which would have been so evaded or \$5,000, whichever is the greater amount,

except that where the amount of customs duty or excise duty cannot be ascertained, the penalty may amount to a fine not exceeding \$10,000, subject to a minimum of \$1,000 where the specified offence involves goods consisting wholly or partly of relevant tobacco products.

(2A) The court may sentence any person mentioned in subsection (2) to imprisonment for a term not exceeding 12 months in addition to the punishment prescribed under that subsection.

(3) Any person who is convicted of any specified offence and who has been convicted on a previous occasion of —

- (a) that or any other specified offence;
- (b) [Not in use],

shall be liable on conviction to a fine mentioned in subsection (2).

(3A) The court may sentence any person mentioned in subsection (3) to imprisonment for a term not exceeding 2 years in addition to the punishment prescribed under that subsection.

(4) Any person who is guilty of any specified offence involving goods consisting wholly or partly of relevant tobacco products shall, if such tobacco products exceed 2 kilogrammes in weight, be liable on conviction —

- (a) to a fine of —
 - (i) not less than 15 times the amount of the customs duty, excise duty or tax the payment of which would have been evaded by the commission of the offence, subject to a minimum of \$1,000; and
 - (ii) not more than 20 times the amount of the customs duty, excise duty or tax the payment of which would have been so evaded or \$10,000, whichever is the greater amount; or
- (b) to imprisonment for a term not exceeding 3 years,

or to both.

(5) Where any person is convicted of a specified offence committed by the person on or after the commencement of this provision involving goods consisting wholly or partly of relevant tobacco products and the person has been convicted on a previous occasion of —

- (a) that or any other specified offence involving such goods,
- (b) [Not in use]

then the person shall be liable to —

- (c) a fine of —
 - (i) not less than 30 times the amount of the customs duty, excise duty or tax the payment of which would have been evaded by the commission of the firstmentioned specified offence, subject to a minimum of \$2,000; and

- (ii) not more than 40 times the amount of the customs duty, excise duty or tax the payment of which would have been so evaded or \$20,000, whichever is the greater amount; or
- (d) imprisonment for a term not exceeding 6 years,
or to both.

(5A) Despite subsection (5), where any person is convicted of a specified offence committed by the person on or after the commencement of this provision involving goods consisting wholly or partly of relevant tobacco products exceeding 2 kilogrammes in weight and the person has been convicted on a previous occasion of —

- (a) that or any other specified offence involving goods consisting wholly or partly of relevant tobacco products exceeding 2 kilogrammes in weight,
- (b) [Not in use]

then the person shall be punished with —

- (c) a fine of —
 - (i) not less than 30 times the amount of the customs duty, excise duty or tax the payment of which would have been evaded by the commission of the firstmentioned specified offence, subject to a minimum of \$2,000; and
 - (ii) not more than 40 times the amount of the customs duty, excise duty or tax the payment of which would have been so evaded or \$20,000, whichever is the greater amount; or
- (d) imprisonment for a term not exceeding 6 years,

or to both.

(6) In any prosecution against a person for committing, attempting or abetting an offence under sections 128D to 128K, any dutiable, uncustomed or prohibited goods are deemed to be dutiable, uncustomed or prohibited goods to the person's knowledge, unless the contrary is proved by the person.

- (7) In this section —

“relevant tobacco products” means any cigarette, cigar, cheroot or cigarillo or any other form of tobacco including —

- (a) any mixture containing tobacco; and
- (b) any tobacco substitute which is capable of being smoked;

“specified offence” means an offence under section 128D, 128E, 128F, 128G, 128H, 128I, 128J or 128K.

Penalty on refusing to answer questions or on giving false information or false document

129.—(1) Any person who, being required by this Act to answer any question put to the person by any proper officer of customs, or to give any information or produce any document which may reasonably be required of the person by the officer and which it is in the person’s power to give —

- (a) refuses to answer the question or does not truly answer the question;
- (b) refuses to give such information or produce such document; or
- (c) furnishes as true information or document which the person knows or has reason to believe to be false,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months or to both.

(2) When any such answer or any such information or any such document is proved to be untrue or incorrect in whole or in part, it is no defence to allege that such answer or such information or such document or any part thereof was made or furnished or produced inadvertently or without criminal or fraudulent intent, or was misinterpreted or not fully interpreted by an interpreter provided by the informant.

(3) Nothing in this section obliges a person to answer any question which would have a tendency to expose the person to a criminal charge or to a penalty or forfeiture.

130. [Not in use]

Evading duty by unauthorised modification of computer program or data

131.—(1) Any person who, without the authority of the Director-General —

- (a) destroys, damages, erases or otherwise manipulates data stored in, or used in connection with, a computer;
- (b) introduces into, or records or stores in, a computer by any means data for the purpose of —
 - (i) destroying, damaging, erasing or altering other data stored in that computer; or
 - (ii) interfering with, interrupting or obstructing the lawful use of, that computer or the data stored in that computer; or

- (c) otherwise uses a computer,

the purpose or effect of which is to reduce, avoid or evade any liability to customs duty, excise duty or tax imposed or which would otherwise have been imposed by this Act, or to defeat any provision of this Act, shall be guilty of an offence and shall be liable

- (d) on the first conviction to a fine of not less than 10 times the amount of the customs duty, excise duty or tax or \$5,000 whichever is the lesser amount, and of not more than 20 times the amount of the customs duty, excise duty or tax or \$5,000 whichever is the greater and where the amount of customs duty or excise duty cannot be ascertained, the penalty shall be a fine not exceeding \$5,000; and
- (e) on the second or subsequent conviction to the fine mentioned in subparagraph (d) or to imprisonment for a term not exceeding 2 years or to both.

(2) In subsection (1), “data” includes any computer program or part of a computer program being a program, whether or not approved by the Director-General, for use in relation to the computer service established under section 86.

Knowingly advancing or furnishing money for business comprising sale, purchase, etc., of uncustomed goods

132. Any person who knowingly advances or furnishes money for the purpose of establishing or conducting any business comprising the sale, purchase, hire, receiving, concealment, disposal or dealing of uncustomed goods shall be guilty of an offence and shall be liable on conviction to a fine of not less than \$100,000 and not more than \$1 million or to imprisonment for a term not exceeding 6 years or to both.

Penalty for adding deleterious substances to intoxicating liquor, or storing, keeping, etc., such liquor

133.—(1) Any person who —

- (a) is in any way concerned in adding deleterious substances to any intoxicating liquor for consumption or for sale; or
- (b) stores, keeps or has in the person’s possession any intoxicating liquor to which has been added deleterious substances,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) The owner or occupier of any premises upon which any intoxicating liquor to which has been added deleterious substances is found or which has been used

for the sale of such intoxicating liquor is deemed, until the contrary is proved, to have knowingly kept, used or permitted the use of the premises for such purposes.

(3) In any prosecution against a person for committing, attempting to commit or abetting an offence under this section, any intoxicating liquor to which has been added deleterious substances is deemed to have been so added with the person's knowledge unless the contrary is proved by the person.

Offence in connection with claims for drawback

134. If any person obtains, attempts to obtain or abets in obtaining, or does anything whereby there might be obtained by any person, any amount by way of drawback of any duty in respect of any goods which is not lawfully payable or allowable in respect thereof or which is greater than the amount so payable or allowable, the person shall be guilty of an offence and shall be liable on conviction to a fine of 3 times the value of the goods or \$5,000, whichever is the greater.

Penalty for possession of a still, etc.

135.—(1) Every person other than a person who is —

- (a) licensed under section 63(1), or section 83(3) for manufacturing dutiable goods; or
- (b) exempted from holding such licence by the Director-General under section 63(1A),

who knowingly keeps or has in the person's possession any still, utensil, apparatus, equipment or machinery for the manufacture of any dutiable goods shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 18 months or to both.

(2) Every person other than a person who is —

- (a) licensed under section 66(1), or section 83(3) for bottling intoxicating liquors imported or manufactured in GMC, or blending, compounding or varying any intoxicating liquors; or
- (b) exempted from holding such licence by the Director-General under section 66(1A),

who knowingly keeps or has in the person's possession any utensil, apparatus, material or ingredient for bottling, blending, compounding or varying intoxicating liquor shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 18 months or to both.

136. [Not in use]

Penalty for assaulting or obstructing officers of customs, rescuing goods, resisting arrest and escaping from custody

137.—(1) Any person who —

- (a) assaults, abuses or obstructs any officer of customs or other public servant or any person acting in the officer's or public servant's aid or assistance, or duly employed for the prevention of offences under this Act in the execution of his or her duty or in the due seizing of any goods liable to seizure under this Act;
- (b) rescues or endeavours to rescue, or causes to be rescued, anything which has been duly seized;
- (c) before or after any seizure, staves, breaks or otherwise destroys any package or goods to prevent the seizure thereof or the securing of the same; or
- (d) intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or herself or of any other person, or escapes or attempts to escape from any custody in which he or she is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained,

shall be guilty of an offence.

- (e) [Not in use]
- (f) [Not in use]

(2) Any person who, with intent to delay or obstruct the carrying out of an investigation under this Act, alters, suppresses, conceals or destroys any book, document or other record which —

- (a) the Director-General or any proper officer of customs may inspect, copy, make extracts of or take possession of under this Act; or
- (b) the person is or is liable to be required to give or produce to a proper officer of customs under this Act,

shall be guilty of an offence.

(3) A person who is guilty of an offence under subsection (1) or (2) shall be liable —

- (a) on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 18 months or to both; and

- (b) in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 3 years,

or to both.

Penalty for offering or receiving bribes

138.—(1) If any officer of customs or other person duly employed by the GMC Customs—

- (a) makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any aircraft or other means of conveyance, or any goods liable to seizure;
- (b) accepts, agrees to accept, or attempts to obtain, any bribe, gratuity, recompense or reward for the neglect or non-performance of his or her duty; or
- (c) conspires or connives with any person to import or export or is in any way concerned in the importation or exportation of any dutiable goods for the purpose of seizing any aircraft or conveyance or any goods and obtaining any reward for such seizure or otherwise,

the officer or person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both, and is to be interdicted from holding office in the public service of the GMCA.

(2) Any person who gives or offers or promises to give or procures to be given any bribe, gratuity, recompense or reward to, or makes any collusive agreement with, any officer of customs or other person duly employed by the GMC Customs to induce him or her in any way to neglect his or her duty or to do, conceal or connive at any act whereby any of the provisions of any other law relating to imports or to exports may be evaded, shall be guilty as an abettor and so punishable under this Act.

(3) Any officer of customs or other person duly employed by the GMC Customs who is found when on duty to have in his or her possession any moneys in contravention of any written departmental regulations issued is presumed, until the contrary is proved, to have received the moneys in contravention of subsection (1)(b).

(4) If any officer of customs has reasonable suspicion that another officer of customs junior in rank to the firstmentioned officer of customs or any other person duly employed by the GMC Customs has possession of any money received in contravention of subsection (1)(b), the firstmentioned officer of customs may search that officer or person.

Penalty for offences not otherwise provided for

139. Every omission or neglect to comply with, and every act done or attempted to be done contrary to, the provisions of this Act, or any breach of the conditions and restrictions subject to, or upon which, any licence or permit is granted under this Act, shall be an offence and in respect of any such offence for which no penalty is expressly provided the offender shall be liable to a fine not exceeding \$5,000.

Attempts and abetments

140. Any person who attempts to commit any offence punishable under this Act, or abets the commission of the offence, shall be punished with the punishment provided for the offence.

Offences by bodies of persons and by agents and employees

141.—(1) Where an offence under this Act has been committed by a company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in that capacity shall be deemed to be guilty of that offence unless he or she proves that —

- (a) the offence was committed without his or her consent or connivance; and
- (b) he or she exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised, having regard to the nature of his or her functions in that capacity and to all the circumstances.

(2) Where any person would be liable under this Act to any punishment, penalty or forfeiture for any act, omission, neglect or default, the person shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect or default of any agent or employee, or of the agent's employee, if the act, omission, neglect or default was committed —

- (a) by the employee in the course of his or her employment; or
- (b) by the agent when acting on behalf of the person or by the agent's employee when acting in the course of his or her employment in such circumstances that had the act, omission, neglect or default been committed by the agent, the agent's principal would have been liable under this section.

Action of officers no offence

142. Nothing done by an officer of the GMCA in the course of his or her duties is deemed to be an offence under this Act.

PART 16

REGULATIONS

Power to make regulations

143.—(1) The designated officer may make regulations for carrying out the purposes and provisions of this Act and, in particular, may make regulation —

- (a) to regulate the powers and duties to be exercised and performed by officers of customs;
- (b) to provide for the ranks, uniforms, insignias or badges of rank, accoutrements and equipment of officers of customs;
- (c) to regulate the conduct of all matters relating to the collection of duties and taxes under this Act;
- (d) to prescribe customs offices and customs stations, either generally or for the separate and exclusive import, export and transhipment of goods by a particular person or class of persons;
- (e) to prescribe customs airports for the import, export and transhipment of dutiable goods by air, either generally or for the separate and exclusive import, export and transhipment by a particular person or class of persons;
- (f) to specify the goods dutiable on import in respect of which drawback may be allowed on re-export as part or ingredient of any goods manufactured in GMC and to fix the rate of drawback thereon and to prohibit the payment of drawback upon the re-export of any specified goods or description of goods;
- (g) to prescribe the method of importing, exporting or removing any dutiable goods;
- (h) to prescribe the manner in which goods of a class dutiable on import may be transhipped;
- (ha) for the registration of any person making a declaration under this Act;
- (hb) to provide for matters relating to the World Customs Organization SAFE Framework of Standards to Facilitate and Secure Global Trade or any other similar framework by any international body;
- (i) to prescribe the procedure relating to documentation, storage, movement, examination, sealing and security of containers and containerised cargoes;
- (j) to prescribe the manner and method of payment of any duty payable or chargeable under this Act;

- (k) to prescribe the days and times during which any customs office, customs station, Government warehouse, licensed warehouse or bottling warehouse may be open for business;
- (l) to regulate the deposit, custody and withdrawal of goods in and from Government warehouses, licensed warehouses and bottling warehouses and the management and control of the same;
- (m) to prescribe the amount to be paid as warehouse rent on goods deposited in a Government warehouse;
- (n) to prescribe the manner in which intoxicating liquor must be denatured in a Government warehouse or licensed warehouse;
- (o) to regulate the erection, inspection, supervision, management and control of distilleries, breweries or tobacco or other factories and the fittings, implements, machinery and apparatus maintained therein;
- (p) to regulate the hours during which manufacture may or may not take place and during which goods may be removed from a distillery, brewery or tobacco or other factory;
- (q) to regulate the blending, compounding, varying and bottling of intoxicating liquors in bottling warehouses and to fix the fees to be paid for bottling dutiable intoxicating liquor;
- (r) to prescribe the books to be kept by licensees;
- (s) to regulate the grant and transfer of licences;
- (sa) to provide that no compensation may be given in the event of a suspension, withdrawal or surrender of a licence;
- (sb) to prescribe the fees to be paid for any declaration, or any application for or grant of any licence, permit, authorisation, approval or registration, or for any other matter or thing done under this Act by officers of customs, and for any service rendered by officers of customs which is not required to be done under this Act, and to provide for the circumstances in which such fees or any part thereof may be refunded;
- (t) to prescribe the rates of overtime fees to be paid when officers of customs are required to work beyond the ordinary hours prescribed and the conditions under which the overtime is permitted;
- (u) [Not in use]
- (v) [Not in use]
- (w) [Not in use]

- (x) to prescribe the offences which may be compounded and the manner in which, and the officers of customs by whom, they may be compounded;
 - (y) to prescribe penalties for any contravention or failure to comply with any of the provisions of the regulations made under this section except that no such penalty shall exceed the penalty prescribed under section 139; and
 - (z) to prescribe anything which is to be or may be prescribed under the provisions of this Act.
- (2) All regulations and orders made under this Act must be presented to Parliament as soon as possible.

144. [Not in use]

THE SCHEDULE

Section 29

CUSTOMS RULINGS

Application for customs ruling

1.—(1) Subject to sub-paragraph (3), any person concerned in the importation of any goods may apply to the Director-General for a ruling on one or more of the following matters:

- (a) the classification of the goods;
- (b) the country of origin of the goods;
- (c) the application of a provision of the Customs (Valuation) Regulations to the goods.

(2) Subject to sub-paragraph (3), any person concerned in the local manufacture of any goods may apply to the Director-General for a ruling on one or more of the following matters:

- (a) the classification of the goods;
- (b) the application of a provision of the Customs (Valuation) Regulations to the goods.

(3) Where any goods are the subject of any Free Trade Agreement to which GMC is a party, and that Free Trade Agreement identifies the person who may apply for a ruling in relation to those goods, only that person may apply under sub-paragraph (1) or (2) for a ruling in relation to those goods.

- (4) An application for a ruling must —

- (a) be made in such form as the Director-General may determine;
- (b) comply with the disclosure requirements of paragraph 4; and
- (c) be made at such time as the Director-General may determine.

Director-General may decline to make ruling

2.—(1) The Director-General may decline to make a ruling if—

- (a) the application for the ruling would require the Director-General to determine any question of fact;
- (b) the Director-General considers that the correctness of the ruling would depend on the making of assumptions, whether in respect of a future event or any other matter;
- (c) the application is frivolous or vexatious;
- (d) the matter on which the ruling is sought involves the interpretation of any foreign law; or
- (e) after the Director-General has requested further information—
 - (i) the applicant fails to provide the information within the time specified by the Director-General for the provision of the information; or
 - (ii) in the Director-General's opinion, the applicant has not provided sufficient information in relation to the application.

(2) The Director-General must, where the Director-General has declined to make a ruling, notify the applicant in writing of his or her decision and the reasons therefor.

Duration of ruling

3. A ruling applies in relation to a matter only for such period as may be stated in the ruling.

Information to be provided to Director-General

4.—(1) An application for a ruling must—

- (a) identify the applicant; and
- (b) disclose all relevant facts and documents relating to the matter in respect of which the ruling is sought.

(2) The Director-General may, at any time, request further relevant information from an applicant for the purpose of making a ruling.

(3) An applicant for a ruling must provide the Director-General with the information mentioned in sub-paragraph (2) within such time as the Director-General may determine.

Director-General may make assumptions

5. If the Director-General considers that the correctness of a ruling would depend on assumptions being made about any future event or other matter, the Director-General may make the assumptions that he or she considers to be most appropriate.

Making of ruling

6.—(1) A ruling made by the Director-General must state —

- (a) that it is a ruling made under section 29;
- (b) the identity of the person or class of persons to whom, and the particulars of the matter to which, the ruling applies;
- (c) any material assumptions about future events or other matters made by the Director-General; and
- (d) the conditions (if any) applicable to the ruling.

(2) The Director-General must notify the person to whom the ruling applies of the making of the ruling by sending the person a copy of the ruling.

(3) Where there is any Free Trade Agreement applicable to the matter to which a ruling applies, and the Free Trade Agreement specifies the period within which the ruling is to be made, the Director-General must make the ruling within that period.

(4) The Director-General may make a ruling even though no application has been made under paragraph 1.

Modification or withdrawal of ruling

7.—(1) The Director-General may, at any time, modify or withdraw a ruling by notifying the person to whom the ruling applies in such manner as the Director-General may determine of the modification or withdrawal and the reasons therefor.

(2) Subject to sub-paragraphs (3) and (4), a ruling is modified or withdrawn from the date specified in the notice of modification or withdrawal, as the case may be.

(3) The Director-General may, on the application of a person to whom a ruling applies, postpone the date the ruling is modified or withdrawn to such later date as the Director-General may determine, if that person shows that —

- (a) the person had relied in good faith on the ruling; and
- (b) the modification or withdrawal (as the case may be) of the ruling would be detrimental to the person.

(4) The Director-General may postpone the date the ruling is modified or withdrawn to such later date as the Director-General may determine even though no application has been made under subparagraph (3).

(5) If the Director-General withdraws a ruling, the ruling does not apply in relation to any goods, the subject matter of the ruling, which are imported or manufactured locally, on or after the date of the withdrawal.

- (6) If—
 - (a) the Director-General withdraws a ruling made pursuant to an application by a person under paragraph 1; and
 - (b) the person to whom the ruling applies has not acted in accordance with any condition applicable to the ruling,

the ruling ceases to apply to that person in relation to any goods, the subject matter of the ruling, which are imported or manufactured locally, before the date of the withdrawal.

(7) If the Director-General modifies a ruling, the modified ruling applies in relation to any goods, the subject matter of the modified ruling, which are imported or manufactured locally, on or after the date of the modification.

- (8) If—
 - (a) the Director-General modifies a ruling made pursuant to an application by a person under paragraph 1; and
 - (b) the person to whom the original ruling applies has not acted in accordance with any condition applicable to the original ruling,

the modified ruling applies to that person in relation to any goods, the subject matter of the modified ruling, which are imported or manufactured locally, before the date of the modification.

- (9) The Director-General may modify or withdraw a ruling if—
 - (a) the ruling is based on an error of fact;
 - (b) there is a change in the circumstances after the ruling was made;
 - (c) any information provided by the applicant in support of the application for the ruling is false, inaccurate or misleading;

- (d) there is a change in the basis of the classification of the goods after the ruling was made;
- (e) there is a change in the circumstances relating to the sale and import or local manufacture of goods after the ruling was made;
- (f) an offence is suspected to have been committed in relation to the goods; or
- (g) it is one of the grounds of modification or withdrawal provided under any Free Trade Agreement applicable to the matter to which the ruling applies.

Typographical or minor error in ruling

8. The Director-General does not have to withdraw and reissue a ruling to correct any typographical or minor error, if the correction does not change the meaning of the ruling.

Amendment of Act

9. A ruling does not apply from the date a provision of this Act is repealed or amended to the extent that the repeal or amendment changes the way the provision applies in the ruling.