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Law 94(I) of 2004

## **THE CUSTOMS CODE LAW OF 2004**

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## PART I – DEFINITIONS – CUSTOMS TERRITORY

Short title	1. This Law may be cited as the Customs Code Law of 2004.
Interpretation	<p>2. In this Law, unless the context otherwise requires-</p> <p>“aircraft” means any aircraft, seaplane, flying boat and includes any helicopter and any other contrivance of whatever kind, whether having means of propulsion or not, that is capable of a flight, whether by itself or in conjunction with another aircraft and in which goods may be transported;</p> <p>“approved wharf” has the meaning assigned to this term in section 11;</p> <p>“assigned matter” means any matter in relation to which the Director or any authorised officer is required in pursuance of any enactment to perform any duties;</p> <p>“authorised officer” means the person who is authorised by the Director under section 6 for the performance of any act which may be carried out on the basis of the customs or the other legislation</p> <p>“cargo manifest” means the cargo manifest referred to in sections 15, 16, 17 and 20;</p> <p>“charges of import duties and taxes” means the import duty, export duty and excise duty and the value added tax (VAT) on importation;</p> <p>“claimant” means the person who has submitted in writing a dispute in accordance with paragraph 3 of the Annex of this law;</p> <p>“commander” means any natural person who has or undertakes responsibility or command or operation of aircraft and includes his authorised representative or the person who is acting in the name of or on behalf of another person.</p> <p>“community customs code” means the Council Regulation of 12 October 1992 establishing the Community Customs Code (OJ L 302 of 19.10.1992, page 1) and any later amendments.</p> <p>“control of customs” means the performance of specific acts such as examining goods, verifying the existence and authenticity of documents, examining the accounts of undertakings and other records, inspecting means of transport, inspecting baggage and other goods carried by or on persons and carrying out official enquiries and other similar acts with a view to ensuring that customs rules and, where appropriate, other provisions of the customs or other customs legislation applicable to goods subject to customs supervision are observed;</p> <p>“customs” means the administrative unit of the Department of Customs and Excise and includes the customs offices, the Republic’s stores, the Public temporary storage facilities and the customs yards of the District in which customs is located and in which customs acts and formalities are performed.</p> <p>“customs agent” and “assistant customs agent” means the person who has licence for exercising the profession of a customs agent or assistance customs agent, exercises his activity in the Republic and acts in accordance with the provisions of section 74 and has the same meaning with the customs agent in accordance with section 5 of the Community Customs Code and assistant customs agent;</p>

“customs airport” has the meaning assigned to this term under section 13;

“customs-approved treatment or use” has the meaning assigned to this term under section 35(2);

“customs debt” has the meaning assigned to this term under section 38;

“customs legislation” means this law, as may be amended from time to time, the Regulations, Orders and Notices issued under this law and the corresponding Community Legislation, the Regulations, Orders and Notices issued for harmonisation and or for the implementation of the corresponding Community Legislation, excluding the other legislation;

“customs procedure” means:

- (a) release for free circulation
- (b) transit
- (c) customs warehousing
- (d) inward processing
- (e) processing under customs control
- (f) temporary admission
- (g) outward processing
- (h) exportation;

“Customs Register” has the meaning assigned to this term under section 119;

“customs supervision” means action taken in general by customs with a view to ensuring that customs rules, and where appropriate, other provisions of the customs or the other legislation applicable to goods subject to customs supervision are observed;

“customs yard” has the meaning assigned to this term under section 8;

“Director” means the Director of the Department of Customs and Excise;

“duty” means the import duty and export duty, as defined in the Community Customs Code;

“entry”, this term includes also the entry of goods from a Member State;

“entry in the accounts” has the meaning assigned to this term in sections 45 and 46;

“examination station of airport” has the meaning assigned to this term under section 12(1);

“excise duty” means the excise duty, as defined in the Excise Duties Law in force;

“exit” this term includes also the exit of goods to a Member State;

“goods”, this term includes also things, objects, cargo, stores and baggage but does not include any records, books, documents or particulars;

“holder” in relation to any goods includes any owner, importer, exporter, shipping agent or carrier or any other person who holds or has interest on those goods;

“Implementing Provisions of the Community Customs Code” means the provisions of the Commission Regulation (EEC) No 2454/93 of the 2<sup>nd</sup> July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253 of 11.10.1993 page 1) and any later amendments;

“legal person” includes a company, a partnership, a corporation, a club, an association, a union, an organisation or any other union of persons, irrespective of whether it has been set up or not according to provisions of any Law or Regulation.

“master” in relation to a ship, means any natural person who has or undertakes the responsibility or command or operation of a ship and includes his authorised representative or the person who is acting in the name of or on behalf of another person;

“Minister” means the Minister of Finance;

“night” means the period between the hours of eight o’ clock at night and five o’ clock in the morning;

“other charges” means any amounts other than duties and taxes which are paid in accordance with a legal provision to the Director;

“other customs debt” has the meaning assigned to the term by section 41;

“other legislation” means the Cyprus or Community legislation in force and for which the Department of Customs has authorisation and or responsibility for the implementation of its provisions and includes competency which has been granted, excluding the customs legislation;

“owner” in relation to any goods means the person who has total ownership on goods and not simply special ownership;

“port” means a port appointed by the Council of Ministers under section 10;

“premises” means every site, building, set of premises, shed, room or a combination of them including the open fenced spaces as well as anything appurtenant to the land, aircraft, ship or waterway means of reprovioning ;

“Public temporary storage facilities ” has the meaning assigned to this term in section 33;

“release note” means the release of goods granted by the Director when the conditions of placement under the relevant customs procedure are fulfilled;

“Republic” means the Republic of Cyprus;

“Republic’s stores” means any place provided by the Republic or designated by the Director for the deposit of goods for security there of and of the duties, taxes and other charges chargeable thereon;

“request for review” has the meaning assigned to this term in section 112;

“ship” includes boats as well as vessels of any use;

“stock records” has the meaning assigned to this term by the Community Customs Code and its implementing provisions;

“Stores” means goods for use in a ship or aircraft or for sale by retail to persons carried therein and have as destination a third country and includes fuel, spare parts and other articles of equipment whether or not for immediate fitting;

“Tariff of the European Communities” means the combined nomenclature as enacted by the Council Regulation (EEC) No. 2658/87 of 23<sup>rd</sup> July 1987 (OJ L 256 of 7.9.1987 page 1), which covers, at the same time, the requirements of the Common Tariff, the statistics of external trade of the Community and other community policies relating to the importation and exportation of goods;

“tax” means the excise duty and the value added tax imposed on importation of goods in the Republic, in accordance with Excise Duties Law in force and the VAT Law respectively;

“tax charges” means the excise duty and or value added tax (VAT) imposed on importation of goods in the Republic;

“temporary storage facilities” has the meaning assigned to the term under section 32(1);

“third country” means a country which is not a Member State;

“transit declaration” has the meaning assigned to this term under section 62;

“transit of goods within the Republic” means the movement from one point to another within the Republic of goods on which duties and or taxes are due;

“value added tax” means the value added tax, as defined in the Value Added Tax Law in force.

- Customs territory      3.      The customs territory includes the land, the territorial waters and the air space of the Republic. The free zones and free warehouses constitute parts or spaces of the customs territory of the Republic, separated from the rest of the customs territory.

## **PART II - COMPETENCIES, POWERS AND ADMINISTRATIVE IMPLEMENTATION**

- Competencies of the Department of Customs and Excise and powers of the Director      4.-(1)      Under the exclusive competence of the Department of Customs and Excise are the following:
- (i)      the implementation of the provisions of this Law, of the Customs Community Code and its Implementing Provisions, the Cyprus and corresponding relevant Community Legislation which relates to taxes, the assessment and collection of duties, taxes and other charges imposed according to the above legislation, the administration of the intelligence system as well as the exchange and processing of intelligence, retrieved from an electronic system or any other means, which refer to matters of its competence;
  - (ii)      the implementation of any legislation that has been vested in it.
- (2)      The Department of Customs and Excise is also competent, through its Director, at the points of entry and exit, at the customs yards and in all customs territory, to protect public health and society, examine people, baggage, goods and means of transport, on the one hand for the tracking down of illegal movement of narcotics, psychotropic or toxic substances, weapons, explosives, nuclear material,



funds from economic criminal activities, cultural goods, pirated and counterfeit goods, obscene goods and on the other hand customs and other contraventions and criminal offences which refer to transportation, fishing, protection of the environment, movement of goods of intellectual property, wild fauna and flora, chemical precursors, as well as any other customs or other contraventions and criminal offences which are not mentioned in this subsection and are verified during the checks which have been assigned to it by the specific provisions of the Community and the Cyprus Legislation, International Treaties and Agreements for the protection of the interests of the Republic and of the European Union.

(3) Under the exclusive competence of the Department of Customs and Excise is the supervision and the control of the places which are recognised as customs yards and temporary storage facilities or have been approved as free zones or free warehouses.

(4) The Department of Customs and Excise is cooperating with other authorities of the Republic and outside the Republic in matters of its competence and offers its assistance to them. Police officers have the duty to provide any assistance for the implementation of the customs and the other legislation.

(5) The Director and or the authorised officers shall not be liable to any control by a private security or guarding firm of a place which is subject to customs control, provided their capacity is declared and their identification card is shown.

Director 5. - (1) The head of the Department of Customs and Excise is the Director, who is a permanent civil servant of the Republic.

(2) The Director shall be charged with the duty, to collect the revenue from duties, taxes and other charges, under the general supervision of the Minister.

Exercise of powers and performance of duties 6. - (1) The Director may authorise in writing, whether prior or after the performance of the duties, civil servants and other natural persons for performing certain duties relating to any assigned matter which has been granted to him. The duties of these persons and the conditions, under which these duties are to be performed, are set by the Director who, at any time may suspend or revoke, any authorisation granted in this manner.

(2) Any act or thing required or authorised by or under any enactment to be done by the Director, may be done by any officer or any other person authorised generally or specifically in that behalf by the Director, and any such authorisation signed by the Director is acceptable as evidence in any court proceedings.

Office hours 7. Customs acts and formalities are carried out during the working days and hours which are set for the Public Service or any other time or day the Director may deem fit, if judged necessary:

Provided that, the Director may permit customs offices to be open and authorised officers to be available there or elsewhere for the despatch of business on other days and at other times other than those which are specified above, if satisfied that this is required by the public and business needs and in any such case overtime shall be charged at rates prescribed by the Council of Ministers and subject to such conditions as it may prescribe.

Customs yards 8. The customs yards consist of the necessary places which are subject to customs control or supervision and which are located outside the customs offices, Public temporary storage facilities and the Republic's stores and may be used and as outdoor places of temporary storage, in which customs acts are carried out. The

necessary public places of ports and airports are also used as customs yards.

Appointment of  
customs stations  
and of customs  
yards

9. The Director may, by a Notice published in the Official Gazette of the Republic, appoint the customs stations and customs yards in the territory of the Republic.

### **Part III – PORTS AND AIRPORTS**

Appointment of  
ports

10. The Council of Ministers may, by Order published in the official Gazette of the Republic:

- (a) appoint and name as a port for customs purposes any area in the Republic specified in the Order;
- (b) revoke the appointment of any port for the purposes aforesaid or alter the limits of any such port;
- (c) revoke or vary any Order made under this section.

Approved wharves

11. -(1) The Director may, in any port, approve for such periods and subject to such conditions and restrictions specified by him, places for the loading and unloading of goods of any class or description of goods, and any place so approved is in this Law referred to as an “approved wharf”.

(2) The Director may at any time for reasonable cause revoke the approval or revoke or vary the terms of any approval given under subsection (1).

Examination  
station of a  
customs airport

12.-(1) The Director may, in any customs airport, approve for such periods and subject to such conditions and restrictions specified by him, a part of, or a place at, that airport for the loading and unloading of goods and the embarkation and disembarkation of passengers, and any such part or place so approved is in this Law referred to as an “examination station”.

(2) The Director may at any time for reasonable cause revoke the approval or revoke or vary the terms of any approval given under subsection (1).

Customs Airport  
Official Gazette of  
the Republic  
Third Annex (I):  
31.1.75  
15.7.83.  
Official Gazette,  
Annex 2A:  
25.1.1956  
28.6.1956  
11.4.1957  
12.12.1957  
8.5.1956.  
82 of 1967  
57 of 1969  
4 of 1971  
45 of 1973  
12 of 1977  
104 of 1987  
98 of 1989  
5 of 1991  
77(I) of 1998  
14(I) of 1999  
49(I) of 2001  
78(I) of 2002

13. A Customs airport is any airport specified by Orders of the Council of Ministers, which have been issued by virtue of the Colonial Aerial Navigation Orders of 1955 to 1958 and the Customs and Excise Law of 1967 to (No. 4) of 2003, as a place for the landing or departure of aircrafts for the purposes of the customs or the other legislation in force.

107(I) of 2003  
 108(I) of 2003  
 109(I) of 2003  
 139(I) of 2003

Ships and aircraft  
 obligations

14. Any ship or aircraft, regardless of tonnage or capacity or of place whence it arrived, shall arrive or depart to or from a port as specified in section 10 or customs airport as specified in section 13, as the case may be provided that there is competent customs presence, and they are not allowed to load or unload goods from or to places that have not been approved by the Director.

#### **PART IV - SEA AND AIR TRANSPORT CARGO MANIFEST AND AIRCRAFTS-**

Lodgement of  
 cargo manifest on  
 arrival

15. -(1) The master of a ship arriving at a port in the Republic or mooring within the territorial waters for any reason, even due to force majeure, or his authorised agent, shall lodge with the Director a cargo manifest within twenty four hours from arrival and in any case before departure:

Provided that the above obligation exists even if the ship is in ballast.

(2) The lodgement of a cargo manifest may not be required in the case a ship for which a licence for a regular shipping line has been granted and in any other cases, as the Director may approve.

(3) Goods shall not be unloaded before a cargo manifest is lodged, except only with the permission of the Director, and in such case they shall be unloaded only in places controlled by the Department of Customs and Excise.

(4) The cargo manifest shall be in such form and manner, including electronic form, as the Director may prescribe.

Provided that the Director may additionally require the presentation or production of every document relevant to the cargo manifest. ———

(5) The master of a ship shall not be obliged to comply with the provisions of this section when the ship departs without free pratique prior to the expiration of the time limit defined in subsection (1).

(6) The Director may, by Notice published in the Official Gazette of the Republic, prescribe the procedure for lodgement of the cargo manifest, as well as specific procedures and formalities relating to the lodgement of a cargo manifest for certain categories and cases.

Lodgement of  
 cargo manifest of  
 cargo ships,  
 passenger ships,  
 and car ferries

16. The cargo manifest of cargo ships, passenger ships and car ferries is allowed to be lodged with the Director by the shipping agents within the time limit prescribed in section 15(1) and to list only the goods destined for the port of arrival. The vehicles of international transport on board the above mentioned vessels and carrying goods covered under a title of international transit shall be included in the cargo manifest separately for each vehicle.

Lodgement of a  
 cargo manifest  
 before clearance  
 outwards

17. - (1) The Director may prescribe that the master of a ship or his authorised representative shall, prior to the clearance outwards from the first port of arrival, lodge with the Director a cargo manifest, in accordance with conditions of section 15:

Provided that the Director may prescribe the above obligation even if and the ship is in ballast.

(2) The master of a ship, after its arrival at a second port in the Republic, shall lodge with the Director a cargo manifest, in accordance with the conditions of section 15.

(3) The cargo manifest shall be lodged in such form and manner, including electronic form, as the Director may specify. The Director may also specify the procedure for lodgement of the cargo manifest, as well as specific procedures and formalities relating to the lodgement of a cargo manifest for certain categories and cases.

Provided that the Director may additionally require the presentation or production of every document relevant to the cargo manifest.

Notice of arrival of ship 18. Shipping agents or representatives of ships shall notify customs in writing at least twelve hours prior to the arrival of a ship, its expected arrival providing every necessary relevant information that might be required by the Director.

Mooring of a ship due to force majeure 19. In case where a ship, due to force majeure, is taken to a mooring station and its repair is required, the master of the ship, after taking care of the cargo manifest formalities, on Director's permission, may unload and store the goods in places approved by the Director.

Lodgement of a cargo manifest of an aircraft 20. - (1) The captain of an aircraft arriving from an airport outside the Republic or departing from an airport of the Republic or his authorised agent, shall lodge with the Director the cargo manifest in accordance with the provisions of sections 15 and 17.

(2) The cargo manifest shall be lodged in such form and manner, including electronic form, as the Director may specify. The Director may also specify the procedure for the lodgement of the cargo manifest as well as specific procedures and formalities relating to the lodgement of the cargo manifest for certain categories and cases:

Provided that the Director may additionally require the presentation or production of every document relevant to the cargo manifest.

Clearance outwards of ships and aircraft. 21.-(1) Save as permitted by the Director, no ship or aircraft shall depart from any port or customs airport from which it commences or at which it touches during a voyage or flight outside the Republic until clearance of the ship or aircraft for that departure has been obtained from the Director:

Provided that, until an application for clearance outwards of a ship or aircraft is lodged, no goods shall be loaded or carried to be loaded for exportation or for use as stores, unless a permit has been obtained from the Director and the goods shall be loaded from places controlled by the Department of Customs and Excise.

(2) The Director may, by Notice published in the Official Gazette of the Republic.

- (a) the procedure of obtaining clearance outwards of ship or aircraft under this section;
- (b) the documents to be produced and the information to be furnished by any person applying for such clearance.

(3) Where clearance is sought under this section for any ship which is in ballast or has on board no goods other than stores, the baggage of passengers carried in

that ship, or empty returned containers upon which no freight or profit is earned, the authorised officer in granting clearance thereof shall, on the application of the master, clear the ship as in ballast.-

Provisions as to stores of ships or aircraft

22.-(1) Subject to the provisions of the Excise Duties Legislation and the Value Added Tax Legislation in force as well as the relevant Community Legislation, goods shall be permitted to be shipped as ships and aircraft stores without payment of duties and or taxes subject to the conditions, prerequisites and procedure, as the Director may prescribe. -

(2) The Director may, by Notice published in the Official Gazette of the Republic, prescribe-

- (a) the quantity and description of goods, which may be carried in any ship or aircraft as stores;
- (b) the description and category of ship in which goods may be carried as stores;
- (c) the required supply and carriage permit for the goods destined as mentioned in paragraph (a), the procedure to be followed for supplying them, whether or not any duty and or tax is chargeable thereon, the duty or tax has been paid and if any drawback of duty and or tax is justified;
- (d) the treatment of surplus stores for the purposes of this Law; and
- (e) any other detail that might be necessary for the proper implementation of this section.

Approval of acts relating to the shipment, unloading of cargo, etc.

23.-(1) Any acts, relating to loading, unloading, transshipment and generally movement of cargo or part of ships' or aircraft cargo shall be permitted only on written permit by the Director.

(2) The permit shall be granted by the Director and shall refer to a specific case and act and for period of time and shall provide for the presence or not of an authorised officer during its performance.

Prohibitions.

24.-(1) Any goods subject to customs procedures or liable to duties and taxes, shall not be unloaded from any means of transport to a place in the Republic, not approved by the competent Customs Station.

(2) The Director may, by a justifiable decision and for the purpose of securing the public interest and the interests of the European Union, prohibit the exportation or movement of goods by ship or may prohibit a ship to carry goods for exportation or to move goods.

## **PART V - OFFICERS' POWERS – OBLIGATIONS OF PERSONS RELATING TO PORTS AND AIRPORTS, SEA AND AIR TRANSPORT**

Access to and inspection of approved wharves and examination stations

25. Any authorised officer may at any time have access to an approved wharf or examination station in order to inspect and control them and to inspect and control any goods thereon at that time.

Power to enter, inspect and control port and customs airport

26.-(1) The person in control of a port or a customs airport shall permit to authorised officers to enter upon and inspect and control any port or customs airport and all premises and goods thereon.

(2) The person in control of any port or customs airport shall-

- (a) keep a record, in such form and manner as the Director may approve, of all ships or aircraft arriving at or departing from the port or customs airport, as the case may be;
- (b) keep available and produce on demand by the Director, the list of all ships and aircraft arriving at or departing from the port or customs airport, as the case may be, together with all other documents kept at the port or customs airport which relate to the movement of ships or aircraft; and
- (c) permit the Director to make copies of and take extracts from any such record or document.

Officer's power of boarding a ship or aircraft

27. -(1) At any time while a ship is within the limits of a port or within twelve nautical miles from the coast of the Republic or an aircraft is at a customs airport, any authorised officer duly engaged in the implementation of the customs or the other legislation, may board the ship or aircraft at any time and rummage and search any part thereof.

(2) The master of a ship or the commander of an aircraft shall permit authorised officers at any time to board the ship or aircraft, and inspect and control it and any goods loaded therein and all documents relating to the ship or aircraft or goods or persons carried therein:

Provided that, authorised officers shall have the right of access, at any time to any part of the ship or aircraft to which access is required for the purpose of any inspection and control.

(3) The Director may station authorised officers in any ship while it is within the limits of a port. For the prevention of criminal offences, authorised officers may, when boarding a ship, remain on board to guard it, when this is deemed necessary. The expenses for guarding and supervising the ship are charged to the persons having its responsibility. The master shall provide reasonable accommodation for the officers stationed therein or means of safe access to and egress from the ship.

(4) Without prejudice to the provisions of subsections (1), (2) and (3), the authorised officer shall have free access to every part of any ship or aircraft at a port or customs airport and may-

- (a) cause any goods to be marked before they are unloaded from that ship or aircraft;
- (b) lock up, seal, mark or otherwise secure any goods carried in the ship or aircraft or any place or container in which they are so carried;
- (c) break open any place or container which is locked and of which the keys are withheld;
- (d) examine in any manner, using even mechanical means, goods or any space or container in which they are carried; and

any goods found concealed on board the ship or aircraft shall be liable to forfeiture.

(5) During the ship's stay in the port, the Director may prohibit its boarding by persons who have no relation with any act on the ship.

Power to prevent clearance outwards of ship or aircraft

28. If it appears to the Director that a ship or aircraft is intended or likely to depart for a destination outside the Republic from any place other than a port or customs airport or from a port or customs airport before customs clearance is given there from, he may give such instructions and take such steps for the detention of the ship or aircraft or otherwise in order to prevent the clearance outwards.

Power to refuse or cancel clearance of ship or aircraft

29. -(1) For the purpose of the detention of any ship or aircraft in pursuance of any power or duty vested by or under any provision of the customs or the other legislation the Director may -

- (a) at any time refuse clearance of any ship or aircraft; and
- (b) where clearance has been granted to a ship or aircraft, may at any time while the ship is within the limits of any port or the aircraft is at any customs airport demand that the clearance shall be returned to him:

Provided that, any such demand may be made either orally or in writing to the master of a ship or commander of the aircraft and if made in writing may be served -

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

Provided further that, where a demand for the return of a clearance is made as aforesaid the clearance shall forthwith become void.

Unloading of goods in places designated or approved by the Director

30. Where the cargo manifest is not lodged or unloading of goods is delayed, the Director, notwithstanding the provisions of this law, shall be entitled to order, at the risk and expense of the carrier, the unloading of goods from the means of transport, in places that have been designated or approved by the Director for the purpose of securing the control of goods as well as the means of transport.

## **PART VI - ENTRY, SUPERVISION AND STORAGE OF GOODS**

Entry and supervision of goods

31. - (1) Goods brought into the customs territory of the Republic are subject to customs supervision and or control from the time of their entry, and shall be presented without delay and according to conditions prescribed by the customs office of entry into the customs territory of the European Union to the competent customs station or other place approved or designated.

(2) Community goods dispatched to the Republic from another Member State, which are moved in accordance with the community provisions in force under a community transit document or a document of similar effect or copy of the control document, are presented to the competent office in a manner similar to the one describe in subsection (1).

Approval of temporary storage facilities

32. -(1) The Director shall approve in any port or customs airport or in any other spaces, place for the temporary storage of goods until these goods are placed under a customs-approved treatment or use, which are referred to in this law as "temporary storage facilities". These storage facilities may be Public temporary storage facilities, the management of which is undertaken by the Department of Customs and Excise, or Private temporary storage facilities, the operation of which is undertaken by other natural or legal persons;

(2) The Director may approve temporary storage facilities, the operation of which might be undertaken by natural or legal persons, for periods of time and under conditions and restrictions prescribed by Order of the Council of Ministers that may, among others, specify-

- (a) the prerequisites to be met by the Private temporary storage facilities;
- (b) the procedure for receiving goods;
- (c) the conditions of storage and the stock account of the goods;
- (d) the manner of monitoring and exercising the customs control on the goods and on the Private temporary storage facilities;
- (e) the time limit for the operation of the Private temporary storage facilities and the reasons for revoking the authorisation of operation prior to its expiry;
- (f) the guarantees to be provided for securing duties, taxes and other charges owed to the Republic, at any time, for the goods stored; -
- (g) the cases where security is not required;
- (h) any other matter for the proper implementation of the provisions of this section as well as for the regulation of every matter so requiring or which may be regulated.

(3) The Council of Ministers may, by Order prescribe:

- (a) the operation fees for the temporary storage facilities which are operated by persons other than the Department of Customs and Excise;
- (b) the storage fees for goods which are placed in temporary storage facilities managed by the Department of Custom and Excise; and
- (c) the supervision charges and or overtime fees for the provision of services, as the case may be

(4) The Council of Ministers may, by Order, delegate to natural or legal persons the handling of goods unloaded into Public temporary storage facilities.

(5) The Director may at any time and for reasonable cause revoke or modify the approval and or the conditions of approval granted in accordance with subsection (2).

Public temporary  
storage facilities

33. -(1) The unloading of goods in the Public temporary storage facilities and or places designated or approved by the Director as well as their delivery to the Department of Customs and Excise is made on permission granted by the Director on the basis of the cargo manifest.

(2) If during unloading of goods deficiencies are revealed or parcels, vessels, cartons or other means of packing are found to bear obvious signs of pilferage or leak or are empty of their contents, for these goods to be received by the Department of Customs and Excise a statement shall be completed, the type and content of which are determined by the Director, including electronic form, and signed by the authorised officer and the carrier or his representative and in which the state and content of the above means of packing per weight, quantity and



description of goods as well as the measures undertaken are recorded in every detail.

(3) The Director shall assess the deficiencies referred to in subsection (2), and if this is the case, collect the duties, taxes and other charges chargeable thereon. -

(4) The Public is not responsible for the natural losses, deterioration, or damages to the goods in Public's temporary storage facilities managed by the Department of Customs and Excise and for those caused by force majeure.

(5) The Director may prescribe the conditions, the prerequisites and anything else deemed necessary for the management of the Public's temporary storage facilities.

Private temporary storage facilities

34. - (1) The temporary storage in Private temporary storage facilities approved under section 32(2) of goods, which are carried directly from abroad or dispatched under the transit procedure, shall be permitted on written authorisation granted by the Director. -

(2) Goods shall be unloaded in Private temporary storage facilities on the basis of the cargo manifest. The temporary storage facilities may be used by more than one carriers and importers of goods. All the provisions of the customs or the other legislation are applied on goods placed in these storage facilities. -

(3) The Department of Customs and Excise may carry out in Private temporary storage facilities all customs acts and procedures provided for in the customs or the other legislation. -

(4) Goods in temporary storage facilities may be removed or taken away from the place where were originally placed or stored, only on permission by the Director. These goods may be subjected only to such forms of handling as are designed to ensure their preservation in an unaltered state without modifying their appearance or technical characteristics. Also the examination of these goods and the taking of samples is permitted, under the provisions in force and on Director's permission, in order that they may be assigned a customs-approved treatment or use. -

(5) The Department of Customs and Excise exercises control and supervision over Private temporary storage facilities. The authorised officer may enter these storage facilities, inspect them, carry out investigations, examine and check the goods and the documents therein. For the exercise of control and supervision a team of authorised officers may establish themselves therein.

(6) The authorised officer may, for the purpose of control referred to in subsection (5), seal, lock any such storage facilities or part thereof or, using any other manner secure the goods therein and in such a case the seal or lock or other security will continue to exist until control is completed and any owed duties and or taxes or other charges are paid or satisfactory explanations for any deficiencies are given.

(7) The operators of Private temporary storage facilities are accountable for the duties, taxes and other charges the goods charged with. The Republic is not responsible for any damage, deterioration, or destruction of goods deposited in these temporary storage facilities, which is caused by any reason. -

(8) No temporary storage of goods placed under the formalities of the customs warehousing procedure or exportation shall be permitted in Private temporary storage facilities. The storage of goods in these temporary storage facilities, which

might by their nature or state influence other goods or cause danger to public health, policy or security or to the storage installations, shall be permitted only in specifically separated special compartments or places, provided that they exist and may avert these dangers. If such special places do not exist, storage of these goods shall be allowed in the proper installations of the importer only on Director's permission. The Director may not allow the unloading of goods in the Private temporary storage facilities, if the goods have been decayed or deteriorated.

(9) The operators of Private temporary storage facilities shall provide in these facilities, without any charge to the Republic, appropriate and safe covered areas for the transfer of goods not entered within the time limits set, which thus are considered uncleared under the provisions of section 67. This transfer is effected by the staff and means of transport of the operators of these storage facilities. After the sale of goods by public auction according to sections 71(1) and 72(2)(c), the storage fees due on the goods are paid out of the proceeds of sale to the operators of such storage facilities. After the disposal or destruction of the goods by the Department of Customs and Excise, in which case they come under the ownership of the Republic in accordance with the provisions of section 72, any claim by the operators of these storage facilities is extinguished.

(10) Subject to the specific provisions of the customs or the other legislation relating to import and export licences of the goods or other articles, no entry into or exit from the temporary storage facilities shall be allowed of articles, goods, vehicles and persons of any nature, which are provided for in this section and are subject to customs supervision or inspection, without control by an authorised officer. The Director may prohibit the entry of persons or vehicles, including staff of private security and guarding companies, who have no relation with a specific act. -

(11) The operators of the temporary storage facilities shall notify in writing the Director for every discrepancy, in excess or short, of the cargo manifest verified during unloading between the goods declared on the cargo manifest and those deposited. Deficiencies of goods not notified in writing to the Director within twelve hours from unloading or other shorter or greater period of time, as the Director may specify, shall not be considered, however the operators of these temporary storage facilities shall, notwithstanding any other provision for the commission of criminal offences of Part XIX of this Law, pay the duties, taxes and other charges payable for these discrepancies.

(12) The Director shall assess the duties and or taxes payable on deficiencies or discrepancies, verified at any time, of goods stored in Private temporary storage facilities at the expense of the operator of these storage facilities. -

Time limits for the storage of goods in the temporary storage facilities etc

35.-(1) For the storage of goods in temporary storage facilities provided for in section 32, the following time limits shall be applied:

- (a) forty five days from the date on which the cargo manifest is lodged in the case of goods carried by sea;
- (b) twenty days from the date on which the cargo manifest is lodged in the case of goods carried by air.

The time limits for the storage of the goods may be shortened or extended by the Director, where this is justified by the circumstances.

(2) Goods presented to customs and stored in temporary storage facilities should, within the time limits specified in subsection (1), be assigned a customs approved treatment or use, that might be:

- (a) either their placing under a customs procedure; or
- (b) their entry into a free zone or a free warehouse; or
- (c) their re-exportation from the customs territory of the community; or
- (d) their destruction on Director's approval and on terms and conditions laid down by him; or
- (e) their abandonment to the Exchequer, on Director's approval.

(3) On goods, to which a customs approved treatment or use has not been assigned within the aforesaid time limits, the provisions of this law relating to uncleared goods shall be applied.

(4) The holder of the goods shall submit on a specific document specified by the Director, a written request for the abandonment or destruction of goods. The abandonment or destruction shall not entail any expense for the Exchequer. -

(5) The Director may, under the procedure provided for in section 58(3), destroy the goods deposited in temporary storage facilities and shall inform the holder of the goods accordingly. The expenses of destroying the goods shall be borne by the holder.

## **PART VII - CUSTOMS TARIFF –DUTIES AND TAXES TREATMENT**

Calculation of duties, taxes and other charges

36. - (1) Duties due, in case a customs debt is incurred, shall be calculated in accordance with the Customs Tariff of the European Communities and in accordance with the specific provisions of the Community Customs Code and the other corresponding Community and Cyprus legislation, whereas taxes and other charges are imposed by the Cyprus Legislation.

(2) Subject to the provisions of the customs and the other legislation, the value added tax and the excise duty on goods imported in the Republic shall be imposed and paid as if it was a duty and the provisions of the customs legislation on duties shall apply mutatis mutandis unless there is an explicit contrary provision in the customs or the other legislation.

Preferential or non-preferential origin of goods

37. The application of the favourable preferential tariff measures on third countries that are provided for either in bilateral preferential agreements or in autonomous preferential regimes of the European Union depends on whether the prerequisites of the rules of origin that are provided for in the these agreements or in the corresponding Implementing Provisions of the Community Customs Code respectively are met. The non-preferential origin of goods is related to the application of the Customs Tariff of the European Community and the application of community trade policy measures. The relevant provisions are referred to in the Community Customs Code and the corresponding Community and or Cyprus Legislation.

## **PART VIII - CUSTOMS DEBT**

Customs debt

38. Customs debt means the obligation on a person to pay the amount of the import duties (customs debt on importation) or export duties (customs debt on exportation), which apply to specific goods in accordance with the Community and Cyprus Legislation in force.

Special cases

39.-(1) Where a Customs declaration is submitted for one of the following

procedures –

- (a) the release for free circulation of goods liable to import duties; or
- (b) the placing of such goods under temporary importation procedure with partial relief from import duties,

and the said customs declaration in respect of one of the procedures referred to above is drawn up on the basis of information which leads to all or part of the duties legally owed not being collected, then, the persons who provided the information required to draw up the customs declaration and who knew, or ought to reasonably have known that such information was false, may also be considered as debtors.

(2) Where the customs debt is the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the amount may be communicated to the debtor even after the expiry of the three years period that is referred to in the corresponding Community Code Provisions but not after the lapse of twelve years from the date on which the customs debt was incurred.

Time limits and procedures for payment

40. The Director may, by Notice published in the Official Gazette of the Republic, specify every necessary detail as regards the time limit and the manner of payment or suspension of the customs debt and the required guarantees in conjunction with the corresponding provisions of the Community Customs Code.

### **PART IX - OTHER CUSTOMS DEBT**

Other customs debt

41. Other customs debt means the obligation of a person to pay any taxes due on imported goods or any other amounts payable under the customs or the other legislation, excluding customs debt as defined in section 38.

Incurrence of other customs debt

42. The other customs debt is incurred as the case may be–

- (a) at the time of acceptance of a customs declaration for home use, for goods liable to taxes and other charges; and or
- (b) as a result of the unlawful introduction into the customs territory of goods; and or
- (c) as a result of the unlawful removal of goods liable to tax charges from customs supervision; and or
- (d) as a result of non fulfilment of the obligations arising from placing the goods under a procedure or customs approved treatment or use or non compliance with a condition imposed for the placing of goods under a specific procedure; and or
- (e) as a result of any other case specifically defined in the customs or the other legislation.

Implementation mutatis mutandis of the provisions of the Community Customs Code and its Implementing Provisions

43. Unless otherwise provided for in this Law, in the Excise Duties Legislation in force or in the Value Added Tax Legislation in force, for the taxes on imported goods, the provisions of the Community Customs Code and its Implementing Provisions relating to the customs debt in respect of imported goods shall be applied mutatis mutandis.

Time limit

44.-(1) Subject to the provisions of subsection (2) the assessment according to the

customs or the other legislation shall not be made after the lapse of six years from the date of incurrence of the other customs debt.

(2) If any amount of other customs debt has been lost as a result of fraud or deliberate omission of the debtor, then an assessment may be made as if the time limit of six years in subsection (1) was twelve years.

## **PART X – COMMON PROVISIONS FOR CUSTOMS DEBT AND THE OTHER CUSTOMS DEBT**

Calculation of the customs debt and the other customs debt 45. Subject to the provisions of customs legislation, the Director shall calculate the customs debt or the other customs debt as soon as he has the necessary particulars and shall enter in the accounting records or any other equivalent medium, including an electronic entry (entry in the accounts).

Entry in the accounts of the customs debt and the other customs debt 46. The Director by decision shall specify the practical procedures for the entry into the accounts of the customs debt. In this decision different ways of entry in the accounts may be provided for, depending on whether the Director is satisfied or not that the said amounts will be secured, taking into consideration the conditions under which the customs debt is incurred.

Guarantee for the amount of the customs debt or the other customs debt 47. For securing the customs debt and the other customs debt, the Director may require the provision of a guarantee by the declarant or the person obliged to submit the document that is required by the customs procedure.

Subsequent assessment of the customs debt and the other customs debt 48. -(1) In addition to any other cases which are explicitly provided for in this Law or the relevant Community Customs Legislation, in case any person fails to submit a customs declaration that is required in accordance with the customs or the other legislation or does not keep the necessary records, books, documents or particulars and does not render the assistance required to facilitate the verification of the particulars of the customs declaration, or when the Director considers that the submitted customs declaration is incomplete or that it contains errors or that its supporting documents are missing, then, the Director may assess the amount of customs debt or the other customs debt to the best of his judgement and shall communicate it to the person concerned.

(2) Where any person neglects or refuses or omits to apply the provisions of this Law and as a result of the negligence or refusal or omission the amount due is incurred, then, the Director may assess the amount due to the best of his judgement and shall communicate it to the person concerned.

(3) In case, due to submission to the Department of Customs and Excise by any person of any declaration or notice or certificate or any other document, the full amount due according to the customs legislation or the other legislation was not paid or the amount was repaid or a discount was granted or an amount greater than the amount legally repayable under the customs or the other legislation was repaid, the amount due or the amount repaid without being legally due or the amount granted as discount shall be assessed and communicated to the person concerned.

(4) When any amount has been assessed and communicated to any person according to the above subsections, then, the amount of the assessment shall be deemed without prejudice of any other provisions of this Law as an amount due by that person and may be recovered accordingly, unless the assessment is withdrawn or the relevant amount is reviewed.

(5) For the purposes of this section any notification to a personal representative, bankruptcy administrator, receiver, administrator, liquidator or any other person who acts under any other capacity, shall be deemed as delivered to the person in relation to whom he acts under such capacity.

(6) The amounts that are assessed are entered in the accounts as referred to in sections 45 and 46.

Supplementary assessment

49. If, in the Director's judgement, the amount that should have been assessed in accordance with section 48 exceeds the amount assessed, then, on the day or before the last day the assessment could have been issued, the Director may issue a supplementary assessment for this amount and communicate it to the person concerned.

Annulment of assessment by the Supreme Court

50. Notwithstanding the provisions of section 44, if –

- (a) an assessment that was issued in accordance with the customs or the other legislation; or
- (b) a Director's decision on a request for review relating to assessment issued in accordance with the customs or the other legislation;

is declared totally or partially null by the Supreme Court in accordance with section 146 of the Constitution and it is necessary to be reconsidered, then the Director may issue a new assessment within one year from the date the decision of the Court was issued.

Recovery of the customs debt and the other customs debt not legally due

51. Subject to the provisions of the customs or the other legislation –

- (a) if any person had, either before or after the enactment of this Law, paid an amount to the Director as customs debt and or other customs debt which was not due, then the Director shall repay the above amount to this person;
- (b) the Director shall repay an amount in accordance with this section only if an application is made;
- (c) the Director may reject an application submitted in accordance with this section, if the recovery of any amount would result in an unjustified enrichment of the person who submits the application;
- (d) no amount shall be claimed under this section after the lapse of three years from the date the amount was paid;
- (e) any application under this section shall be submitted in the form and manner as the Director may specify and shall be supported by documentary evidence.

Financial penalty and interest

52. - (1) On any amount of duty and or tax that is assessed subsequently according to the customs legislation there shall be imposed a financial penalty equal to ~~the~~ ten per cent (10%) of the amount assessed.

(2) Any person charged with a financial penalty in accordance with subsection (1), shall pay to the Director nine per cent (9%) interest annually on the amount payable, the financial penalty included, as from the date the above amount became due.

Recovery of the

53. The customs debt and or the other customs debt shall be ~~is~~ collected as a civil

customs debt or the other customs debt      debt due to the Republic and any procedure for the recovery of the debt is exercised in the name of the Director.

## **PART XI - CUSTOMS-APPROVED TREATMENT OR USE**

### **Customs Procedures**

- |  |   |
|--|---|
| Normal clearance procedure                                       | <p>54.-(1) The owner of the goods or his legal representative shall, after the presentation of goods to customs, submit a customs declaration within the time limits referred to in section 35(1), in order for the goods to be assigned to a customs procedure or to one of the other customs-approved treatment or use, as specifically defined in the Community Customs Legislation.</p> <p style="padding-left: 40px;">(2) The Director may specify the customs stations for the clearance of goods, when this is warranted by the nature of goods or the way of their movement or the circumstances so justify.</p> <p style="padding-left: 40px;">(3) The Council of Ministers may, by Order, regulate:</p> <p style="padding-left: 80px;">(a) the respective procedures relating to the implementation of conditions and prerequisites for placing the goods under a customs procedure, or the conditions and requirements and specific procedures by which any other customs- approved treatment or use is assigned, to the extent these procedures are not explicitly defined by this Law and the relevant Community Legislation.</p> <p style="padding-left: 80px;">(b) the completion of and submission of the customs declaration, examination, sampling of goods and any other procedures to the extent these procedures are not explicitly defined by this Law and the relevant Community Legislation, as well as the format of the documents used or of the receipts, if not, provided for by the corresponding Community Customs Legislation.</p> |
| Simplified procedures  | <p>55. The Council of Ministers may, by an Order, specify the conditions and prerequisites for the authorisation of implementing simplified procedures provided for in the corresponding provisions of the Community Customs Code, as well as certain cases for which the submission of a customs declaration is not required.</p>  |
| Provisions relating to the customs procedures                    | <p>56. - (1) The Council of Ministers may, by an Order specify:</p> <p style="padding-left: 40px;">(a) the respective procedures relating to the implementation, operation and control of any customs arrangements to the extent they not explicitly regulated by the relevant Community Legislation.</p> <p style="padding-left: 40px;">(b) the prerequisites for granting authorisation for the operation and control of the customs warehouses to the extent they are not explicitly regulated by the relevant Community Legislation.</p> <p style="padding-left: 40px;">(2) The Minister by a decision may from time to time determine the licence fees of the customs warehouses as well as the annual operation fees.</p>   |
| Mutatis mutandis implementation of the provisions of Section 34. | <p>57. The provisions of section 34(3) to (9) of this Law are applied mutatis mutandis also in the case of the warehousing arrangement to the extent not opposed to the relevant Community Legislation.</p>   |

### Other Customs-Approved Treatment or Use

Abandonment,  
destruction and  
sale of goods

58.-(1) The Director prior to the release of goods and at the written request of the declarant submitted on a specific document specified, by the Director, may approve -

- (a) the abandonment of goods to the Exchequer, on payment in advance of the total expenses and any other charge imposed or deemed necessary;
- (b) the destruction of goods.

(2) The acceptance of the request is recorded on the document referred to in subsection (1) and, shall not be revoked after its acceptance.

(3) The abandonment or destruction of goods shall not entail any expenses for the Exchequer but the relevant expenses shall be borne by the declarant. The procedure for destruction shall be specified by Director's decision.

(4) On the customs declaration and the document submitted according to subsection (1), the nature and quantity of the waste and scrap which may result from destruction shall be recorded, so that it may be possible for them to be entered for home use or free circulation, provided that the duty or tax chargeable thereon is paid first. -

(5) Subject to subsection (4), the abandonment to the Exchequer or the destruction of goods under the control of the Department of Customs and Excise shall relieve the declarant from the obligation to pay the duties and taxes.

(6) Subject to the provisions of section 72(2), after the acceptance of the request for abandonment, the goods shall become property of the Republic, shall be carried or deemed to be carried in the Republic's stores and the procedure for their sale shall be applied according to the provisions of the said section.

Establishment of  
free zones and free  
warehouses etc.

59. - (1) The Council of Ministers, by an Order, may -

- (a) designate any part of the customs territory of the Republic, specifically defined, as a free zone or free warehouse;
- (b) revoke any part of the customs territory of the Republic which has been designated as a free zone or free warehouse;
- (c) alter the boundaries of the free zones or free warehouses;

(2) Any person who requests the establishment of a free zone or free warehouse shall submit an application to the Director, supported by a feasibility study, showing:

- (a) the present or estimated movement of non-Community goods through the proposed free zone or free warehouse;
- (b) the expected contribution of free zone or free warehouse to the increase of trading movement of non-Community goods, in combination with the generally expected economic profits from its operation;
- (c) the safeguards for the correct administration and management of the free zone or free warehouse;



- (d) and as the case may be, the industrial and generally the entrepreneurial development and economic progress of the Republic.

Operation, management and control of the free zones and free warehouses

60. - (1) The Director may, by a Notice published in the Official Gazette of the Republic, specify the conditions of operation, management and control, movement, stay, working, or processing of goods in free zones or free warehouses, as the case may be, regulate operational and procedural matters relating to the customs supervision, establishment of businesses, entry, stay and exit of goods from free zones and free warehouses, as well as specify the responsibility and competencies of the managing authority of a free zone or free warehouse.

(2) The managing authority of a free zone or a free warehouse or persons intending to operate a business in the free zone shall submit to the Director an application in writing for approval of the stock record.

(3) The Director may, at the written request of the managing authority or the person operating business activities in the free zone or free warehouse, approve the construction or conversion of a building located in the free zone or the conversion of a building constituting a free warehouse.

Validity of Orders according to the Free Zones Law of 1975 and the Free Ports Law of 1979  
69 of 1975  
175 of 1979

61. Orders, which have been issued under the Free Zones Law of 1975, and the Free Ports Law of 1979, shall continue to be in force after the entry into force of this Law, unless amended or revoked by an Order issued for this purpose by the Council of Ministers.

## **PART XII - TRANSIT OF GOODS WITHIN THE REPUBLIC**

Submission of a transit declaration, guarantee etc.

62. - (1) For the movement of goods liable to duties and or taxes, on a suspensive arrangement, between two places in the customs territory of the Republic a transit declaration shall be submitted in such a form and manner, including electronic form, specified by the Director, under the conditions provided for the application of the community transit procedure.

(2) For the movement of goods under subsection (1), a guarantee shall be provided by a person other than the principal. The principal and the guarantor undertake to pay jointly and severally for any loss of goods or discrepancy that is established at the office of destination. The carrier and the recipient are also responsible when it is proved that they have not complied with the terms and conditions governing the placing of the goods under the transit procedure or any obligation arising from it:

Provided that, the Director may permit the transit of goods within the Republic without the provision of a guarantee or with a guarantee of a reduced amount, under the terms and conditions, provided for the application of the community transit procedure.

(3) The Director may decide, if he deems it necessary, for the goods to be examined at the office of departure.

(4) The Director may affix seals on the goods or their packaging to secure their identification at the office of destination. The transit declaration shall accompany the goods under transit during their transportation to the office of destination.

(5) The Director may permit the movement of goods, which are declared on the ship's or aircraft's manifest for another destination. In such a case the captain

and the shipping agent or the commander of the aircraft and the airline company have the responsibilities and obligations of the principal.

(6) The transit of goods within the Republic ends when the goods that are placed under the transit procedure and the required documents are produced at the customs office of destination. The office of destination shall inform the office of the departure, about the goods' arrival, within a month from the date of the transit procedures' end.

(7) The transit procedure within the Republic is discharged, when the Director is in a position to establish, on the basis of the comparison of the data available at the office of departure and those available at the office of destination, that the procedure has ended correctly.

(8) If during the examination of the goods by the office of destination a difference in duty and or tax is established and or any other difference between the transit declaration and the examination and verification of the goods, the office of destination shall record all remarks on the differences on the copy of the transit declaration which is destined for the office of departure. The office of departure shall estimate the amount of the said difference, shall communicate it to the principal and collect the amount due.

(9) The guarantee provided shall be returned or released after the establishment by the office of destination that all the specified formalities for the transit procedure have been fulfilled, and, according to the remarks of the authorised officer, no difference has been established on the goods that were transited.

(10) The Director, by a Notice published in the Official Gazette of the Republic, shall specify the procedure of transit of goods within the Republic and any other action he sees fit or necessary for the proper fulfilment of the purpose of this section or for the regulation of any matter which is related to its provisions.

### **PART XIII – PASSENGERS' BAGGAGE**

Passengers' baggage

63.-(1) Passengers arriving from third countries shall present their baggage to the customs office of entry for examination and declare orally, at such place, time and in such manner as the Director may direct, anything contained in their baggage or carried by them.

(2) Subject to the customs or the other legislation, articles which are chargeable with duties and taxes are shall be delivered to a passenger on payment of any charges chargeable thereon.

(3) Articles referred to in subsection (2), on which the payment of duties and taxes is not practically feasible on their arrival, shall be delivered to the customs station for safe keeping. -

(4) Passengers' baggage not cleared within forty five days from the date of their delivery to the customs station shall be examined by customs, be considered as uncleared and the provisions of section 71 for their sale shall apply:

Provided that, at the request of the persons concerned, the above time limit may be extended, depending on the case, up to three months, if specific reasons so warrant.

(5) Passengers' baggage may be transited, subject to the provisions of the

transit procedure.

Power to examine incoming or departing persons from and to a third country

64. Any person arriving from or departing to a third country shall answer such questions as the authorised officer may put to him in respect of his baggage and any article contained therein or carried by him.

#### **PART XIV – MISCELLANEOUS PROVISIONS**

Explosives etc.

65.-(1) Imported containers or parcels containing inflammable, explosive or other materials and substances which are dangerous to health and the environment must bear a discernible and legible inscription about their content and harmfulness. Carriers or shipping agents or airline companies must declare separately to the Director the importation of these containers or parcels before unloading them. -

Chapter 54.  
21 of 1970  
95(I) of 2003.

(2) No explosive material within the meaning of the Explosive Substances Law shall be loaded on any ship or aircraft for export, unless a customs declaration has been made thereof in such form and manner and containing such particulars as the Director may specify.

Goods brought by post  
Chapter 303.  
42 of 1968  
7 of 1977  
43(I) of 1994  
68(I) of 1998  
38(I) of 2002.

66. The customs formalities for articles that are moved by post and are subject to control by the Department of Customs and Excise shall be specified by Regulations made by the Council of Ministers that are issued by virtue of section 19 of the Post Office Law.

#### **PART XV - UNCLEARED GOODS – REPUBLIC’S STORES**

Uncleared goods.

67.-(1) Subject to the specific provisions of the customs legislation where goods are carried - -

- (a) by sea and are not released within forty five days from the date on which the cargo manifest was lodged; and
- (b) by air and are not released within twenty days from the date on which the cargo manifest was lodged,

the goods become uncleared and shall be transferred to a Republic’s store, the expenses being entailed on the goods, subject to the provisions of section 71 for the sale of goods by public auction:

Provided that, goods may not be transferred to a Republic’s stores, if the transfer is economically unfavourable or it is not possible for specific reasons.

Provided further that, the Director may allow extension on the above time limits, where the extension is justified by the circumstances.

Provided further that, in the case of dangerous goods, scrap or waste, the transport or destruction expenses or any other expenses shall be borne by the holder of the goods.

(2) On the lapse of twenty one days from the date these goods are uncleared, or at any other time limit specified by the Director, the latter may sell the goods by public auction in accordance with the procedure specified in section 71.

Goods that are considered as uncleared etc.

68.-(1) Goods falling in any of the following categories shall be considered as uncleared and shall be subjected to the procedure of sale by public auction, in accordance with the provisions of section 71:

- (a) If, after the registration and acceptance of the customs declaration, the declarant withdraws or does not offer the assistance required and does not present himself within four days from the acceptance of the customs declaration for the examination of the goods. In such a case, the authorised officer shall examine the goods even in the absence of the declarant or shall continue the examination, if it had commenced before the withdrawal of the declarant, and makes an entry on the customs declaration of the declarant's presence or absence.

Provided that, at the request of the persons concerned, the above time limit may be extended, depending on the case, up to three months, if specific reasons so warrant.-

- (b) If the goods are not received within eight days or after an extension of the time limit by five days maximum which may be granted by the Director on application of the declarant after the completion of the examination in the presence of the declarant, or if a guarantee is not provided for the payment of duties, taxes and any other charges:

Provided that, the above apply also in case where examination of goods is not required before the release note is issued:

Provided further that, the above apply also in case where the documents, on which the placement of the goods under the customs procedure requested depends, were not produced or in the case where because of any other reason the release note cannot be issued.

(2) At the declarant's responsibility and expenses, the Director may allow that goods may not be transferred to the Republic's stores, and be stored in places that have been approved by him.

(3) If the goods are perishable or their custody is difficult, the Director may shorten the time limits provided for by this section.

(4) Where there is a danger as a result of keeping the goods, the Director may destroy them:

Provided that, the relevant expenses of destruction shall be borne by the declarant.

Uncleared goods of negligible value etc.

69. Notwithstanding the provisions of section 67 and subject to the provisions of any other legislation, when among any uncleared goods there are -

- (a) goods of negligible value or goods rendered useless due to damage and their condition is certified by an authorized officer and a second authorized officer who accompanies the first one;
- (b) foodstuffs, of which the prohibition of consumption is certified by an officer of the competent authority,

the Director may approve their destruction, in which case they shall be destroyed in the presence of the authorised officers according to the procedure he shall specify. The expenses for the destruction shall be borne by the Republic.

Provisions related to the Republic's stores

70. - (1) Subject to the provisions of this Law, the provisions of this section shall be applied on any goods which are transferred or considered to have been transferred in Republic's stores under any provisions of the customs or the other legislation.

(2) On warehousing, the goods shall be charged with fees, as specified by the Director by a Notice published in the Official Gazette of the Republic. These fees are payable also in the case of goods the transfer of which to the Republic's stores is not possible because this is economically unfavourable or for specific reasons.-

(3) If the goods are of combustible or inflammable nature or otherwise of such a character as to require special care or treatment-

- (a) they shall, in addition to any other charges payable thereon, be chargeable with such an expense which is necessary for securing and guarding them, as the Director shall specify;
- (b) the Director shall not be liable to make good any damage which the goods may have sustained.

(4) Save as permitted by or under this Law, the goods shall not be removed from the Republic's stores until any duty or tax chargeable thereon and any other charges in respect thereof, including wharfage dues-

- (a) for their removal to the Republic's stores and
- (b) under subsections (2) and (3)

have been paid and, in the case of goods requiring customs declaration, not yet submitted, until the customs declaration thereof has been submitted.

(5) The authorised officer having the custody of the goods may refuse to allow them to be removed until it is shown to his satisfaction that any freight charges due thereon have been paid.

(6) The Director may destroy goods, when this is warranted by their nature or when these goods are subject to any prohibitions or restrictions, according to the procedure he defines. The expenses for the destruction shall be borne by the Republic.

Sale of uncleared goods by public auction.

71.-(1) Goods that are or deemed to be uncleared and are transferred to the Republic's stores shall be sold by public auction which is published in the Official Gazette of the Republic under such terms and conditions as specified in this publication.

(2) If, after goods were declared as sold at a public auction to the bidder, the amount is not paid within eight days from the date the auction took place, the provisions of section 67 for uncleared goods shall be applied.

(3) If at any time up to the day prior to the auction, the owner of the goods or his legal representative submits a written application for the withdrawal of the goods from the public auction, the Director may approve the claim, provided a deposit of money shall be made covering the storage charges up to the date of the next auction and the customs formalities relating to a customs-approved treatment or use will be applied.

(4) If, on the day of the public auction and before its commencement, the owner

of the goods or his legal representative submits a written application for the withdrawal of the goods from the public auction, the Director may approve the claim, provided a deposit of money shall be made covering any cost of removal, duties and or taxes, as well any other charges according to the customs approved treatment or use.

(5) If the goods are under or by virtue of any provision of this Law sold, the proceeds of sale shall be applied in the following order:

- (a) in paying any duty or tax chargeable on the goods;
- (b) in defraying any such charges chargeable on in the goods, including the expenses of the public auction;
- (c) in defraying any charges for freight,

and if the person who was immediately before the sale the owner of the goods submits an application in that behalf within six months of the date the auction took place, the remainder, if any, shall be paid over to him. At the lapse of this time period any remainder shall be transferred to the Revenue.

(6) The Director may, by a Notice published in the Official Gazette of the Republic, specify the manner, the place and the procedure of the sale of the goods by public auction and regulate any other matter relevant to the sale of goods.

Goods becoming property of the Republic etc

72.-(1) Where under any provision of this Law, uncleared goods must be sold by public auction, but they are not sold in two consecutive public auctions -

- (a) for an amount sufficient for the payment provided for by section 71(5)(b), when the goods are destined for export; or
- (b) for an amount sufficient for the payment provided for by section 71(5)(a) and (b), in any other case,-

shall be considered as abandoned and shall become property of the Republic.

(2) When goods become the property of the Republic under the provisions of this Law, the Director may permit -

- (a) their destruction according to the procedure he shall specify and in such case the expenses of destruction shall be borne by the Republic; or
- (b) their disposal for satisfying the needs of public authorities or charitable institutions provided that the Communities own resources are secured; or
- (c) their sale by public auction at a price they would fetch, if sold in the open market free of duties and taxes, provided that the Communities own resources are secured and on permission by and according to the conditions specified by the Director, -

free from taxes and other charges.

## **PART XVI – CUSTOMS RELIEFS**

Customs reliefs

73.-(1) Regulations issued by the Council of Ministers may provide for the refund or partial or total relief from duty or excise duty chargeable on any goods on their importation into the Republic for certain persons, international or other

organisations or bodies, subject to such conditions as may be specified.

Provided that the above Regulations may provide for the value in the case of any used goods that initially had been entered for home use or for free circulation on relief and at a later stage they are placed to a different use.

(2) Regulations issued by the Council of Ministers may provide for the refund or partial or total relief from duty and or excise duty chargeable on any goods on their importation into the Republic, provided that the Director is satisfied that the goods had been previously exported from the Republic.

## **PART XVII – RIGHT OF REPRESENTATION**

Right of  
representation

74.-(1) Any person may appoint a representative in his dealings with the Department of Customs and Excise to perform the acts and formalities laid down by the customs or the other legislation.

Provided that, if no representative is appointed in accordance with the above subsection, as a person responsible for carrying out the actions and formalities which are provided for by the customs or the other legislation, is, in case of a natural person, this person, and, in case of a company or partnership, the director of the company or one of the partners.

(2) The representation is made in writing in such form and manner as the Director may direct.

(3) In cases where a customs declaration is required to be submitted according to the customs legislation, the representative as defined in subsection (1) shall necessarily be a customs agent.

Provided that, the Director may approve as a representative for the submission of a customs declaration a person who is exclusively and fully employed in the service of the person concerned on a monthly basis at least and duly authorised in writing by his employer.

(4) The Council of Ministers may issue Regulations specifying

- (a) the granting of licences and registration of customs agents and of assistant customs agents as well as the procedure applicable in relation to the submission of the applications, the granting of licences and any other related matter;
- (b) the conditions and restrictions, under ~~on~~ which licences may be granted ;
- (c) the qualifications, powers, duties and behaviour of customs agents and of assistant customs agents;
- (d) the responsibilities and liabilities of customs agents and of assistant customs agents and of the persons on whose behalf they act;
- (e) the revocation or suspension of any licence, the deprivation of the right to act as a customs agent or assistant customs agent and the disciplinary control of these persons in general.
- (f) the fees payable for any licence, application or any other document;

- (g) the exception of any persons or categories of persons from the provisions of any Regulations issued under this section;
- (h) anything that may be deemed necessary for the proper fulfilment of the purposes of this section or for the regulation of any matter which is related to its provisions. -

## **PART XVIII – GENERAL POWERS**

### **Visit, inspection and control**

Power of entry, visit, inspection and control

75. At any time authorised officers may enter and visit any place subject to customs supervision, such as customs warehouses, temporary storage facilities, free zones, free warehouses and any other facilities for inspection and control of the goods placed therein, and for exercising controls of the records, books, documents or particulars, even in electronic form, of any natural or legal person.

Power of exercising controls

76. Authorised officers, in order to verify or secure compliance with the customs or the other legislation, may exercise controls on all goods related to the entry or importation, exit or exportation, or movement or deposit thereof in places of business activities, as well as on any records, books, documents or particulars, even in electronic form, of any natural or legal person:

Provided that the authorised officers have the power to demand any information related to the above.

Power to use appropriate scientific means for control purposes

77. Authorised officers, on carrying out control to verify or secure compliance with the customs or the other legislation, may use any proper scientific or other mechanical means or other apparatus.

### **Information**

Power to demand provision of information and production of records, books, documents, or particulars

78.-(1) Authorised officers, in order to verify or secure compliance with the customs or the other legislation, may demand within a reasonable period of time and at a reasonably specified place from any person related under any capacity with the goods and or with any records, books, documents, or particulars, even in electronic form –

- (a) any information;
- (b) the production of any records, books, documents or particulars, even in electronic form,

in order to verify or secure compliance with the customs or the other legislation-

(2) If according to subsection (1), an authorised officer has the power to demand the production of any records, books, documents or particulars from a person mentioned in the aforesaid subsection, the authorised officer has a similar power to demand the production of the aforesaid records, books, documents or particulars from any other person who he believes possess them:

Provided that, if any such other person claims the right of attachment upon any records, book, document or particular which produced by him, the production is done without the loss of the right of attachment.

(3) The authorised officer may make copies or take extracts of any records, book, document or particular produced under subsections (1) and (2).



(4) If deemed necessary, the authorised officer may take at a reasonable time and detain for a reasonable period of time, any records, book, document or particular produced under subsections (1) or (2), and, if requested, issue a receipt:

Provided that, when a right of attachment is claimed upon any records, book, document or particular produced under subsection (2), the receiving of such item under this subsection is not considered as violating the right of attachment.

(5) When any records, book, document or particular received by an authorised officer under the above subsections is reasonably requested for the smooth running of the person's business, the authorised officer shall provide within a reasonable period of time a copy of the records, book, document or particular to the person who has produced it or has had it produced.

(6) The Director may require any state authority or local authority or public law organisation to furnish him information, which may be necessary for the purposes of the customs or the other legislation.

(7) Every employee of a any state authority or local authority or public law organisation t who has under his custody records, books, documents or particulars, the examination of which may facilitate the application of the customs or the other legislation, shall permit any authorised officer to examine them and make copies and take extracts thereof without the payment of any fee or charge.

(8) An authorised officer shall not disclose or provide to third persons in any way confidential data or information which have come to his knowledge or have been notified to him during the course of the performance of his duties, but with the permission of the Minister.

### **Entry and search of premises**

Power to enter and search premises

79. - (1) In order to exercise any of the powers vested in him under the customs legislation or the other legislation, any authorised officer may, at any reasonable time, enter any premises, other than a dwelling house or place, and inspect and search these premises as well as any goods, records, books, documents or particulars, even in electronic form, therein.

(2) Notwithstanding any other power vested by the customs legislation or the other legislation, where there are reasonable grounds to suspect that in any premises, other than a dwelling house or place, an offence is being committed or has been committed or is about to be committed which is provided for by the customs or the other legislation or that evidence of commission or probable commission of such offence will be found, any authorised officer may enter these premises, other than a dwelling house or place, and search it.

(3) Without prejudice to the foregoing subsection or to any other power vested under the customs and the other legislation, when a judge of a District Court is satisfied by an oath statement in writing of any authorised officer that there are reasonable grounds to suspect that in any premises, including a dwelling house or place, an offence is being committed or has been committed or is about to be committed which is provided for by the customs or the other legislation or that evidence of commission or probable commission of such offence will be found, the judge may by warrant under his hand authorise that officer or any other person named in the warrant to enter and search any premises or place, as well as a dwelling house or place, so named.

(4) Every search warrant must bear the signature of the judge who issues it, the

date and time issued, as well as the judge's assurance that he has been reasonably satisfied for the need to issue the warrant.

(5) The authorised officer who has the power to search under the provisions of subsections (1) and (2) or has been authorised by a warrant under subsection (3) to carry out the search may –

- (a) detain, seize as liable to forfeiture, or remove any goods or detain or seize any records, books, documents or particulars, even in electronic form, which were found in the premises and for which he has reasonable grounds to believe that they can be used as evidence for the purpose of any court proceedings; and or
- (b) search or have of any person searched who is in the premises for whom he reasonably believes that he possesses such goods or records, books, documents or particulars:

Provided that a person shall be searched by an authorised officer of the same gender.

(6) The authorised officer or any other person having the power under this section to enter any premises may use such force as may be deemed reasonably necessary for exercising this power.

Power to search premises where anything liable to forfeiture is laying therein

80.-(1) Without prejudice to any other power conferred by this Law, where there are reasonable grounds to suspect that any goods liable to forfeiture under the customs or the other legislation or any records, book, document or particular, even in electronic form, which is related to the commission of an offence under the customs and the other legislation are kept or concealed in any premises, other than a dwelling house or place, any authorised officer may enter these premises, at any time, whether by day or night, and examine, search for, detain, seize as liable to forfeiture or remove any such goods and or detain or seize any records, books, documents or particulars, even in electronic form, and in addition, so far as is reasonably necessary for the purpose of such entry, to break open any door, window or container and force and remove any other impediment or obstruction.

(2) The provisions of section 79(3) to (6) shall apply mutatis mutandis for the purposes of this section.

Specific provision in relation to the Criminal Procedure Law Chapter 155  
93 of 1972  
2 of 1975  
12 of 1975  
41 of 1978  
162 of 1989  
142 of 1991  
9 of 1992  
10(I) of 1996  
89(I) of 1997  
54(I) of 1998  
96(I) of 1998.

81. The provisions of sections 27(1) and 32 of the Criminal Procedure Law do not apply in respect of goods and records, books, documents or particulars which are detained or seized under the provisions of the customs or the other legislation.

### **Search of vehicles and vessels – Search of Persons**

Power to search

82. Notwithstanding any other power vested by the customs or the other legislation,

- vehicles and vessels
- in order to verify or secure compliance with the customs legislation or the other legislation, any authorised officer may, stop and search any vehicle or vessel for the purpose of detaining or seizing as liable to forfeiture goods which are –
- (a) chargeable with any duty and or tax which has not been paid or secured; or
  - (b) in the course of being unlawfully removed from one place to another; or
  - (c) otherwise liable to forfeiture under the customs or the other legislation;

Provided that, the provisions of this section apply also when the vehicles or vessels carry anything for which there are reasonable grounds to suspect that is being or has been or may be used for the commission of an offence in contravention of the customs or the other legislation.

- Power to search persons
- 83.-(1) Where there are reasonable grounds to suspect that any person is carrying any goods –
- (a) which are chargeable with any duty and or tax which has not been paid or secured yet; or
  - (b) with respect to the entry or importation or exit or exportation of which any prohibition or restriction is for the time being in force under the customs or the other legislation;

any authorised officer may search him and any goods he has with him.

(2) The person to be searched may require to be taken before a Court or the superior of the authorised officer conducting the search, who shall consider the grounds for suspicion and direct accordingly whether or not the search is to take place.

(3) A person shall be searched by an authorised officer of the same gender.

### **Payment of Rewards**

- Power to pay rewards
84. Subject to the directions of the Minister as to amount, the Director may at his discretion pay rewards in respect of any service which appears to him to merit reward in the framework of the implementation of the customs or the other legislation.

### **Demand from person to attend for examination**

- Power to demand from a person to attend for examination.
85. Any authorised officer has the power, if he has reasonable grounds to believe that any of the offences provided by the customs or the other legislation is being committed, has been committed or is about to be committed, to require any person whom he reasonably believes to be acquainted with the facts or circumstances of the offence, to attend at his office or at any other reasonable place for the purpose of being examined and a statement to be taken from him in relation to the offence and thereupon the provisions of section 5(2) of the Criminal Procedure Law shall apply, mutatis mutandis.

Chapter 155.  
93 of 1972  
2 of 1975  
12 of 1975  
41 of 1978  
162 of 1989  
142 of 1991  
9 of 1992

10(I) of 1996  
84(I) of 1997  
54(I) of 1998  
96(I) of 1998.

### **Arrest without a judicial warrant**

Power to arrest  
without a judicial  
warrant

86. Any authorised officer may, without a judicial warrant, arrest any person whom he finds committing or attempting to commit any offence provided by the customs or the other legislation punishable with imprisonment.

### **Customs prosecutions**

Power for customs  
prosecutions

87. - (1) Prosecutions for offences against the customs and the other legislation and proceedings for the recovery of duties, taxes or penalties, or for the condemnation or forfeiture of vessels or other means of conveyance or goods are referred to herein as “customs prosecutions” and are made subject to any direction of the Attorney General of the Republic.

(2) Customs prosecution may be instituted in the name of the Director in any Court. In the case of an appeal where the decision appealed against relates to any duty and or tax or fine leviable against any vessel, or means of conveyance or goods, the appellant shall, pending the appeal, deposit in Court the amount payable under the decision appealed against unless the court otherwise directs.

(3) No witness on behalf of the Director or when the Director appears as a witness in any customs prosecution shall be compelled to disclose the fact that he received any information or the nature thereof or the name of the person who gave such information.

### **Compounding of offences**

Power to  
compound  
offences

88.-(1) Save in respect of any of the criminal offences under section 89(3), (4) and (5) of this Law, the Director may compound any offence or act committed or reasonably suspected of having been committed by any person against or in contravention of the provisions of the customs or the other legislation, on such terms and conditions as he, in his discretion, thinks proper, with full power to accept from such person a payment in money not exceeding the maximum penalty provided by the customs or the other legislation for such offence or act.

(2) On payment of such sum to the Director no further proceedings in regard to that particular offence or act shall be taken against the person who has so compounded and, if he is in custody, he shall be discharged.

## **PART XIX - CRIMINAL OFFENCES**

Offences in  
relation to the  
Director,  
authorised officers,  
etc.

89. - (1) If, for the purpose of obtaining admission to any place, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, any person falsely assumes the name, designation or characterisation of the Director or an authorised officer shall be guilty of a criminal offence, and shall, in addition to any other punishment to which he may have rendered himself liable, be liable to a fine not exceeding five thousand pounds or to imprisonment not exceeding two years or to both such penalties.

(2) If any person to whom a commission or other written authority has been issued by the Director, is required by the Director to deliver up or account to his

satisfaction for that commission or authority and fails to comply within such period as may be specified in the requirement, he shall be guilty of a criminal offence and liable to a fine not exceeding one hundred pounds and if the failure continues after he is convicted thereof, he shall be guilty of a continuous criminal offence and be liable to a fine not exceeding ten pounds for every day on which the failure has so continued.

(3) If the Director or authorised officer -

- (a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive ; or
- (b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing related to the implementation of the customs or the other legislation and whereby the Republic is or may be defrauded or which is otherwise unlawful;

he shall be guilty of a criminal offence and shall be liable to a fine not exceeding five thousand pounds or to imprisonment not exceeding three years or to both such penalties.

(4) If any person—

- (a) directly or indirectly offers or gives to the Director or any authorised officer any payment or other reward whatsoever, whether pecuniary or otherwise, or any promise or security for any such payment or reward ; or
- (b) proposes or enters into any agreement with the Director, officer or other authorised person

in order to induce him to do, abstain from doing, permit, conceal or connive at any act related to the implementation of the customs or the other legislation and whereby the Republic is or may be defrauded or which is otherwise unlawful, or otherwise to take any course contrary to his duties, he shall be guilty of a criminal offence and shall be liable to a fine not exceeding five thousand pounds or to imprisonment not exceeding three years or to both such penalties.

(5) Any person who—

- (a) obstructs, hinders, molests or assaults any person duly engaged in the performance of any duty or the exercise of any power imposed or conferred on him by or under the customs or the other legislation, or any person acting in his aid ; or
- (b) does anything which impedes or is calculated to impede the taking over of records, books, documents or particulars, or the carrying out of any inspection for any goods liable to forfeiture, or the carrying out of any search for evidence of any criminal offence, or the detention, seizure or removal of such records, books, documents or particulars, goods or evidence by the Director, officer or other authorised person; or
- (c) rescues damages or destroys any such records, books, documents or particulars, goods or evidence or does anything calculated to prevent the procuring or giving of evidence as to whether or not such receipt, inspection, search or seizure; or

- (d) prevents the detention of any person by a person, duly engaged or acting as aforesaid or rescues any person so detained,

or who attempts to do any of the aforementioned acts, shall be guilty of a criminal offence and shall be liable to a fine not exceeding five thousand pounds or to imprisonment not exceeding three years or to both such penalties.

(6) Save as in cases whereby provisions of any legislation of the Republic permit or warrant the disclosure of confidential data or information, any person mentioned in section 78(8) who discloses any confidential data or information shall be guilty of a criminal offence and shall be liable to a fine not exceeding ten thousand pounds or to imprisonment not exceeding two years or to both such penalties.

Refusal to attend for examination purposes

90. Any person who without reasonable cause refuses to attend as required by section 85 of this Law shall be guilty of a criminal offence and be liable to a fine not exceeding one thousand pounds or to imprisonment not exceeding six months or to both such penalties.

Fraudulent evasion of duty and or tax, etc.

91.-(1) Any person who fraudulently evades any duty and or tax or acts so as either himself or any other person may fraudulently evade any duty and or tax, shall be guilty of a criminal offence and shall be liable to a fine not exceeding three times the value of the goods or to imprisonment not exceeding three years or to both such penalties.

(2) Any reference in subsection (1) to evasion of duty and or tax includes a reference to a refund or drawback of duty and or tax under the provisions of the customs or the other legislation.

Untrue declarations

92.-(1) If any person—

- (a) intending to defraud, produces, delivers or dispatches or in any other way uses for the purposes of the customs or the other legislation any document which is untrue in any material particular ; or
- (b) on giving information for the purposes of the customs or the other legislation, either knowingly or recklessly makes a statement which is untrue in a material particular,

he shall be guilty of a criminal offence and shall be liable to a fine not exceeding fifty thousand pounds or to imprisonment not exceeding three years or to both such penalties.

(2) Any reference in subsection (1) (a) to production, delivery or dispatch or in any other way use of a document which is untrue in any material particular with intend to defraud includes a reference to delivery or dispatch or in any other way use of such document with intend to ensure that a device will respond to the document as if it were a true document.

(3) Any reference in subsections (1) (a) and (2) to production, delivery or dispatch of a document includes also a reference to any act as a result of which a document is produced, delivered or dispatched.

(4) Without prejudice to the foregoing subsections of this section, where any person contravenes the provisions of this section in such circumstances that he is not liable under subsection (1), he shall be guilty of a criminal offence and be liable to a fine not exceeding five hundred pounds.

Unlawful possession, dealing with goods etc.	93. Any person, who acquires possession of, or is in any way concerned in carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any goods and who has reasons to believe that the payment of duty and or tax has or will be evaded, shall be guilty of a criminal offence and shall be liable to a fine not exceeding five thousand pounds or to imprisonment not exceeding two years or to both such penalties.
Failure to pay duty and or tax	94. Any person, who fails, refuses or neglects to pay to the Director within twenty one days from the date he received such notification for any amount of duty and or tax assessed under the customs legislation or for any levy or interest imposed under this Law, shall be guilty of a criminal offence and shall be liable to a fine not exceeding five thousand pounds or to imprisonment not exceeding one year or to both such penalties.
Contravention of the provisions of customs legislation	95. Save as in cases whereby there is a special provision in this Law for criminal offences, any person contravening the provisions of the customs or the other legislation or Regulations or Orders or Notices which are issued by virtue of such legislation, shall be guilty of a criminal offence and shall be liable to a fine not exceeding five thousand pounds or to imprisonment not exceeding one year or to both such penalties.
Contravention of conditions or restrictions of a licence or approval by the Director etc.	96. - (1). If any person fails, refuses and or neglects to comply with any of the conditions or restrictions imposed under a licence or approval by the Director which was granted under the provisions of the customs or the other legislation or under a direction of the Director under the provisions of the customs or the other legislation, he shall be guilty of a criminal offence and shall be liable to a fine not exceeding two thousand pounds or to imprisonment not exceeding two years or to both such penalties.  (2). The Director may revoke any licence or approval granted under the provisions of the customs or other legislation, if an offence mentioned in subsection (1) is committed.
Failure to register in the Customs Register	97. If any person refuses, neglects or omits to register in the Customs Register or to comply with the provisions of section 119, he shall be guilty of a criminal offence and shall be liable to a fine not exceeding two thousand pounds or to imprisonment not exceeding one year or to both such penalties.
Offence in relation to the obligation to keep books, records and particulars	98. If a person obliged to keep books, records and particulars, contravenes the provisions of section 120 or terms of an Order issued under subsection (2) of the said section, he shall be guilty of a criminal offence and shall be liable to a fine not exceeding two thousand pounds or to imprisonment not exceeding one year or to both such penalties.
Failure to keep customs declaration's supporting documents	99. In case a person obliged to keep the supporting documents of a customs declaration, declaration or document fails to keep them as provided for in section 122(2) of this law, he shall be guilty of a criminal offence and shall be liable to a fine not exceeding one thousand five hundred pounds or to imprisonment not exceeding two years or to both such penalties.
Prohibitions and restrictions	100. When a person with an act or omission contravenes prohibitions or restrictions provided by the customs or the other legislation, he shall be guilty of a criminal offence and shall be liable to a fine not exceeding two thousand pounds or to imprisonment not exceeding three years or to both such penalties.

- Unlawful removal, concealment, loading etc of goods from private temporary storage facilities etc.
101. Where the Director has granted a licence or approval for storing of goods in -
- (a) private temporary storage facilities; or
  - (b) customs warehouses; or
  - (c) free zones or free warehouses; or
  - (d) any other places under supervision; or
  - (e) any other places, spaces or premises approved by the Director under the provisions of the customs or the other legislation,

which are liable to duties and or taxes and it is verified that these goods are missing from the said approved stores, warehouses, premises, places or spaces without the duties and taxes chargeable thereon having been paid, the person to whom the licence or approval has been granted or any other person who knowingly is involved in the removal, concealment, loading or in any other way withdrawal of the goods from the stores, warehouses, premises, places or spaces mentioned above shall be guilty of a criminal offence and shall be liable to a fine not exceeding three times the value of the goods or five thousand pounds, whichever is the greatest or to imprisonment not exceeding three years or to both such penalties.

- Failure of passenger to produce baggage for examination
102. Any person failing to produce for examination any baggage or other goods, under the provisions of section 63, shall be guilty of a criminal offence and shall be liable to a fine not exceeding two thousand pounds or to imprisonment not exceeding one year or to both such penalties.

## **PART XX - PROVISIONS FOR THE FORFEITURE OF GOODS AND MEANS OF TRANSPORT**

- Provisions as to detention, seizure and condemnation of goods
- 103.-(1) Any goods liable to forfeiture under the customs or the other legislation may be seized as liable to forfeiture by the Director or the authorised officer:

Provided that a police officer may detain or seize goods liable to forfeiture under the customs or the other legislation, if he traces them during a search he carries out within his competence.

(2) Where any goods are seized or detained as liable to forfeiture under the customs or the other legislation by a person other than the authorised officer, that person shall, subject to the provisions of subsection (3), either—

- (a) deliver that thing to the nearest customs station; or
- (b) if such delivery is not practicable, give to the nearest customs station notice in writing of the seizure or detention with full particulars of the goods seized or detained.

(3) Where the person seizing or detaining any goods as liable to forfeiture is a police officer and those goods may be required for use in connection with any proceedings to be brought under any other law, they may be retained in the custody of the police until either those proceedings are completed or it is decided that no such proceedings shall be brought:

Provided that—



- (a) notice in writing of the seizure or detention and of the intention to retain the goods in question in the custody of the police, together with full particulars as to these, shall be given to the nearest customs station;
- (b) any officer shall be permitted to examine the seized or detained goods and take account thereof at any time while they remain in the custody of the police;
- (c) nothing in section 170 of the Criminal Procedure Law shall apply in relation to those goods.

Cap. 155.  
 93 of 1972  
 2 of 1975  
 12 of 1975  
 41 of 1978  
 162 of 1989  
 142 of 1991  
 9 of 1992  
 10(I) of 1996  
 89(I) of 1997  
 54(I) of 1998  
 96(I) of 1998.

(4) Subsections (2) to (3) shall apply in relation to any dutiable or taxable goods which were seized or detained as liable to forfeiture or detained by any person other than an authorised officer notwithstanding that they were not so seized as liable to forfeiture under the customs or the other legislation.

Schedule

(5) The procedure for the seizure and condemnation of goods is specified in the Schedule to this Law.

Detention or seizure of goods as liable to forfeiture

104. Goods may be detained or seized as liable to forfeiture in cases of -

- (a) fraudulent evasion of payment of duty or tax;
- (b) irregular importation in the customs territory of the Republic;
- (c) irregular exportation from the customs territory of the Republic;
- (d) importation or exportation contrary to any prohibition or restriction under the customs or the other legislation;
- (e) removal, concealment, loading or in any other way withdrawal of the goods from approved warehouses, premises, places or spaces under customs supervision and these goods are chargeable with duties and or taxes which have not been paid;
- (f) use in the carriage, deposit or concealment, mixing, packing of goods so liable to forfeiture, either at the time they were so liable to forfeiture or for the purpose of the commission of a criminal offence;
- (g) breach of the terms or conditions imposed by a licence or approval by the Director which was granted under the provisions of the customs or the other legislation;
- (h) use of a document for the purposes of the customs or the other legislation which is untrue in any particular or in case of an untrue declaration in respect of the said goods;

- (i) finding of concealed goods which are chargeable with duty and or tax in passenger's baggage or their transportation contrary to any prohibition or restriction under the other legislation;
- (j) possession, conveyance, transportation, warehousing, harbouring, keeping, concealment, trading, when the duty or tax, they are chargeable with, has not or will not be paid or when they contravene any prohibition or restriction under the other legislation;
- (k) any contravention of the customs or the other legislation:

Provided that, the cases mentioned in subsections (a) to (k) include also the attempt of the act mentioned: :

Provided further that the importation and exportation for the purposes of this section includes entry and exit, as the case may be:

Provided further that when a ship, aircraft, vehicle or animal is liable to forfeiture under the customs or the other legislation, either under this section or under any other section of the said legislation, all its accessories, fittings or furniture are also liable to forfeiture.

General provision for the forfeiture of goods.

105. When goods are forfeited, they are transferred to a Republic's stores and the provisions of section 72(2) are applied.

Forfeiture of goods in case of untrue declaration for their final destination

106. Where a prohibition or restriction is in force under the customs or the other legislation in respect of exportation or re-exportation of goods or of goods of a certain particular class or category or goods with specific destination, then, if a person shall load for exportation or re-exportation any goods or, as the case may be, goods of the said class or category and during the processing of the customs entry for such goods before their loading or exportation or re-exportation he makes a declaration for the final destination of such goods and the Director has reasonable grounds to believe that the declaration is untrue in a material particular, the goods may be detained until the Director is satisfied that the declaration is true, otherwise the goods are liable to forfeiture.

Special provision for the forfeiture of larger ships

107.-(1) Notwithstanding any other provision of this Law, a ship of two hundred and fifty or more tons register shall not be liable to forfeiture under or by virtue of any provision of this Law, except under section 110 unless the criminal offence in respect of or in connection with which the forfeiture is claimed—

- (a) was substantially the object of the voyage during which the offence was committed ; or
- (b) was committed while the ship was under chase by a vessel in the service of the Republic after failing to bring to when properly summoned to do so by that vessel.

(2) For the purposes of this section, a ship shall be deemed to have been properly summoned to bring to—

- (a) if the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign; and
- (b) if at the time when the summons was made the ship was within twelve nautical miles of the coast of the Republic.

(3) The exemption from forfeiture of any ship under this section shall not affect any liability to forfeiture of goods carried therein.

Forfeiture of ship or aircraft or vehicle constructed or manufactured for concealing goods

108. Where—

- (a) a ship is or has been within the limits of any port or within twelve nautical miles of the coast of the Republic; or
- (b) an aircraft is or has been at any place, whether on land or on water, in the Republic; or
- (c) a vehicle is or has been at any place in the Republic and

while constructed or manufactured, adapted, altered or fitted in any manner for the purpose of concealing imported goods, that ship or aircraft or vehicle shall be liable to forfeiture.

Forfeiture of ship jettisoning cargo, etc.

109.-(1) If any of the cargo of a ship is thrown overboard, or destroyed to prevent seizure—

- (a) while the ship is within twelve nautical miles of the coast of the Republic; or
- (b) where the ship, having been properly summoned to bring to by any vessel in the service of the Republic, fails so to do and chase is given, at any time during the chase,

the ship shall be liable to forfeiture.

(2) For the purposes of this section a ship shall be deemed to have been properly summoned to bring to—

- (a) if the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign; and
- (b) if at the time when the summons was made the ship was within twelve nautical miles of the coast of the Republic.

Forfeiture of ship or aircraft unable to account for missing cargo.

110. Where a ship has been within the limits of any port, or an aircraft has been in the Republic, with a cargo aboard and a substantial part of that cargo is afterwards found to be missing, then, if the master of the ship or commander of the aircraft fails to account therefore to the satisfaction of the Director, the ship or aircraft shall be liable to forfeiture.

Forfeiture of goods in case of negligence or refusal to pay the amount of duties or taxes due.

111. Notwithstanding any other provisions of the customs or the other legislation, where a person omits or refuses to pay to the Republic any amount of duties and taxes and the refusal or omission is continued for more than sixty days since the date these amounts become payable, then goods of a value not exceeding three times the amount due, which are in the possession or custody of this person or any of representative of this person or other person who acts on his behalf are liable to forfeiture.

## **PART XXI – REQUEST FOR REVIEW**

Request for review.

112. - (1) Every person has the right to submit to the Director within a period of sixty days from the date of issue of the decision under paragraph (a) or the

submission of an application under paragraph (b) request for review which is related to -

- (a) the decisions of the Department of Customs and Excise in relation to the implementation of provisions of the customs or the other legislation, if they concern him directly and personally;
- (b) a request, in case he has submitted an application to the Department of Customs and Excise and no decision has been issued thereupon within a period of thirty days from the date of the submission of the application, except where another period of time is provided explicitly by the relevant legislation:

Provided that, the obligation for response within the above period of time exists, when the making of decision is feasible within this period of time, taking into consideration of all the circumstances of each case:

Provided further that, the examination of the request for review may be assigned by the Director to an authorised officer or officers explicitly appointed by him.

(2) The submission of a request according to subsection (1) shall not suspend the execution of the disputed decision:

Provided that, the Director may suspend totally or partially the execution of the disputed decision, if he has reasonable grounds to doubt whether this decision is in agreement with the customs or the other legislation or if there is a risk of irreparable damage to the person concerned.

(3) In case the disputed decision results in the imposition of duty and or tax, the suspension of its execution shall depend on the provision of a guarantee under section 47:

Provided that, this guarantee may not be requested, when it may cause serious financial and social difficulties because of the situation of the debtor.

Provided further that, no request for review shall be submitted in the case of compounding of an act or an offence and of seizure of goods, under the customs or the other legislation.

(4) The Director by a Notice published in the Official Gazette of the Republic shall specify any necessary detail for the proper implementation of this section.

## **PART XXII – GENERAL PROVISIONS**

Action for recovery of an amount due.

113. Any amount due to the Republic under the provisions of the customs or the other legislation may be claimed by action in the District Court.

Fixing a penalty by reference to the value of the goods.

114. When a penalty for any offence under the customs or the other legislation is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might reasonably be expected to have fetched, after payment of any duty and or tax chargeable thereon, if they had been sold in the open market at or about the date of the commission of the criminal offence for which the penalty is imposed.

Criminal and civil liability of directors.

115.-(1) Where a criminal offence under the customs or the other legislation has been committed by a legal person is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any

consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the legal person or any person purporting to act in any such capacity, he as well as the legal person shall be deemed to be guilty of that criminal offence and shall be liable to be proceeded against and punished accordingly. –

(2) For the purposes of this section the term “director” in relation to a legal person or an organisation of public law, the administration of which is entrusted to its members, means a member of this legal person or organisation.

(3) A person, who under the provisions of subsection (1) is subject to criminal liability for an offence committed by a legal person, is responsible jointly with the legal person or severally in any other civil procedure.

Issue of an Order for the payment of the amount due.

116.-(1) Notwithstanding the provisions of any other law, the Criminal Court which finds a person guilty for failing to pay any amount due, including any financial penalties and interest, under the provisions of the customs or the other legislation, has the power, in addition to the imposition of a penalty, to issue an Order by which it orders the convicted to pay the said amount to the Director. -

(2) Notwithstanding the provisions of any other law, the Order issued under subsection (1) shall be considered as a decision of a Civil Court and may be drafted, signed and executed as a decision in an action under the provisions of the Civil Procedure Law.

Chapter. 6  
11 of 1965  
161 of 1989  
228 of 1989  
161 of 1989  
34(I) of 1999  
51(I) of 1999  
134(I) of 1999  
58(I) of 2003.

Service of notifications

117. Any notification, claim, decision, direction or other act, which must be served on any person for the purposes of the customs or the other legislation shall be notified to this person or his representative by letter or registered letter by post addressed to the last declared or usual place of abode or the registered or principal office of this person’s enterprise or of his representative or shall be delivered personally to the person to whom it is addressed or to his representative.

Proof with a certificate.

118. -(1) A certificate of the Director certifying that –

- (a) a person was or was not at any date registered in a register under the customs or the other legislation; or
- (b) any declaration or customs declaration which is required under the customs or the other legislation has not been submitted or has not been submitted at any date; or
- (c) any amount of duty or tax appearing to be due in any declaration or customs declaration which has been submitted, has not been paid; or
- (d) any amount of duty or tax assessed by the Director has not been paid; or
- (e) any financial penalty imposed by the Director under this Law has not been paid;
- (f) any interest imposed by the Director under this Law, has not been paid,

shall, until the contrary is proved, be sufficient evidence of the fact it certifies.

(2) A photocopy of any document produced to the Director for the purposes of the customs or the other legislation and certified by him that it is a photocopy of that document, shall be admissible evidence in any procedure, civil or criminal, to the extent the document itself is admissible.

(3) Any document presented as a certificate under subsections (1) and (2) shall, until the contrary is proved, be deemed to be such a certificate.

(4) Any document intended to be signed either by the Director or by any other person authorised by him, shall, until the contrary is proved, be deemed to have been duly signed and issued by the Director and with the presentation of a copy of it, it may be proved that it was signed in such a manner.

(5) A certificate issued by the Director certifying that a document has been submitted by a person using a code given to him by the Director for the submission of documents in electronic form, shall, until the contrary is proved, be sufficient evidence of the fact it certifies in a criminal or civil procedure.

Customs Register.

119. - (1) The Director shall keep a Register called "Customs Register" where the name and the address of persons involved under any capacity in the entry or importation, exit or exportation of goods for which customs procedures are applied as well as any other information which the Director deems necessary for the purposes of the customs or the other legislation are recorded. The Register may be kept in any form, as the Director may specify, including electronic form.

(2) Every person for which the provisions of subsection (1) are applied, shall be registered in the Customs Register and shall notify the Director in writing for any changes of the name, the address or any other information listed in subsection (1) or for any other fact which may warrant the amendment of the Customs Register within thirty days from the date they occurred.-

(3) The Council of Ministers by an Order shall specify the procedure, the obligations of the persons referred to in subsection (1) and any other matter that is deemed necessary or purposeful for the better accomplishment of the purposes of this section or for the regulation of any issue related to its provisions. -

Keeping of books and records.

120. - (1) The Director may direct that persons who are approved under the customs legislation to carry out customs acts and or implement customs procedures shall keep books and records.

(2) The books and records referred to in subsection (1) shall be specified by an Order of the Council of Ministers:

Provided that, by the Order, different categories of books and records may be specified according to the capacity of the person and the approval granted by the Director.

(3) Save as provided by subsection (2), the Director may, with relevant direction to the person or category of persons concerned, specify in special cases that they shall keep books and records other than those defined in the Order issued under subsection (2).

(4) By the Order issued under subsection (2) or with the relevant direction of the Director, referred to in subsection (3), the kind and type of books and records, the manner and place of keeping them as well as the manner and time of updating them

may be defined.

(5) The persons who shall keep books and records under subsection (1) shall keep them for at least seven calendar years.

(6) The obligation to keep records under this section may be accomplished by keeping the information included therein by means that may be approved by the Director; where this information is kept in such a manner, a copy of any document being part of the records, subject to the provisions of subsection (7), shall be admissible evidence in any procedure, civil or criminal, to the extent the records themselves are admissible.

(7) In order to approve, under subsection (6), any means of keeping information contained in any documents, the Director may impose as a condition reasonable requirements, as he deems necessary, in order to safeguard that the information shall be made available to him forthwith, as if the records themselves had been kept.

Proof of certain matters.

121.-(1) An averment in any process in proceedings under the customs or the other legislation -

- (a) that those proceedings were instituted by the order of the Director; or
- (b) that any person is or was the Director, authorised officer or public servant; or
- (c) that any person is or was appointed or authorised by the Director to discharge, or was engaged by the order or with the concurrence of the Director in the discharge of, any duty; or
- (d) that the Director has or has not been satisfied as to any matter as to which he is required by any provision of the customs or the other legislation to be satisfied; or
- (e) that any ship is a Cyprus ship; or
- (f) that any goods thrown overboard, staved or destroyed were so dealt with in order to prevent or avoid the seizure of those goods.

shall, until the contrary is proved, be sufficient evidence of the matter in question.

(2) Where in any proceedings relating to the customs or the other legislation any question arises as to -

- (a) the place from which any goods have been brought; or
- (b) any duty and or tax and or other charge have been paid or secured in respect of any goods; or
- (c) any goods or other things whatsoever are of the description or nature alleged in the information, writ or other process; or
- (d) any goods have been lawfully imported or lawfully unloaded from any ship or aircraft; or
- (e) any goods have been lawfully loaded into any ship or aircraft or lawfully exported or were lawfully waterborne; or

- (f) any goods were lawfully brought to any place for the purpose of being loaded into any ship or aircraft; or
- (g) any goods are or were subject to any prohibition of or restriction on their importation or exportation from and to the Republic.

then, where those proceedings are brought by or against the Director or an authorised officer, or against any other person in respect of any act purporting to have been done in pursuance of any power or duty conferred or imposed on him by or under the customs and the other legislation the burden of proof shall lie with the other party to the proceedings.

Manner in which a customs declaration or declaration shall be submitted

122. - (1) Any customs declaration, declaration or document which must be produced to the Director for the purposes of this Law shall be submitted:

- (a) in writing; or
- (b) in electronic form, provided its use is approved by the Director,

and subject to subsection (2), it is supported by documents the production of which is necessary for the implementation of the provisions of this Law.

(2) Where the customs declaration, declaration or document is submitted in electronic form, the Director may allow for the supporting documents or part thereof not to be submitted with such customs declaration, declaration or document. In such a case the said documents shall be kept by the person who is responsible to submit them or by a duly authorised representative of him, who shall facilitate the examination of these documents.

(3) Persons who under subsection (1) are obliged to submit a customs declaration, declaration or document shall keep them, as well as their supporting documents, for at least seven calendar years.

(4) Where the Director approves the submission of the documents in electronic form, as provided for in subsection (2), then, for the purposes of this Law and of any civil or criminal procedure, the code number given by the Director to the person who has the right to submit those documents in electronic form, shall be deemed to be the signature under his hand which the documents would bear if submitted in non-electronic form and the person who submits the documents using a code number is deemed to have knowledge of the content of the documents.

Regulations and Notices.

123. - (1) In addition to the cases explicitly provided in this Law, the Council of Ministers may issue any other Regulations for the direction or regulation of any matter which may or must be directed or regulated under the provisions of this Law as well as of the Community Legislation and in general for their most proper implementation.

(2) Regulations issued by virtue of this Law may contain provisions for the imposition of penalties when violated, but in no case shall they provide for a penalty higher than the highest penalty provided for in this Law.

(3) Regulations issued by the Council of Ministers by virtue of this Law, may contain provisions for the imposition of a financial penalty on the persons contravening the provisions of these Regulations.

(4) The Director may issue Notices for the proper implementation of the provisions of this Law and of the Regulations and Orders issued under this Law.



## PART XXIII - SAVINGS – REPEALS – TRANSITIONAL PROVISIONS

- Savings.
- 124.-(1) Any Regulation, Order, Notice, direction, form or other instrument having effect immediately before the commencement of the customs legislation, which has been issued under any Laws or their provisions repealed by this Law, relating to any matter, with respect to which the Council of Ministers or the Director have under the customs legislation the power to make Regulations or Orders or Notices or to give directions or to impose conditions or restrictions, shall, unless and until revoked or amended by the Council of Ministers or the Minister or the Director, and so far as it is not inconsistent with the provisions of the customs legislation, have effect as if made, given or prescribed under the provisions of the customs legislation even if no corresponding provision is explicitly mentioned in the customs legislation.
- (2) Any appointment of or by and any commission, authority or licence granted or approval given by the Director under any Laws or their provisions repealed by this Law and in force immediately before the commencement of the customs legislation, shall have effect as if made, granted or given under the corresponding provisions of the customs legislation, as far as they are not inconsistent with the above provisions and if not explicitly revoked or amended.
- (3) Any functions, which, immediately before the commencement of this Law, fall to be performed on behalf of any person by the Director or by any persons appointed by the Director for this purpose, shall continue to be so performed by them unless and until other arrangements are made, notwithstanding that those functions are not explicitly mentioned in the customs legislation.
- (4) Any document referring to the Laws or provisions thereof repealed by this Law shall, unless the contrary intention appears in the customs legislation, be construed as referring to the customs legislation.
- (5) Any registrations in the Customs Register for the purposes of using the electronic method made prior to the entry into force of this Law shall have effect as if made under the provisions of section 119 of this Law.
- Repeals.
- 82 of 1967  
57 of 1969  
4 of 1971  
45 of 1973  
12 of 1977  
104 of 1987  
98 of 1989  
5 of 1991  
77(I) of 1998  
14(I) of 1999  
49(I) of 2001  
78(I) of 2002  
107(I) of 2003  
108(I) of 2003  
109(I) of 2003  
139(I) of 2003
- 125.-(1) The Customs and Excise Laws, of 1967 to (No. 4) of 2003 and any provisions thereof shall be repealed by decision of the Council of Ministers published in the Official Gazette of the Republic.
- Official Gazette,  
Annex (I):  
30.10.1981.
- (2) The Free Zones Regulations of 1981 and or any of their provisions shall be repealed by decision of the Council of Ministers published in the Official Gazette of the Republic.
- (3) The continuation of the legislation which is relevant with customs is not

affected by the substitution of the repealed Laws by the customs legislation.

Transitional provisions.

126. - (1) The provisions of this Law do not affect -

- (a) the criminal liability, trial or punishment for an offence committed in contravention of the Laws which have been repealed by this Law;
- (b) the criminal liability, in relation with any act which took place or which has commenced prior to the commencement of this Law:

Provided that, the act includes an attempt or omission of the said act.

(2) Without prejudice to the validity of the acts or the procedures which took place or were implemented on the basis of the status in force prior to the entry into force of this Law, any pending issues or procedures which were commenced, but not completed upon the entry into force of this Law, shall be finalised, to the extend possible, under the provisions of this Law and of the Regulations, Orders or Notices issued under this Law.

Entry into force of this Law or its provisions.

127. This Law or any of its provisions shall enter into force on a date to be specified by a decision of the Council of Ministers published in the Official Gazette of the Republic.

## **SCHEDULE**

### **(Section 103)**

## **PROVISIONS RELATING TO FORFEITURE**

### **Notice of Seizure**

1. The Director or authorised officer gives notice of the seizure of any goods as liable to forfeiture to any person who according to certain circumstances was or could be reasonably considered at the time of the seizure as the holder of the goods thereof, notifying in writing the grounds on which the seizure is based in a reasonable period of time:

Provided that notice shall not be required to be given under this paragraph if the seizure was made in the presence of –

- (a) the person whose offence or suspected offence occasioned the seizure; or
- (b) the owner or the holder or any person purporting to act as the owner or the holder of the goods seized or any servant or agent of his;
- (c) the master or commander, in the case of any goods seized in any ship or aircraft or in the case of any ship or aircraft seized.

2. Subject to the provisions of Section 117, in case that the notice of the seizure issued under paragraph 1 is given in writing and in the form specified by the Director, is deemed to have been duly served on the person concerned by publication in the Official Gazette of the Republic where he has no address within the Republic, or his address is unknown or is a legal person.

### **Notice of Claim**

3. Any person claiming that any goods seized as liable to forfeiture are not so liable shall, within one month of the date of the notice of seizure or, where no such notice has been served on him, within one month of the date of the seizure, submit notice of his claim in writing at any customs. In case that the notice is deemed to have been duly served by the publication in the Official Gazette of the Republic, then the above date commences from the date of publication.

4. Any notice submitted under paragraph 3 shall be in writing and signed and include in any case the name and address of the claimant, and the grounds on which his claim is based:

Provided that, in the case of a claimant who lives or resides in a country other than the Republic, in the notice, except from the particulars which are required under this paragraph, shall be referred the name and address of an advocate who acts according to the Advocates Law Chapter 2, with a written, signed and duly certified authorisation to accept service of process and to act on behalf of the claimant and service of process upon an advocate so specified, shall be deemed to be proper service upon the claimant.

### **Condemnation**

5. If on the expiration of the relevant period specified in paragraph 3 for the giving of notice of claim in respect of any goods, no such notice has been given in writing, or if, in the case of any such notice given any requirement of the paragraph 4 is not complied with, the goods in question shall be deemed to have been duly condemned as forfeited.

6. Where notice of claim in writing in respect of any goods is duly given in accordance with the foregoing provisions of this Schedule, the Director shall take proceedings in reasonable time for the condemnation of those goods by the Court, and if the Court finds that the goods were at the time of seizure liable to forfeiture, the Court shall condemn them as forfeited.

7. Where any seized goods are in accordance with either of the two paragraphs 5 and 6 condemned or deemed to have been condemned as forfeited, then, without prejudice to any delivery up or sale of the goods by the Director under paragraph 13, the forfeiture shall have effect in the case of paragraph 5 as from the date when the period specified in paragraph 3 has expired and in the case of

condemnation by the Court according to the provisions of paragraph 6, as from the date of the issue of the Court Decision.

### **Proceedings for Condemnation by Court**

8. Proceedings for the condemnation of any seized goods are civil, in rem proceedings and are instituted in the Republic.

9. Proceedings for the condemnation of any seized goods instituted in a Court may be so instituted –

(a) in any Court having jurisdiction in the place where any offence in connection with those goods was committed or where any proceedings for such an offence are instituted; or

(b) in any Court having jurisdiction in the place where the claimant resides or, if the claimant has specified an advocate under paragraph 4, in the place where that advocate has his office; or

(c) in any Court having jurisdiction in the place where those goods were found, detained or seized or to which it is first brought after being found, detained or seized.

10. (1) In any proceedings for condemnation, the action is instituted against any person who has submitted a notice of claim under the provisions of paragraph 3.

(2) In any proceedings instituted under subparagraph (1), the defendant or his advocate shall file in at least twenty four hours before the beginning of the hearing, at the Registrar of the Court where the action is pending, a statement upon oath with which is assured that the goods seized as liable to forfeiture were or were to the best of his knowledge and belief, the property of the claimant at the time of the seizure.

(3) In any proceedings instituted under subparagraph (1), the defendant shall deposit in at least twenty four hours before the beginning of the hearing, the costs of the proceedings as may be determined by the Court, after he submits a relevant application.

(4) In case that any requirement of this paragraph is not complied with in the specified periods, the Court, examining ex-officio the omission, gives judgment for the condemnation.

11. Where an appeal has been made against the decision of the Court, in any proceedings for the condemnation of any goods, those goods shall, pending the final determination of the matter, be left with the Director or at any convenient for this purpose customs.

### **Provisions as to Proof**

12. In any proceedings arising out of the seizure of any goods, the fact, form and manner of the seizure shall be taken to have been set forth according to this Law without any further evidence thereof, unless the contrary is proved.

### **Power to deal with seizure before condemnation etc.**

13. Where any goods have been seized as liable to forfeiture, the Director may at any time if he sees fit and notwithstanding that the goods have not yet been condemned, or have not yet deemed to have been condemned, as forfeited –

(a) deliver the seized goods up to any claimant upon his paying to the Director such sum as he thinks proper, being a sum not exceeding that which in his opinion represents the value of the goods, including any duty and or tax chargeable thereon which has not been paid; or

(b) if the goods seized are living creatures or are in the opinion of the Director of a perishable nature, sell or destroy them according to the procedure specified by the Director and the destruction expenses shall be borne by the Republic.

14. (1) If, where any seized goods are delivered up, sold or destroyed as aforesaid, it is held in proceedings taken under this Schedule, that the goods were not liable to forfeiture at the time of their seizure, the Director shall on demand by the claimant tender to him –

(a) an amount equal to any sum paid by him under subparagraph 13(a); or

- (b) where the seized goods have been sold, an amount equal to the proceeds of sale; or
- (c) where the seized goods have been destroyed, an amount equal to the market value of the goods at the time of their seizure:

Provided that, where the said amount includes any sum on account of any duty or and tax chargeable on the goods which had not been paid before their seizure, the Director may deduct so much of that amount as represents that duty and or tax.

(2) If the claimant accepts any amount tendered to him under the subparagraph (1), he shall not be entitled to maintain any action on account of the seizure, detention, sale or destruction of the goods.