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Customs Act 2014

TABLE OF AMENDMENTS

The Customs Act 2014 No 16 was certified on 10 September 2014 and commenced on 1 October 2014 (s 1(2)).

Amending Legislation	Certified	Date of Commencement
Customs (Amendment) Act 2015 No 17	14 August 2015	14 August 2015
Customs (Amendment) Act 2015 No 22	23 October 2015	23 October 2015
Crimes Act 2016 No 18	12 May 2016	ss 65, 66: 12 May 2016
Customs (Amendment) Act 2020 No 31	23 October 2020	23 October 2020
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Customs (Amendment) Act 2022 No 12	8 June 2022	1 July 2022
Anti-Money Laundering and Targeted Financial Sanctions Act 2023 No 2	7 June 2023	s 140: 7 June 2023
Customs (Amendment) Act 2024 No 14	20 August 2024	20 August 2024
Naoero Police Force Act 2025 No 38	19 September 2025	s 201: 19 September 2025
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026
Customs (Amendment) Act 2026 No 31	20 August 2026	20 August 2026

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An Act to regulate Customs controls, management and enforcement, revenue administration, border controls and border management, trade and travel facilitation, security, and for related purposes.

Enacted by the Parliament of Naoero as follows:
[cl am Act 21 of 2026 s 5, opn 12 May 2026]

PART 1 — PRELIMINARY

1 Short title and commencement

(1) This Act may be cited as the *Customs Act 2014*.

(2) This Act commences on 1 October 2014.

(3) Despite subsection (2), the following provisions will commence on a date or dates notified by the Minister in the Gazette: Sections 258, 218, 219 and Part 12.

2 Definitions

(1) In this Act:

'aircraft' means a machine that can derive support in the atmosphere from the reaction of the air;

'arrival':

(a) for a craft, includes the arrival of the craft, whether lawfully or unlawfully, in the Republic from a point outside the Republic whether or not the craft lands at, hovers above, berths, moors, anchors, or stops at, or otherwise arrives at any place within the Republic; and

(b) for a person, means the entry of the person by any means, whether lawfully or unlawfully, into the Republic from a point outside the Republic;

'authorised person' means a person authorised under Section 5;

'CCA licence' means a Customs controlled area licence issued under Section 13, and 'CCA licencee' has a corresponding meaning;

'Chief Collector of Customs', means the Secretary responsible for Customs;

'craft' includes any aircraft, ship, boat or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by air or water or over or under water;

'Customs' means the Naoero Customs Service Office as established under Section 4(1);

[def subst Act 31 of 2020 s 7, opn 23 Oct 2020; am Act 21 of 2026 s 5, opn 12 May 2026]

'Customs airport' means an aerodrome designated as a Customs airport under Section 10;

'Customs-approved secure exports scheme' means, in relation to goods that are to be exported (whether under drawback or not), a scheme approved by the Chief Collector of Customs under Section 84:

(a) for the packing of the goods, in a Customs approved secure package, by approved persons, in approved conditions, and subject to approved requirements including, without limitation, a requirement that a seal or markings in an approved form be applied to the package, as soon as it is secured:
  (i) to show that, when it was secured, the package contained only the goods, and was secured in an approved way; and
  (ii) to help to identify interference or tampering with the package after it is secured;
(b) for the immediate conveyance (on the completion of the packing of the goods in that way) of Customs approved secure package, by approved persons and in an approved manner, to the place of shipment for shipping, or if it is not in that way immediately conveyed and shipped, to some approved place or places of security enroute to the place of shipment;
(c) for the goods from the time when they are first secured in a Customs approved secure package until the exportation of the goods to a point outside the Republic, to be goods, subject to the control of Customs;
(d) for the powers of detention and search in Section 159 to be available in respect of a vehicle in the Republic if there are suspected to be in or on the vehicle goods that are, or are suspected to be:
  (i) subject to the control of Customs; and
  (ii) in a Customs-approved secure package;
(e) for a Customs officer to be empowered, under Section 162(2), to question 1 or more of the following persons about any cargo destined to be exported from the Republic:
  (i) a person who is the owner or operator of a vehicle that a Customs officer has reasonable cause to suspect has in or on it, or has within the previous 72 hours had in or on it, goods subject to the control of Customs and in a Customs approved secure package;
  (ii) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, or have within the previous 72 hours had in or on them, goods subject to the control of Customs and in a Customs-approved secure package; or
  (iii) a person employed by a person described in subparagraph (i) or (ii); and
(f) for the powers in Section 175, which include powers of examination, to be available in respect of goods that are, or are suspected to be:
  (i) subject to the control of Customs; and
  (ii) in a Customs-approved secure package;

[def subst Act 31 of 2020 s 7, opn 23 Oct 2020]

'Customs-approved secure package' means any kind of package approved by the Chief Collector of Customs under Section 84 for the purposes of a Customs-approved secure exports scheme;

[def subst Act 31 of 2020 s 7, opn 23 Oct 2020]

'Customs controlled area', ***'licenced area'*** or ***'CCA licenced area'*** means an area licenced as such under this Act, for one or more of the purposes under Section 11;

'Customs direction':

(a) means a lawful request, order, command, or instruction, whether in writing or verbally, given by a Customs officer, or an authorised person, to any person to do or to refrain from doing an act or to submit to a procedure for the purposes of this Act; and

(b) includes:

(i) any notice, poster or sign publicly displayed in a Customs place or Customs controlled area; and

(ii) a direction contained in a form prescribed under this Act;

'Customs officer' or ***'officer':***

(a) means, for the purpose of this Act and any other written law, a person:

(i) appointed as such by the Chief Collector of Customs; or

(ii) employed by the Chief Collector of Customs and declared, whether at the time of or after the appointment, by the Chief Collector of Customs, to be a Customs officer; and

(b) includes, except for Sections 5(4), 7, 58 and 209, an authorised person who:

(i) is carrying out his or her functions and powers under an authorisation; and

(ii) is required by Section 5(4) to be treated for the purposes of that Section, as a Customs officer;

[def subst Act 31 of 2020 s 7, opn 23 Oct 2020]

'Customs place' means a Customs port or Customs airport designated under Section 10;

'Customs port' means a port of entry designated as a Customs port under Section 10;

'Customs seal', for a package of goods to be exported, means a seal approved by the Chief Collector of Customs for use on the package, as soon as the seal is secured, and pursuant to a notice under Section 82, to fulfil either or both of the following purposes:

(a) to show that, when the seal was secured, the package contained only the goods, and was secured in an approved way; and

(b) to help to identify interference or tampering with the package after the seal is secured;

[def subst Act 31 of 2020 s 7, opn 23 Oct 2020]

'Customs value' or ***'value',*** for goods, means Customs value of goods as determined under the Schedule 2 of the *Customs Tariff Act 2014*;

[def am Act 12 of 2022 s 4, opn 1 July 2022]

'dangerous item' means:

(a) any firearm as defined in Section 6 of the *Civil Aviation Act 2011*;

(b) any dangerous or offensive weapon or instrument of any kind whatsoever;

(c) any ammunition; or

(d) any explosive substance or device or any other injurious substance or device of any kind whatsoever that could be used to endanger a person's safety;

'declaration' means the provision of all information to Customs whether verbal or written in a document or in electronic form, by a person relating to:

(a) the import or export of goods;
(b) the arrival or departure of a craft; or
(c) arrival or departure of a person;

'Department' means the Department of Finance;

'document':

(a) means a document in any form, whether or not signed or initialled or otherwise authenticated by the maker; and
(b) includes:
    (i) any form of writing on material;
    (ii) information recorded, transmitted, or stored by means of a tape recorder, computer, or other device, and material subsequently derived from information so recorded, transmitted, or stored;
    (iii) a label, marking, or other form of writing that identifies a thing of which it forms part or to which it is attached by any means;
    (iv) a book, map, plan, graph or drawing; and
    (v) a photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment of being reproduced;

'domestic cargo' means goods that, having been brought within a Customs controlled area at one Customs place for carriage by air or sea to any other Customs place in the Republic on either:

(a) a craft that:
    (i) begins its journey outside the Republic; and
    (ii) in the course of that journey, enters the Republic and travels between at least 2 Customs places in the Republic; or
(b) a craft that:
    (i) begins its journey at a Customs place in the Republic; and
    (ii) in the course of that journey, travels to at least one other Customs place in the Republic before leaving the Republic,

are within that Customs controlled area or are being carried on the craft from one Customs place to another Customs place or, having been so carried on the craft, are awaiting removal from a Customs controlled area at a Customs place;

'domestic passenger' means a passenger, not being an internationally ticketed passenger, who has an entitlement to air or sea travel for a domestic sector on either:

(a) a craft that:
    (i) begins its journey outside the Republic; and
    (ii) in the course of that journey, enters the Republic and travels between at least 2 Customs places in the Republic; or
(b) a craft that:
    (i) begins its journey at a Customs place in the Republic; and
    (ii) in the course of that journey, travels to at least one other Customs place in the Republic before leaving the Republic;

'domestic sector' means a journey from one Customs place to another within the Republic;

'dutiable goods' means any kind of goods subject to duty under this Act;

'duty':
(a) means a duty, additional duty, tax, fee, charge, or levy imposed on goods pursuant to this Act; and
(b) includes a duty imposed under the *Customs Tariff Act 2014*;

'entry' means a declaration lodged by an importer or exporter for the clearance of goods from Customs control;

'entry processing system' means a Customs electronic entry processing system provided under Part 12;

'electronic publication' means a thing, including but not limited to a disc, or an electronic or computer file, on which is recorded or stored information that, by the use of a computer or other electronic device, is capable of being reproduced or shown as 1 or more, or a combination of 1 or more, images, representations, signs, statements, or words;

'exportation':
(a) except where otherwise expressly provided, means any shipment in any craft for transportation to a point outside the Republic;
(b) for an electronic publication referred to in Section 92 or order made under Section 92, includes the sending of the electronic publication from the Republic by any means, other than by broadcasting, to a point outside the Republic; and
(c) 'to export' and 'exported' have corresponding meanings;

'exporter':
(a) means a person by or for whom goods are exported; and
(b) includes a person who is or becomes the owner of or entitled to the possession of or is beneficially interested in goods on or at any time after entry for export and before they are exported;

'forfeited goods' means goods that are forfeited to the Republic under Sections 268 and 283;

[def subst Act 17 of 2015 s 3, opn 14 Aug 2015]

'goods' means all kinds of movable personal property, including animals;

'goods subject to the control of Customs' has the meaning given to it in Section 21;

'importation':
(a) for goods, means the arrival of the goods in the Republic in any manner, whether lawfully or unlawfully, from a point outside the Republic; and
(b) for electronic publications under Section 91, includes the arrival of the electronic publication in the Republic by transmission by any means, other than by broadcasting, from a point outside the Republic;

'importer':
(a) means a person by or for whom goods are imported; and
(b) includes the consignee of goods and a person who is or becomes the owner of or entitled to the possession of or beneficially interested in

any goods on or any time after their importation and before they have ceased to be subject to the control of Customs;

'international cargo' means any cargo that has arrived from a point outside the Republic or is destined to be exported from the Republic;

'international crew' means the crew or any member of the crew of a craft that is on a journey that:
(a) began outside the Republic; or
(b) began in the Republic and is to continue outside the Republic;

'international passenger' means a person who has entitlement to travel on a craft within the Republic where that travel is part of an international journey that:
(a) began outside the Republic; or
(b) began in the Republic and is to continue outside the Republic;

'internationally ticketed passenger' means a person who has an entitlement to air or sea travel for a domestic sector, being a sector included in tickets for an international journey that:
(a) began outside the Republic; or
(b) began in the Republic and is to continue outside the Republic;

'invoice' for any imported goods, means the original invoices, bills of lading, bill of parcels, policies of insurance, letters and other documents showing the value of the goods at the place at which they were purchased, together with the freight, insurance and other charges on the goods;

'manufacturing area' means a place licenced under Section 13 for the purpose described in Section 11(a);

'Minister' means the Minister for Finance;

'objectionable', for publications:
(a) means a publication that describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in a manner that the availability of the publication is likely to be injurious to the public good; and
(b) includes any publication that promotes or supports, or tends to promote or support:
  (i) the exploitation of persons under 18 years, or both, for sexual purposes;
  (ii) the use of violence or coercion to compel any person to participate in, or submit to, sexual conduct;
  (iii) sexual conduct with or upon the body of a dead person;
  (iv) the use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct;
  (v) bestiality;
  (vi) acts of torture or the infliction of extreme violence or extreme cruelty; or
  (vii) any other prescribed objectionable act or conduct;

'occupier', of land:
(a) means the owner; and
(b) includes a lessee or tenant, a licencee, or a person who has the right to occupy land under other authority;

'operator' of a business:
(a) means the person actively engaged, whether alone or with others, in the carrying on of the business, and whether registered as such; and
(b) for a body corporate, includes:
  (i) a director, manager, secretary, or other similar officer engaged in the direct control or management of its business; and
  (ii) a person who purports to act in any of the capacities under subparagraph (i);

'overseas company' means any company other than one incorporated in the Republic;

'overseas register' means the register of companies that are incorporated outside the Republic, which is kept under the *Corporations Act 1972*;

'owner':
(a) for a craft, includes the owner or charterer of the craft, and a person acting as agent for the owner or charterer;
(b) for goods, includes the importer or a person having possession of or who is beneficially interested in the goods; and
(c) for land, means the person entitled to receive rent for the land, or who would be so entitled if the land were let to a tenant for any rent;

'package' includes any means used or capable of being used to pack, cover, enclose, contain or encase goods for carriage, a bulk cargo container, a pallet or a similar device;

'police officer' means a member of the Naoero Police Force appointed under the *Naoero Police Force Act 2025*;

[def am Act 38 of 2025 s 201, opn 19 Sep 2025; Act 21 of 2026 s 5, opn 12 May 2026]

'prescribed' means:
(a) for a matter under Section 317, prescribed by the Chief Collector of Customs; and
(b) for any other matter, prescribed by regulations under this Act;

[def subst Act 31 of 2020 s 7, opn 23 Oct 2020]

'prohibited exports' means goods or electronic publications the exportation of which is prohibited, whether conditionally or unconditionally, by or under Section 92;

'prohibited goods' means prohibited exports or prohibited imports;

'prohibited imports' means goods or electronic publications the importation of which is prohibited, whether conditionally or unconditionally, by or under Section 91;

'publication' means:
(a) any film, book, sound recording, picture, newspaper, photograph, photographic negative, photographic plate, or photographic slide;
(b) any print or writing;
(c) a paper or other thing that has printed or impressed upon it, or otherwise shown upon it, 1 or more, or a combination of 1 or more images, representations, signs, statements, or words; or
(d) a thing, including, but not limited to, a disc, or an electronic or computer file, on which is recorded or stored information that, by the use of a computer or other electronic device, is capable of being

reproduced or shown as 1 or more, or a combination of 1 or more images, representations, signs, statements, or words;

'public notice' means:
(a) a notice or publication in the Gazette or any other official publication of the Government;
(b) a notice published in any form of media such as radio, television, or newspaper; and
(c) if a notice is published on an internet site to which the public have free access, includes that notice;

'Public Service' has the meaning given to it in the *Public Service Act 2016*;

'rectifying' of spirits, means purifying by a process of re-distillation;

'registered user' means an individual registered under Part 12 as a user of the Customs electronic entry processing system;

'security' means any security for payment of duty payable under this Act, including any additional costs incurred by Customs in administering the security;

'ship' means a vessel used in navigation, not being a vessel propelled only by oars; and includes a hovercraft or submarine;

'shipment' or 'to ship' includes loading or to load into a craft;

'spirits':
(a) means ethyl alcohol, whether or not denatured; and
(b) includes spirituous beverages, such as brandy, gin, rum, vodka, whisky, and any description of spirituous liquor derived from ethyl alcohol;

'Tariff' means Schedule 1 of the *Customs Tariff Act 2014*;

'the Customs' means the Naoero Customs Service Office as established by Section 4(1);

[def subst Act 31 of 2020 s 7, opn 23 Oct 2020; am Act 21 of 2026 s 5, opn 12 May 2026]

'tobacco' includes cigars, cigarettes, and snuff;

'uncustomed goods' means goods on which duty has become due and payable but is unpaid;

'unique user identifier' means a user identifier for use by a registered user in an entry processing system;

'unlawfully exported' means exported in breach of this Act or any other written law;

'unlawfully imported' means imported in breach of this Act or any other written law;

'vehicle' means a conveyance for use on land, whether or not it is also capable of being used on or over water; and

'working day' means a day of the week, other than a Saturday, Sunday, or public holiday.

3 Act to bind the Republic

This Act binds the Republic.

[The next page is 420,801]

4 The Naoero Customs Office

(1) The Naoero Customs Service is established.

[subs (1) subst Act 31 of 2020 s 4, opn 23 Oct 2020; am Act 21 of 2026 s 5, opn 12 May 2026]

(2) The Secretary responsible for Customs;
  (a) is the Chief Collector of Customs; and
  (b) as such, is also a Customs officer.

(3) The Chief Collector of Customs may, in writing, designate officers or other employees of the Department as Customs officers for the purposes of this Act.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

[s 4 am Act 21 of 2026 s 5, opn 12 May 2026]

5 Authorised persons

(1) The Chief Collector of Customs may, in writing, including electronic form, authorise any suitably qualified and trained person, other than a Customs officer, who is an officer of Customs or another department or Government agency or any other person, to carry out any function or power of a Customs officer under this Act or any other written law.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The authorisation shall state:
  (a) the authorised function or power; and
  (b) the term of the authorisation of up to 3 years.

(3) The authorised person:
  (a) is treated for the purposes of this Act, other than Section 2, this subsection, and Sections 7, 58 and 209 as a Customs officer when carrying out the authorised function or power; and
  (b) shall surrender to the Chief Collector of Customs any article or document the authorised person received under the authorisation.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) The Chief Collector of Customs may:
  (a) extend an authorisation for a further term of up to 3 years; or
  (b) revoke an authorisation on any of the following grounds:
    (i) incapacity, neglect of duty, or misconduct;
    (ii) the authorised person voluntarily requests, in writing, the Chief Collector to revoke the authorisation; or
    (iii) any other grounds where, in the opinion of the Chief Collector of Customs, the authorisation is no longer necessary.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) In this Section, ***'suitably qualified and trained person'*** means an officer or employee of the Department who is not a designated Customs officer or an officer or employee of another department or any other person.

6 Delegation by the Chief Collector of Customs

(1) The Chief Collector of Customs may delegate to any person any of the Chief Collector's functions or powers under this Act or any other written law.

(2) The person who is delegated any functions or powers under subsection (1) may, with the prior approval of the Chief Collector of Customs, subdelegate any of the delegated functions or powers to another person.

(3) A delegate may carry out delegated functions or powers in the same manner and with the same effect as if they had been conferred on the delegate directly by this Act and not by delegation.

(4) A delegation:
- (a) may be subject to any general or special conditions imposed by the Chief Collector of Customs;
- (b) shall be in writing;
- (c) shall be given for a specified period but may be revoked;
- (d) does not affect or prevent the exercise of any function or power by the Chief Collector of Customs; and
- (e) does not affect the responsibility of the Chief Collector of Customs for the actions of the delegate.

(5) In this Section:

'delegate' means a person who is delegated or subdelegated any functions or powers under this Section; and

'delegation' means a delegation or subdelegation made under this Section.

[s 6 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

7 Identity cards

(1) The Chief Collector of Customs shall issue an identity card or other means of identification to each Customs officer and any authorised person other than a police officer.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) When exercising any power under this Act, a Customs officer or an authorised officer shall, on request, produce the identity card or other means of identification for inspection.

(3) A person who ceases to become a Customs officer or an authorised person shall, as soon as possible, return the identity card or other means of identification to the Chief Collector of Customs.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

8 Customs flag

The Customs flag is the Republic of Naoero flag, with the addition in the fly of the words 'Naoero Customs Service' in bold characters.

[s 8 subst Act 31 of 2020 s 5, opn 23 Oct 2020; am Act 21 of 2026 s 5, opn 12 May 2026]

9 Seal of Customs

The seal of the Customs is the 12 point star of Naoero with the words 'Republic of Naoero' in the centre and around the outside circumference the words 'Police

and Customs' or other words approved by the Minister encircling the Emblem as defined in the *Naoero National Anthem, Emblem and Flag Protection Act 2018*.

[s 9 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 421,001]

PART 3 — CUSTOMS PLACES AND CUSTOMS CONTROLLED AREAS

DIVISION 1 — CUSTOMS PLACES

10 Customs places

(1) The Chief Collector of Customs may:
  (a) by notice in the Gazette, designate a port as a Customs port or an airport as a Customs airport; and
  (b) impose conditions or restrictions on any declared Customs port and Customs airport.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Customs ports and Customs airports are collectively called Customs places.

(3) Before carrying out any power under this Section, the Chief Collector of Customs shall consult the Secretary responsible for the:
  (a) Department of Justice and Border Control;
  (b) Department of Health and Medical Services; and
  (c) any other prescribed person.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) The power of the Chief Collector of Customs under this Section, includes:
  (a) the power to amend, suspend or revoke the declaration;
  (b) the power to amend, suspend or revoke any conditions or restrictions; and
  (c) the power to impose new conditions or restrictions.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

DIVISION 2 — CUSTOMS CONTROLLED AREAS

11 Customs controlled areas

Subject to any prescribed exemptions and to Section 13(3), an area may not be used for any of the following purposes unless the area is licenced as a Customs controlled area:

(a) the manufacture of goods specified for the purpose of this paragraph;
(b) the deposit, keeping, or securing of imported goods without payment of duty on the goods, pending the export of those goods;
(c) the temporary holding of imported goods for the purposes of examination of those goods under Section 175, including the holding of the goods while they are awaiting examination;
(d) the disembarkation, embarkation, or processing of persons arriving in or departing from the Republic;
(e) the processing of craft arriving in or departing from the Republic or the loading or unloading of goods onto or from such craft; or
(f) any other prescribed purpose.

12 Application for licence

(1) An application for an area to be licenced as a Customs controlled area:
  (a) may be made by the owner or occupier of, or person operating in, the area;

(b) shall be made in the prescribed form; and
(c) shall contain any other prescribed particulars.

(2) The Chief Collector of Customs may request further information from an applicant if the Chief Collector of Customs considers that the information is relevant to the application.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) An applicant may, at any time before the Chief Collector of Customs makes a decision on the application, advise the Chief Collector of Customs of any variations that the applicant wishes to make to the application.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

13 Grant or refusal of licence

(1) The Chief Collector of Customs may;
(a) grant a CCA licence for the area, subject to conditions or restrictions and payment of any annual prescribed CCA licence fee; or
(b) refuse the application.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The CCA licence shall state:
(a) the licenced area;
(b) name of the licencee; and
(c) any purpose under Section 11 for which the area is licenced.

(3) The Chief Collector of Customs may, by direction, refuse an application to licence an area as a Customs controlled area if the Chief Collector is satisfied that area should not be licenced as such because:
(a) it is not in the public interest; and
(b) it is impracticable or unnecessary to licence the area.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) The direction under subsection (3):
(a) may cover all or part of the business carried on in the area; and
(b) shall exempt the area from specified sections of this Act.

(5) The Chief Collector of Customs shall, by written notice, inform the applicant of any decision or direction under this Section.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) An applicant who is dissatisfied with a decision or direction of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (7) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

14 Variation or revocation of conditions

(1) The Chief Collector of Customs may, by notice in writing:
(a) vary, suspend or revoke the terms, conditions, or restrictions of the CCA licence; or
(b) revoke the terms, conditions, or restrictions and impose new terms, conditions, or restrictions of the CCA licence.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A CCA licencee who is dissatisfied with a decision of the Chief Collector

of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

15 Revocation or suspension of licence

(1) The Chief Collector of Customs may suspend or revoke a CCA licence, if:
(a) a term, condition, or restriction of the licence has been contravened;
(b) the licenced area ceases to be used for any of the purposes described in Section 11(a) to (f);
(c) the licencee ceases to be the owner or occupier of, or operator in, the licenced area;
(d) the Chief Collector of Customs considers that the licencee is no longer a fit and proper person to hold the licence; or
(e) any prescribed annual fee is due and has not been paid.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The Chief Collector of Customs shall first issue to the licencee a written notice of an intention to revoke or suspend the CCA licence unless the Chief Collector of Customs considers that there is good reason not to give the written notice of the intention.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The Chief Collector of Customs shall, in writing, notify the licencee of the revocation or suspension of the CCA licence.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) A CCA licencee who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

16 Surrender of licence

A CCA licencee may surrender the CCA licence by giving 1 month's notice in writing to the Chief Collector of Customs.

[s 16 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

17 Closing of Customs controlled area

Where a CCA licence is suspended, revoked, or surrendered, duty becomes due and payable on all goods within that area that are or were subject to the control of Customs, immediately prior to the suspension, revocation, or surrender, unless the Chief Collector of Customs permits the goods to be removed to another Customs controlled area or to be exported.

[s 17 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

18 Liabilities not affected by ceasing to act as licencee

The obligations and liabilities under this Act of a CCA licencee for anything done or omitted to be done by the licencee while licenced are not affected by the fact that:

(a) the licencee ceases to act as such; or
(b) the licence is surrendered or suspended or revoked.

19 Customs facilities in Customs controlled areas

(1) A CCA licencee shall, without any charge to Customs, provide and maintain any operating areas, accommodation, facilities, buildings, equipment, and storage as the Chief Collector of Customs determines are reasonably necessary and suitable for the carrying out of the functions and responsibilities of Customs, including any operating area in a Customs controlled area where that operating area is used for:

(a) the processing of persons arriving in or departing from the Republic;
(b) the processing of craft arriving or departing from the Republic;
(c) the processing of postal articles arriving in or departing from the Republic;
(d) the processing of air cargo arriving in or departing from the Republic; or
(e) accommodation, facilities, buildings, storage and car parks used by Customs' employees for the above purposes.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A CCA licencee shall:

(a) store goods subject to the control of Customs in a manner and in a location as the Chief Collector of Customs may direct; and
(b) in writing, be advised by Customs of a determination under subsection (1) or a direction under paragraph (a).

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A CCA licencee who is dissatisfied with a determination under subsection (1) or a direction under subsection (2)(a) may, within 20 working days after the date on which notice of the determination or direction is given, appeal to the Minister against that determination or direction.

20 Storage charges

A CCA licencee shall not impose any charge for receiving or storing of any imported goods in the Customs controlled area, subject to any prescribed circumstances and for any prescribed time.

[The next page is 421,201]

21 Goods subject to control of Customs

(1) Goods are subject to the control of Customs:

(a) for goods that have been imported, from the time of importation until the time the goods are lawfully removed for home consumption or exportation from a Customs controlled area;

(b) for goods that are lawfully removed from a Customs controlled area under a conditional permit granted under Section 72(1)(c), until any time as the Chief Collector of Customs is satisfied that the conditions of the permit have been met;

(c) for goods to be exported whether under drawback or not and are in a package in which a Customs seal has been used, from the time when the Customs seal is first used until the exportation of the goods to a point outside the Republic;

(d) for goods to be exported, whether under drawback or not, under a Customs-approved secure exports scheme, from the time when the goods are first secured in a Customs-approved secure package until the exportation of the goods to a point outside the Republic;

(e) for goods to be exported under drawback, from whichever is the earlier of the following times until the exportation of the goods to a point outside the Republic:

(i) the time of the claim for the drawback; or

(ii) the time when the goods are brought to a Customs controlled area, whether or not the goods are later transported from that area to another area of any kind, and, if the goods are so transported, during the transportation;

(f) for goods to be exported otherwise than under drawback, from the time when the goods are brought to a Customs controlled area for export, until their exportation to a point outside the Republic;

(g) for goods on board a craft described in Section 154(1), at all times that the craft is within the Republic;

(h) for goods manufactured in a Customs controlled area, from the time of manufacture until the goods are lawfully removed for home consumption from a Customs controlled area, or the goods are exported to a point outside the Republic, whichever happens first;

(i) for goods owned by or in the possession of an internationally ticketed passenger, or an international crew member who is using air or sea travel for a domestic sector or a domestic passenger who is using air or sea travel for a domestic sector, the goods are:

(i) brought into a Customs controlled area licenced for the disembarkation, embarkation, or processing of persons arriving in or departing from the Republic; and

(ii) accepted by carriage by an airline or shipping company, until the time when, at the end of the domestic sector, the goods are lawfully removed from a Customs controlled area licenced for the

disembarkation, embarkation, or processing of persons arriving in or departing from the Republic; or

(j) for domestic cargo, not being goods to which paragraph (i) applies, from the time when the goods are brought within a Customs controlled area that is in a Customs place until the time when the goods are lawfully removed from that or any other Customs controlled area.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) For the purposes of subsection (1), goods that are removed from a Customs controlled area to another Customs controlled area are not removed for home consumption.

22 Advice of arrival, etc

(1) The person-in-charge of a craft that is en route to the Republic from a point outside the Republic shall, unless approved by the Chief Collector of Customs:

(a) give to Customs, in a form and manner (for example, in an electronic form and manner) as may be approved in writing by the Chief Collector of Customs, either generally or for particular case or class of cases, a prescribed advance notice of 1 or more of the following matters:

(i) the impending arrival of the craft;

(ii) its voyage;

(iii) its passengers;

(iv) its crew;

(v) its cargo for discharge within the Republic, whether commercial or non-commercial;

(vi) its commercial cargo not intended for discharge within the Republic; or

(vii) the Customs place at which the craft will arrive; and

(b) on arriving within the Republic, proceed directly to that Customs place, unless directed elsewhere by a Customs officer.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The owner or operator of the craft referred to in subsection (1), or the owner's or operator's agent, may provide the information referred to in subsection (1)(a) to Customs on behalf of the person in charge of the craft.

23 Requirement to answer questions

(1) This Section applies to any of the following:

(a) a craft that has arrived in the Republic from a point outside the Republic;

(b) a craft departing from the Republic for a point outside the Republic;

(c) a craft that is within the Republic and that is carrying international cargo or international crew or any international passenger, whether or not the craft is also carrying domestic cargo; or

(d) any other craft that is within the Republic and that a Customs officer has reasonable cause to suspect has been, or is about to be, involved in the commission of an offence against this Act or the importation or exportation of any dutiable, uncustomed, prohibited, or forfeited goods.

(2) The person-in-charge of, the owner of, any member of the crew of, and any passenger on a craft to which this Section applies shall:

(a) answer any question asked by a Customs officer relating to the craft and its voyage and any persons or goods that are or have been carried by the craft; and

(b) immediately, at the request of any Customs officer, produce any documents within that person's possession or control relating to any of those matters.

(3) A person referred to in Section 161(1) shall:

(a) answer any question asked by a Customs officer under Section 163; and

(b) produce any document within the person's possession or control that a Customs officer demands under Section 164.

24 Bringing-to of ship

(1) The master or the person-in-charge of a ship arriving within the Republic shall, on being directed by a Customs officer to do so:

(a) stop and bring the ship to for boarding; and

(b) ensure that the ship remains stopped until a Customs officer directs that the ship may proceed.

(2) The craft carrying the Customs officer or officers shall identify itself as being a craft in the service of the Republic.

(3) The master of the ship or the person-in-charge shall by all reasonable means facilitate the boarding of the ship by Customs officers.

(4) The master of a ship within the Republic shall, if so directed by any Customs officer acting with the authority of the Chief Collector of Customs, cause that ship to leave the Republic immediately.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) A Customs officer who proposes to give a direction under subsection (4), shall consult with the Chief Collector of Customs or a person authorised by the Chief Collector of Customs.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

25 Craft to arrive at nominated Customs place

(1) Subject to Sections 22 and 26, the person in charge of a craft:

(a) that arrives within the Republic on a journey from a point outside the Republic; and

(b) that is carrying:

(i) persons brought in that craft or any other craft from a point outside the Republic; or

(ii) goods subject to the control of Customs brought in that craft or any other craft from a point outside the Republic,

shall ensure that the craft lands, anchors, or otherwise arrives only at a Customs place, which, for a craft to which Section 22 applies, shall be the Customs place nominated by that person under that Section.

(2) On arrival at the nominated Customs place or Customs controlled area within that place, and until an inward report under Section 27 has been made, a person may not leave or board the craft unless authorised to do so by a Customs officer.

26 Craft arriving at place other than nominated Customs place

(1) Section 25 does not apply to a craft:

(a) that is required or compelled to berth, land, anchor, or otherwise arrive at a place other than a Customs place nominated under Section 22(1)(a), if the arrival:

(i) is required by any statutory or other requirement relating to navigation; or

(ii) is compelled by accident, stress of weather, or other necessity; or

(b) that is authorised by the Chief Collector of Customs to berth, land, anchor, or otherwise arrive at a place other than a Customs place.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) An authorisation given under subsection (1)(b), may be granted subject to any conditions the Chief Collector of Customs considers appropriate, including conditions about the passengers and goods that may be carried on the craft.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The Chief Collector of Customs may not grant any authorisation under subsection (1)(b) without consulting:

(a) the Secretary for Justice and Border Control;

(b) the Secretary for Health and Medical Services;

(c) the Director of Civil Aviation, if the proposed authorisation relates to an aircraft;

(d) the Chief Executive Officer of the Naoero Maritime and Port Authority, if the proposed authorisation relates to a ship; and

(e) any other department or Government agency whose operations may, in the Chief Collector's of Customs opinion, be affected by the granting of an authorisation under subsection (1)(b).

[subs (3) am Act 21 of 2026 s 5, opn 12 May 2026]

(4) Where any craft berths, lands, anchors, or otherwise arrives at a place other than a Customs place by reason of an authorisation under subsection (1)(b):

(a) the same powers may be exercised under this Act in relation to that craft as if it had arrived at a Customs place under Part 4, and the same obligations apply; and

(b) the same powers may be exercised under this Act in relation to persons and goods on that craft as if those persons or goods were in a Customs controlled area, following arrival of the craft under Part 4, and the same obligations apply.

(5) The person-in-charge of the craft:

(a) shall immediately report to a Customs officer or to a police officer;

(b) shall not, without the consent of a Customs officer, permit any goods carried in the craft to be unloaded from it or any of the crew or passengers to depart from its vicinity; and

(c) shall comply with any directions given by a Customs officer in respect of any goods, crew or passengers carried in the craft.

(6) Subject to Section 68(a), a member of the crew and a passenger on the craft may not without consent of a Customs officer:

(a) unload goods from the craft; or

(b) depart from the vicinity of the craft,

and they shall comply with any directions given by a Customs officer.

(7) Where a craft is directed by a Customs officer under Section 24(1)(b) to

arrive at a place other than the Customs place nominated under Section 24(1)(a), a person may not depart from or board the craft unless authorised to do so by a Customs officer.

27 Inward report

(1) Unless a craft is exempted by the Chief Collector of Customs, this Section applies to a craft:
   (a) that arrives within the Republic on a journey from a point outside the Republic; or
   (b) that is carrying:
      (i) persons; or
      (ii) goods subject to the control of Customs,
      brought in that craft or any other craft from a point outside the Republic.

(2) On the arrival at a Customs place of craft to which this Section applies, the person-in-charge or the owner of the craft, shall:
   (a) deliver to Customs within such time or times as may be prescribed an inward report in such form and manner and containing such particulars verified by declaration as may be prescribed and accompanied by such supporting documents as the Chief Collector of Customs may require; and
   (b) comply with any Customs direction as to the movement of the craft within the Customs place, and as to the unloading of goods or the disembarkation of crew or passengers from the craft.

(3) The particulars and supporting documents referred to in subsection (2)(a), need not include information that has already been supplied to Customs, in any form and manner approved in writing by the Chief Collector of Customs, under Section 22(1)(a) or otherwise.

[s 27 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

DIVISION 2 — ARRIVAL OF PERSONS

28 Persons arriving in the Republic to report to Customs officer or Police station

(1) Unless otherwise required under any provision of this Act, a person arriving in the Republic shall, on his or her arrival, report to a Customs officer or to the Police station immediately.

(2) A person who reports to a Customs officer or to the Police station under subsection (1), shall remain at the place where the person reported for any reasonable time as Customs may require for the purposes of enabling any Customs officer to exercise in relation to that person any power under this Act.

29 Disembarkation

(1) Subject to prescribed exemptions, a person who is on board a craft that has arrived in the Republic from a point outside the Republic shall comply with any Customs direction concerning disembarkation.

(2) For the purposes of this Section, a Customs direction includes a direction given by the person-in-charge of the craft or by a crew member at the direction of a Customs officer.

(3) Subject to prescribed exemptions, a person who has disembarked from a craft to which this Section applies shall, unless otherwise directed by Customs:
   (a) go to a Customs controlled area; and
   (b) remain there for any reasonable time as Customs may require for the purposes of enabling any Customs officer to exercise in relation to that person any power under this Act.

30 Baggage to be presented

(1) Subject to prescribed exemptions, a person who disembarks from a craft that has arrived in the Republic from a point outside the Republic or a craft that is at the end of a domestic sector shall:
   (a) make his or her accompanying baggage available for examination by a Customs officer; and
   (b) comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from any craft to a Customs controlled area.

(2) A person who is moving or handling the baggage referred to in subsection (1), shall comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from any craft to a Customs controlled area.

(3) The provisions of this Section relating to the examination of accompanying baggage does not apply to the following persons:
   (a) the President of the Republic of Naoero or any person acting in that capacity; and
   (b) the spouse of the President of the Republic or the spouse of a person who is acting in the capacity of the President.

[subs (3) insrt Act 22 of 2015 s 3, opn 23 Oct 2015; am Act 21 of 2026 s 5, opn 12 May 2026]

DIVISION 3 — DEPARTURE OF PERSONS

31 Persons departing from the Republic to depart from Customs place

Subject to Section 41 and to any prescribed exemptions or unless otherwise authorised by Customs, a person shall not depart from the Republic unless the person departs from a Customs place.

32 Embarkation

A person preparing to board a craft for departure from the Republic shall comply with any Customs direction given to the person concerning embarkation.

33 Outgoing baggage to be presented

(1) Subject to any prescribed exemptions, a person who arrives at a Customs place or a Customs controlled area for embarkation onto a craft that has, as its destination, a point outside the Republic shall:

(a) make his or her accompanying baggage available for examination by a Customs officer; and

(b) comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from a Customs controlled area to any craft.

(2) A person who is moving or handling the baggage referred to in subsection (1) shall comply with any Customs direction on the movement of the baggage within the Customs place or Customs controlled area or from a Customs controlled area to any craft.

DIVISION 4 — FURTHER REQUIREMENTS RELATING TO PERSONS ARRIVING IN OR DEPARTING FROM THE REPUBLIC

34 Use of electronic communication devices prohibited in certain place

(1) This Section applies to a Customs place or Customs controlled area that is used by persons arriving in or departing from the Republic.

(2) A Customs officer may erect a sign prohibiting, in a place or area to which this Section applies, the use of any electronic communication device identified on the sign, by words, or images or both.

(3) Where a sign has been erected in a place under subsection (2), a Customs officer may require a person in that place not to use, or to stop using, an electronic communication device identified on the sign.

(4) A person shall comply with a requirement by a Customs officer under subsection (3).

(5) In this Section, ***'electronic communication device'*** includes an electronic communication device, except for a device that is being used to assist with a disability, that is capable of 1 or more of the following actions:

(a) transmitting sound;

(b) computing information;

(c) functioning as a telephone; or

(d) communicating in any other way using any technology, including telecommunication, radio communication, and broadcasting technology.

35 Completion of processing under immigration and quarantine laws

(1) This Section applies to a person in a designated place who has arrived in the Republic or who departs, or attempts to depart, from the Republic.

(2) The person shall remain in the designated place until the processing, under the *Immigration Act 2014* and, if applicable, the *Quarantine Act 1908*, of that person's arrival in, or departure from, the Republic, is completed.

(3) A Customs officer may direct the person to comply with the person's obligation under subsection (2).

(4) The processing referred to in subsection (2) is completed when:

(a) the person has complied with all obligations imposed on the person, in respect of that person's arrival in, or departure from, the Republic, under the *Immigration Act 2014* and, if applicable, the *Quarantine Act 1908*; and

(b) the powers and duties under those Acts that are, in relation to the person, required to be exercised or performed in the designated place have, so far as practicable, been exercised or performed in that place.

(5) In this Section:

'authorised officer' means an officer authorised under the *Immigration Act 2014* or the *Quarantine Act 1908*; and

'designated place' means:

(a) a Customs controlled area;

(b) a Customs place;

(c) a place approved by the Chief Collector of Customs for the purposes of:

(i) the arrival of a craft in the Republic; or

(ii) the departure of a craft from the Republic; or

(d) a Police station to which a person reports under Section 28(1); and

[def subst Act 31 of 2020 s 7, opn 23 Oct 2020]

'processing' includes:

(a) consideration by any authorised officer as to the applicability of powers and duties under the *Immigration Act 2014* or the *Quarantine Act 1908*;

(b) reconsideration by any authorised officer, in light of any information, of a previous exercise or performance of a power or duty under the *Immigration Act 2014* or the *Quarantine Act 1908*; and

(c) any reasonable time following a request by a Customs officer that an authorised officer who is not present at the designated place consider, exercise or perform a particular power or duty under the *Immigration Act 2014* or the *Quarantine Act 1908* that:

(i) may, in the opinion of the Customs officer, be applicable to the person; and

(ii) may not be exercised or performed by an authorised officer present at the designated place at the time of the request; but

(iii) may be exercised or performed by the authorised officer to whom that request is made.

36 Cases requiring investigation for public health or law enforcement purposes

(1) This Section applies to a person in a designated place who has arrived in the Republic or who departs, or attempts to depart, from the Republic, if a Customs officer has reasonable cause to suspect that the person:

(a) is, under a written law, liable to be detained because of an infectious disease;

(b) is liable to be arrested under a warrant issued by a court or by the Registrar of Courts;

(c) is, in attempting to depart from the Republic or in attempting to remove another person from the Republic, contravening, or about to contravene, a written law or an order issued by a court;

(d) is liable to be prosecuted for an offence punishable by imprisonment;

(e) has contravened any of the following:

(i) *Quarantine Act 1908*;

(ii) *Illicit Drugs Control Act 2004*; or

(iii) any written law, being a law that contains an offence involving the unlawful entry into the Republic, or the unlawful removal from the Republic of a person, matter, or thing; or

(f) is endangering, or threatening to endanger the life, health, or safety of a person or group of persons.

(2) The Customs officer may direct the person to remain in the designated place for the purposes of obtaining the attendance of, or making inquiries of, another officer who is authorised, in respect of a matter specified in subsection (1), to do 1 or more of the following:

(a) question the person;

(b) ascertain or determine the status of the person;

(c) detain the person; or

(d) arrest the person.

(3) The person shall comply with any directive given under this Section.

(4) A direction under this Section ceases to have effect 4 hours after it is given.

(5) In this Section:

'another officer' means:

(a) a police officer;

(b) a court officer responsible for serving or carrying out of court processes; or

(c) a public servant or other employee or agent of a Government department or agency; and

'designated place' means:

(a) a Customs controlled area;

(b) a Customs place; or

(c) a place approved by the Chief Collector of Customs for the purposes of:

(i) the arrival of a craft in the Republic; or

(ii) the departure of a craft from the Republic.

[def subst Act 31 of 2020 s 7, opn 23 Oct 2020]

DIVISION 5 — DEPARTURE OF CRAFT

37 Clearance of craft

(1) A person-in-charge of a craft that has, as its destination, a point outside the Republic may not cause that craft to depart from any Customs place unless that person has received a certificate of clearance in the prescribed form.

(2) Subject to any prescribed exemptions, a person-in-charge of a craft that has arrived in the Republic from a point outside the Republic may not cause that craft to depart from the place in the Republic that it first arrived at, or from any subsequent place of call within the Republic, without the permission of Customs and subject to the production to Customs of any documents that the Chief Collector of Customs may require and to any conditions imposed by the Chief Collector of Customs.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The Chief Collector of Customs may exempt a craft from the requirements for a certificate of clearance under subsection (1).

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

38 Certificate of clearance

(1) Before a certificate of clearance is granted to the person-in-charge of a craft to which Section 37 applies, the person shall:

(a) deliver to Customs, within any time or times prescribed, an outward report in the prescribed form and manner, that contains the prescribed particulars verified by declaration, and which is accompanied by any supporting documents as the Chief Collector of Customs may require;

(b) answer any question asked by a Customs officer about the craft and its passengers, crew, cargo, stores and its intended voyage or journey;

(c) produce any other documents as may be required by a Customs officer relating to the craft and its passengers, crew, cargo, stores and its intended voyage or journey; and

(d) comply with all requirements in this or any other Act concerning the craft and its passengers, crew, cargo, stores, and its intended voyage or journey.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The Chief Collector of Customs may approve that a person-in-charge of a craft is not to comply with the requirement of subsection (1).

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

39 Boarding of outward craft

The person-in-charge of a craft departing from a Customs place, whether or not the immediate destination of the craft is a point outside the Republic, shall, if required to do so by any Customs officer, by all reasonable means, facilitate boarding by Customs officers.

40 Production of certificate of clearance

The person-in-charge of a craft to whom a certificate of clearance has been granted shall, on demand by a Customs officer, produce the certificate of clearance for examination by the officer and answer any question that the officer may put to him or her about the craft and its passengers, crew, cargo, stores and its intended voyage or journey.

41 Departure to be from Customs place only

(1) Subject to any prescribed exemptions and subsection (2), except with the prior permission of the Chief Collector of Customs for departure, a person-in-charge of a craft shall not:

(a) cause that craft to depart for a point outside the Republic from a place within the Republic other than a Customs place; or

(b) having obtained a certificate of clearance from a Customs place in the Republic to depart for any point outside the Republic, cause that craft:

(i) to not depart immediately from that place; or

(ii) to go to any other place in the Republic.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Subsection (1) does not apply to a craft:

(a) that is required to berth, land, anchor, or otherwise return to a place in the Republic that is not a Customs place, if this return:

(i) is required by any statutory or other requirement relating to navigation; or

(ii) is compelled by an accident, stress of weather, or other necessity; or

(b) that is authorised to depart for a point outside the Republic from a place in the Republic other than a Customs place, by the Chief Collector of Customs.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Section 26(2), (3) and (4) apply, with modifications, to:

(a) an authorisation given by the Chief Collector of Customs under subsection (2)(b); and

(b) any departure from a place in the Republic, other than a Customs place, in reliance on the authorisation.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

42 Regulations for stores on craft

The Cabinet may, acting on the advice of the Minister, make regulations prescribing:

(a) the classes of goods that are, or are not, regarded as stores for the use of passengers and crew or the service of craft about to depart from any Customs place;

(b) the conditions under which any stores may be shipped free of duty or under drawback of duty; and

(c) the conditions under which any such stores are subject to duty, and the form and manner in which those stores shall be entered.

[The next page is 421,401]

PART 5 — CUSTOMS ACCESS TO AND USE OF INFORMATION ABOUT BORDER-CROSSING GOODS, PERSONS AND CRAFT

DIVISION 1 — GENERAL

43 Definition

In this Part:

'border crossing goods' means goods that are recorded by a person concerned in the movement of goods, persons, or craft:
(a) as having been imported into, or exported from, the Republic;
(b) as being imported into, or exported from, the Republic; or
(c) as intended to be imported into, or exported from, the Republic;

'border-crossing person or craft' means a person (for example, a passenger, or a member of the crew of a craft) who, or a craft that, is recorded by a person concerned in the movement of goods, persons, or craft:
(a) as having arrived in or departed from the Republic;
(b) as arriving in, or departing from the Republic; or
(c) as intending to arrive in, or depart from, the Republic;

'person concerned in the movement of goods, persons, or craft' means any of the following:
(a) an owner or an operator of a craft that carries or transports goods or persons, or both, from the Republic to a point outside the Republic, or from a point outside the Republic to the Republic, for commercial purposes, or the agent of an owner or an operator of that kind;
(b) a travel operator or the agent of a travel operator;
(c) an owner, occupier, or operator of a Customs controlled area used for the purpose specified in Section 11(d) or (e);
(d) an operator of a business that handles, packs, stores, or transports goods that are to be transported from the Republic to a point outside the Republic; or
(e) any persons or classes of persons, involved in any other way in the carriage, handling or transportation of goods, or persons, or both, from the Republic to a point outside the Republic or from a point outside the Republic to the Republic, for commercial purposes, being persons or classes of persons prescribed for the purposes of this paragraph; and

'travel operator' means a person who organises the carriage, handling, or transportation of goods or persons, or both, from the Republic to a point outside the Republic or from a point outside the Republic to the Republic, for commercial purposes.

44 Purpose

(1) The purpose of this Part is to facilitate:
  (a) the exercise or performance of powers, functions, or duties under this Act;
  (b) the prevention, detection, investigation, prosecution and punishment of offences that are, or that if committed in the Republic would be:
    (i) Customs offences of any kind; or

(ii) other offences punishable by imprisonment;
(c) the processing of international passengers at the border by public authorities;
(d) the protection of border security; and
(e) the protection of the health and safety of members of the public.

(2) This Part:
(a) requires certain persons concerned in the movement of goods, persons, or craft to give to Customs access to certain information about border-crossing goods, persons, and craft; and
(b) controls the use of that information by Customs.

DIVISION 2 — ACCESS TO INFORMATION

45 Persons to whom Section 46 or 47 applies

Section 46 or 47 applies to a person, only if the person:
(a) is a person concerned in the movement of goods, persons or craft; and
(b) has been required by the Chief Collector of Customs by notice in writing to comply with that Section on and after a date specified in the notice in writing.

[s 45 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

DIVISION 3 — INFORMATION TO WHICH ACCESS SHALL BE GIVEN

46 Information about border-crossing craft

(1) A person to whom this Section applies shall give Customs access, on and after the date specified in the notice referred to in Section 45(b), to information:
(a) that is of the kind specified in subsection (2); and
(b) that the person holds, whether in the Republic or overseas, or has access to about any border-crossing craft.

(2) The information referred to in subsection (1)(a) is information about:
(a) the border-crossing craft;
(b) what it is carrying or transporting;
(c) its journey to or from the Republic; and
(d) its arrival at, or departure from, the Republic, whether that journey or arrival or departure has occurred, is occurring or will occur.

(3) That information may include, but is not limited to, the following information about the border-crossing craft:
(a) if the craft is carrying or transporting goods:
(i) loading and discharge details;
(ii) goods storage details; and
(iii) goods records;
(b) if the craft is carrying or transporting persons:
(i) the number of persons on the craft, whether passengers, or crew or other persons;
(ii) the seating arrangements or on-board accommodation arrangements; and
(iii) baggage storage details; and
(c) if the craft is carrying or transporting goods and persons, the information in paragraphs (a) and (b).

47 Information about border-crossing persons

(1) A person to whom this Section applies shall give Customs access, on and after the date specified in the notice referred to in Section 45(b), to information:
  (a) that is of the kind specified in subsection (2); and
  (b) that the person holds, whether in the Republic or overseas, or has access to about any border-crossing person.

(2) The information referred to in subsection (1), is information held by the person, or to which the person has access, for the purpose of facilitating the border crossing person's travel to, or departure from, the Republic, whether that travel or departure has occurred, is occurring, or will occur.

(3) That information may include, but is not limited to, any of the following information about the border-crossing person:
  (a) the person's name, date of birth, place of birth, nationality, sex and passport details;
  (b) the person's contact details, including telephone number, address and email address;
  (c) information identifying the craft on which the person has travelled, is traveling, or intends to travel;
  (d) any special conditions or arrangements the person has made regarding his or her travel;
  (e) where the person booked his or her travel;
  (f) on what date the person booked his or her travel; or
  (g) whether the person has checked baggage.

48 Further provisions about giving Customs access to information under Section 46 or 47

(1) A person to whom Section 46 or 47 applies shall give Customs access to the information referred to in Section 46 or 47, in the form and manner prescribed, for example, in an electronic form and manner.

(2) The Chief Collector of Customs may, by notice in writing, in all or any specified circumstances, exempt a person to whom Section 46 or 47 applies:
  (a) from complying with some or all of the person's obligations under that Section; and
  (b) from complying with some or all of the person's obligations under subsection (1).

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Section 46 or 47 does not require a person to whom the Section applies to give Customs access to information the person holds or has access to about an employee (for example, about a member of the crew of a craft) unless the information is information of a kind also generally held by the person, or to whom the person generally has access, in relation to passengers.

DIVISION 4 — USE OF INFORMATION TO WHICH ACCESS SHALL BE GIVEN

49 Controls on use by Customs of information

(1) Customs may without warrant view all information to which access is given under Section 46.

(2) Customs may view information to which access is given under Section 47 only as provided in Sections 50 to 53.

(3) Section 319 applies to the collection, use and disclosure by Customs of information viewed by Customs under this Section or Sections 50 to 53.

50 Information about travel within 28-day period

(1) Information to which access is given under Section 47 may be viewed by Customs without warrant if it is information about travel within the 28-day period.

(2) Customs may, without warrant search information that it may view under subsection (1) to determine whether that information includes information that is relevant to search criteria specified by Customs.

(3) Where information is viewed under subsection (1), Customs may collect, use and disclose that information under Section 319 whether or not it came to Customs as result of a search.

(4) Powers under this Section of viewing or searching are exercisable in a particular case even though, in the circumstances of that case, the purpose of the viewing or searching would not be, or would not likely to be, frustrated if the viewing or searching were delayed until a warrant under Section 52 could be obtained to authorise it.

(5) For the purposes of this Section and Section 51, ***'information about travel within the 28 day period'*** means information that, at any particular time, relates:

(a) to an arrival in or departure from, the Republic that, according to the information:

(i) occurred within 14 days before that time;

(ii) is occurring at that time; or

(iii) will occur within 14 days after that time; or

(b) to travel that, according to the information, occurred, is occurring, or will occur, in connection with an arrival or departure referred to in paragraph (a):

(i) whether that travel is travel within the Republic to overseas; and

(ii) whether that travel is travel that occurred, is occurring, or will occur, before or after that arrival or departure of that kind.

51 Information about other travel may be searched for information relating to travellers within 28-day period

(1) In this Section, ***'information about other travel'*** means information:

(a) to which access is given under Section 47; and

(b) that is not information about travel within the 28-day period.

(2) This Section applies to the following situation:

(a) Customs, in considering information viewed under Section 50, finds information about travel within the 28-day period that relates to an arrival or departure, and to travel, by a person: and

(b) Customs wishes:

(i) to search information about other travel to determine whether it includes information that relates to that person; and

(ii) to view any information that relates to that person and is found as a result of the search.

(3) In that situation, Customs may without warrant:
  (a) search information about other travel to determine whether it includes information that relates to the person; and
  (b) view information in accordance with subsection (5).

(4) The search may be conducted only if it can be completed within 14 days after the arrival or departure to which the information about travel within the 28-day period relates under Section 50(5)(a).

(5) Customs shall not view information about other travel unless that information relates to the person and is found as a result of the search.

(6) Powers under this Section of viewing or searching are exercisable in a particular case even though, in the circumstances of that case, the purpose of the viewing or searching would not be, or would not likely to be, frustrated if the viewing or searching were delayed until a warrant under Section 52 could be obtained to authorise it.

52 Search and viewing warrants

(1) This Section applies to any of the following situations:
  (a) the Chief Collector of Customs considers, in light of information of any kind that is available to Customs, that there are reasonable grounds to suspect that:
    (i) there exists a risk or threat relevant to the purpose stated in Section 44(1); or
    (ii) a relevant offence (as defined in subsection (6)) has been, is being, or will be committed;
  (b) Customs wishes:
    (i) to search information to which access is given under Section 47 to determine whether it includes information that is relevant to search criteria specified by Customs, being search criteria that are reasonably related to the information available to Customs that gives rise to the reasonable grounds to suspect required by paragraph (a); and
    (ii) to view any information that is relevant to the search criteria specified by Customs and is found as a result of the search; or
  (c) the search cannot be conducted and the viewing done under Section 50 or 51, or Customs considers it would be inexpedient for those things to be done under Section 50 or 51.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) In that situation, the Chief Collector of Customs may, by application in writing made on oath, apply to a Judge for a search and viewing warrant authorising:
  (a) the carrying out of the search within 14 days after the day on which the warrant is granted, or within any extension of that period granted by a Judge on an application in writing for the purpose made within that period; and
  (b) the viewing by Customs of any information that is relevant to the search criteria specified by Customs and that is included in information to which access is given under Section 47, but of no other information.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The application shall give details of the reasonable grounds to suspect required by subsection (1), of the information available to Customs that

gives rise to those reasonable grounds to suspect, and of the search criteria specified by Customs, and it shall also indicate whether the search is to be of all, or of only a specified part or parts, of the information to which access is given under Section 47.

(4) On an application under subsection (2), a Judge may grant a search and viewing warrant in the prescribed form, but only if he or she is satisfied that:
   (a) the reasonable grounds to suspect required by subsection (1) exist; and
   (b) the search criteria specified by Customs are reasonably related to the information available to Customs that gives rise to those reasonable grounds for suspicion.

(5) The warrant is sufficient authority for the doing of the things specified in subsection (2)(a) and (b).

(6) In this Section and Section 53, '***relevant offence***' means an offence described in Section 44(1)(b), or relevant to the purpose stated in Section 44(1).

53 Search and viewing without warrant in emergencies

(1) This Section applies to any of the following situations:
   (a) the situation specified in Section 52(1);
   (b) the Chief Collector of Customs considers that, if he or she were to apply to a Judge for a search and viewing warrant under Section 52, the Judge would grant the warrant; or
   (c) the Chief Collector of Customs also considers that delaying a search and any resulting viewing until a search and viewing warrant can be obtained under Section 52 would create a real risk that:
      (i) the countering of the risk or threat referred to in Section 52(1)(a)(i) would be frustrated; or
      (ii) the prevention, detection, investigation, prosecution, or punishment of the relevant offence would be frustrated.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) In a situation in subsection (1), the Chief Collector of Customs may, with no further authority other than this Section, have the things specified in Section 52(2)(a) and (b) done as if the doing of those things were authorised by a search and viewing warrant under Section 52(4).

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Where, the Chief Collector of Customs acts under subsection (2), he or she shall within 5 working days apply under Section 52(2) for a search and viewing warrant in relation to the matter.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

54 Procedure if viewing of information not authorised

(1) This subsection applies to both of the following situations:
   (a) the 5 working days period referred to in Section 53(3) expires and the Chief Collector of Customs has not made the application required by that subsection; and

(b) the application required by Section 53(3) is made but, in response to it, either no warrant is granted under Section 52(4), or a warrant is granted under Section 52(4) authorising the doing of only some of the things done in reliance on Section 53(2).

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) In a situation to which subsection (1) applies, things done in reliance on Section 53(2) shall, to the extent that the doing of those things is not authorised by a warrant granted under Section 52(4), be treated for the purposes only of the countering of the risk or threat referred to in Section 52(1)(a)(i) or of the prevention, detection, investigation, prosecution, or punishment of the relevant offence, as if they were done without the authority of Section 53 or of a warrant granted under Section 52(4).

(3) In a situation to which subsection (1) applies:

(a) the Customs shall destroy immediately information viewed by it in reliance on Section 53(2) and that is collected by it for a purpose specified in Section 305 if the viewing of that information is not authorised by a warrant granted under Section 52(4); and

(b) other persons or bodies shall destroy immediately information viewed by the Customs in reliance on Section 53(2) and disclosed by it to the other persons or bodies for a purpose specified in Section 305(2) and collected by the other persons or bodies if the viewing of that information is not authorised by a warrant granted under Section 52(4).

55 Security of applications for warrants

(1) As soon as an application under Section 52(2) has been determined by the Judge, the Registrar of Courts shall place all documents relating to the application, except the warrant itself, in a packet, seal the packet, and thereafter keep it in safe custody, except as provided in this Section.

(2) Despite any written law or rule of law or rules of court entitling a party to proceedings to demand the production of documents, a party of that kind is not entitled to demand the production of documents held in safe custody under subsection (1), except in accordance with this Section.

(3) A party of that kind who requires the production of a document held in safe custody under subsection (1) shall, except in a case to which subsection (9) or (10) applies, apply in writing to the Registrar of Courts, who shall promptly notify the Chief Collector of Customs.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) Where, within 3 days after notice is given to the Chief Collector of Customs under subsection (3), the Chief Collector of Customs gives written notice to the Registrar of Courts that the Chief Collector of Customs intends to oppose the production of the documents, the Registrar of Courts shall refer the matter to a Judge.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) Where the Chief Collector of Customs does not give the written notice under subsection (4), the Registrar shall produce the documents to the party applying for production.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) Where a matter is referred to a Judge under subsection (4), both the person

requesting production of the documents and the Chief Collector of Customs opposing production, shall be given an opportunity to be heard.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(7) The Judge may order that all or a specified part of a document, the production of which is in dispute, not be produced if the Judge is satisfied that:

(a) the document or part contains information of a kind referred to in Section 56(1); and

(b) production of that information would involve disclosure of a kind referred to in Section 56(2).

(8) Subject to subsection (7), the Judge shall order the production of the documents to the party requesting it.

(9) Where a request for the production of a document kept in safe custody under subsection (1) is made in the course of proceedings presided over by a Judge and the request is opposed, the Judge shall hear and determine the matter as if it had been referred to him or her under subsection (4).

(10) Where a request of that kind is made in the course of any other proceedings, the presiding Judge shall promptly refer the matter to a Judge to be heard and determined under subsection (9).

(11) Despite anything in this Section, a Judge who is presiding over any proceedings in which the issue of a warrant under Section 52 is in issue is entitled to inspect any relevant document held under subsection (1).

56 Information and disclosure in Section 55(7)

(1) Information falls within Section 55(7)(a), if it:

(a) might lead to the identification of, or provide details of, the source of the information, the nature, content, or scope of the information, or the nature or type of the assistance or operational methods available to the Customs;

(b) is about particular operations that have been undertaken, or are being or are proposed to be undertaken, in pursuance of any of the functions of the Customs; or

(c) has been provided to the Customs by the government of another country or by an agency of a government of another country or by an international organisation, and is information that cannot be disclosed by the Customs because the government or agency or organisation by which the information has been provided will not consent to the disclosure.

(2) Disclosure of information falls within Section 55(7)(b) if the disclosure would be likely to:

(a) prejudice the security or defence of the Republic or the international relations of the Government of Naoero;

(b) prejudice the entrusting of information to the Government of Naoero on a basis of confidence by the government of another country or any agency of such a government, or by any international organisation;

(c) prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or

(d) to endanger the safety of any person.

[subs (2) am Act 21 of 2026 s 5, opn 12 May 2026]

(3) In this Section:

'country' includes any State, territory, province, or other part of a country; and

'international organisation' means any organisation of States or Governments of States, or any organ or agency of any organisation of that kind.

DIVISION 5 — OTHER PROVISIONS

57 Disposal of information collected by Customs

(1) This Section applies to information:
(a) viewed under Sections 49, 50, 51, 52 and 53; and
(b) collected for a purpose specified in Section 305(2).

(2) The Customs shall, at least once every 6 months after this Section comes into force, determine whether the retention of the information by the Customs continues to be necessary for that purpose and, if it is not, shall dispose of the information promptly.

(3) This Section does not limit Section 54(3)(a).

58 Protection of persons acting under authority of this Part

The Government, the Chief Collector of Customs, a Customs officer or an authorised person is not liable for anything done or omitted to be done or purporting to have been done, in good faith or with reasonable care, when carrying out any function or power conferred by this Part.

[s 58 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

59 Part does not limit other access to or use of information

This Part does not:

(a) prevent a person concerned in the movement of goods, persons, or craft from giving Customs access to information otherwise than as required by or under this Part;

(b) prevent Customs from using, otherwise than as provided in this Part, information to which Customs is given access otherwise than as required by or under this Part;

(c) affect any obligation a person may have to give Customs advance notice of matters under Section 22;

(d) affect any obligation a person may have under this Act to make an entry in respect of goods that are imported or that are to be imported; or

(e) affect any powers Customs has to collect and use information under Section 305.

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PART 6 — ENTRY AND ACCOUNTING FOR GOODS

DIVISION 1 — IMPORTATION OF GOODS

60 Entry of imported goods

(1) Subject to any regulations made under Section 63, goods that are imported or that are to be imported shall be entered by the importer:
  (a) in a prescribed form and manner, including by electronic means into a computer or other device; and
  (b) within a prescribed time or any further time as the Chief Collector of Customs may allow.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Where an entry required by this Section relates to goods that are dutiable under the volume of alcohol present in the goods, the person making the entry shall, in the prescribed manner, specify the volume of alcohol.

(3) A person entering goods under this Section, shall:
  (a) answer any question asked by a Customs officer with respect to the goods; and
  (b) on the request of a Customs officer, present the goods to the officer, remove any covering from the goods, unload any conveyance or open any part of it, or open and unpack any package that the officer wishes to examine.

(4) Where:
  (a) default is made in the entry of goods under this Section; or
  (b) the goods are not claimed within a prescribed period,

  duty becomes due and payable on the goods, and the goods may be sold or otherwise disposed of by the Chief Collector of Customs.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

61 Provisional entries

(1) Where the importer:
  (a) cannot immediately supply the full particulars for making an entry; and
  (b) makes, by himself or herself or the importer's agent, a declaration to that effect before the Chief Collector of Customs or other Customs officer,

  the importer or agent shall make a provisional entry in the prescribed form.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A provisional entry, on being passed by the Chief Collector of Customs, is warrant for the landing and examination of the goods by the importer.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The importer of the goods included in a provisional entry:
  (a) shall make a complete entry within 7 days after the passing of that entry or within any further time allowed by the Chief Collector of Customs; and

(b) if the importer makes default in so doing, the goods may be dealt with by the Chief Collector of Customs as if no provisional entry had been made.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) A complete entry of the goods included in a provisional entry shall be made in the same manner as if the provisional entry had not been made.

62 Delivery of goods on provisional entry

(1) The Chief Collector of Customs may, if the Chief Collector of Customs thinks fit, deliver goods from the control of the Customs for home consumption pursuant to a provisional entry but only on receiving any security as he or she thinks sufficient to cover the full amount of duty.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A complete entry of the goods for home consumption shall be made by the importer within any time appointed by the Chief Collector of Customs.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

63 Regulations on entry of imported goods

The Cabinet may make regulations:

(a) prescribing when an entry is regarded to have been made for the purposes of this Act;

(b) prescribing the conditions under which an entry is regarded to have been passed for the purposes of this Act;

(c) exempting specified goods or goods of a specified class from the requirements of Section 60(1), subject to any prescribed conditions; and

(d) prescribing goods or classes of goods that are regarded to have been entered under Section 60(1) and the circumstances in which and the conditions subject to which those goods are to be so regarded to have been entered.

64 Production of invoice and declaration

(1) On the first entry, other than an entry for removal of any goods, the importer or the importer's agent shall:

(a) produce to the Chief Collector of Customs or other Customs officer the invoice for the goods; and

(b) make, and deliver to the Chief Collector of Customs or other Customs officer, a declaration in the prescribed form verifying that invoice and setting out the true value for duty purposes of the goods and any other prescribed particulars.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The Chief Collector of Customs may direct, in relation to any class or classes of goods or transactions, that a Customs officer, shall retain the invoice so produced, or a legible copy made by carbon or other duplicating process by or on behalf of the seller or consignor of the goods.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Where any failure to produce the invoice as required by this Section is accounted for to the satisfaction of the Chief Collector of Customs or Customs officer, proof of its contents by a copy or otherwise may be received instead of its production.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

65 Regulations for fees and charges for importation of goods

(1) The Cabinet may, make regulations prescribing fees or charges, or both, that are payable to Customs to meet or assist in meeting costs and expenses incurred by Customs in exercising functions or powers, or performing duties, or providing services, under this Act that relate to the importation of goods.

(2) A provision of Part 9 that relates to the collection and recovery of duty apply to fees and charges under subsection (1), as if those fees and charges were a duty.

(3) Before making regulations under this Section, the Cabinet shall be satisfied that the persons that the Cabinet considers are representative of interests likely to be substantially affected by the proposed regulations have been consulted about the proposed regulations to the extent that is reasonably practicable having regard to the circumstances of the case.

(4) For the purposes of subsection (3), the Cabinet may take into account any relevant consultation undertaken by or on behalf of the Cabinet before this Section comes into force.

(5) A failure to comply with subsection (3) does not affect the validity of any regulations made under subsection (1).

66 Imported goods to be dealt on making of entry

Goods for which entry has been made and passed are immediately to be dealt with pursuant to the entry and this Act for the goods so entered.

67 Cancellation and amendments of entries

(1) The Chief Collector of Customs may:

(a) cancel or amend an entry to prevent duplication of entries or to correct an entry or a part of an entry; and

(b) subject to Section 125, refund a duty relating to the cancellation or amendment of an entry.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A cancellation or amendment of an entry by the Chief Collector of Customs under subsection (1) does not affect any penalty, liability to seizure, or criminal liability already accrued or incurred under that entry by the person making it.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A person who is dissatisfied with a decision of the Chief Collector of Customs under subsection (1) may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

68 Unloading goods

A person may not unload goods that are subject to the control of Customs from a craft except:

(a) under a permit or other authorisation granted by the Chief Collector of Customs, subject to any conditions determined by the Chief Collector; or

(b) if the safety of the craft, or the goods or persons in the craft, is threatened

by collision, fire, the stress of weather or similar circumstances, or such other circumstances as may be prescribed.

[s 68 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

69 Craft imported other than as cargo

(1) Despite anything in this Act, an entry shall be made on a craft imported into the Republic, other than as cargo, as the Chief Collector of Customs may, by public notice, determine for a craft or class of craft.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) For the purpose of making entries for a craft imported into the Republic, other than as cargo, the craft is taken to have been imported as cargo and unloaded as such on its arrival.

70 Samples or illustrations

(1) The importer of goods shall provide free-of-charge, any samples, illustrations, drawings, documents or plans relating to the goods as may be required by a Customs officer for the purposes of analysis, classification or record.

(2) A sample, illustration, drawing, document or plan required to be provided under subsection (1) shall be sufficient for the purpose for which it is taken.

DIVISION 2 — TRANSPORTATION OF GOODS WITHIN THE REPUBLIC

71 Transportation of imported goods

Unless permitted by the Chief Collector of Customs, goods that are subject to the control of Customs may not be placed in a craft, vehicle, or other conveyance for transportation within the Republic until entry has been made under Section 60(1).

[s 71 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

72 Removal of goods from Customs controlled area

(1) Goods that are subject to the control of Customs shall not be delivered to or removed from, a Customs controlled area except:

(a) as provided by this Act;

(b) subject to subsection (3), with the permission of a Customs officer after entry has been made and passed in the prescribed form and manner;

(c) under a conditional permit or other authorisation granted by the Chief Collector of Customs for those goods, subject to any conditions the Chief Collector of Customs may determine; or

(d) by a Customs officer when carrying out his or her duties under this Act.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The Chief Collector of Customs may, by notice in writing:

(a) vary or revoke any conditions of the permit or authorisation;

(b) revoke conditions of the permit or authorisation and impose new conditions; or

(c) revoke the permit or other authorisation.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Despite subsection (1)(b), while goods remain subject to the control of Customs, the Chief Collector of Customs may revoke any notice of delivery given for those goods.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) A person who is dissatisfied with a decision of the Chief Collector of Customs under subsection (1)(c) or subsection (2) may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

73 Temporary removal of goods from Customs controlled area

(1) Subject to Section 180 and to any other provisions of this Act, the Chief Collector of Customs may permit goods to be temporarily removed from a Customs controlled area without payment of duty for any time and in any quantities as he or she may approve.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Goods so removed remain subject to the control of Customs and are treated to be within the Customs controlled area from which they were so removed, and the provisions of this Act continue to apply to them accordingly.

DIVISION 3 — EXPORTATION OF GOODS

74 Entry of goods for export

(1) Subject to any regulations made under Section 75, goods that are exported or that are to be exported shall be entered by the exporter:
   (a) in a prescribed form and manner, including by electronic means into a computer or other device; and
   (b) within a prescribed time or any further time as the Chief Collector of Customs may allow.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A person who makes an entry under this Section shall:
   (a) answer any question relevant to matters arising under this Act asked by a Customs officer with respect to the goods; and
   (b) at the request of a Customs officer, present the goods to the officer, remove any covering from the goods, unload any conveyance or open any part of it, or open and unpack any package that the officer wishes to examine.

(3) For goods to be exported under drawback, the making of any entry is treated to be the making of a claim for drawback.

(4) Unless the Chief Collector of Customs determines in any particular case, the right to drawback does not exist for goods placed on a craft before entry has been made and passed.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) Unless permitted by the Chief Collector of Customs, goods shall not be loaded for export until entry has been made in the prescribed form and manner.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) Despite an entry being passed under subsection (5), the Chief Collector of

Customs may revoke the goods' permission to export if the Chief Collector of Customs has reasonable cause to suspect the goods endanger, or threaten to endanger:

(a) border security;
(b) the Republic's trade interests or international obligations;
(c) the life, health, or safety of a person or group of persons; or
(d) the safety of the craft that will carry the goods, or of other goods to be carried on that craft.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

75 Regulations for entry of goods for export

The Cabinet may make regulations to:

(a) exempt specified goods or goods of a specified class from the requirements of Section 74(1), subject to conditions prescribed in the regulations; and
(b) prescribe goods or classes of goods that are to be treated to have been entered under Section 74(1) and the circumstances in which and the conditions subject to which those goods are to be so treated.

76 The Republic's certificates of origin for goods for export to party to free trade agreement

(1) A certification body authorised by the Chief Collector of Customs under Section 77 for a party to a free trade agreement may issue a Naoero certificate of origin of goods for export to that party.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020; am Act 21 of 2026 s 5, opn 12 May 2026]

(2) A Naoero certificate of origin, in respect of goods for export to a party to a free trade agreement, is a document issued by a certification body that:
(a) identifies the goods to which it relates; and
(b) certifies that those goods originate in the Republic.

[subs (2) am Act 21 of 2026 s 5, opn 12 May 2026]

(3) Goods originate in the Republic if, for the purposes of the relevant free trade agreement, the goods satisfy the requirements of the rules of origin prescribed for that agreement.

77 Bodies authorised to issue the Republic's certificates of origin

(1) The Chief Collector of Customs may designate a body as a certification body if the Chief Collector of Customs is satisfied that the body meets the prescribed criteria, if any.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A designation may be subject to:
(a) any prescribed terms and conditions; and
(b) any additional terms and conditions imposed by the Chief Collector of Customs.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

78 Ministerial orders on the Republic's certificates of origin and certification bodies

The Minister may, acting on the advice of the Chief Collector of Customs, make orders for any of the following purposes:

(a) prescribing forms for the purposes of Sections 76 and 77;
(b) prescribing the manner in which applications for designation as a certification body shall be made;
(c) prescribing criteria for certification bodies;
(d) prescribing terms and conditions subject to which designations as a certification body may be made; and
(e) prescribing fees, subject to the prior approval of fees by the Cabinet.

[s 78 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

79 Goods for export to be dealt on making of entry

(1) For goods that have been entered for export, the person making the entry or the owner of the goods shall immediately export the goods to a point outside the Republic pursuant to the entry and this Act on the exportation of goods.

(2) Where goods entered for export are not exported according to the entry, the person making the entry shall immediately give notice to Customs of the failure to export and the reasons for it, in any such case, the Chief Collector of Customs:
(a) shall cancel or amend the entry; and
(b) may, where applicable, allow the goods to be released from the control of Customs.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Despite subsection (1), if the licence conditions of a Customs controlled area allow, an export entry may be made for goods removed from that area for sales made for delivery to persons on their arrival in the Republic from a point outside the Republic.

80 Goods for export not to be landed

Goods loaded for export may not, without the permission of a Customs officer, be landed except at a point outside the Republic.

81 Time of exportation

For the purposes of this Act, the time of exportation is the time when the exporting craft leaves the last Customs place at which that craft calls immediately before proceeding to a point outside the Republic.

DIVISION 4 — CUSTOMS SEALS

82 Customs seal may be applied to goods for export

(1) The Chief Collector of Customs may, by notice in writing specifying the date on and after which the appointment takes effect, appoint a Customs officer to apply Customs seals to packages of goods to be exported.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The notice shall:
(a) specify the circumstances in which the officer or other person may apply a Customs seal to a package of goods; and
(b) prohibit the officer or other person from applying a Customs seal in any other circumstances.

(3) Without limiting subsection (2), the notice shall specify that the officer or

other person may apply a Customs seal to a package of goods to which no Customs seal has earlier been applied only if:

(a) the exporter concerned, or his or her agent or employee, consents to the seal being applied; or

(b) the seal is applied incidental to, and immediately after, the exercise by any person of a power under this Act to examine or search for goods of any kind.

(4) The notice shall:

(a) specify the circumstances in which a Customs officer or other person may alter, remove, damage, dispose of, or otherwise interfere with a Customs seal applied to a package of goods; and

(b) prohibit the officer or other person from interfering in any way with a Customs seal of that kind in any other circumstances.

(5) A notice of appointment under this Section may be amended or revoked by the Chief Collector of Customs by a further notice in writing given to the Customs officer or other person concerned and specifying the date on or after which the amendment or revocation takes effect.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

83 Warning notices for packages to which seal applied

A notice of appointment under Section 82 shall require a Customs officer or other person concerned, on applying a Customs seal to a package of goods that are not goods to be exported under a Customs-approved secure export scheme, to ensure that there is attached to the package a warning notice that explains in terms approved by the Chief Collector of Customs:

(a) that the goods in the package are, from the time when a Customs seal is first applied to the package until the exportation of the goods to a point outside the Republic, goods subject to the control of Customs;

(b) that the powers to search and detain under Section 159 are available in respect of a vehicle in the Republic if there are suspected to be in or on the vehicle goods that are, or suspected to be:

(i) subject to the control of Customs; and

(ii) in a package to which a Customs seal has been applied;

(c) that a Customs officer may, under Section 162(2), question 1 or more of the following persons about any cargo destined to be exported from the Republic:

(i) the owner or operator of a vehicle that a Customs officer has reasonable cause to suspect has in or on the vehicle or has within the previous 72 hours had in or on the vehicle, goods subject to the control of Customs and in a package to which a Customs seal has been applied;

(ii) the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on the premises, or have within the previous 72 hours had in or on the premises, goods subject to the control of Customs and in a package to which a Customs seal has been applied; or

(iii) an employee of a person described in subparagraph (i) or (ii); and

(d) that the powers in Section 175, which include powers of examination, are available in respect of goods that are, or are suspected to be:

(i) subject to the control of Customs; and

(ii) in a package to which a Customs seal has been applied.

[s 83 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

DIVISION 5 — CUSTOMS APPROVED SECURE EXPORTS SCHEMES

84 Chief Collector may approve secure exports scheme

(1) In this Section and Sections 86 and 90, '***exporter***' means a person involved in the carriage, handling, transportation, or exportation of goods for export.

(2) The Chief Collector of Customs:
(a) may, on application by an exporter, approve a secure exports scheme to be a Customs approved secure exports scheme; and
(b) shall ensure that the exporter concerned is notified promptly and in writing of any decision to give or to decline an approval under this Section.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) An approval under this Section:
(a) shall be in writing, subject to any conditions the Chief Collector of Customs specifies in the approval;
(b) takes effect either on the day after the date on which it is given or on any later date specified in the approval; and
(c) may be revoked by the Chief Collector of Customs by notice in writing given to the exporter concerned and specifying any conditions of the revocation and the date on or after which the revocation takes effect.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) Subsections (2) and (3) apply, with modifications, to any amendment to a secure exports scheme.

(5) The Chief Collector of Customs shall, on application by the exporter, revoke an approval of a secure exports scheme, subject to the condition that goods remain subject to the scheme until exported if, at the time the revocation takes effect, the goods have been secured in a Customs-approved secure package under the scheme but not yet exported.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) An applicant who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

85 Purpose of secure exports scheme

The purpose of a secure exports scheme is to help to ensure that goods to be exported under the scheme are:
(a) packaged securely and with no other goods; and
(b) conveyed securely and without interference to the place of shipment and shipped.

86 Matters to be specified in secure exports scheme

(1) A secure exports scheme shall specify how the goods to be exported under the scheme are to be packed, including:
(a) the secure package to be used; and
(b) the seal or markings to be applied to the package, as soon as it is secured:

(i) to show that, when it was secured, the package contained only the goods, and was secured in an approved way; and

(ii) to help to identify tampering or interference with the package after it is secured.

(2) A secure exports scheme shall specify any conditions required by the Chief Collector of Customs as to:

(a) the persons who are to pack the goods, and the security checks to be applied to those persons;

(b) the conditions in which packing is to occur for example, the area or areas in which parking is to occur, and the controls on the entry and exit of persons and goods to that area or those areas; and

(c) any other requirements relating to how the goods are to be packed.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A secure exports shall specify how, on the completion of the packing of the goods, the goods are to be conveyed to the place of shipment and shipped, including any conditions required by the Chief Collector of Customs as to:

(a) the persons who are to convey the goods, and the security checks to be applied to those persons;

(b) the manner in which the goods to be conveyed; and

(c) any place or places of security en route to the place of shipment in which the goods are to be stored in the course of being conveyed to the place of shipment and shipped.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

87 Matters to be acknowledged in secure exports scheme

A secure exports scheme shall include express acknowledgement by the exporter concerned:

(a) that the goods to be exported under the scheme are, from the time when they are first secured in a Customs-approved secure package until the exportation of the goods to a point outside the Republic, goods subject to the control of Customs;

(b) that the powers to search and detain under Section 159 are available in respect of any vehicle in the Republic if there is suspected to be in or on the vehicle goods that are, or are suspected to be:

(i) subject to the control of Customs; and

(ii) in a Customs-approved secure package;

(c) that a Customs officer may, under Section 162(2), question 1 or more of the following persons about any cargo destined to be expected from the Republic:

(i) a person who is the owner or operator of a vehicle that a Customs officer has reasonable cause to suspect has in or on it, has within the previous 72 hours had in or on it, goods subject to the control of Customs and in a Customs-approved secure package;

(ii) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, goods subject to the control of Customs and in a Customs-approved secure package; and

(iii) a person employed by a person described in subparagraph (i) or (ii); and

(d) that the powers in Section 175, which include powers of examination, are available in respect of goods that are, or are suspected to be:

(i) subject to the control of Customs; and

(ii) in a Customs-approved secure package.

88 Goods to be exported under Customs approved secure exports scheme may be exported under drawback

(1) Goods to be exported under a Customs-approved secure exports scheme may be exported under drawback.

(2) Where goods to be exported under a Customs-approved secure exports scheme are exported under drawback, then any prescribed conditions for allowing drawback of duty shall be satisfied, even though satisfying those conditions may involve conveying or handling or storing the goods in a way not specified in the scheme.

89 Use of Customs seals in relation to goods to be exported under Customs-approved secure exports schemes

(1) This Act does not prevent a Customs seal from being used on a Customs-approved secure package after an approved seal or markings of the kind referred to in Section 86(1)(b) have been applied to the package under the relevant Customs-approved secure exports scheme.

(2) Goods to be exported under a Customs-approved secure exports scheme are not to be regarded as no longer to be exported under the scheme for the reason that 1 or more Customs seals have been applied to Customs-approved secure package concerned.

90 Exporters may be involved in exportation of goods outside Customs approved secure exports scheme

(1) This Section applies to an exporter involved in the carriage, handling, transportation or exportation of goods for export under 1 or more Customs-approved secure exports scheme.

(2) This Act does not prevent the exporter from being involved in the carrying, handling, transportation or exportation of goods for export otherwise than under that scheme or those schemes.

[The next page is 421,801]

PART 7 — PROHIBITED IMPORTS AND PROHIBITED EXPORTS

91 Prohibited imports

(1) A person shall not import into the Republic:
  (a) any of the goods specified in the Schedule;
  (b) all publications that are objectionable within the meaning of this Act in the hands of all persons and for all purposes; and all other indecent or obscene articles; or
  (c) goods or electronic publications the importation of which is prohibited by a order made under subsection (3) or any other written law of the Republic where the importation of such goods is prohibited.

[subs (1) am Act 12 of 2022 s 8, opn 1 July 2022]

(2) Electronic publications the importation of which is prohibited by subsection (1) shall be treated as if they were goods for the purposes of this Act.

(3) Where it is necessary in the public interest, the Minister acting on the advice of the Chief Collector of Customs may, by order, prohibit the importation into the Republic of:
  (a) any specified goods or electronic publications; or
  (b) goods or electronic publications of a specified class or classes.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) A prohibition imposed under this Section:
  (a) may be general;
  (b) may be limited to the importation of goods or electronic publications from a specified place or by or from a specified person or class of persons; or
  (c) may, whether general or limited, be absolute or conditional.

(5) A conditional prohibition may allow the importation of goods or electronic publications:
  (a) under the authority of a licence or a permit, whether granted before or after the importation of the goods, or a consent, to be granted by the Chief Collector of Customs or by any other person named in the order, on or subject to any terms or conditions not inconsistent with the provisions of the prohibition, as may be imposed by the Chief Collector of Customs or other person granting the licence, permit, or consent; or
  (b) on or subject to any other prescribed conditions.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) No goods otherwise dutiable are exempt from duty because their importation is unlawful.

92 Prohibited exports

(1) A person shall not export from the Republic:
  (a) any publication that is objectionable in the hands of a person and for any purpose; and
  (b) goods or electronic publications the exportation of which is prohibited by an order made under subsection (3) or any other written law where the exportation of the goods is prohibited.

(2) Electronic publications, the exportation of which is prohibited by subsection (1), shall be treated as if they were goods for the purposes of this Act.

(3) Where the prohibition is necessary in the public interest, the Minister, acting on the advice of the Chief Collector of Customs, may by order prohibit the exportation from the Republic of:
(a) any specified goods or electronic publications; or
(b) goods or electronic publications of a specified class or classes.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) A prohibition under this Section:
(a) may be general;
(b) may be limited to the export of goods or electronic publications to a specified place or by or to a specified person or class of persons; or
(c) may, whether general or limited, be absolute or conditional.

(5) A conditional prohibition may allow the exportation of goods or electronic publications:
(a) under the authority of a licence, permit or consent, to be granted by the Chief Collector of Customs or by any other person named in the order, on or subject to any terms or conditions not inconsistent with the provisions of the prohibition, as may be imposed by the Chief Collector of Customs or other person granting the licence, permit or consent; or
(b) on or subject to any other prescribed conditions.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) A prohibition under this Section does not apply to goods that are already loaded into the exporting craft at the time when the prohibition comes into force.

(7) Unless otherwise prescribed by an order under this Section, an order under this Section prohibiting the exportation of goods extends to and applies to the shipment of the goods for use as stores by a craft.

93 Production of licence or permit for goods

Where, under this Act, or any other written law, the importation or exportation of goods, or of goods of any class or kind, is prohibited except under the authority of a licence or permit under a written law, the Chief Collector of Customs may refuse to pass an entry for those goods, or for goods of that class or kind until he or she is satisfied that a licence or permit has been issued.

[s 93 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

[The next page is 422,001]

94 Importer to specify Customs value on entry

(1) A person who makes entry of goods imported or to be imported shall, on making entry, specify the Customs value of the goods, determined under Schedule 2 of the *Customs Tariff Act 2014*.

[subs (1) am Act 12 of 2022 s 5, opn 1 July 2022]

(2) An importer or agent of an importer who makes an assessment under subsection (1), shall:

(a) keep the documents, records, and information in respect of that entry in a manner and for a period, as is required by Section 111 and any regulations made for the purposes of that Section; and

(b) when required by Customs, produce those documents, records, and information for the purpose of establishing the accuracy of the assessment.

95 Amendment of valuation assessment

(1) Where the Chief Collector of Customs is satisfied, whether as the result of an investigation carried out under Section 179, or as the result of an audit or examination carried out under Section 183, or for any other reason, that an assessment made under Section 94(1) in respect of goods is:

(a) inconsistent with Schedule 2 of the *Customs Tariff Act 2014*; or

(b) for any other reason, incorrect,

the assessment shall be amended in accordance with Schedule 2 of the Customs Tariff Act 2014.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020; am Act 12 of 2022 s 6, opn 1 July 2022; Act 14 of 2024 s 4, opn 20 Aug 2024]

(2) Notice in writing shall be given to the importer of:

(a) an amended assessment made under subsection (1); and

(b) the basis for the amended assessment and where applicable make references to the relevant provisions of this Act, Schedule 2 of the *Customs Tariff Act 2014* or any other relevant provisions of that Act.

[subs (2) am Act 12 of 2022 s 6, opn 1 July 2022]

(3) Subsection (1) applies, whether or not:

(a) the goods have been released from the control of Customs; or

(b) any duty assessed has been paid.

(4) An importer who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against the decision.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

96 Currency and exchange rate

(1) Customs value shall be determined or declared in Australian Dollars.

(2) Where an amount that is required under this Act to be taken into account for

the purpose of assessing duty or for any other purpose is not an amount in Australian Dollars, the amount to be so taken into account is the equivalent amount in Australian Dollars in accordance with a fair rate of exchange set regularly and determined by the Chief Collector of Customs.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The regular determinations of the fair rates of exchange of foreign currency made by the Chief Collector of Customs shall be publicly notified.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) Where an amount is required to be converted into Australian Dollars under subsection (2), the amount shall be converted:

(a) for goods of which an entry has been made, at the rate applying as at the date of the making of the first entry, not being an entry for removal, for those goods; and

(b) for other goods, at the rate applying as at the date of the first assessment of Customs duty on those goods.

97 The Republic's right of compulsory acquisition

(1) For the protection of the revenue against the undervaluation of goods subject to *ad valorem* duty, goods for which entry is made may, at any time while they remain subject to the control of Customs, be acquired by the Republic.

(2) The right of taking goods under subsection (1), may be exercised by the Chief Collector of Customs, and the acquisition of the goods is effected as soon as a warrant, in the prescribed form for their acquisition, is signed by the Chief Collector of Customs.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Goods become the property of the Republic under this Section on the signing of the warrant.

(4) Notice in writing that the Chief Collector of Customs has signed a warrant under this Section is to be given to the importer immediately after the signing of the warrant.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) Goods acquired by the Republic under this Section shall, if no appeal is made under subsection (8), be sold by the Chief Collector of Customs or by his or her agent and the proceeds of sale shall be accounted for as Customs revenue.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) The price payable by the Republic for the goods acquired under this Section, shall be:

(a) equal to their declared Customs value with the addition of:

(i) any charges for freight, insurance and other matters incidental to their importation as the Chief Collector of Customs thinks reasonable; and

(ii) any duties already paid on the goods; and

(b) paid to the importer without further appropriation than this Section within 20 working days of the acquisition of the goods.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(7) This Section does not limit or affect any other powers of Customs on the goods or any liability of the importer or any other person for an offence committed in respect of the goods.

(8) An importer who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (8) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

DIVISION 2 — ORIGIN AND PREFERENTIAL TARIFF PROVISIONS

98 Origin of fish or other produce of the sea

(1) For fish or other produce of the sea, or goods produced or manufactured wholly or partly from fish or produce at sea, anything done by or on board a ship belonging to a country, other than the Republic, is treated, for the purposes of this Act and any written law to have been done in that country, and the produce of the sea or goods so produced or manufactured at sea, if brought direct to the Republic, are treated to be imported into the Republic from that country.

(2) The Chief Collector of Customs shall determine any question that may arise as to the country to which any craft belongs for the purposes of subsection (1) and the determination of the Chief Collector of Customs is final.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

99 Ministerial orders for determining country of produce or manufacture

The Minister acting on the advice of the Chief Collector of Customs, may, make orders to:

(a) prescribe the goods or any type or class of goods that are treated to be the produce or manufacture of any company or any group of countries:
  (i) for the purposes of this Act; or
  (ii) for the purposes of the *Customs Tariff Act 2014*;

(b) prescribe the conditions to be fulfilled before goods are treated to be the produce or manufacture of any country or any group of countries; and

(c) authorise the Chief Collector of Customs to determine, in relation to specific goods:
  (i) that the percentage of the goods' factory or works cost is to be increased or decreased;
  (ii) the valuation or method of valuation, including a reduced or zero valuation, if any material, labour, or overhead used in the goods production has been supplied free of charge or at a reduced cost;
  (iii) the required percentage of qualified area content in case of unforeseen circumstances that are unlikely to continue; and
  (iv) variations or conditions relating to the goods entering the commerce of another country.

[s 99 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

100 Conditions precedent to entry of goods at preferential rates of duty

(1) Where it is claimed that any goods are entitled under this Act or any other written law or authority to be entered free of duty or at any rate of duty

lower than the rate in the Tariff for the goods, the Chief Collector of Customs may require the claim to be verified at the time of entry or a subsequent time, including any time after the goods have ceased to be subject to the control of Customs.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Where the Chief Collector of Customs requires the claim to be verified at the time of entry of the goods and the claim is not verified to the satisfaction of the Chief Collector of Customs at that time, the goods for which the claim has been made shall not be so entered.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

101 Unsubstantiated preference claims

(1) Where the Chief Collector of Customs is satisfied:

(a) whether as the result of an investigation carried out under Section 179;

(b) whether as the result of an audit, or examination carried out under Section 183; or

(c) for any other reason,

that the country of which goods are the produce or manufacture cannot be ascertained because no evidence can be found, the goods are treated, for the purposes of this Act or any other written law or authority to be the produce or manufacture of a country subject to the rates of duty set out in the Tariff.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) An importer shall be advised by notice in writing of a decision of the Chief Collector of Customs under this Section.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) An importer who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) This Section applies whether or not the goods have been released from the control of Customs.

[The next page is 422,201]

102 Duty on imported goods a debt to the Republic

(1) The duty on all goods imported constitutes, immediately on importation of the goods, a debt due to the Republic.

(2) The duty is owed by the importer of goods, and, if more than one, whether at or at any time after the time of importation, then jointly and severally by all of them.

(3) Subject to this Act, the debt becomes due and payable when:
- (a) goods have been entered under Section 60 and the entry has been passed for home consumption;
- (b) goods have been entered under Section 60 for removal to a manufacturing area;
- (c) goods have been wrongfully landed or otherwise wrongfully dealt with without having been entered under Section 60; or
- (d) an offence has been committed against this Act in respect of the goods.

(4) The debt is recoverable by action at the suit of the Chief Collector of Customs on behalf of the Republic.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) The right to recover duty as a debt due to the Republic is not affected by the fact that:
- (a) the goods have ceased to be subject to the control of Customs;
- (b) a bond or other security has been given for the payment of duty; or
- (c) no proper assessment of duty has been made under this Act or that a deficient assessment of duty has been made.

(6) The Chief Collector of Customs may:
- (a) subject to any terms and conditions, approve any person or class of persons as persons who may defer the payment of duty due under this Section;
- (b) for the purpose of paragraph (a), determine a duty accounting period; and
- (c) may amend, suspend or withdraw the approval;
- (d) vary, suspend or withdraw any term or condition under which the approval is given or impose new term or condition; or
- (e) vary the duty accounting period.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(7) The Chief Collector of Customs shall, in writing, advise a person or class of persons affected by a decision under subsection (6).

[subs (7) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(8) All goods specified in the inward report of any craft are presumed to have been actually imported unless the contrary is proved.

(9) A person who is dissatisfied with a decision of the Chief Collector of Customs under subsection (6) may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (9) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

103 Power of Minister to suspend, remit, refund or create exemptions from duty, etc

(1) The Minister acting on the advice of the Chief Collector of Customs, may by order suspend, order the remission or refund of, or create exemptions from, duty in respect of goods or classes of goods manufactured in the Republic or imported into the Republic that are:

(a) supplied solely for the use of such organisations, expeditions, or other bodies as may be approved by the Minister and as may be established or temporarily based in the Republic under an agreement or arrangement entered into by or on behalf of the Government of Naoero with the government of any other country or with the United Nations; or

(b) supplied solely for the use of persons temporarily resident in the Republic for the purpose of serving as a member of any such approved organisation, expedition, or other body.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020; am Act 21 of 2026 s 5, opn 12 May 2026]

(2) The Chief Collector of Customs may impose any conditions on goods or a class of goods to which an order is made under this Section.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

104 Additional duty imposed

(1) Where a duty, the payment of which has been deferred under Section 102(6), remains unpaid by the due date for payment, additional duty shall be imposed as follows:

(a) additional duty of 10% of the amount of duty unpaid by the due date;

(b) additional duty of 2% of the amount of duty, including additional duty, unpaid at the end of the period of 30 days after the due date; and

(c) additional duty of 2% of the amount of duty, including additional duty, unpaid at the end of each succeeding period of 30 days.

(2) Despite subsection (1), the Chief Collector of Customs may remit or refund the whole or any part of any additional duty imposed by that subsection.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Where, for any reason, the amount of duty for which additional duty has been imposed under subsection (1) is amended, the additional duty shall, if necessary, be adjusted accordingly.

(4) A person who fails to pay duty or additional duty under subsection (1) on the due date may be suspended from a deferred duty payment scheme by the Chief Collector of Customs.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) A person liable for the payment of the duty who is dissatisfied with a decision of the Chief Collector of Customs under subsection (4) may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

105 Assessment of duty

(1) An entry for goods made under this Act is taken to be an assessment by the importer or licencee, as the case may be, as to the duty payable in respect of those goods.

(2) Where the Chief Collector of Customs has reasonable cause to suspect that duty is payable on goods by a person who has not made an entry on the goods, the Chief Collector of Customs may assess the duty at an amount as the Chief Collector of Customs considers proper.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The person liable for the payment of the duty shall be advised of the assessment by notice in writing.

(4) A person liable for the payment of the duty who is dissatisfied with a decision of the Chief Collector of Customs under subsection (2) may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

106 Amendment of assessment

(1) Subject to Section 110, the Chief Collector of Customs may amend an assessment of duty in order to ensure the correctness of the assessment even though:

(a) the goods to which the duty relates are no longer subject to the control of Customs; or

(b) the duty originally assessed has been paid.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Where the amendment has the effect of imposing a fresh liability or alternating an existing liability, notice in writing shall be given by the Chief Collector of Customs to the person liable for the duty.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A person liable for the payment of the duty who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

107 Due date for payment of duty

(1) Unless otherwise specified in this Act, the due date for the payment of duty:

(a) assessed under Section 105(2);

(b) reassessed under Section 106; or

(c) demanded under Section 118 or 119,

is the date that is 30 days after the date on which written notice of the assessment, amended assessment or demand is given by the Chief Collector of Customs.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Where the Chief Collector of Customs has reasonable cause to believe that a person will be unable to pay the duty by the due date under subsection (1), the Chief Collector of Customs may, by notice in writing, require that person to pay the duty by an earlier date.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A notice issued under subsection (2) is a demand for payment, and the duty becomes due and payable on the date fixed by the Chief Collector of Customs.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) A person liable for the payment of the duty who is dissatisfied with the decision of the Chief Collector of Customs under subsection (2) may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) Where all or part of a duty remains unpaid by the due date, the amount outstanding is treated to have been increased by an amount calculated under Section 104(1).

108 Assessment presumed to be correct

(1) An assessment made by the Chief Collector of Customs under this Act, including an amended assessment, is presumed to be correct and duty is payable accordingly unless on an appeal a different amount is determined to be the duty payable on the goods or it is determined that no duty is payable.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Despite the provisions of this Act, where an appeal has been lodged under Part 8, 9, 10, or 12, the Chief Collector of Customs may, subject to receiving any security as he or she thinks sufficient to cover the full amount of duty, release the goods from the control of Customs.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

109 Obligation to pay duty not suspended by appeal

(1) Subject to subsection (3), the obligation to pay and the right to receive and recover duty under this Act are not suspended by any appeal or legal proceedings.

(2) Subject to subsection (3), if the appellant is successful in the appeal or the proceedings:

(a) any amount of the duty or any security received by the Chief Collector of Customs in excess of the amount that, under the decision on the appeal or the proceedings, was properly payable shall immediately be refunded to the appellant by the Chief Collector of Customs; or

(b) the appellant shall be released from the conditions of the security imposed under Section 180.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) An obligation on the Chief Collector of Customs under subsection (2) is suspended pending the outcome of any appeal filed by the Chief Collector of Customs under this Act or any other written law against the decision requiring the duty to be refunded.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

110 Limitation of time for amendment of assessment

(1) Where an assessment of duty has been made under this Act, the Chief Collector of Customs shall not amend the assessment so as to increase the amount of the assessment after the expiration of 5 years from the date on which the original assessment was made.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Despite subsection (1), if, in the opinion of the Chief Collector of Customs, the entry or any declaration made for the goods was fraudulent or wilfully

misleading, the Chief Collector of Customs may amend the assessment at any time so as to increase the amount of the assessment.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

111 Keeping business records

(1) A licencee, importer, exporter or certification body authorised by the Chief Collector of Customs under Section 77, shall keep or cause to be kept in the Republic any records, for a prescribed period of time not exceeding 5 years.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The person shall, as and when required by a Customs officer:
   (a) make the records available to Customs;
   (b) provide copies of the records as required; and
   (c) answer any questions relevant to matters arising under this Act asked by any officer in respect of them.

(3) Where, for the purposes of complying with subsection (2), information is recorded or stored by means of an electronic or other device, the person or person's agent shall, at the request of a Customs officer, operate the device, or cause it to be operated, to make the information available to the Customs officer.

112 Giving Customs access to business records

(1) This Section applies to a person only if the person:
   (a) is a person to whom Section 111(1) applies or a person otherwise involved in the carriage, handling, or transportation of goods that are being imported to, or exported from, the Republic, including a person involved in the transportation of goods to a Customs place from which goods for export will proceed to a point outside the Republic; and
   (b) has been required by the Chief Collector of Customs by notice in writing to comply with this Section on and after a date specified in the notice in writing.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) On and after the date specified in the notice in writing, a person to whom this Section applies, shall:
   (a) if the person is a person to whom Section 111(1) applies, give Customs access to the records the person is required to keep under Section 111; and
   (b) if the person is a person otherwise involved in the carriage, handling, or transportation of goods that are being imported to, or exported from, the Republic, give Customs access to any records the person may currently keep of the kind required to be kept under Section 111.

(3) A person to whom this Section applies shall:
   (a) give Customs that access in the prescribed form and manner, including in an electronic form and manner; and
   (b) ensure that Customs has that access at all reasonable times.

(4) The Chief Collector of Customs may, by notice in writing, exempt a person to whom this Section applies from complying with some or all of the person's obligations under this Section in all or any specified circumstances.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) This Section does not affect an obligation under Section 111 to keep or cause to be kept, make available, provide copies of, or answer questions in respect of, records.

113 Meaning of 'related'

In Section 114, one person (A) is 'related' to another person (B):

(a) if A is connected to B by blood relationship, marriage, or adoption, or if A is a trustee of a trust in which B is a beneficiary, and for the purposes of this paragraph:

(i) persons are connected by blood relationship if within the fourth degree of relationship traced through a common ancestor;

(ii) persons are connected by marriage, civil union, or de-facto relationship if they are married to, in a civil union with, or in a de-facto relationship with each other ('partners'), and includes a relationship between one partner and a person connected by blood relationship with the other partner; or

(iii) persons are connected by adoption if one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other;

(b) if B is a company, where A is a director or officer of B, or is related (within the meaning of paragraph (a)) to a director or officer of B, or is directly or indirectly able to extend control over the affairs of B;

(c) if A is a company, where the B is a director or officer of A, or is related (within the meaning of paragraph (a)) to a director or officer of A, or is directly or indirectly able to exercise control over the affairs of A; or

(d) if both A and B are companies:

(i) where one company is a holding company or is a subsidiary company of the other company, as the case may be;

(ii) where either company owns or controls shares that in aggregate carry the right to exercise or control the exercise of 20% or more of the voting power at meetings of the company; or

(iii) where both companies have the same holding company, or a third person owns or controls shares in each of them that carry the right to exercise or control the exercise of 20% or more of the voting power at meetings of each of them.

114 Duty a charge on goods

(1) Subject to subsection (3), the duty on any goods constitutes a charge on those goods, in priority over any other charges until fully paid.

(2) Subject to the provisions of this Section, if any duty charged on any goods under this Section is due and unpaid, the Chief Collector of Customs may, whether or not the property in the goods has passed to a third party, take possession of the goods, and sell them or any part of them in satisfaction or part satisfaction of the charge.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Subsection (1) does not apply as against a purchaser of the goods for valuable consideration and without knowledge that the duty was owing but had not been paid.

(4) Where a person claims, or before the taking of possession of the goods by

the Chief Collector of Customs, that the person is a purchaser to whom subsection (3) applies and there is a dispute as to whether that subsection applies, the Chief Collector of Customs may:

(a) if the goods are in the possession or control of the importer, take possession of the goods and subject to subsection (6), retain possession of them; or

(b) if the goods are in the possession or control of the purchaser, by notice in writing, direct the purchaser, subject to subsection (6), to retain the possession or control of the goods,

pending the resolution of the dispute, and subsections (6) to (8) apply.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) Where:

(a) possession of the goods have been taken by the Chief Collector of Customs but the goods have not been sold;

(b) a person notifies the Chief Collector of Customs that he or she claims that he or she is a purchaser to whom subsection (3) applies; and

(c) there is a dispute as to whether that subsection applies,

the Chief Collector of Customs shall, subject to subsection (6), retain possession of the goods pending the resolution of the dispute, and subsections (6) to (8) apply.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) Where any goods that the Chief Collector of Customs has taken possession of or has directed a purchaser to retain under this Section consist wholly or partly of any living creature or anything which, in the opinion of the Chief Collector of Customs, is of a perishable nature or which may otherwise lose its value if not sold as soon as possible, the Chief Collector of Customs may, or the purchaser in possession or control of the goods may with the prior consent of the Chief Collector of Customs, sell the goods, and the net proceeds of sale are taken to be substituted for the thing so sold.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(7) The Chief Collector of Customs or the purchaser of the goods may apply to the court for a declaration as to whether the goods were acquired by the purchaser for valuable consideration and without knowledge that the duty was owing and unpaid.

[subs (7) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(8) In any proceedings under subsection (7), if the purchaser and a person liable to pay the duty are related, the onus of proving that the goods were acquired by the purchaser for valuable consideration and without knowledge that the duty was owing but unpaid is on the purchaser.

(9) In this Section, '***purchaser***' means:

(a) a person, other than a person liable to pay the duty, who acquired the goods; or

(b) a subsequent purchaser of the goods,

who in either case is not related to the person liable to pay the duty.

115 Application of Section 116

Section 116 applies to the recovery of unpaid duty:

(a) that is owing by:

(i) an individual who is bankrupt or insolvent;

(ii) a company that is in liquidation;
(iii) a company that is in receivership;
(iv) an unincorporated body of persons including a partnership or a joint venture or the trustees of a trust that is put into liquidation;
(v) an unincorporated body of persons, including a partnership or a joint venture or the trustees of a trust, in respect of the property of which a receiver is appointed;
(vi) a company that is in voluntary winding-up;
(vii) a company that is insolvent; or
(viii) a trust that is insolvent; and

(b) that does not constitute a charge on goods.

116 Ranking of duty

(1) Unpaid duty to which this Section applies, shall be paid under the following provisions of this Section.

(2) For an individual, upon the person's bankruptcy or upon the person making an assignment for the benefit of the person's creditors, the amount of any duty to which this Section applies shall rank, in order of priority, immediately after the preferential claims for wages or other sums payable to any worker, and in priority to all other claims.

(3) For a company, upon the liquidation of the company or upon the appointment of a receiver on behalf of the holder of any debenture given by the company secured by a charge over the property of the company or upon possession being taken on behalf of that debenture holder of the property, the amount of any duty to which this Section applies, shall rank immediately after preferential claims for wages or other sums payable to any worker, and in priority to all other claims.

(4) For a body of persons other than a company, upon the appointment of a receiver on behalf of any person under any order by a court, written law or agreement, the amount of any duty to which this Section applies will rank, in order of priority, immediately after any preferential claims for wages or other sums payable to any worker, and in priority to any claims of holders of debentures under any floating charge, including a floating charge, which has since creation become a fixed or specific charge, created by the body and will be paid accordingly out of any priority comprised in or subject to that charge.

(5) This Section applies despite anything in any other written law.

(6) This Section or Section 114 is not affected by Section 117.

[The next page is 422,221]

117 Release of goods subject to duty

(1) Except as otherwise provided in this Act, or in any case as may be approved by the Chief Collector of Customs, and subject to any securities as the Chief Collector of Customs may require, a person is not entitled to obtain release of goods from the control of Customs until the sum payable by way of duty on the goods is paid in full.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) An action or other proceeding may not be instituted against the Republic or the Chief Collector of Customs or any Customs officer for the detention of goods during a period before the payment of the full sum so payable.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Where the Chief Collector of Customs considers that undue hardship would result from the payment of duty as required by this Section, the Chief Collector of Customs may, subject to conditions as he or she may think fit to impose, direct the release of the goods from the control of Customs and accept payment of duty by instalment over a specified period.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

118 Liability for duty on goods wrongfully removed or missing

(1) The CCA licencee is liable for duty payable on goods that the Chief Collector of Customs is satisfied have been wrongfully removed from or are missing from that Customs controlled area as if the goods had been imported or manufactured by the licencee and entered under Section 60.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The CCA licencee is not released from liability under this Section under any other provision of this Act or any other written law.

(3) Where:

(a) dutiable goods are removed from a Customs controlled area without the authority of Customs; or

(b) dutiable goods are not produced by the licencee to Customs and are not accounted for as having been lawfully delivered from a Customs controlled area,

duty becomes due and payable as if the goods were removed for home consumption, or entry has been made and passed for home consumption.

(4) The Chief Collector of Customs may, by notice in writing, demand from the owner or importer of the goods or the licencee of a Customs controlled area payment of any sum that the Chief Collector of Customs has reasonable cause to suspect is owing under this Section.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) Duty payable under this Section constitutes a debt due to the Republic by the CCA licencee and the importer of the goods and the owner of the goods whose liability is joint and several.

(6) A person liable for the payment of the duty who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

119 Liability of owners of craft for duty on goods unlawfully landed

(1) Where cargo or stores or other goods are unlawfully landed in the Republic in or from a craft, that is within the Republic, the owner and the person-in-charge of the craft, without prejudice to the liability of any other person, are jointly and severally liable for the payment of the duty on the cargo stores or other goods, as if that cargo or those stores or other goods had been imported by them and entry had been made and passed for home consumption under Section 60.

(2) The Chief Collector of Customs may, by notice in writing, demand from the owner or the person-in-charge of a craft payment of a sum that the Chief Collector of Customs has reasonable cause to suspect, is owing under this Section.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) In any proceedings for the recovery or refund of duty under subsection (1), the sum so demanded by the Chief Collector of Customs is presumed to be due and payable unless the contrary is proved.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) A person liable for the payment of the duty who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

120 Effect of payment of duty by one person on liability of other persons

The liability of a person under a provision of this Act for the payment of duty on goods is extinguished by the payment of that duty by any other person liable for the payment of it under any provision of this Act unless that duty is subsequently refunded or remitted.

121 Incidence of altered duties

(1) For an amendment to a written law on liability of goods to duty or the rate of duty to which goods are liable, the liability or rate is, unless otherwise expressly provided, to be determined:

(a) for goods held in a CCA licenced area for the purposes of Section 11(b), or produced in a manufacturing area, by the written law in force at the time the goods are removed from the export warehouse or manufacturing area; or

(b) for other goods, by the written law in force at the time the goods are imported into the Republic.

(2) In this Section, ***'amendment to a written law'*** includes amendment that takes place at any time or periodically in the liability of goods to duty or in the rate of duty to which they are liable.

122 Assessment of duty in particular cases

(1) Duties imposed according to a specified quantity, weight, size, or value shall be charged proportionately on a greater or smaller quantity, weight, size, or value.

(2) For the purposes of assessing duty on alcoholic beverages, if duty is to be calculated relative to the alcohol content of the beverage:
(a) the means of ascertaining the volume of alcohol present in an alcoholic beverage is to be determined by the Chief Collector of Customs in consultation with a qualified analyst; and
(b) if, on entry under Section 60, it is ascertained that the volume of alcohol has increased or diminished by natural process of change while subject to the control of Customs, duty is payable in accordance with the volume of alcohol as so increased or diminished.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

123 Re-importation of goods exported

(1) Subject to subsection (2), goods exported from the Republic may, in such cases and under any conditions as may from time to time be approved by the Chief Collector of Customs, be admitted free of duty, or at any rate of duty determined by the Chief Collector of Customs, not exceeding the duty that would be payable on the goods if imported for the first time.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) This Section applies to goods which, when reimported, are in substantially the same condition as when exported.

(3) Despite subsection (1), where drawback of duty has been claimed or duty remitted on export, duty will be payable on re-importation.

124 Payment of duty by importer, exporter or licencee leaving the Republic

(1) Upon the application of an importer, exporter or licencee under this Act about to leave the Republic, if the Chief Collector of Customs is satisfied:
(a) that the person is not liable to pay any duty;
(b) that all duty payable by the person has been paid; or
(c) that satisfactory arrangements have been or will be made for the payment of all duty that is or may be payable by the person,
the Chief Collector of Customs may issue a certificate to the effect that the person is not under any liability for duty requiring to be discharged before the person leaves the Republic.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The certificate issued under subsection (1) remains in force for a period or until a date specified in the certificate.

(3) Where the person is about to leave the Republic, and:
(a) that person is liable to pay any duty;
(b) all duty payable by that person has not been paid; or
(c) satisfactory arrangements have not been made for the payment of all duty that is or may be payable by that person,
the Chief Collector of Customs may issue a certificate to the effect that the person is under a liability for duty that is required to be discharged before the person leaves the Republic.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) The Chief Collector of Customs may serve the certificate issued under subsection (3) on an international airline operating flights to and from the Republic and that airline shall not allow the person named in the certificate

to be removed from the Republic on its aircraft until the airline is provided with a certificate from the Chief Collector of Customs issued under subsection (1).

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) The Chief Collector of Customs shall serve a certificate issued under subsection (3) on the person named in the certificate and the person shall take no further steps to leave the Republic by any means whatsoever until:
(a) the Chief Collector of Customs has issued a certificate under subsection (1); or
(b) a Judge permits it under Section 34 of the *Civil Procedure Act 1972*.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) In addition to serving the certificate under subsection (4), the Chief Collector of Customs may apply for an absconding debtor's warrant under Section 32 of the *Civil Procedure Act 1972*.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

DIVISION 2 — REFUNDS, REMISSIONS, AND DRAWBACKS OF DUTY

125 Chief Collector of Customs may refund duty paid in error

(1) Where the Chief Collector of Customs is satisfied that duty has been paid in error, either of law or of fact, the Chief Collector of Customs shall, unless there is good reason not to, refund the duty:
(a) at any time within 4 years after it has been paid; or
(b) at any time, on an application made within 4 years after it has been paid.

(2) This Section extends and applies to duties paid in error before the commencement of this Section.

(3) Where a calculation or a re-calculation of duty that apparently gives rise to an entitlement to a refund under subsection (1) is based on a manifest error in the legal instrument which establishes the duty payable, that is good reason under that subsection for the Chief Collector of Customs not to refund the duty.

(4) A person who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[s 125 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

126 Refunds of duty on goods under tariff law

(1) Where duty has been paid on imported goods and the Minister subsequently approves, under Section 3 of the *Customs Tariff Act 2014*, a lower rate of duty or exempts the goods from duty, the Chief Collector of Customs shall refund in whole or in part the duty paid so that the total duty paid on the goods is in accordance with the terms, including the effective date, of the approval.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A person who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

127 Other refunds and remissions of duty

(1) Subject to any prescribed exceptions, restrictions, or conditions, the Chief Collector of Customs may refund or remit any duty if the Chief Collector of Customs is satisfied that imported goods, or goods manufactured in the Republic:

(a) have been damaged, destroyed, pillaged, or lost, or have diminished in value or deteriorated in condition, prior to their release from the control of Customs;

(b) are of faulty manufacture; or

(c) have been abandoned to the Republic for destruction or other form of disposal prior to their release from the control of Customs.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Sample goods of any prescribed nature or prescribed value and samples of the bulk of goods subject to the control of Customs may, subject to any prescribed conditions, be delivered free of duty.

(3) A person who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

128 Power to apply refunds towards payment of other duties

Where duty is or becomes refundable under this Act to a person, the Chief Collector of Customs may:

(a) apply the whole or any part of the sum so refundable towards the payment of any other duty that is payable by that person; or

(b) refund the whole sum to that person.

[s 128 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

129 Recovery of duty refunded in error

Money refunded by Customs in error of fact or law is recoverable by action at the suit of the Chief Collector of Customs on behalf of the Republic at any time within 4 years after the date of its payment or any time if the refund has been obtained by fraud.

[s 129 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

130 Goods temporarily imported

(1) Subject to this Section, if the Chief Collector of Customs is satisfied that goods have been temporarily imported, a sum equal to the amount of the duty payable on the goods shall be secured, under Section 180, in any case approved by the Chief Collector of Customs, and on receipt of the security the Chief Collector of Customs may release the goods from the control of Customs without payment of duty.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Subject to any prescribed conditions:
(a) the person giving the security shall be released from the conditions of the security; or
(b) subject to subsection (3), a deposit of money made shall be returned to the person by whom it was made,
if, within 12 months from the date of their importation, the Chief Collector of Customs is satisfied that the goods have been:
(i) exported;
(ii) shipped for export;
(iii) packed for export into a bulk cargo container in a Customs controlled area and the container secured to the satisfaction of the Chief Collector of Customs;
(iv) not deliberately destroyed unless with the permission of the Chief Collector of Customs; or
(v) dealt with in such manner as the Chief Collector of Customs may allow.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Where goods are temporarily imported and used:
(a) for industrial or commercial purposes; or
(b) any other purposes, as the Chief Collector of Customs may consider applicable,
duty is payable on the amount by which their value for duty, as determined by the Chief Collector of Customs at the time that he or she is satisfied under subsection (2) that the goods have been dealt with under subsection (2)(i), (ii), (iii), (iv) and (v) is less than their value for duty, as ascertained pursuant to this Act, at the time of their importation.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) Where an amount of duty is payable under subsection (3), that duty may be deducted from any deposit of money given as a security under subsection (1).

(5) Despite subsection (3), but subject to any conditions imposed by the Minister, duty is not payable on goods temporarily imported under any treaty, agreement, or arrangement concluded by the Government.

(6) Where, at the expiry of the 12-month period under subsection (2), the goods have not been dealt under that subsection:
(a) any sum secured by way of deposit of money shall be retained by the Republic; or
(b) any sum so secured shall be paid to the Republic by the importer within 10 working days after the expiry of that period, and on the payment the security shall be released.

131 Drawbacks of duty on certain goods

(1) Subject to subsections (2) to (7), drawbacks of duty may be allowed, at such amounts and subject to any prescribed conditions, on:
(a) goods imported into the Republic that are later exported from the Republic;
(b) goods that are produced in a manufacturing area and exported from the Republic;

(c) imported parts, and materials used in, worked into, or attached to, goods manufactured or produced in the Republic and exported from the Republic; and

(d) imported materials, except fuel or plant equipment consumed in the manufacture or production of goods produced in the Republic and exported from the Republic.

(2) Where the Chief Collector of Customs is satisfied that goods have been entered and shipped for export, the Chief Collector of Customs may, for the purposes of this Section, refund drawback of duty.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Where drawback has been allowed on any goods consumed in the manufacture of those goods, the goods shall not, without the permission of the Chief Collector of Customs, be un-shipped or re-landed or unpacked before export.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) Where drawback has been allowed on goods consumed in manufacture of those goods and drawback has been paid on any goods that are un-shipped or re-landed or unpacked before export, the amount of drawback allowed for those goods or on goods consumed in the manufacture of those goods, immediately on their un-shipment or re-landing or unpacking, constitutes a debt due to the Republic; and the debt is immediately payable by the owner of the goods at the time of their un-shipment or re-landing or unpacking.

(5) The debt is recoverable by action at the suit of the Chief Collector of Customs on behalf of the Republic.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) The right to recover drawback as a debt due to the Republic under this Section is not affected by the fact that a bond or other security has been given for the un-shipment or re-landing or unpacking of the goods before export.

(7) Where, under this Section, drawback is allowed to any person, the Chief Collector of Customs may, apply the whole or any part of the sum allowed towards the payment of any duty that is payable by that person.

[subs (7) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

132 Regulations on minimum duty, etc

Regulations made under Section 310 may prescribe:

(a) an amount of duty below which that duty need not be collected, and the circumstances in which that duty need not be collected;

(b) the minimum amount of duty refundable on goods, and the circumstances in which duty below the prescribed amount shall not be refunded; and

(c) the minimum amount of drawback of duty allowable on goods, and the circumstances in which drawback below the prescribed amount will not be allowed.

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133 Application for Customs ruling

(1) A person may, in the prescribed form, apply, for particular goods specified in the application, to the Chief Collector of Customs for a Customs ruling on any one or more of the following matters:

(a) the Tariff Classification of those goods under Part 1 of the Tariff;

(b) whether or not those goods are, for the purposes of the Tariff and under any applicable regulations made under this Act, the produce or manufacture of a particular country or group of countries, referred to in the application; or

(c) whether or not those goods are subject to a specified duty concession under Part 2 of the Tariff.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) An application under subsection (1) may be made:

(a) for imported goods:

(i) at any time before the date of importation into the Republic of the goods that are subject of the application; or

(ii) at any later time, if the Chief Collector of Customs permits; or

(b) for goods manufactured in a manufacturing area:

(i) at any time before the date of manufacture of the goods; or

(ii) at any later time, if the Chief Collector of Customs permits.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A person may, in the prescribed form, apply, for a particular matter specified in the application, to the Chief Collector of Customs for a Customs ruling as to the correct application of any provision contained in orders made under Section 99.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) An application under subsection (1) or (3) shall:

(a) state the name and address of the applicant;

(b) for an application under subsection (1):

(i) specify the particular goods that are the subject of the application;

(ii) specify for those goods, the matter or matters listed under subsection (1) on which the applicant requests a Customs ruling and the applicant's opinion as to what Customs ruling should be; and

(iii) unless the Chief Collector of Customs agrees otherwise, be accompanied by the goods or a sample of the goods;

(c) contain, or have attached, all information that is relevant to a proper consideration of the application; and

(d) be accompanied by the prescribed fee.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) The Chief Collector of Customs may request further information from an applicant if the Chief Collector of Customs considers that the information is relevant to the application.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

134 Making of Customs ruling

(1) Subject to subsection (4), the Chief Collector of Customs shall:
  (a) for an application made under Section 133(1), make a Customs ruling on any particular goods specified in the application and on any matter on which the ruling is sought; or
  (b) for an application made under Section 133(3), make a Customs ruling on the particular matter specified in the application.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The Chief Collector of Customs shall make a Customs ruling under subsection (1) within any prescribed time after receipt of:
  (a) for an application under Section 133(1):
    (i) a properly completed application in respect of particular goods; and
    (ii) the goods or a sample of the goods unless the Chief Collector of Customs has agreed not to require receipt of the goods;
  (b) all information that the Chief Collector of Customs considers relevant to a proper consideration of the application;
  (c) all information that the Chief Collector of Customs requests under Section 133(5); and
  (d) payment of the prescribed fee.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A Customs ruling may be made subject to such conditions as the Chief Collector of Customs thinks fit.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) The Chief Collector of Customs may decline to make a Customs ruling if, in the Chief Collector's opinion, he or she has insufficient information to do so.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

135 Notice of Customs ruling

The Chief Collector of Customs shall promptly give notice in writing to the applicant of:
(a) a Customs ruling, together with the reasons for the ruling, and any conditions of the ruling; or
(b) a decision to decline to make a Customs ruling, together with the reasons for that decision.

[s 135 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

136 Effect of Customs ruling

(1) A Customs ruling on particular goods is conclusive evidence for the purposes of this Act that the goods:
  (a) have a particular tariff classification under Part 1 of the Tariff;
  (b) are or are not in accordance with applicable regulations or orders made under this Act, the produce or manufacture of a particular country, a group of countries, for the purposes of the *Customs Tariff Act 2014*; or
  (c) are or are not subject to a specified duty concession under Part 2 of the Tariff.

(2) Subject to Section 139, a Customs ruling on a particular matter for which a ruling has been given under Section 134(1)(b) is conclusive evidence for

the purposes of this Act and, if applicable, the *Customs Tariff Act 2014*, of the application of the regulation or regulations on which the ruling was made in relation to that matter.

137 Confirmation of basis of Customs ruling

At any time after a Customs ruling is made, the Chief Collector of Customs may by notice in writing, require the applicant to satisfy the Chief Collector of Customs in a manner and within 20 working days or a longer period, as the Chief Collector of Customs considers appropriate:

(a) that the facts or information on which the Customs ruling was made remain correct; and

(b) that any conditions of the ruling have been complied with.

[s 137 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

138 Amendment of Customs ruling

(1) The Chief Collector of Customs may amend a Customs ruling to correct any error contained in the ruling.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The Chief Collector of Customs shall, promptly after making the amendment, give notice in writing to the applicant of the amended Customs ruling and, subject to subsection (3), the ruling as amended applies to the applicant as from the date on which notice of the amendment was given to the applicant.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Despite subsection (2), if the amendment to the ruling has the effect of increasing any duty liability on goods:

(a) imported within 3 months of the date notice of the amendment is given, under a binding contract entered into before that date of notice of the amendment;

(b) that have left the place of manufacture or warehouse in the country from which they are being exported for direct shipment to the Republic at the date the notice of the amendment of the ruling is given; or

(c) imported on or before the date of the notice of the amendment is given but have not been entered for home consumption,

the ruling given prior to the amendment under this Section applies to those goods.

(4) Despite subsection (2), if the amendment to the ruling has the effect of decreasing any duty liability on any goods, Section 125 applies as if the higher duty had been paid in error.

139 Cessation of Customs ruling

(1) A Customs ruling ceases to have effect on the earliest to occur of the following dates:

(a) the date on which any information on which the Customs ruling was made ceases to be correct in all material respects;

(b) the date of a material change in any of the information or facts on which the Customs ruling was made;

(c) the date of a material change in the *Customs Tariff Act 2014* or to any applicable regulations or orders made under this Act or the *Customs*

Tariff Act 2014, if that date occurs prior to importation or manufacture of the relevant goods, as the case may be;

(d) the date on which any of the conditions to which the Customs ruling was made subject, ceases to be met or complied with;

(e) the date of a failure to satisfy the requirements of the Chief Collector of Customs under Section 137; or

(f) the date of expiry of 3 years from the date that notice of the Customs ruling, or any amendment to that Customs ruling under Section 138, is given to the applicant.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A Customs ruling does not come into effect if:

(a) information on which it was made was not correct in all material respects; or

(b) a material change has occurred in any information or facts on which it was made.

140 Appeal from decision of Chief Collector of Customs

An applicant who is dissatisfied with a Customs ruling, or a decision to decline to make a Customs ruling, or a decision to amend a Customs ruling, under this Part may, within 20 working days after the date on which notice of the ruling or decision is given, appeal to the Minister against that ruling or decision.

[s 140 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

141 No liability where Customs ruling relied on

(1) Where an applicant has relied on a Customs ruling on specific goods or a specific matter, and, as a result:

(a) the applicant has not paid the amount of duty that, but for this Section, is payable on the goods;

(b) the applicant would, but for this Section, be liable to the imposition of a penalty under Section 142; or

(c) goods, but for this Section, would be liable to seizure under this Act,

the amount of the duty otherwise payable is not recoverable as a debt due to the Republic and a penalty is not to be imposed under Section 142 and the goods are not liable to seizure under this Act.

(2) Subsection (1) applies only to a matter:

(a) on which Customs ruling was given and has not ceased under Section 139; and

(b) pursuant to any amendment to a Customs ruling that the applicant has received notice of under Section 138.

[The next page is 422,601]

142 Imposition of penalty

(1) In this Part, '***entry***' means an entry required under this Act, including, without limitation:

(a) a declaration, invoice, certificate, written statement, or other document required or authorised by or under this Act to be made or produced by a person making the entry;

(b) an amendment of the entry;

(c) for goods or class of goods regarded by regulations made under Section 63(d) to have been entered under Section 60(1), a document that, under the regulations, the Chief Collector of Customs requires to be lodged with the Customs before the goods or class of goods will be regarded to be entered; and

(d) for goods or class of goods regarded by regulations made under Section 75(b) to have been entered under Section 74(1), a document that, under the regulations, the Chief Collector of Customs requires to be lodged with the Customs before the goods or class of goods will be regarded to be entered.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) In this Section:

'materially incorrect' means:

(a) for an entry under Section 60, that the entry contains an error or omission on any of the following matters:

(i) the identity of the overseas supplier;

(ii) the identity of the importer;

(iii) the identity of the person making the entry;

(iv) the identification of the importing craft or its voyage number;

(v) the bill of lading, Air Waybill, or container identification details;

(vi) the supplier's invoice number;

(vii) any permit number or code;

(viii) the Tariff item in which the goods are classified under the *Customs Tariff Act 2014*;

(ix) the statistical quantity of the goods;

(x) the currency code for the currency in which the goods are traded;

(xi) the value for duty expressed in the currency in which the goods are traded;

(xii) the value for duty expressed in the Republic currency;

(xiii) the country of origin of the goods;

(xiv) the country from which the goods have been exported;

(xv) the amount paid or payable to transport the goods to the Republic from the country of exportation, including any amount paid or payable for internal transportation of the goods in that country; or

(xvi) the insurance costs associated with transporting the goods to the Republic, inclusive of any insurance costs in the country of exportation; or

(b) for an entry that is not an entry under Section 60, that the entry contains a material error or omission in relation to a matter that the entry is required by or under this Act to address.

(3) Subject to Section 144, if the Chief Collector of Customs is satisfied that an entry of goods contains an error or omission and that as a result:

(a) an amount of duty payable under this Act has not been paid or declared for payment or would not have been paid or declared for payment; or

(b) the entry is otherwise materially incorrect,

the Chief Collector of Customs may give notice in writing to the person who made the entry stating that unless, within 20 working days after the date on which notice is given, that person satisfies the Chief Collector of Customs that the person is entitled to be exempted from the imposition of a penalty under Section 144, the Chief Collector of Customs will issue a penalty notice under subsection (4).

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) Where a person to whom a notice is given under subsection (1) does not, within the period referred to in that subsection, satisfy the Chief Collector of Customs that the person is entitled to be exempted under Section 144 from the imposition of a penalty under this Section, the Chief Collector of Customs shall issue a notice to that person requiring that person to pay to the Chief Collector of Customs by way of penalty, in addition to any duty payable under this Act, if, as a result of the error or omission, an amount of duty payable under this Act has not been paid or declared for payment:

(a) $500; or

(b) an amount equal to 25% of the duty unpaid or not declared, up to a maximum amount of $25,000,

whichever is the greater.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) The due date for the payment of any penalty imposed under this Section is the date that is 20 working days after the date on which notice of the penalty is given by the Chief Collector of Customs.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) The amount of the penalty constitutes a debt due to the Republic and is recoverable by action at the suit of the Chief Collector of Customs on behalf of the Republic.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(7) A person, by or on whose behalf the amount of the penalty is paid for, is not liable to be prosecuted for an offence in relation to the error or omission and the goods for which the error or omission occurred are not liable to seizure under this Act.

(8) Subsection (7) does not apply to a prosecution or seizure in relation to goods that have been forfeited to the Republic by reason of the importation or exportation of the goods being prohibited or unlawful.

(9) Where any penalty imposed under this Section remains unpaid by the due date for payment, there shall be imposed:

(a) an additional penalty of 5% of the amount of the penalty unpaid by the due date;

(b) an additional penalty of 2% of the amount of the penalty, including any additional penalty, unpaid at the end of the period of 1 month after the due date; and

(c) an additional penalty of 2% of the amount of the penalty, including additional penalty, unpaid at the end of each succeeding period of 1 month.

(10) Despite subsection (9), the Chief Collector of Customs may, in his or her discretion, remit or refund the whole or any part of any additional penalty imposed by that subsection.

[subs (10) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(11) Where the goods referred to in subsection (1) and entered under Section 60 become free of duty or subject to a lower rate of duty under Part 1 or Part 2 of the Tariff after the entry is made, then the penalty shall be calculated according to subsection (4) as if the duty liability had not so changed.

(12) A person who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (12) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

143 Obligation to pay penalty not suspended by appeal

(1) The obligation to pay and the right to receive and recover any penalty imposed under Section 142 are not suspended by any appeal or legal proceedings.

(2) Subject to subsection (3), if the appellant is successful in the appeal, the amount of the penalty imposed under Section 142 shall immediately be refunded to the appellant by the Chief Collector of Customs.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Section 109(3) applies, with necessary modifications, to an administrative penalty required to be refunded under this Section as if the penalty were duty.

144 No penalty in certain cases

A person is not liable to a penalty under Section 142, if:

(a) that person has voluntarily disclosed the error or omission to Customs before Customs has notified the person that:

(i) the goods to which the entry relates have been selected for examination by Customs;

(ii) documentation is required to be presented to Customs in relation to that entry; and

(iii) Customs intends to conduct an audit or investigation on a selection of entries that includes that entry, or on entries made over a period of time that includes the time the entry was made;

(b) that person satisfies the Chief Collector of Customs that the person formed a view as to the relevant facts of the entry which, while incorrect, was reasonable having regard to the information available to that person when the entry was prepared;

(c) that person satisfies the Chief Collector of Customs that the person acted in good faith on information provided by the importer, exporter, or supplier of the goods to which the entry relates, and reliance on the accuracy or completeness of the information so provided was reasonable in the circumstances;

(d) the total correct value for duty of the goods to which the error on the entry relates is less than $1,000;
(e) an information for an offence against this Act has been laid in relation to the error or omission;
(f) the period between the date of lodgement of the entry of the goods and the date on which the error or omission was first identified exceeds 4 years; or
(g) Section 141 applies.

[s 144 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

[The next page is 422,801]

145 Establishment of and access to Customs electronic entry processing system

(1) The Chief Collector of Customs may establish a Customs electronic entry processing system.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A person may not transmit to, or receive information from, a Customs electronic entry processing system unless that person is an individual who is registered by the Chief Collector of Customs as a user of that Customs electronic entry processing system.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

146 Registered users

(1) An individual who wishes to be a registered user:

(a) may, in the prescribed form, apply to the Chief Collector of Customs; and

(b) shall provide other prescribed information.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The Chief Collector of Customs may require an applicant for registration to give such additional information as the Chief Collector of Customs considers necessary for the purpose of the application.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The Chief Collector of Customs:

(a) may grant the application, subject to conditions or refuse the application; and

(b) shall, in writing, inform the applicant of the decision.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) An applicant who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

147 Unique user identifier

(1) The Chief Collector of Customs shall allocate to a registered user a unique user identifier in a form or of a nature determined by the Chief Collector of Customs.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The unique user identifier allocated under subsection (1), shall be used by the registered user for the purpose of transmitting information to or receiving information from that Customs electronic entry processing system.

(3) The Chief Collector of Customs may, by notice in writing, impose conditions on a particular registered user, or on registered users generally, on the use and security of unique user identifiers.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

148 Use of unique user identifier

(1) Where information is transmitted to an entry processing system using the unique user identifier of a registered user, the transmission of that information is, in the absence of proof to the contrary, evidence that the information was transmitted by the registered user.

(2) Where the unique user identifier of a registered user is used by an individual other than the registered user, subsection (1) does not apply if the registered user has, prior to the unauthorised use of his or her unique user identifier, notified Customs that the unique user identifier is no longer secure.

149 Conditions may be imposed on registered users

(1) The Chief Collector of Customs may impose any condition on the existing registration on a specified registered user or a class of registered users or on all registered users.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A condition imposed under subsection (1) shall:
- (a) be notified in writing to one or more registered users concerned; and
- (b) unless one or more registered users concerned appeal under subsection (3), be complied with on or before:
  - (i) the 20th working day after the date of notification of the imposition of the condition on the registered user's registration; or
  - (ii) a later date specified by the Chief Collector of Customs.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A registered user who is dissatisfied with the imposition of a condition on his or her user registration under subsection (1) may appeal in writing to the Minister within 20 working days after the date of notification of the imposition of the condition on the registered user's registration.

(4) Where the Minister is of the view that the imposition of the conditions under subsection (1) was reasonable in the circumstances, the registered user shall comply with the condition on or before:
- (a) the 10th working day after the date of notification of the Minister's decision; or
- (b) a later date specified by the Minister.

150 Suspension or cancellation of registration of registered user

(1) The Chief Collector of Customs may by written notice to a registered user, which shall state grounds for the cancellation, cancel that user's registration if satisfied that the user:
- (a) has failed to comply with a condition imposed by the Chief Collector of Customs under Section 146(3) or 147(3);
- (b) has failed to comply with a condition imposed by the Chief Collector of Customs under Section 149(1) within the time specified in that Section;
- (c) has been convicted of:
  - (i) an offence against this Act or the *Illicit Drugs Control Act 2004*; or
  - (ii) an offence involving dishonesty or cybercrime under any written law; or

(d) is, on 1 or more prescribed grounds, unfit to continue to be a registered user.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Despite subsection (1), the Chief Collector of Customs may by written notice to a registered user, which shall state grounds for the suspension, suspend that user's registration until a date or event specified in the notice if satisfied that the user's registration should not be cancelled, but should instead be suspended until that date or event, because the user:

(a) has failed to comply with a condition imposed by the Chief Collector of Customs under Section 146(3) or 147(3); or

(b) has failed to comply with a condition imposed by the Chief Collector of Customs under Section 149(1) within the time frame specified in that Section.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The date or event specified in the notice under subsection (2) may, but need not, be the user's compliance with a condition imposed by the Chief Collector of Customs under Section 146(3), 147(3) or 149(1).

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) Where the person whose registration is suspended or cancelled is dissatisfied with the decision of the Chief Collector of Customs under this Section, that person may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

151 Customs to keep records of transmission

(1) Customs shall keep a record of any transmission sent to or received from a registered user using a Customs electronic entry processing system.

(2) The record described in subsection (1) shall be kept for a period of 5 years from the date of the sending of or the receipt of the transmission, or for any other prescribed period.

[subs (2) am Act 14 of 2024 s 5, opn 20 Aug 2024]

[The next page is 423,001]

152 Patrol and surveillance

For the purposes of the detection of offences against this Act, a Customs officer may:

(a) at any time and in a manner as the officer considers appropriate:

(i) patrol on or over any part of the foreshore or the banks of a river and a structure extending from it, or a part of the adjacent land, or a Customs place or Customs controlled area; and

(ii) enter and inspect an aircraft landing strip and a building on it; and

(b) remain in the area, structure or building for the purposes of carrying out investigations or surveillance.

153 Landing or mooring of Customs craft

A Customs officer or a person-in-charge of a craft employed in the service of Customs may anchor, moor, berth, or land the craft, or haul the craft ashore, at any place within the Republic, without any charge or fee being levied against Customs.

154 Boarding craft

(1) A Customs officer may at any time board a craft that is within the Republic if:

(a) the craft has arrived in the Republic from a point outside the Republic;

(b) the craft is departing from the Republic to a point outside the Republic, including while the craft is travelling within the Republic en route to a point outside the Republic;

(c) the craft, not being a craft to which paragraph (a) or (b) applies, is carrying any domestic cargo or international cargo while the craft remains within the Republic; or

(d) the Customs officer has reasonable cause to suspect that the craft not being a craft to which paragraph (a), (b) or (c) applies:

(i) is carrying any dutiable, uncustomed, prohibited, or forfeited goods; or

(ii) has been, is being or is about to be, involved in the commission of an offence against this Act.

(2) The Chief Collector of Customs may station Customs officers on board any craft that has arrived in the Republic from a point outside the Republic for the purposes of carrying out any function or power that the officers may be required to carry out under this Act or any other written law.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Where a Customs officer is stationed on board a craft under subsection (2), the person-in-charge of the craft shall ensure that the officer is provided with:

(a) suitable accommodation and board in accordance with the reasonable requirements of that officer;

(b) safe access to any part of the craft; and

(c) safe means of leaving the craft.

(4) A charge or fee may not be levied against Customs for the carriage of a Customs officer who is stationed on board a craft or for his or her accommodation and board.

155 Searching of craft

(1) A Customs officer may search:
- (a) a craft that has arrived in the Republic from a point outside the Republic;
- (b) a craft that is departing from the Republic to a point outside the Republic and at all times while the craft is travelling within the Republic en route to a point outside the Republic;
- (c) a craft, not being a craft to which paragraph (a) or (b) applies, that is carrying any domestic cargo or international cargo while the craft remains within the Republic; or
- (d) a craft, not being a craft to which paragraph (a), (b) or (c) applies, that is within the Republic and that a Customs officer has reasonable cause to suspect:
  - (i) is carrying any dutiable, uncustomed, prohibited or forfeited goods; or
  - (ii) has been, is being, or is about to be involved in the commission of an offence against this Act,

for the purpose of carrying out any function or power that the officer is required to carry out under this Act or any other written law.

(2) When exercising the power under subsection (1), a Customs officer may:
- (a) by use of reasonable force, enter any part of the craft and open any package, locker, thing, or other place; and
- (b) examine all goods found on the craft.

156 Securing goods on craft

For the purpose of carrying out any function or power that Customs is required to carry out under this Act, a Customs officer may at any time while boarding or searching any craft under Section 154 or 155:
- (a) secure, by appropriate means, goods on board that craft; or
- (b) remove goods on board that craft to a secure place.

157 Firing on ship

The officer commanding or officer-in-charge of, a craft in the Republic's service having hoisted and carrying or displaying the proper ensign or Customs flag shall, at the request of the Chief Collector of Customs, within the Republic, chase any ship where:
- (a) the ship does not immediately bring-to when signalled or required to do so; or
- (b) the master refuses to permit the ship to be boarded,

and may, as a last resort after having fired a warning, fire at or onto the ship to compel it to bring-to.

[s 157 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

158 Detention of craft

(1) Subsection (2) applies to a Customs officer and a craft:

(a) if the officer has reasonable cause to believe that an offence against this Act has been, is being, or is about to be committed on or in respect of the craft while it was or is within the Republic; or

(b) if the craft is within the Republic, and the officer has reasonable cause to believe that:

(i) there is on the craft a person who was carried into the Republic on it; and

(ii) the carriage of the person into the Republic on the craft constituted an offence against Part 8 or 9 of the *Counter Terrorism and Transnational Organised Crime Act 2004*.

(2) A Customs officer who has reasonable cause to believe that an offence against this Act has been, is being, or is about to be committed on or in respect of a craft while that craft was or is within the Republic may:

(a) direct the craft to proceed to the nearest Customs place or any other place, as the officer considers appropriate; or

(b) direct the craft to remain where it is,

and in either case, detain the craft for any time and for the purposes as are reasonably necessary to carry out an investigation into the commission of the offence.

(3) Where the person-in-charge of a craft attempts or threatens to cause the craft to depart from a place to which the craft has been directed to proceed or in which the craft has been directed to remain under subsection (2) without a certificate of clearance, a Customs officer may, in addition to any power of seizure under Part 15 for any offence so committed, seize and detain the craft until a certificate of clearance has been obtained, and, in that case, Section 256 applies in the same manner as if the craft had been seized under Part 15.

159 Searching vehicles

(1) A Customs officer who has reasonable cause to suspect that there are in or on any vehicle that is within a Customs place:

(a) any dutiable, uncustomed, prohibited, or forfeited goods;

(b) any evidence of goods under paragraph (a); or

(c) any evidence of an offence against this Act,

may stop the vehicle and search it and may detain the vehicle for a period as may be reasonably necessary for this purpose.

(2) A Customs officer or police officer who has reasonable grounds to believe that:

(a) there are in, or on, any vehicle, not being a vehicle to which subsection (1) applies, any goods that have been unlawfully exported; or

(b) there is evidence on the unlawful importation of any goods or an attempt to unlawfully export any goods,

may stop the vehicle and search it and may detain the vehicle for a period as may be reasonably necessary for this purpose.

(3) Where a Customs officer who has reasonable cause to suspect that there are in or on a vehicle any goods subject to the control of Customs and in a Customs-approved secure package or in a package for which a Customs seal has been used, the Customs officer may:

(a) stop and search the vehicle; and

(b) detain the vehicle:

(i) for a period as may be reasonably necessary for that purpose; and

(ii) to exercise the powers under Section 175 on those goods.

(4) Powers under subsections (1), (2) and (3) apply even if the vehicle need not be stopped because it is not moving, and whether or not it is attended, and include the power to use reasonable force, if necessary, to stop, detain, enter in or on, and search the vehicle, or for any other purposes, as authorised by that other subsection.

160 Questioning persons about goods and debt

(1) This Section applies to:

(a) a person who:

(i) has, within the preceding 72 hours, arrived in the Republic; or

(ii) is departing from the Republic;

(b) a person, not being a person to whom paragraph (a) applies, who is within a Customs controlled area licenced for:

(i) the temporary holding of imported goods for the purposes of the examination of those goods under Section 176, including the holding of the goods while they are awaiting examination;

(ii) the disembarkation, embarkation or processing of persons arriving in or departing from the Republic; or

(iii) the processing of a craft arriving in or departing from the Republic or the loading or unloading of goods onto or from the craft; or

(c) a person, not being a person to whom paragraph (a) applies, who is on board or is in the process of embarking onto or disembarking from a craft that has arrived from, or is departing to, a point outside the Republic, while the craft is within the Republic.

(2) A Customs officer may ask a person to whom this Section applies a question on one or more of the following matters:

(a) whether or not that person has or has had in that person's possession any dutiable, prohibited, uncustomed, or forfeited goods;

(b) the nature, origin, value or intended destination of any goods described in paragraph (a);

(c) whether, under this Act, any debt (for example, in respect of any duty, duty refunded in error, recovery of the drawback of any duty, or penalty) is due to the Republic and payable by the person, or by a company, trust, partnership, or other enterprise of which that person is or was a director, manager, secretary, officer or agent; or

(d) the nature and extent of any debt of that kind.

161 Questioning persons about identity, address, etc

(1) This Section and Sections 164 and 166 apply to the following persons:

(a) a person who:

(i) has, or is suspected of having, disembarked from a craft that has arrived in the Republic; and

(ii) has not, or is suspected of having not, reported to a Customs officer or a police station on the person's arrival, contrary to Section 28; and

(b) a person who is, or is suspected of, attempting to depart from the Republic from a place other than from a Customs place, contrary to Section 31.

(2) This Section and Sections 164 and 166 do not apply:
(a) for a person referred to in subsection (1)(a), to a person whose actions are authorised by another Section of this Act; and
(b) for a person referred to in subsection (1)(b), to a person who is complying with a prescribed exemption or whose actions are authorised by Customs.

(3) A Customs officer may ask a person to whom this Section applies a question on one or more of the following matters:
(a) the person's identity;
(b) the person's residential address;
(c) the person's travel movements;
(d) the person's entitlement to travel;
(e) any of the matters specified in Section 160(2);
(f) the craft:
(i) from which the person disembarked or is suspected of disembarking; or
(ii) on which the person attempted to depart, or is suspected of attempting to depart, from the Republic; or
(g) any other person who is, or was, involved in the person's arrival, suspected arrival, departure, attempted departure or suspected departure, whether or not the other person was on the craft:
(i) from which the person disembarked or is suspected of disembarking; or
(ii) on which the person attempted to depart, or is suspected of attempting to depart from the Republic.

(4) A question under subsection (3)(f) may, but need not, relate to the craft's voyage and any person or goods carried by the craft.

162 Questioning employees of airlines, shipping companies, etc

(1) A Customs officer may question one or more of the following about any international cargo or domestic cargo:
(a) a person who, as an employee of an airline or shipping company, manages or carries out the receipt, handling, custody or dispatch of international cargo or domestic cargo by that airline or shipping company;
(b) a person employed by the licencee of a Customs controlled area licenced for:
(i) the temporary holding of imported goods for the purposes of the examination of those goods under Section 175, including the holding of the goods while they await examination; or
(ii) the processing of craft arriving in or departing from the Republic or the loading or unloading of goods onto or from the craft; or
(c) a person, not being a person described in paragraph (a) or (b), who is in a Customs controlled area licenced for a purpose described under paragraph (b)(i) or (ii).

(2) A Customs officer may question 1 or more of the following about any cargo destined to be exported from the Republic:
  (a) the owner or operator of a vehicle that, a Customs officer has reasonable cause to suspect, has in or on it, or has, within previous 72 hours, had in or on it, goods subject to the control of Customs and in a Customs-approved secure package or in a package to which a Customs seal has been used;
  (b) the owner or occupier of premises that, a Customs officer has reasonable cause to suspect, have in or on them, or have within the previous 72 hours had in or on them, goods subject to the control of Customs and in a Customs-approved secure package or in a package to which a Customs seal has been used; or
  (c) an employee of a person described in paragraph (a) or (b).

(3) A question under subsection (2) about cargo destined to be exported from the Republic may relate to 1 or more of the following:
  (a) whether, and if so how, goods that are or were some or all of the cargo are or were packed in a package to which a Customs seal was used or in a Customs-approved secure package to which a seal or marking of the kind referred to in Section 86(1)(b) was used;
  (b) the transportation or storage of packages of the kind referred to in paragraph (a) at any time before they are or were exported; or
  (c) tampering or interference with a package of the kind referred to in paragraph (a) or with a seal or marking of the kind referred to in that paragraph.

(4) Subsection (3) does not limit subsection (2).

(5) This Section does not limit Sections 160 and 161.

163 Evidence of identity and entitlement to travel

(1) This Section applies to a person who is:
  (a) an internationally ticketed passenger using air or sea travel for a domestic sector;
  (b) a domestic passenger using air or sea travel for a domestic sector; or
  (c) within a Customs controlled area, or processing of disembarkation, embarkation, or processing of persons arriving in or departing from the Republic.

(2) A person to whom this Section applies shall, on demand by a Customs officer:
  (a) state that person's full name and residential address; and
  (b) if required, produce for inspection a prescribed document; or
  (c) if the person is unable to produce the prescribed document, complete a prescribed declaration.

(3) A demand under subsection (2)(b) or (c) may be made of a person only for the purpose of enabling Customs officer to establish 1 or all of the following:
  (a) the person's identity;
  (b) the person's travel movements; or
  (c) the person's entitlement to air or sea travel for a domestic sector.

(4) A prescribed document produced under subsection (2)(b) by a person to a Customs officer shall be either:

(a) inspected immediately and returned to the person, as soon as the inspection has concluded; or
(b) retained by the Customs officer for as long as necessary to ascertain whether or not the Chief Collector of Customs wishes to exercise the power under Section 190 to retain the document.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) This Section is subject to Section 209.

164 Evidence of answers to questions under Section 161

(1) A person to whom this Section applies pursuant to Section 161 shall, on demand by a Customs officer, produce documents that:
(a) are in the person's possession or control; and
(b) relate to the matters the person has been questioned about under Section 161.

(2) When a person produces a document in response to a demand under subsection (1), a Customs officer may do 1 or more of the following:
(a) inspect the document immediately and return it to the person, when the officer has finished inspecting it;
(b) inspect the document and retain it for the length of the person's detention under Section 166;
(c) inspect the document and retain it for as long as necessary to ascertain whether or not the Chief Collector of Customs wishes to exercise the power under Section 188 to retain the document;
(d) inspect the document and remove it to make a copy under Section 189; or
(e) inspect the document and retain it under Section 190.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) This Section is subject to Section 209.

165 Detention of persons questioned about goods or debt

(1) Where a Customs officer:
(a) is not satisfied that the answer to a question put to the person under Section 160 is correct;
(b) has not been given an answer to a question put to the person under Section 160; or
(c) is not satisfied as to a reason or explanation given by the person in respect of goods that are or have been, or that the officer suspects are or have been, in that person's possession or under that person's control,

and the officer has reasonable cause to suspect that an offence has been, is being, or is about to be, committed against this Act by that person or any other person associated with that person, the officer may detain that person.

(2) A Customs officer may detain a person under subsection (1) for the following purposes:
(a) to enable the officer to make any inquiries as are necessary to establish whether the answer to the question or the reason or explanation is correct; or
(b) to obtain the attendance of, or make enquiries of, another Customs officer or of a person who is entitled to exercise any power to question, detain, or arrest a person under this Act.

(3) A person shall not be detained under this Section for a period exceeding 4 hours.

166 Detention of person questioned under Section 161

(1) A Customs officer may detain a person to whom this Section applies pursuant to Section 161 to:
  (a) question the person under Section 161;
  (b) enable the officer to make the inquiries that are necessary to establish whether an answer to a question asked under Section 161 is correct; or
  (c) obtain the attendance of, or make inquiries of, another Customs officer or an officer entitled to exercise a power to question, detain or arrest a person under this Act or the *Criminal Procedure Act 1972* following the questioning of a person under Section 161.

(2) A Customs officer may detain a person under subsection (1) for up to 12 hours.

(3) The questioning of a person under Section 161 shall take place as soon as practicable after the person is detained under subsection (1).

(4) A Customs officer shall release a person detained under subsection (1) immediately after the person answers the question asked under Section 161 if the officer:
  (a) is satisfied that the person has correctly answered the questions; and
  (b) has no reasonable cause to suspect that the person questioned under that Section has:
    (i) committed an offence under Section 216 by not complying with Section 28 or 31; or
    (ii) committed an offence under Section 57, 58 or 64 of the *Counter Terrorism and Transnational Organised Crime Act 2004*.

[subs (4) am Act 18 of 2016 s 65, opn 12 May 2016]

(5) A Customs officer may continue to detain a person under subsection (1) after the person is questioned under Section 161, if the Customs officer:
  (a) is not satisfied that the person has correctly answered a question under Section 161;
  (b) is not satisfied that the person has given an answer to a question asked under Section 161; or
  (c) has reasonable cause to suspect that the person questioned under that Section has:
    (i) committed an offence under Section 216 by not complying with Section 28 or 31; or
    (ii) committed an offence under Section 57, 58 or 64 of the *Counter Terrorism and Transnational Organised Crime Act 2004*.

[subs (5) am Act 18 of 2016 s 65, opn 12 May 2016]

(6) Despite subsection (2), a person may be detained for a further reasonable period if, and only if, accident, stress of weather, or some other difficulty of transport or special circumstance makes it impossible for a Customs officer to do what is specified in subsection (1) within the 12-hour period specified in subsection (2).

(7) Reasonable force may be used, if it is necessary, to detain a person under subsection (1).

(8) In this Section:

'detain', for a person, includes to move the person to a Customs place or the Police station where the person may be, or may continue to be, questioned; and

'further reasonable period' means a period no longer than is necessary in the circumstances for a Customs officer to do what is specified in subsection (1).

167 Detention of persons committing or about to commit certain offences

(1) A Customs officer and, for paragraph (b), a police officer may detain a person who, the Customs officer or, if applicable, the police officer, believes on reasonable grounds, is committing, or is about to commit, an offence under Section 216 or 228(1)(e), where:

(a) a craft has arrived at a nominated Customs place or a Customs controlled area within that place under Section 25, leaving or boarding the craft without the authority of a Customs officer before an inward report is made under Section 27, in contravention of Section 25(2);

(b) the person has arrived in the Republic, not reporting immediately to a Customs officer or the Police station, in contravention of Section 28(1);

(c) the person has arrived in the Republic and reported to a Customs officer or a police station under Section 28(1), leaving the Customs officer or police station to which the person reported, although a Customs officer or, if applicable, a police officer requiring the person to remain for a reasonable time in order that Customs officer or, if applicable, the police officer might exercise a power under this Act on the person, in contravention of Section 28(2);

(d) the person is on board a craft that has arrived in the Republic not complying with a Customs direction concerning disembarkation, in contravention of Section 29(1);

(e) having disembarked from a craft that has arrived in the Republic, leaving a Customs controlled area when Customs requires the person to remain there for a reasonable time as is required to enable a Customs officer to exercise a power under this Act on that person, in contravention of Section 29(3); or

(f) the person is required to comply with a direction given under Section 35(3), failing to comply with that direction.

(2) A Customs officer or if applicable, a police officer may only detain a person under subsection (1) for the purpose of ensuring the person's compliance with 1 or more of the paragraphs in subsection (1).

(3) A Customs officer, or, if applicable, a police officer shall release a person detained under subsection (1) immediately after the person has complied with the requirements of the provision for which the person was detained and any other applicable paragraph in subsection (1).

(4) Reasonable force may be used, if necessary, to detain a person under subsection (1).

(5) A person shall not be detained under subsection (1), if a Customs officer or, if applicable, a police officer believes on reasonable grounds that a person has already committed an offence under Section 216 by contravening a paragraph in subsection (1).

(6) This Section does not prevent a person:
  (a) being detained or further detained under another provision of this Act or under any other written law if there are lawful grounds for that detention; or
  (b) being arrested under Section 206.

(7) In this Section, ***'detention'*** includes the delivery of a person to a police station or the custody of a police officer.

168 Detention for public health or law enforcement purposes

(1) A Customs officer may detain a person who:
  (a) is required to comply with a direction given under Section 36; and
  (b) fails to comply with that direction.

(2) Where a Customs officer has reasonable cause to suspect that a person who is detained under Section 165, 166 or 167 is a person to whom 1 or more of the provisions of Section 36 apply, the Customs officer may:
  (a) detain the person under this Section as well as the other Section; or
  (b) if the detention under the other Section has ended or is about to end, further detain the person under this Section.

(3) A Customs officer may detain or further detain a person under this Section only for the purposes of obtaining the attendance of, or making inquiries of, another Customs officer who is authorised, for a matter specified in Section 36(1), to do 1 or more of the following:
  (a) question the person;
  (b) ascertain or determine a matter relating to the status of the person;
  (c) detain the person; or
  (d) arrest the person.

(4) A person shall not be detained or further detained under this Section for a period exceeding the shorter of:
  (a) 6 hours; or
  (b) if the person's detention commenced under Section 165 or 166, the maximum period for which the person could, at the time of his or her detention or further detention under subsection (2), have been detained under Section 165 or 166.

[subs (4) am Act 31 of 2026 s 4, opn 20 Aug 2026]

(5) Reasonable force may be used, if necessary, to detain or further detain a person under this Section.

(6) This Section does not prevent a person:
  (a) being detained or further detained under another provision of this Act or under any other written law if there are lawful grounds for that detention; or
  (b) being arrested under Section 206.

(7) In this Section, ***'detention'*** includes the delivery of a person to a police station or into the custody of a Police officer.

[The next page is 423,021]

169 Persons to whom Sections 170, 171(1) and 172 apply

Sections 170, 171(1) and 172 apply to:

(a) a person on board a craft that has arrived in, or a craft that is about to depart from, the Republic;

(b) a person in the process of disembarking from, or embarking on to, a craft described in paragraph (a); or

(c) a person who, having entered into the Republic at a Customs place, remains in that Customs place.

170 Preliminary search of persons by use of aids

(1) A Customs officer or a police officer may conduct a preliminary search of a person to whom this Section applies, and may detain that person for the purposes of conducting that preliminary search.

(2) Sections 171, 172 and 173 apply if, after a preliminary search under subsection (1), a Customs officer or a police officer has reasonable cause to suspect that a person has hidden on or about his or her person a thing described in Section 171(1).

(3) A '***preliminary search***' is a search that:

(a) involves little or no physical contact between the person conducting the search and the person being searched; and

(b) is conducted by using any aid, such as, a dog, chemical substance, x-ray or imaging equipment, or other mechanical, electrical, or electronic device, or any other similar aid, but not by any more invasive means.

171 Searching of persons if reasonable cause to suspect items hidden

(1) A Customs officer or a police officer may detain and search a person, if the officer has reasonable cause to suspect that a person to whom this subsection applies has hidden on or about his or her person:

(a) any dutiable, uncustomed, prohibited or forfeited goods;

(b) evidence relating to any goods under paragraph (a); or

(c) a thing that is or might be evidence of the contravention or possible contravention of this Act.

(2) Despite subsection (1), if a Customs officer or a police officer has reasonable grounds to believe that:

(a) a person has within the preceding 24 hours arrived in the Republic at any place other than a Customs place; or

(b) a person is about to depart from the Republic from any place other than a Customs place,

and the Customs officer or police officer has reasonable cause to believe that the person has hidden on or about his or her person a thing described in subsection (1), the Customs officer or police officer may detain and search the person.

(3) Despite subsection (1) or (2), if a Customs officer or police officer has reasonable cause to believe that a person, other than a person described in subsection (2) or Section 169, who is in a Customs place has hidden on or about his or her person a thing described in subsection (1), the Customs officer or police officer may detain and search the person.

(4) Reasonable force may be used, if necessary, to detain and search the person.

(5) Where a person is detained under this Section, and there is no suitable searcher available at the place where the search is to take place, the person detained may be taken to another place to be searched.

(6) A Customs officer or police officer who searches a person under this Section may require another person, as the Customs officer or police officer thinks necessary, to assist the officer.

(7) A search of a person may be conducted under this Section whether or not the person has earlier been the subject of a preliminary search under Section 169.

172 Searching of persons for dangerous items

(1) A Customs officer or police officer may immediately detain and search a person to whom this Section applies if, and only if, the Customs officer or police officer has reasonable grounds to believe that:
(a) the person has a dangerous item hidden or in clear view on or about his or her person;
(b) the item poses a threat to the safety of the Customs officer, police officer or any other person;
(c) there is a need to act immediately in order to address that threat; and
(d) a search under Section 170 or 171(1) would expose the Customs officer, police officer, or any other person, to greater risk from the threat.

(2) Reasonable force may be used, if necessary, when detaining or searching a person under this Section.

(3) A search may be conducted under this Section whether or not the person has earlier been the subject of a search under Section 170 or 171(1).

(4) A Customs officer or police officer who undertakes a search under this Section shall, within 3 working days of the search, give a written report of the search, the circumstances in which it was conducted, and the matters that gave rise to the reasonable grounds to believe required by subsection (1) to:
(a) for a Customs officer, the Chief Collector of Customs; and
(b) for a police officer, the Commissioner of Police.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

173 Seizure of items found

(1) A Customs officer or police officer may seize a thing found on or about a person when carrying out a search under Section 171(1), (2) or (3) or 172 that the Customs officer or police officer has reasonable cause to suspect is:
(a) a thing described in Section 171(1); or
(b) a dangerous item.

(2) Reasonable force may be used, if necessary, to seize:
(a) a thing described in Section 171(1); or
(b) a dangerous item.

174 Access of Customs officers to Customs controlled area

Subject to Section 205, a Customs officer may:

(a) at any time of the day or night, enter any part of a Customs controlled area and examine goods in that area; and
(b) for that purpose, enter any other area that it is necessary to pass through.

175 Examination of goods subject to control of Customs

(1) A Customs officer may:
(a) examine, weigh, analyse or test, or cause to be examined, weighed, analysed, or tested goods subject to the control of Customs or goods that the officer has reasonable cause to suspect are subject to the control of Customs; and
(b) for that purpose, open or cause to be opened any packages in which the goods are contained or suspected to be contained.

(2) All reasonable expenses incurred by Customs under subsection (1), are a debt due to the Republic by the importer, exporter or the owner of the goods and are recoverable in the same manner as duty under this Act.

(3) The powers under subsection (1) extend to the examination, weighting, analysing or testing of a suitcase, pallet, bulk cargo container, or package.

(4) The examination:
(a) may include physical or chemical testing, or may be facilitated by any means whatever, including the drilling into, or the dismantling of, the goods; and
(b) may be facilitated by any means whatsoever (for example, by a dog, a chemical substance, x-ray or imaging equipment, or other mechanical, electrical or electronic device).

(5) Samples of goods subject to the control of Customs or suspected to be subject to the control of Customs may be taken and used by Customs for the purposes of this Section and disposed of in the prescribed manner.

(6) A sample taken under subsection (5) is to be sufficient for the purpose for which it is taken.

(7) A Customs officer shall, subject to Section 205, be allowed free access to any land, building, or place, and to any goods in or on the land, building, or place, for the purpose of exercising powers under this Section in respect of goods that are, or are suspected to be:
(a) subject to the control of Customs; and
(b) in a Customs-approved secure package or in a package to which a Customs seal has been applied.

(8) Despite subsection (7), a Customs officer shall not enter a private dwelling except with the consent of an occupier or owner of that dwelling or under a warrant issued under this Act.

176 Examination of goods no longer subject to control of Customs

(1) This Section applies to goods that have ceased to be subject to the control of Customs but that the Chief Collector of Customs has reasonable grounds to suspect are:
(a) goods for which an offence against this Act has been committed; or
(b) goods that are forfeited to the Republic under Section 268.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The Chief Collector of Customs may require a person who has, or who the

Chief Collector of Customs believes has, possession or control of the goods to produce them for inspection by a Customs officer.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A Customs officer may exercise in respect of the goods all the powers conferred by Section 175.

(4) A Customs officer may:

(a) take and retain possession of goods produced under subsection (2) for the purposes of exercising the powers conferred by subsection (3); and

(b) retain possession of the goods until completion of the investigation into the grounds for suspecting that the goods:

(i) are goods for which an offence against this Act has been committed; or

(ii) are goods that are forfeited to the Republic under Section 268.

177 Accounting for goods

The Chief Collector of Customs may by notice in writing, require a CCA licencee to:

(a) account immediately for goods that the Chief Collector of Customs believes have been entered into that Customs controlled area; and

(b) produce any document on the movement of goods into or out of that Customs controlled area.

[s 177 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

178 Production of goods

A Customs officer may require the CCA licencee to produce to the officer goods that are shown in any record as being within that area.

179 Verification of entries

(1) The Chief Collector of Customs may:

(a) in addition to any declaration or documents required by this Act or by regulations or orders, require from a person making entry of goods proof by declaration or the production of documents of the correctness of the entry; and

(b) refuse to deliver the goods or to pass the entry before the proof is provided.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Where the Chief Collector of Customs is not satisfied:

(a) with the correctness of an entry on any goods; or

(b) with any other aspect of the importation or exportation of the goods,

the Chief Collector of Customs may detain the goods for a reasonable period to enable the goods to be examined and, if necessary, to cause an investigation to be made, whether in the Republic or another country, into the importation or exportation of the goods.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

180 Securities for payment of duty

(1) The Chief Collector of Customs may require and take any prescribed securities for payment of duty.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The Chief Collector of Customs may, pending the giving of the required security, refuse to pass an entry or to do any other act on any matter for which the security is required.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A security may be required on a particular transaction, a class of transactions, or on transactions generally, and for a period and amount, and on conditions as to penalty or other conditions, as the Chief Collector of Customs may direct.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) The Chief Collector of Customs shall approve the form in which the security is to be provided.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) Subject to Sections 109 and 130, if the Chief Collector of Customs is satisfied that the obligations for which a security given under this Section have been fulfilled, the person who gave the security shall be released from the conditions of the security as soon as possible.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) A person who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

181 New securities may be required

(1) The Chief Collector of Customs may, if at any time the Chief Collector of Customs is dissatisfied with the sufficiency of any security, require a new security in place of or in addition to the existing security.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Where the new security is not given, the Chief Collector of Customs may refuse to pass an entry or to do any other act on a matter for which the new security is required.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A person who is dissatisfied with a decision of the Chief Collector of Customs under this Section may, within 20 working days after the date on which notice of the decision is given, appeal to the Minister against that decision.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

182 Written authority of agents

A Customs officer may:

(a) require a person acting or holding himself or herself out as the agent of another person in a matter about this Act to produce a written authority from the person's principal; and

(b) if the authority is not produced, refuse to recognise the agency.

183 Audit or examination of records

(1) A Customs officer may at all reasonable times enter any premises or places where records are kept under Section 111 and audit or examine those

records either in relation to specific transactions or to the adequacy and integrity of the manual or electronic system or systems by which records are created and stored.

(2) For the purposes of subsection (1), a Customs officer has, subject to Section 205, full and free access to a land, building or place and to any book, record or documents, property, process or matter whether in the custody or under the control of the CCA licencee, importer, or exporter, or any other person, for the purpose of inspecting the book, record, document, property, process or matter that the officer considers:

(a) necessary or relevant for the purpose of collecting a duty under this Act or for the purpose of carrying out any other function conferred on the officer; or

(b) likely to provide any other information required for the purposes of this Act or of the function conferred on the officer.

(3) The Customs officer may, make extracts from or copies of the book, record, document, process or matter at no cost to Customs.

(4) Despite subsections (2) and (3), a Customs officer shall not enter any private dwelling except with the consent of an occupier or owner or under a warrant issued under this Act.

184 Requisition to produce documents

(1) Where:

(a) a Customs officer has reasonable cause to suspect that goods have been unlawfully imported, exported, manufactured, undervalued, entered, removed, or otherwise unlawfully dealt with by a person contrary to this Act or that any other person intends to so import, export, manufacture, undervalue, enter, remove, or otherwise deal with any goods; or

(b) goods have been seized under this Act,

the Chief Collector of Customs may by notice in writing, require the person or the other person whom the officer suspects to be or to have been the owner, importer, exporter or manufacturer of the goods, or agent thereof, as and when required, to produce and deliver to the Customs officer or any other specified Customs officer all books of account, invoice-books, or other books, records or documents of account in which any entry or memorandum appears or may be supposed to appear for the purchase, importation, exportation, manufacture, cost or value of, or payment for, the goods and any other goods so imported or exported for, the goods and otherwise dealt within a period of 5 years before the date of the notice.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020; am Act 14 of 2024 s 6, opn 20 Aug 2024]

(2) In addition to the requirements of subsection (1), the Chief Collector of Customs may require the owner, importer, exporter or manufacturer of the goods, or agent thereof, as and when required, to:

(a) produce for the inspection of the Customs officer or any other specified Customs officer, and allow the officer to make copies of or extracts from, any of the documents, books or records referred to in subsection (1); and

(b) answer any question concerning those documents, books or records.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

185 Further powers in relation to documents

(1) The Chief Collector of Customs may, by notice in writing, require a person as and when required to:

(a) produce for inspection by a specified Customs officer a document or record that the Chief Collector of Customs considers necessary or relevant to an investigation or audit under this Act;

(b) allow the specified Customs officer to make copies of or to take extracts from the document or record; and

(c) appear before a specified Customs officer and answer any question put to the person about the goods or a transaction on the goods that are the subject of the investigation, or concerning the documents or records that are relevant to the investigation.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Subsection (1) overrides Section 7 of the *Banking Act 1975* relating to secrecy.

186 Legal professional privilege

(1) Subject to subsection (2), any information or document is, for the purposes of legal professional privilege, privileged from disclosure if:

(a) it is a confidential communication, whether oral or written, passing between:

(i) a legal practitioner in his or her professional capacity and another legal practitioner in the capacity; or

(ii) a legal practitioner in his or her professional capacity and his or her client,

whether made directly or indirectly through an agent of either;

(b) it is made or brought into existence for the purpose of obtaining or giving legal advice or assistance; and

(c) it is not made or brought into existence for the purpose of committing or furthering the commission of an offence or wrongful act.

(2) Where the information or document consists wholly of payments, income, expenditure or financial transactions of a specified person, whether a legal practitioner, the practitioner's client or any other person, it is not privileged disclosure if it is contained in, or comprises the whole or part of, a book, account, statement, or other record prepared or kept by the legal practitioner in connection with a trust account of the legal practitioner under the *Legal Practitioners Act 2019*.

(3) Except as provided in subsection (1), an information or document is, for the purposes of legal professional privilege, not privileged from disclosure on the ground that it is a communication passing between one legal practitioner and another legal practitioner or between a legal practitioner and his or her client.

(4) Where a person refuses to disclose any information or document on the ground that it is privileged under this Section, a Customs officer or that person may apply to a Judge for an order as to whether or not the claim of privilege is valid and, for the purposes of determining the application, the Judge may request the information or document to be produced to him or her.

(5) In this Section, '***legal practitioner***' has the same meaning given to it in the *Legal Practitioners Act 2019*.

187 Documents in foreign language

Where a document in a foreign language is presented to a Customs officer to carry out any duty or exercise any power of Customs under this Act or any other written law, the officer may require the person who presented the document to supply to the officer an English translation of the document prepared by the person, as the officer may approve and at the expense of the person who presented it.

188 Chief Collector of Customs may take possession of and retain documents and records

(1) The Chief Collector of Customs may take possession of and retain a document or record presented on an entry or required to be produced under this Act.

(2) Where the Chief Collector of Customs takes possession of a document or record under subsection (1), the Chief Collector of Customs shall, at the request of the person entitled to the document or record, provide that person with a copy of the document certified by or on behalf of the Chief Collector of Customs under the seal of Customs as a true copy.

(3) The certified copy is admissible as evidence in court.

[s 188 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

189 Copying of documents obtained during search

(1) A Customs officer who carries out a search, inspection, audit or examination under this Act and has reasonable cause to believe that documents coming into his or her possession during the search, inspection, audit, or examination are evidence of the commission of an offence against this Act, may remove the documents for the purpose of making copies.

(2) Subject to Section 190, the documents shall, as soon as practicable after copies of the documents have been taken, be returned to the person entitled to them.

(3) A copy of a document certified by or on behalf of the Chief Collector of Customs under the seal of Customs is admissible as evidence in court.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

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190 Retention of documents and goods

(1) Where a Customs officer:

(a) carries out any search, inspection, audit, or examination under this Act; and

(b) has reasonable cause to believe that any documents or goods coming into his or her possession during the search, inspection, audit, or examination are evidence of the commission of an offence against this Act, or are intended to be used for the purpose of committing an offence against this Act,

the officer may, subject to subsection (4), take possession of and retain the documents or goods.

(2) A Customs officer who takes possession of a document under subsection (1), shall, at the request of the person entitled to the document, provide that person with a copy of the document certified by or on behalf of the Chief Collector of Customs under the seal of Customs as a true copy.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The certified copy is admissible in evidence in court.

(4) Where a Customs officer takes possession of and retains documents or goods under this Section, the following provisions apply:

(a) in any proceedings for an offence relating to the documents or goods, a court may order, either the hearing or on a subsequent application, that the documents or goods be delivered to the person appearing to the court to be entitled to them, or that they be disposed of in a manner and under any conditions as the court thinks fit;

(b) a Customs officer may at any time, unless an order has been made under paragraph (a), return the documents or goods to the person from whom they were taken or apply to a Judge for an order to their disposal and on the application a Judge may make an order that a court may make under paragraph (a); or

(c) if proceedings for an offence relating to the goods or documents are brought within a period of 3 months after the date on which possession of the document or goods was taken, a person claiming to be entitled to the goods or documents may, after the expiration of that period, apply to a Judge for an order that the goods or documents be delivered to that person and on the application, the Judge may adjourn the application, on terms as the Judge thinks fit, for proceedings to be brought, or may make any order that a court may make under paragraph (a).

(5) Where a person is convicted in proceedings for an offence relating to documents or goods to which this Section applies, and an order is made under this Section, the order is suspended:

(a) in any case, until the expiration of the time prescribed by rules of court for the filing of a notice of appeal or of an application for leave to appeal;

(b) if a notice of appeal is filed within the prescribed time as required under paragraph (a), until the determination of the appeal; or

(c) if an application for leave to appeal is filed within the prescribed time as required under paragraph (a), until the application is determined and, if leave to appeal is granted, until the determination of the appeal.

(6) Where the order is suspended until the determination of the appeal, the court determining the appeal may, by order, annul or vary the order made under this Section and that order, if annulled does not take effect, and, if varied, takes effect as so varied.

191 Detention of goods suspected to be tainted property

A Customs officer may, without warrant, seize and detain goods if:

(a) the goods are in the Republic and the officer is satisfied that they either:
  (i) are being, or are intended to be, exported from the Republic; or
  (ii) are being, or have been, imported into the Republic;

(b) the goods came to the officer's attention or possession, during a search, inspection, audit, or examination under:
  (i) this Act;
  (ii) the *Anti-Money Laundering and Targeted Financial Sanctions Act 2023*; or
  (iii) Part 6 of the *Proceeds of Crime Act 2004*, which relates to reporting of imports and exports of cash; and

(c) the officer has good cause to suspect that the goods are tainted property under the *Proceeds of Crime Act 2004*.

[s 191 am Act 2 of 2023 s 140, opn 7 June 2023]

192 Return of cash necessary to satisfy essential human needs

(1) The power to detain goods under Section 191 does not extend to, and the Customs shall if practicable return immediately, cash seized under Section 191 if the Customs is satisfied that the cash is (or that things for which it might be exchanged are) necessary to satisfy essential human needs:
  (a) of, or of a dependant of, an individual from whom the cash has been seized; and
  (b) arising on, or within 7 days after, the date on which detention would otherwise be effected.

(2) Customs is not required under subsection (1) to return any cash that the Customs is satisfied is not necessary for the purpose specified in that subsection.

(3) Where the 28-day period referred to in Section 194(1)(a) is extended under Section 195, subsection (1) is subject to such extension, and the reference in subsection (1)(b) to 7 days is to be read as a reference to the number of days, not exceeding 42, of that 28-day period as extended.

[subs (3) am Act 31 of 2026 s 5, opn 20 Aug 2026]

193 Further provisions about detention under Section 191

(1) Reasonable force may be used, if necessary, to seize or detain goods under Section 191.

(2) Where the person from whom goods have been seized and detained under Section 191 is identified but is not present when the seizure and detention occurs (for example, because the goods concerned are in any mail or cargo or in unaccompanied baggage), the Customs shall make all reasonable efforts to notify that person of the detention and seizure, as soon as practicable.

(3) Goods detained under Section 191 are to be taken to a place of security as a Customs officer directs, and there detained, unless Section 196 applies.

(4) Section 191 does not limit or affect powers under the following:
(a) this Act;
(b) *Mutual Assistance in Criminal Matters Act 2004*;
(c) *Proceeds of Crime Act 2004*;
(d) *Anti-Money Laundering and Targeted Financial Sanctions Act 2023*;
(e) *Counter Terrorism and Transnational Organised Crime Act 2004*; or
(f) any other written law.

[subs (4) am Act 2 of 2023 s 140, opn 7 June 2023]

194 Return of goods detained under Section 191

(1) In this Section, ***'investigation period'***, for goods seized and detained under Section 191:
(a) means the period of 28 days after the date on which the goods were seized and detained; and
(b) includes an extension of that period granted by the District Court under Section 195.

[subs (1) am Act 31 of 2026 s 6, opn 20 Aug 2026]

(2) Goods seized and detained under Section 191 are to be returned to the person from whom they were seized as soon as practicable after whichever of the following occurs first:
(a) the completion of all relevant investigations, if they show that the goods are not tainted property; or
(b) the expiry of the investigation period.

(3) The Customs need not return the goods as provided in subsection (2), and may continue to detain them until the relevant proceedings or requests, including any resulting applications, are determined if, on or before the expiry of the investigation period:
(a) an information is laid on the relevant serious offence, as defined in Section 3 of the *Proceeds of Crime Act 2004*; or
(b) a foreign country makes a request to the Minister for Justice under Part 4 of the *Mutual Assistance in Criminal Matters Act 2004*.

[Note: the *Mutual Assistance in Criminal Matters Act 2004* requires requests for assistance to be made to the Minister for Justice.]

195 Extension of 28-day period in Section 194(1)(a)

(1) The 28-day period in Section 194(1)(a) may be extended, once only, by order of the District Court for a reasonable period up to a further 14 days if, on an application for the purpose made before the expiry of that 28-day period, the court is satisfied:
(a) that there is good cause to suspect as required by Section 191(c); and
(b) that the extension to be granted is necessary to complete any investigations in the Republic or another country about the goods.

[subs (1) am Act 31 of 2026 s 7, opn 20 Aug 2026]

(2) The application shall:
(a) be made in writing and served on the person from whom the goods were seized, if that person can be identified and located; and
(b) include the following particulars:

(i) a description of the goods detained;
(ii) the date on which the detention commenced;
(iii) a statement of the facts supporting the good cause to suspect required by Section 191(c); and
(iv) a statement of reasons why the extension sought is necessary to complete any investigations in the Republic or another country, in relation to the goods.

(3) The person from whom the goods were seized is entitled to appear and be heard on the application.

(4) The Customs shall make all reasonable efforts to notify the person from whom the goods were seized, at least 24 hours before the hearing of the application, of the time and place of that hearing.

[s 195 am Act 31 of 2026 s 7, opn 20 Aug 2026]

196 Custody of certain goods detained under Section 191

(1) Where goods detained under Section 191 are a craft, vehicle, or animal, a Customs officer may leave those goods in the custody of either:
(a) the person from whom the goods have been seized; or
(b) any other person authorised by the Customs officer and with the person's consent to having custody.

(2) A person who has the custody of goods under subsection (1) shall, until a final decision is made under Section 194 as to whether or not they are to be returned, hold them in safe-keeping, without charge to the Republic and under any reasonable conditions that may be imposed by the Customs.

(3) A person to whom subsection (2) applies shall:
(a) make the goods available to a Customs officer on request;
(b) not alter, or dispose of, the goods, or remove them from the Republic, unless the person is authorised to do so by a Customs officer; and
(c) return the goods on demand to the custody of the Customs.

197 Search warrants

(1) A Judge, Resident Magistrate, or Registrar of Courts ('the issuer') may issue a search warrant in the prescribed form if the issuer is satisfied, on an application by a Customs officer in writing made on oath, that there are reasonable grounds to believe that there is in or on any place:
(a) a thing that there are reasonable grounds to believe may be evidence of the commission of an offence against this Act or regulations;
(b) a thing that there are reasonable grounds to believe is intended to be used for the purpose of committing an offence against this Act or any regulations; or
(c) a thing that is liable to seizure under this Act.

(2) The Customs officer, when applying for a warrant shall, having made reasonable enquiries, disclose on the application details of any other application that the Customs officer knows of the place or thing specified, any offence, and the result of that other application.

(3) A search warrant is to be:
(a) directed to and executed by, a designated Customs officer; or
(b) directed to all Customs officers and executed by any of them.

(4) A warrant may be issued subject to any reasonable conditions, as the issuer specifies in the warrant.

198 Entry and search under warrant

(1) A search warrant authorises the Customs officer executing the warrant to:
   (a) enter and search the place or thing on one occasion within 10 working days of the date of issue of the warrant at any time that is reasonable in the circumstances, but subject to any conditions imposed by the issuer under Section 197(4);
   (b) use any assistance as is reasonable in the circumstances; and
   (c) use any force for making entry, whether by breaking open doors or otherwise, and for breaking open a thing as is reasonable in the circumstances and for preventing the removal from the premises of a thing as is reasonable in the circumstances.

(2) A search warrant authorises the Customs officer executing the warrant to search for and seize a thing referred to in Section 197(1) and, while on the premises under the warrant, to seize either or both of the following:
   (a) any other thing that the officer finds and has reasonable cause to suspect may be evidence of the commission of an offence for which that officer could have obtained a warrant under Section 197(1): or
   (b) a dangerous item in the circumstances described in Section 199(2).

(3) A search warrant authorises the Customs officer executing it:
   (a) to detain a person who is at the place referred to in the warrant when the officer arrives at that place, or who arrives at that place when the officer is executing the warrant, until the officer is satisfied that the person is not connected with the thing referred to in the warrant; and
   (b) to search a person who is at the place referred to in the warrant when the officer arrives at that place, or who arrives at that place while the officer is executing the warrant if, at any time while executing the warrant, the officer reasonably believes that the thing referred to in the warrant may be on the person's body.

(4) A person who is at the place referred to in the warrant when the officer executing the warrant arrives at that place, or who arrives at that place while the officer is executing the warrant, shall remain at that place until the earlier of the following events occurs:
   (a) the search of that place is completed; or
   (b) the officer, being satisfied that the person is not connected with the thing referred to in the warrant, permits the person to leave.

(5) A person who is being searched under subsection (3)(b), shall remain at the place where the person is being searched until the search is completed.

(6) A Customs officer or police officer who has reasonable cause to suspect that a person has by failing to comply with subsection (4) or (5) committed an offence against Section 225 may under Section 206(1) or (2) arrest that person without warrant while that cause to suspect continues and before the end of the 7th day after the date on which it arose.

(7) A person may not be detained under subsection (3)(a) or (b) for a period of time that is unreasonable.

(8) Reasonable force may be used, if it is necessary to detain a person under subsection (3)(a) or to search a person under subsection (3)(b).

(9) Where there is no suitable searcher available at the place where the search is to take place, the person to be searched may be taken to another place to be searched.

(10) A Customs officer or police officer may seize a thing found in carrying out the search of the person that the Customs officer or police officer has reasonable cause to believe is a thing referred to in the warrant, and reasonable force may be used, if necessary, to seize the thing.

(11) A person called upon to assist the Customs officer or police officer executing the warrant has, for that purpose, the powers referred to in subsections (1)(c) and (2).

199 Searching of persons for dangerous items when executing search warrant

(1) This Section applies to a person who is at the place referred to in the search warrant when the Customs officer arrives at that place, or who arrives at that place when the officer is executing the warrant.

(2) A Customs officer may immediately detain and search a person to whom this Section applies for a dangerous item, and may seize the item under Section 198(2) if the officer has reasonable grounds to believe that:
(a) the person has a dangerous item hidden or in clear view on or about his or her person;
(b) the item poses a threat to the safety of the officer or any other person; and
(c) there is a need to act immediately in order to address that threat.

(3) Reasonable force may be used, if necessary, for 1 or more of the following purposes:
(a) to detain the person;
(b) to search the person; or
(c) to seize any dangerous item found in carrying out a search under subsection (2).

(4) A search may be conducted under this Section whether or not the person has earlier been the subject of a search under Section 198.

(5) A Customs officer who undertakes a search under this Section shall, within 3 working days of the search, give the Chief Collector of Customs a written report of the search, the circumstances in which it was conducted, including any use of force, and the matters that gave rise to the reasonable grounds to believe required by subsection (2).

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

200 Detention of dangerous items

(1) A Customs officer may detain goods seized in the course of exercising a power of search under Section 198 or 199(2), if the officer believes on reasonable grounds that the goods are dangerous items.

(2) A Customs officer who detains goods under subsection (1), shall:
(a) as soon as practicable, deliver those goods into the custody of the Police; or
(b) comply with Section 202 and retain those goods if the goods may be required for a proceeding under this Act.

(3) When goods are delivered under subsection (2), responsibility for them passes from Customs to the Police.

(4) Section 78 of the *Criminal Procedure Act 1972* or any other written law applies, with any necessary modification, to goods detained under subsection (1).

201 Search warrant to be produced

(1) A Customs officer executing a search warrant shall:
   (a) produce the warrant for inspection upon initial entry and in response to any reasonable request made subsequently; and
   (b) when requested by or on behalf of the owner or occupier, provide a copy of the warrant no later than 5 working days after the making of the request.

(2) Subject to subsection (3), if the owner or occupier of the place being searched or the owner of the thing being searched, is not present at the time of the search, the Customs officer executing the warrant shall leave in a prominent position at the place being searched or attached to the thing searched, a written notice stating the date and time of the execution of the warrant and the name of the Customs officer-in-charge of the search.

(3) Where the Customs officer executing the warrant believes that a notice under subsection (2), would unduly prejudice subsequent investigations, the officer may refrain from leaving the notice and, in that event, shall, within 5 working days apply to a Judge for an order to confirm the decision.

(4) Where the Judge refuses to confirm the decision, the officer who executed the warrant shall immediately notify, or cause to be notified, the owner or occupier of the place searched or the owner of the thing searched, of the particulars referred to in subsection (2).

202 Duty to inform owner where things seized

(1) Except in any case to which Section 201(3) applies and continues to apply following a decision under Section 201(3) or unless a Judge because of exceptional circumstances otherwise orders, the person executing the warrant shall, within 5 working days after the seizure of a thing inform the owner or occupier of the place searched or the owner of the thing searched of the fact that something has been seized and of the place from where it was seized.

(2) The Customs officer executing the warrant shall inform the owner or occupier:
   (a) by delivering to the owner or occupier a written notice containing any information;
   (b) by leaving the notice in a prominent position at the place searched or attached to the thing searched;
   (c) by sending the notice to the owner or occupier by registered mail; or
   (d) by informing the owner or occupier in any other manner, as a Judge orders in any particular case.

(3) A person affected by the execution of a search warrant may apply to a Judge for an order for the disclosure of the application for the warrant, and any document submitted in support of the application and the Judge may, if satisfied that the disclosure of the information will not prejudice the safety

of any person, order the disclosure of the whole or any part of the application and supporting document.

203 Emergency warrants

(1) Where a Judge, Resident Magistrate or Registrar of Courts ('issuer') is satisfied, on an application made by a Customs officer, that:
   (a) circumstances exist that would justify the grant of a search warrant under Section 197; but
   (b) the urgency of the situation requires that the search should begin before a warrant under that Section could with all practicable diligence be obtained,

   the issuer may, orally or in writing, grant an emergency warrant to the Customs officer making the application to search for and seize the thing that is believed to be in or on a particular place, premises, or thing.

(2) An application for an emergency warrant may be made orally, but the application shall comply with Section 197.

(3) The Customs officer making the application shall, at the time of the making of the application, make a note in writing of the particulars of the application.

(4) An issuer who grants the application for an emergency warrant, shall immediately make a note in writing of the particulars of the application, the note is to be filed in the Court Registry, and is, for the purposes of Section 197(1), treated as an application under that Section.

(5) A Customs officer executing an emergency warrant shall:
   (a) produce the note made under subsection (3) for inspection upon initial entry and in response to any reasonable request thereafter; and
   (b) when requested, provide a copy of the note no later than 5 working days after the making of the request.

(6) Sections 198, 201(2), (3), (4) and 202, with necessary modifications, apply to emergency warrants in the same manner as they apply to search warrants.

(7) An emergency warrant remains valid for 12 hours from the time when the authorisation is given.

(8) As soon as practicable after an emergency warrant has expired, the Customs officer who applied for it, or, if the officer is not able to do so, another Customs officer shall provide a written report, in the prescribed form, to the issuer who granted the emergency warrant setting the manner in which the emergency warrant has been executed and the results obtained by the execution of the warrant.

204 Use of aids by Customs officer

(1) In exercising any power of boarding, entry, examination, or search conferred by this Act, a Customs officer or any police officer may have with him or her, and use for the purposes of searching, a dog, a chemical substance, x-ray or imaging equipment, or any other mechanical, electrical or electronic device.

(2) This Section does not apply to a search warrant carried out on residential premises except under a warrant issued under Section 197 or 203.

205 Conditions applying to entry of buildings

Despite anything in this Act, a provision of this Act that confers on a Customs officer the power to enter a building, whether or not under the authority of a warrant, is subject to the following conditions that the officer shall:

(a) first give reasonable notice of the intention to enter, unless giving of the notice would frustrate the purpose of the entry;

(b) enter the building at a time that is reasonable in the particular circumstance, unless giving of the notice would frustrate the purpose of the entry;

(c) produce his or her identity card on initial entry, and if requested at any time after the initial entry; and

(d) clearly state his or her authority for and the purpose of the entry to the owner or occupier of the building if he or she is present.

206 Arrest of suspected offenders

(1) A Customs officer who has reasonable cause to suspect that a person has committed, is committing, or is attempting to commit, or is otherwise concerned in the commission of, an offence against this Act punishable by imprisonment, or an offence against Section 250, may, while that cause to suspect continues and before the end of the 7th day after the date on which the suspicion arose, arrest that person without warrant.

(2) A Customs officer who has reasonable cause to suspect that a person has carried some other person into the Republic on a craft, and that the carriage of the other person into the Republic on the craft constitutes an offence against Parts 8 and 9 of the *Counter Terrorism and Transnational Organised Crime Act 2004* may, while that cause to suspect continues and before the end of the 7th day after the date on which the suspicion arose, and on the craft or elsewhere, arrest the person without warrant.

(3) A police officer who has reasonable cause to suspect that a person has committed, is committing, or is attempting to commit, or is otherwise concerned in the commission of, an offence against Section 211, 225, 250, or 252 may, while that cause to suspect continues and before the end of the 7th day after the date on which the suspicion arose, arrest that person without warrant.

(4) Where a Customs officer arrests a person under this Section, the officer shall, unless the person is sooner released, as soon as practicable call a police officer to his or her aid and deliver the arrested person into the custody of that police officer.

207 Protection of persons acting under authority

The Minister, the Chief Collector of Customs, a Customs officer, a police officer, or an authorised person is not personally liable for the loss of or damage to any document, goods, vehicle or craft occasioned by anything done or omitted to be done, or purported to have been done, in good faith, when carrying out a function, duty or power under this Act.

[s 207 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

208 Seizure and detention of dangerous goods

(1) A Customs officer may seize and detain goods that are presented or located

in the course of exercising any power of inspection, search or examination under this Act, if the officer has cause to suspect on reasonable grounds that the goods:

(a) are dangerous goods that may not be lawfully carried on an aircraft; and

(b) are proposed to be carried by an operator.

(2) A Customs officer who detains goods under subsection (1), shall, as soon as practicable, deliver those goods into the custody of the Director of Civil Aviation.

(3) When goods are delivered under subsection (2), responsibility for them passes from Customs to Civil Aviation Authority.

(4) In this Section:

'Civil Aviation Authority' means the Civil Aviation Authority established by the *Civil Aviation Act 2011*;

'Director of Civil Aviation' means the person appointed as such under the *Civil Aviation Act 2011*; and

'operator' means a person who operates within the meaning of '**operate**' as defined under Section 6 of the *Civil Aviation Act 2011*.

209 Unlawful travel document

(1) In this Section:

'false', for a travel document, means that the travel document contains information purporting to relate to the person to whom it was issued, being information supplied by or on behalf of the person as part of or in connection with the person's application for the document, that:

(a) is false; or

(b) relates in fact to some other person;

'forged', for a travel document, means that the travel document:

(a) has not been issued by the government by which it purports to have been issued; or

(b) has been altered without authority;

'misused' for a travel document, means that the travel document has been, is being, or is intended to be used for the purposes of identification by a person who is not the person for whom the document was issued;

'travel document' means any document that is or purports to be:

(a) a permit within the meaning of the *Immigration Act 2014*;

(b) a passport that has been issued by the government of any country;

(c) a certificate of identity that has been issued by the government of any country; or

(d) a refugee travel document that has been issued by the government of any country; and

'unlawful travel document':

(a) means a travel document that is false, forged, or misused; and

(b) includes any item involved in the production of a document referred to in paragraph (a) or in the unauthorised alteration of a travel document.

(2) A Customs officer may retain or seize any document presented for inspection if a Customs officer has reasonable cause to suspect that the document is an unlawful travel document.

(3) A Customs officer may seize a document found in the course of a search or examination under this Act if a Customs officer has reasonable cause to suspect that the document is an unlawful travel document.

(4) For the purpose of this Section, Section 23, 154, 155, 159, 160, 165, or 170 is to be read as if the unlawful travel document is a prohibited good.

(5) Any document or goods retained or seized under this Section shall be dealt with under Section 210.

(6) Section 210(2) to (5) apply, with necessary modifications, to any documents or goods retained or seized under this Section.

210 Seizure and detention of goods suspected to be certain risk goods or evidence of commission of certain offences

(1) A Customs officer may seize and detain goods or documents that are presented or located in the course of exercising a power of inspection, search, or examination under this Act, if the officer has cause to suspect on reasonable grounds that the goods:

(a) are regulated articles under the *Quarantine Act 1908* for which no quarantine clearance has been given under that Act; or

(b) are evidence of the commission of any offence under:

(i) Section 57, 58 or 64 of the *Counter Terrorism and Transnational Organised Crime Act 2004*; or

(ii) the *Fisheries Act 1997*.

[subs (1) am Act 18 of 2016 s 65, opn 12 May 2016]

(2) A Customs officer who detains goods under subsection (1) shall, as soon as practicable, deliver those goods into the custody of:

(a) if the Customs officer believes that subsection (1)(a) or (b)(ii) applies to the goods, the Secretary of the Department responsible for the *Quarantine Act 1908* or the *Fisheries Act 1997*; or

(b) if the Customs officer believes that subsection (1)(b)(i) applies to the goods, a police officer.

(3) Once goods have been delivered to a person under subsection (2), responsibility for those goods passes to that person.

(4) Section 78 of the *Criminal Procedure Act 1972* applies, with necessary modification, to goods detained under subsection (1).

[The next page is 423,241]

211 Threatening or resisting Customs officer

(1) A person who:
(a) threatens or assaults;
(b) unreasonably resists; or
(c) obstructs or intimidates,
a Customs officer or a person acting in the officer's aid in the execution of the officer's duties, commits an offence.

(2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 2 years, or both.

212 Obstructing Customs officer or interfering with Customs property

(1) A person commits an offence, who:
(a) otherwise than by force, intentionally obstructs a Customs officer when carrying out the officer's functions, duties or powers;
(b) intentionally interferes with any equipment, vehicle, craft, dog, communications system, or other aid, used or intended for use, by Customs; or
(c) does any act with the intention of impairing the effectiveness of any equipment, vehicle, craft, dog, communications system, or other aid used, or intended for use, by Customs.

(2) A person convicted of an offence against this Section, is liable to a fine not exceeding $20,000 or to imprisonment for a term not exceeding 5 years or both.

213 False allegation or report to Customs officer

(1) A person commits an offence, who:
(a) contrary to the fact and without a belief in the truth of the statement, makes or causes to be made to a Customs officer a written or verbal statement alleging that an offence has been committed or is about to be committed; or
(b) with the intention of causing wasteful deployment, or of diverting deployment, of the Customs personnel or resources, or being reckless as to that result:
(i) makes a statement to any other person that gives rise to serious apprehension for that other person's own safety or the safety of another person or property, knowing that the statement is false; or
(ii) behaves in a manner that is likely to give rise to an apprehension, knowing that the apprehension would be groundless.

(2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 2 years, or both.

214 Personation of a Customs officer

(1) A person commits an offence who:
   (a) not being a Customs officer, by words, conduct, or demeanour pretends to be a Customs officer or an authorised person, or wears or uses the uniform, name, designation or description of a Customs officer; or
   (b) without authority, represents any craft, vehicle or other conveyance as being in the service of Customs.

(2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding $20,000 or to imprisonment for a term not exceeding 5 years, or both.

215 Counterfeit seals or marks

(1) A person commits an offence who, without lawful authority or excuse, has in his or her possession, or makes, or uses any counterfeit, seal, stamp, marking, substance, or device in imitation of or closely resembling any seal, stamp, marking, substance, or device used by Customs for the purposes of this Act.

(2) A person convicted of an offence under subsection (1), is liable:
   (a) for an individual, to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 6 years, or both; and
   (b) for a body corporate, to a fine not exceeding $100,000.

216 Obligations of persons arriving in or departing from the Republic

(1) A person commits an offence who wilfully fails to comply with any requirement imposed on that person under any of Sections 28, 29, 30, 31, 32, 33, 35 and 36.

(2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding $20,000.

217 Unauthorised presence in certain Customs controlled areas

(1) A person commits an offence who, without the permission of a Customs officer, enters into, or remains in when directed by a Customs officer to leave, a Customs controlled area licenced for the:
   (a) temporary holding of imported goods for the purposes of the examination of those goods under Section 175, including the holding of the goods while they are awaiting examination;
   (b) disembarkation, embarkation, or processing of persons arriving in or departing from the Republic; or
   (c) processing of a craft arriving in or departing from the Republic or the loading or unloading of goods onto or from the craft,

   when that area is being, or is about to be, used for any of the purposes for which it is licenced.

(2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding $10,000.

218 Unauthorised access to or improper use of Customs electronic entry processing system

(1) A person commits an offence who:

(a) knowingly and without lawful authority, by any means gains access to or attempts to gain access to any Customs electronic entry processing system;
(b) having lawful access to any Customs electronic entry processing system, knowingly uses or discloses information obtained from the system for an unauthorised purpose; or
(c) knowing that he or she is not authorised to do so, receives information obtained from any Customs electronic entry processing system and, uses discloses, publishes, or disseminates the information.

(2) A person convicted of an offence under subsection (1), is liable:
(a) for an individual, to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 6 years, or both; and
(b) for a body corporate, to a fine not exceeding $100,000.

219 Interference with Customs electronic entry processing system

(1) A person commits an offence, who:
(a) by any means knowingly falsifies any record or information stored in any Customs electronic entry processing system;
(b) knowingly damages or impairs any Customs electronic entry processing system; or
(c) knowingly damages or impairs any duplicate tape or disc or other medium on which any information obtained from a Customs electronic entry processing system is held or stored, unless permitted by the Chief Collector of Customs.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 6 years, or both.

220 Offences in relation to security of, or unauthorised use of, unique user identifiers

(1) A registered user commits an offence who contravenes a condition imposed, by the Chief Collector of Customs, on the security of the registered user's unique user identifier.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A person commits an offence, who:
(a) not being a registered user, uses a unique user identifier; or
(b) being a registered user, uses the unique user identifier of any other registered user,

to authenticate a transmission of information to Customs electronic entry processing system.

(3) A person convicted of an offence under subsection (1) or (2), is liable to a fine not exceeding $20,000.

DIVISION 2 — OFFENCES IN RELATION TO CUSTOMS OFFICERS' POWERS

221 Failure to answer questions

(1) A person commits an offence who, when required under this Act to answer a question put to that person:

(a) without reasonable excuse, fails or refuses to answer it; or
(b) gives a false answer.

(2) It is a defence to an offence against this Section if the person provides that he or she did not, when required to answer the question, have the information required to answer the question in his or her knowledge, possession, or control or honestly and reasonably believed that the answer was, in all the circumstances, correct at that time.

(3) It is not a reasonable excuse for the purposes of subsection (1)(a), if a person fails or refuses to answer a question on the grounds that to answer the question would or might incriminate or tend to incriminate that person.

(4) A person convicted of an offence under subsection (1), is liable:
(a) for an individual, to a fine not exceeding $5,000; and
(b) for a body corporate, to a fine not exceeding $10,000.

222 Failure to produce evidence of identity, entitlement to travel or other matters

A person who fails without reasonable excuse to comply with a demand made under Section 163 or 164 commits an offence and is liable on conviction to a fine not exceeding $5,000.

223 Failure to produce or account for goods

(1) A person commits an offence who fails or refuses to produce or account for any goods when required to do so under Section 176, 177 or 178 commits an offence and is liable on conviction to a fine not exceeding $20,000.

(2) It is a defence to an offence against this Section if the person proves that he or she did not have possession or control of the goods or was otherwise unable, for good reason, to comply with the Chief Collector of Customs requirements.

224 Failure to comply with requisition

(1) A person who contravenes a requirement of the Chief Collector of Customs under Section 184 or 185, commits an offence and is liable on conviction:
(a) for an individual, to a fine not exceeding $50,000; and
(b) for a body corporate, to a fine not exceeding $100,000.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) It is a defence to an offence against this Section, if the defendant proves that he or she did not have possession or control of the documents or information or did not have knowledge of the relevant documents, books or records.

225 Failure or refusal to remain at place

(1) A person commits an offence, who:
(a) fails or refuses to remain at the place that is being searched under Section 198(1)(a) until the earlier of the events specified in Section 198(4)(a) and (b); or
(b) fails or refuses to remain at the place where that person is being searched under Section 198(3)(b) until that search is completed.

(2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 5 years, or both.

226 Use of area without licence

A person who contravenes Section 11, commits an offence and is liable on conviction:

(a) for an individual, to a fine not exceeding $50,000; and
(b) for a body corporate, to a fine not exceeding $100,000.

227 Failure to comply with conditions of licence

A person who contravenes a term or condition of or a restriction on a CCA licence, commits an offence and is liable on conviction:

(a) for an individual, to a fine not exceeding $50,000; and
(b) for a body corporate, to a fine not exceeding $100,000.

DIVISION 3 — OFFENCES IN RELATION TO ARRIVAL AND DEPARTURE OF CRAFT AND PERSONS

228 Offences in relation to arrival of craft

(1) A person commits an offence, who:

(a) being the person-in-charge of a craft, fails to comply with any of the following requirements in Section 22(1), which relates to advice of arrival:

(i) to give advance notice of any prescribed matters;

(ii) to give advance notice and within the prescribed time;

(iii) to proceed to a Customs place; or

(iv) to proceed as directed by a Customs officer;

(b) being the person-in-charge of, or the owner of, or a member of the crew of, or a passenger on, a craft:

(i) refuses to answer a question put to that person, owner, crew or passenger by a Customs officer under Section 23(2)(a), which relates to a requirement to answer questions, or knowingly gives a false answer to the question; or

(ii) fails to comply with a request made under Section 23(2)(b);

(c) being the master of a ship, fails to comply with any direction of a Customs officer under Section 24(1) or (4), which relates to the bringing-to of a ship or contravenes Section 24(3);

(d) being the person-in-charge of a craft, contravenes Section 25(1) which relates to the arrival of craft at a nominated Customs place only;

(e) being a member of the crew of, or a passenger on, any craft, contravenes Section 25(2);

(f) being a person-in-charge of a craft, contravenes Section 26(5), which relates to craft arriving at a place other than a nominated Customs place;

(g) being a member of the crew of, or a passenger on, any craft, contravenes Section 26(6) or (7); or

(h) being the person-in-charge of or the owner of a craft contravenes:

(i) Section 27(2)(a), which relates to inward reports; or

(ii) a Customs direction given under Section 27(2)(b).

(2) A person convicted of an offence under subsection (1)(a), (c) or (d), is liable:
(a) for an individual, to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 6 years, or both; and
(b) for a body corporate, to a fine not exceeding $100,000.

(3) A person convicted of an offence under subsection (1)(b), is liable:
(a) for an individual, to a fine not exceeding $20,000; and
(b) for a body corporate, to a fine not exceeding $50,000.

(4) A person convicted of an offence under subsection (1)(e), (f), (g) or (h), is liable to a fine not exceeding $50,000.

229 Offences in relation to inward report

(1) Where:
(a) an inward report delivered under Section 27 is erroneous, misleading or defective in any material particular; or
(b) a document delivered in support of the inward report is not genuine or is erroneous or misleading,

the person-in-charge of the craft and the owner of the craft each commits an offence.

(2) The person-in-charge or the owner convicted of an offence under subsection (1), is liable:
(a) for an individual, to a fine not exceeding $50,000; and
(b) for a body corporate, to a fine not exceeding $100,000.

230 Offences in relation to departure of craft

(1) A person commits an offence who:
(a) being the person-in-charge of a craft, contravenes Section 37, which relates to clearance of a craft;
(b) being the person-in-charge of a craft:
(i) contravenes Section 38(a), which relates to outward reports;
(ii) refuses to answer a question put to that person by a Customs officer under Section 38(b) or knowingly gives a false answer to the question; or
(iii) fails to produce any documents required by a Customs officer under Section 38(c);
(c) being the person-in-charge of or a member of the crew, of a craft, contravenes Section 41, which relates to boarding of outward craft;
(d) being the person-in-charge of a craft:
(i) fails to comply with a demand made by a Customs officer under Section 39, which relates to the production of a certificate of clearance; or
(ii) refuses to answer a question put to that person under that Section or knowingly gives a false answer to the question; or
(e) being the person-in-charge of a craft, contravenes Section 41, which relates to the departure of the craft only from a Customs place.

(2) A person convicted of an offence under subsection (1) (a), (c) or (e), is liable to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 2 years, or both.

(3) A person convicted of an offence under subsection (1)(b) or (d), is liable to a fine not exceeding $30,000.

231 Offences in relation to outward report

(1) Where:
(a) an outward report delivered under Section 38 is erroneous, misleading or defective in any material particular; or
(b) any document delivered in support of the report is not genuine or is erroneous or misleading,
the person-in-charge of and the owner of a craft each commits an offence.

(2) A person convicted of an offence under subsection (1), is liable:
(a) for an individual, to a fine not exceeding $30,000; and
(b) for a body corporate, to a fine not exceeding $50,000.

232 Failure to comply with requirement to cease using electronic communication device

A person who fails to comply with a requirement imposed on that person under Section 34(3) commits an offence and upon conviction is liable to a fine not exceeding $10,000.

233 Defences

It is a defence to an offence against Sections 228, 229, 230, 231, and 232, if the defendant proves:
(a) that, if it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or
(b) that, if it is alleged that anything unlawful was done, the defendant took all reasonable steps to ensure that it was not done.

DIVISION 4 — OTHER OFFENCES

234 Adapting craft for smuggling

(1) Where a craft comes to or is found within the Republic having:
(a) a part or place adapted for the purpose of concealing goods or persons; or
(b) a hole, pipe, or device adapted for the purpose of concealing goods or persons,
the person-in-charge and the owner of the craft each commits an offence.

(2) The person-in-charge or owner convicted of an offence under subsection (1), is liable to a fine not exceeding $100,000.

235 Interference with seals and fastenings

(1) Where a fastening, lock, mark or seal that has been placed by a Customs officer on any goods or on a hatchway, opening or other place or device on a craft is, without the authority of a Customs officer, opened, altered, broken, or erased by any person while the craft is within the Republic, the person so acting and the person-in-charge of the craft each commits an offence.

(2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding $50,000.

236 Offences in relation to Customs seals and Customs-approved secure exports schemes

(1) A person commits an offence who, without lawful justification or reasonable excuse:
   (a) uses a Customs seal on a package of goods other than under the relevant notice of appointment under Section 82;
   (b) alters, removes, damages, disposes of, or interferes with a Customs seal used on a package of goods other than under the relevant notice of appointment under Section 82; or
   (c) uses an approved seal or markings of the kind referred to in Section 86(1)(b) on a Customs-approved secure package other than under the relevant Customs-approved secure exports scheme.

(2) This subsection applies to a package if the package is:
   (a) a package to which a Customs seal has been lawfully used; or
   (b) a Customs-approved secure package to which a seal or marking of the kind referred to in Section 86(1)(b) has been lawfully used.

(3) A person commits an offence who, without lawful justification or reasonable excuse, tampers or interferes with a package to which subsection (2) applies by adding other goods to the goods in it when it was secured.

(4) A person convicted of an offence under subsection (1) or (3), is liable to a fine not exceeding:
   (a) for an individual, $20,000; and
   (b) for a body corporate, $50,000.

[The next page is 423,261]

237 Interference with cargo

(1) Where at any time after a craft carrying goods from a point outside the Republic arrives within the Republic and before an inward report is made under Section 27:
(a) any cargo is interfered with;
(b) any alteration is made in the storage of goods carried, so as to facilitate the unloading of any of the goods before the inward report has been made; or
(c) any of the goods are starved, removed, destroyed, or thrown overboard, or any package is opened,
the person so acting and the person-in-charge of the craft each commits an offence.

(2) Subsection (1) does not apply, if the act:
(a) was authorised by the Chief Collector of Customs or a Customs officer;
(b) was required by any statutory or other requirement relating to navigation; or
(c) was compelled by accident, stress of weather, or other necessity.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A person convicted of an offence under subsection (1), is liable to a fine not exceeding $50,000.

238 Unloading goods without authorisation

A person who contravenes Section 68, commits an offence and is liable on conviction to a fine not exceeding $100,000.

239 Offences in relation to manufacture, movements, and storage of goods

(1) A person commits an offence, who:
(a) contravenes Section 19(1), which relates to Customs facilities;
(b) contravenes Section 71, which relates to transportation of imported goods;
(c) contravenes Section 72, which relates to the removal of goods from a Customs controlled area; or
(d) takes goods out of a Customs controlled area or does any act in relation to goods taken out of a Customs controlled area that contravenes the permission granted by the Chief Collector of Customs under Section 73, which relates to the temporary removal of goods from a Customs controlled area.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A person who commits an offence against subsection (1) (a) to (d), is liable upon conviction:
(a) for an individual, to a fine not exceeding $100,000; and
(b) for a body corporate, to a fine not exceeding $200,000.

240 Interference with goods

(1) A person commits an offence who, except with the permission of a Customs officer:
(a) alters the condition of goods subject to the control of Customs;

(b) interferes with, including by way of addition to or taken away from the goods;
(c) unpacks or repacks the goods; or
(d) removes the goods from a place in which a Customs officer has directed that the goods are to be stored.

(2) A person who commits an offence against this Section is liable on conviction to a fine not exceeding:
(a) for an individual, $100,000; and
(b) for a body corporate, $200,000.

241 Contravention of direction of Chief Collector of Customs under Section 114

(1) A purchaser who, except with the consent of the Chief Collector of Customs, contravenes a direction given by the Chief Collector of Customs under Section 114(4)(b), commits an offence and upon conviction is liable:
(a) for an individual, to a fine not exceeding $80,000; and
(b) for a body corporate, to a fine not exceeding $150,000.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A purchaser who, knowingly and without the consent of the Chief Collector of Customs, contravenes a direction given by the Chief Collector of Customs under Section 114(4)(b), commits an offence and upon conviction is liable:
(a) for an individual, to a fine not exceeding $80,000;
(b) for a body corporate, to a fine not exceeding $150,000; and
(c) in either case, to an amount not exceeding 3 times the value of the goods to which the offence relates, in addition to the penalties under paragraph (a) or (b).

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

242 Offences in relation to entries

(1) A person commits an offence, who:
(a) fails to make an entry required under this Act; or
(b) makes an entry required under this Act that is erroneous or defective in a material particular.

(2) It is a defence to an offence against subsection (1), if the person proves:
(a) that for an offence against subsection (1)(a), the person took all reasonable steps to ensure that an entry was made; or
(b) that, for an offence against subsection (1)(b), the person took all reasonable steps to ensure that the entry was not erroneous or defective.

(3) A person convicted of an offence under subsection (1), is liable:
(a) for an individual, to a fine not exceeding $5,000; and
(b) for a body corporate, to a fine not exceeding $10,000.

(4) A person commits an offence who is concerned in the making of an entry that the person knows is erroneous or defective in a material particular.

(5) A person convicted of an offence under subsection (4), is liable:
(a) for an individual, to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 6 months, or both;
(b) for a body corporate, to a fine not exceeding $50,000; and
(c) in either case, to a fine of an amount not exceeding 3 times the value of

the goods to which the offence relates, in addition to the penalties imposed under paragraph (a) or (b).

243 Offences in relation to declarations and documents

(1) A person commits an offence, who:
  (a) makes a declaration or a written statement under this Act that is erroneous in a material particular;
  (b) produces or delivers to a Customs officer any document that is not genuine; or
  (c) produces or delivers to a Customs officer any document that is erroneous in a material particular.

(2) It is a defence to an offence against subsection (1), if the person proves that the person took all reasonable steps to ensure:
  (a) that the declaration, statement or document was not erroneous; or
  (b) for an offence against subsection (1)(b), that the document was genuine.

(3) A person convicted of an offence under subsection (1), is liable:
  (a) for an individual, to a fine not exceeding $3,000; and
  (b) for a body corporate, to a fine not exceeding $5,000.

(4) A person commits an offence, who:
  (a) makes a false declaration under this Act, knowing it to be false;
  (b) produces or delivers to a Customs officer any document that is not genuine, knowing that it is not genuine; or
  (c) produces or delivers to a Customs officer any document that is erroneous in any material particular, knowing that it is erroneous.

(5) A person convicted of an offence under subsection (4), is liable:
  (a) for an individual, to a fine not exceeding $30,000 or to imprisonment for a term not exceeding 6 months, or both;
  (b) for a body corporate, to a fine not exceeding $50,000; and
  (c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates, in addition to the penalties under paragraph (a) or (b).

244 Offences in relation to records

(1) A person who fails to keep records that are required to be kept by Section 111, commits an offence and is liable:
  (a) on first conviction, to a fine not exceeding $5,000;
  (b) on second conviction, to a fine not exceeding $10,000; or
  (c) on any subsequent conviction, to a fine not exceeding $15,000.

(2) A person commits an offence, who:
  (a) fails without reasonable excuse to make available to Customs, on the request of a Customs officer, the records that are required to be kept by Section 111; or
  (b) fails, when requested by a Customs officer, to operate any mechanical, or electronic device on which any record or information is stored for the purpose of enabling the Customs officer to obtain such record or information.

(4) For an offence under subsection (3), the person is liable:
  (a) on first conviction, to a fine not exceeding $5,000;

(b) on the second conviction, to a fine not exceeding $10,000; or
(c) on any subsequent conviction, to a fine not exceeding $15,000.

(5) A person commits an offence who, with intent to defeat the purposes of this Act, destroys, alters, or conceals any book, document, or record required to be kept under this Act, or sends or attempts to send out of the Republic the book, document, or record.

(6) A person convicted of an offence under subsection (5), is liable to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 4 years, or both.

(7) For an offence under subsection (5), if it is proved that the offender has destroyed, altered, or concealed any book, document, or record, or has sent or attempted to send, out of the Republic, the book, document or record, it is presumed, in any absence of evidence to the contrary, that in so doing that offender intended to defeat the purposes of this Act.

245 Offences relating to failure to give Customs access to information

(1) A person who fails, without reasonable excuse, to give the Customs access to information under Section 46, 47 or 112 commits an offence and is liable on conviction:
(a) for an individual, to a fine not exceeding $10,000; and
(b) for a body corporate, to a fine not exceeding $15,000.

(2) A person who fails, without reasonable excuse, to give the Customs access to information under any of Sections 46, 47 and 112 in the prescribed form and manner commits an offence and is liable upon conviction:
(a) for an individual, to a fine not exceeding $10,000; and
(b) for a body corporate, to a fine not exceeding $15,000.

246 Offence relating to disclosing whether required to give Customs access to information

(1) This Section applies to a person concerned in the movement of goods, persons, or craft as defined in Section 43.

(2) The person shall not disclose to another person who is not the Chief Collector of Customs, a Customs officer, or an agent or employee of the person:
(a) whether the person is a person to whom Section 46 or 47 applies; or
(b) whether the person has been exempted from complying with obligations under that Section.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A person who, without reasonable excuse, contravenes subsection (2), commits an offence and is liable on conviction to a fine not exceeding:
(a) for an individual, $15,000; and
(b) for a body corporate, $25,000.

247 Possession of incomplete documents

(1) A person commits an offence who, without lawful authority or excuse, has in his or her possession or brings into the Republic any uncompleted document or form capable of being used for any purpose under this Act, if

the document is signed or certified or bears any mark or inscription to indicate that it is correct or authentic.

(2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding $5,000.

248 Offences in relation to use of goods

(1) Where under any provision of this Act or of the *Customs Tariff Act 2014* goods are, if entered for a particular purpose or under any condition imposed by the Minister or any other Minister, exempt from duty or liable to a lower rate of duty than if entered other than for that purpose or under that condition, and any goods have been entered under that provision, a person commits an offence who knowingly:
- (a) uses or deals with those goods for a purpose other than that for which they have been so entered; or
- (b) fails to comply with a condition imposed, by the Minister or the other Minister, on the goods so entered.

(2) A person convicted of an offence under subsection (1), is liable to:
- (a) a fine not exceeding an amount equal to 3 times the amount of the duty that would have been payable if the goods had been entered otherwise than under the provision under which they were entered; or
- (b) a fine not exceeding $5,000,

whichever sum is the greater.

249 Provisions relating to offences against Sections 242, 243, 244, 245, 246, 247 and 248

For the purposes of this Act:
- (a) a declaration, invoice, certificate, written statement, or other document required or authorised by or under this Act to be made or produced by a person making an entry is treated to form part of that entry; and
- (b) an amendment of an entry is treated to form part of that entry, but an amendment to an entry does not relieve a person from liability to the imposition of a penalty or liability to seizure of goods or criminal liability incurred on the entry before its amendment.

250 Offences in relation to importation or exportation of prohibited goods

(1) A person commits an offence, who:
- (a) imports into the Republic or unships or lands in the Republic goods the importation of which is prohibited under Section 91;
- (b) exports, or transports with intent to export, goods from the Republic the exportation of which is prohibited under Section 92;
- (c) is knowingly concerned in any importation, exportation, transportation, shipment, unshipment, or landing of goods to which paragraph (a) or (b) applies;
- (d) without lawful justification or excuse, removes from a Customs controlled area imported goods the importation of which is prohibited under Section 91;

(e) is knowingly concerned or conspires, in the removal from a Customs controlled area of goods, the importation of which is prohibited under Section 91;

(f) commits a breach of, or fails to comply with, a term or condition on or subject to which a licence, permit, or consent has been granted, under an order made under Section 91(3) or 92(3); or

(g) is knowingly concerned in a breach or failure to comply to which paragraph (f) applies.

(2) A person convicted of an offence under subsection (1) (c), (e), or (g), is liable:

(a) for an individual, to a fine not exceeding $300,000 or to imprisonment for a term not exceeding 10 years, or both;

(b) for a body corporate, to a fine not exceeding $500,000; and

(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates, in addition to the penalties imposed under paragraph (a) or (b).

(3) A person convicted of an offence under subsection (1) (a), (b), (d), or (f), is liable:

(a) for an individual, to a fine not exceeding $300,000; and

(b) for a body corporate, to a fine not exceeding $500,000.

(4) It is not a defence to an offence under subsection (3) that the defendant had no knowledge or no reasonable cause to believe that the goods for which the offence was committed were prohibited imports or prohibited exports.

251 Offences in relation to exportation of goods

(1) A person commits an offence who:

(a) contravenes Section 74(1) or (5), which relates to entries required;

(b) fails to comply with a request made under Section 74(2)(b);

(c) fails or is knowingly concerned in any failure, to comply with Section 79, which requires goods for export to be dealt with according to the entry;

(d) contravenes Section 80, which relates to the requirement for goods for export not to be landed; or

(e) knowingly, contravenes Section 131(3), which relates to drawback on duty on certain goods.

(2) A person convicted of an offence under subsection (1) (a), (b), (c), or (d) is liable to a fine not exceeding $20,000.

(3) A person convicted of an offence under subsection (1)(e), is liable:

(a) for an individual, to a fine not exceeding $30,000 or to imprisonment for a term not exceeding 2 years, or both;

(b) for a body corporate, to a fine not exceeding $50,000; and

(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates, in addition to any penalty imposed under paragraph (a) or (b).

252 Defrauding the revenue of Customs

(1) A person commits an offence who does any act or omits to do any act for the purpose of:

(a) evading, or enabling any other person to evade, payment of duty or full duty on goods;
(b) obtaining or enabling any other person to obtain, money by way of drawback or a refund of duty on goods to which that person or that other person is not entitled under this Act;
(c) conspiring with any other person, whether or not that other person is in the Republic, to defraud the revenue of Customs on goods; or
(d) defrauding in any other manner the revenue of Customs on goods.

(2) A person convicted of an offence under subsection (1), is liable:
(a) for an individual, to a fine not exceeding $300,000 or to imprisonment for a term not exceeding 5 years, or both;
(b) for a body corporate, to a fine not exceeding $500,000; and
(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates, in addition to any penalty imposed under paragraph (a) or (b).

253 Possession or custody of uncustomed goods or prohibited imports

(1) A person commits an offence who knowingly and without lawful justification has in his or her possession or custody goods that the person knows are uncustomed goods or prohibited imports.

(2) A person convicted of an offence under subsection (1), is liable:
(a) for an individual, to a fine not exceeding $300,000 or to imprisonment for a term not exceeding 2 years, or both;
(b) for a body corporate, to a fine not exceeding $500,000; and
(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates, in addition to any penalty imposed under paragraph (a) or (b).

(3) Without limiting subsection (2), where a person has in his or her possession or custody goods that the person knows are uncustomed goods, the Chief Collector of Customs may impose a prescribed administrative penalty not exceeding $5,000.

[subs (3) insrt Act 31 of 2026 s 8, opn 20 Aug 2026]

254 Purchase, sale, exchange, etc, of uncustomed goods or prohibited imports

(1) A person commits an offence who knowingly and without lawful justification purchases, sells, exchanges, or otherwise acquires or disposes of, goods that the person knows are uncustomed goods or prohibited imports.

(2) A person convicted of an offence under subsection (1), is liable:
(a) for an individual, to a fine not exceeding $300,000 or to imprisonment for a term not exceeding 7 years, or both;
(b) for a body corporate, to a fine not exceeding $500,000; and
(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates, in addition to any penalty imposed under paragraph (a) or (b).

255 Possession or control of concealed goods

(1) A person commits an offence who knowingly conceals any goods that the person knows are dutiable or prohibited goods.

(2) A person convicted of an offence under subsection (1), is liable:
(a) for an individual, to a fine not exceeding $300,000 or to imprisonment for a term not exceeding 7 years, or both;
(b) for a body corporate, to a fine not exceeding $500,000; and
(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates, in addition to any penalty imposed under paragraph (a) or (b).

256 Offences in relation to seized goods

(1) A person commits an offence, who:
(a) having custody of goods under Section 269, contravenes a requirement under Section 269(8); or
(b) without the permission of the Chief Collector of Customs, takes or carries away or converts to the person's own use goods, including a vehicle or craft, that have been seized as forfeited.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A person convicted of an offence:
(a) under subsection (1)(a), is liable to a fine not exceeding $10,000; and
(b) under subsection (1)(b), is liable to a fine not exceeding an amount equal to 3 times the value of the goods to which the offence relates or to imprisonment for a term not exceeding 2 years, or both.

257 Offences in relation to certain detained goods

(1) A person commits an offence, who:
(a) having custody of goods under Section 196(1), breaches a requirement of or imposed under Section 196(2) or (3); or
(b) without the permission of the Chief Collector of Customs, takes or carries away or converts to his or her own use goods to which Section 196(2) and (3) applies.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A person convicted of an offence:
(a) under subsection (1)(a), is liable to a fine not exceeding $5,000; and
(b) under subsection (1)(b), is liable to a fine not exceeding an amount equal to 3 times the value of the goods to which the offence relates or to imprisonment for a term not exceeding 12 months or both.

258 Offences in relation to appeal to the Minister

(1) A person commits an offence who, with intent to deceive, makes any false or misleading statement or any material omission in any information given to the Minister for the purposes of this Act.

(2) A person commits an offence who, after being summoned to attend to give evidence before the Minister or to produce any papers, documents, records or things, without sufficient cause:
(a) fails to attend in accordance with the summons;
(b) refuses to be sworn or to give evidence or having been sworn refuses to

answer any question that the person is lawfully required by the Minister to answer concerning the subject of the proceedings; or

(c) fails to produce any paper, document, record, or thing.

(3) A person summoned to attend proceedings before the Minister may not be convicted of an offence under subsection (2) unless at the time of the service of the summons, or at some other reasonable time before the date on which that person was required to attend, there was made to that person a payment or tender of the amount fixed under Section 95.

(4) A person commits an offence who:

(a) wilfully obstructs or hinders the Minister or any person authorised by the Minister in any inspection or examination of papers, documents, records, or things under Section 94(2)(a);

(b) without sufficient cause, fails to comply with any requirement of the Minister or any person authorised by the Minister made under Section 310(1)(b); or

(c) without sufficient cause, contravenes any order made under Section 310(3) or a term or condition of the order.

(5) A person convicted of an offence:

(a) under subsection (1) is liable:

(i) for an individual, to a fine not exceeding $30,000; and

(ii) for a body corporate, to a fine not exceeding $50,000; and

(b) under subsection (2) or (4), is liable to a fine not exceeding $10,000.

259 Unauthorised disclosure of information

(1) A person who is or was an employee of Naoero Customs Service may not disclose or use any information gained by or conveyed to the person through the person's connection with Naoero Customs Service except in the course of the person's official duties or as authorised by the Chief Collector of Customs or the Minister.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020; am Act 21 of 2026 s 5, opn 12 May 2026]

(2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding $5,000 or to a term of imprisonment not exceeding 12 months or both.

260 Misconduct by Customs officers

(1) A Customs officer shall not accept or agree or offer to accept any fee, perquisite, gratuity, or reward, whether pecuniary or not, from any person on account of anything done or omitted by the officer in carrying out the function, duties or powers of office, except for those that the officer receives with the permission of the Minister or Chief Collector of Customs.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) An officer who contravenes subsection (1) commits a misconduct in office, and may be dismissed or dealt with under the *Public Service Act 2016*.

DIVISION 4 — OTHER PROVISIONS RELATING TO OFFENCES

261 Liability of officers of corporations

(1) In this Section, ***'body corporate'*** includes a company, trust, partnership or other enterprise.

(2) Where a body corporate commits an offence under this Act, any director, manager, secretary, officer or agent of the body corporate and a person purporting to act in that capacity who participated in, directed, authorised acquiesced in, or assented to the act or omission constituting the offence also commits the same offence.

(3) An individual convicted of an offence under this Act pursuant to subsection (2), is liable on conviction to the penalty prescribed by the Section creating the offence in respect of any individual who is convicted of the offence or, if no penalty is specified for an individual, to the penalty specified for the offence.

(4) A person may be convicted of the offence, even though the body corporate has not itself been charged with, or convicted of, the offence.

262 Liability of principal and agent

(1) A declaration made or other act done by an agent, whether or not, the agent is in the Republic, in the course of his or her agency in relation to the report, entry or clearance of any craft or goods or any other matter under this Act is taken also to have been made or done by the agent's principal, and the principal is liable accordingly to the penalties imposed by this Act.

(2) For the purposes of this Section, the knowledge or intent of the agent is imputed to the principal in addition to the principal's own knowledge or intent.

(3) For the purposes of this Section:
(a) an employee of the agent;
(b) a person performing a function of or for the agent; or
(c) a person acting under the instruction of the agent,
is treated also to be the agent of the principal.

(4) Where a person acts or purports to act as the agent of any other person in relation to the report, entry, or clearance of any craft, or goods or any other matter under this Act, the person is liable to the same penalties as if the person were the principal for whom the person so acts or purports to act.

263 Attempts

An attempt to commit an offence against this Act is an offence punishable in the same manner and gives rise to the same cause for seizure as if the offence attempted had been committed.

264 Laying of information

(1) Subject to subsection (2), an information laid under the *Criminal Procedure Act 1972* for an offence against this Act may be laid by:
(a) the Chief Collector of Customs; or
(b) any Customs officer or other employee of Customs nominated by the Chief Collector of Customs.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Despite anything in the *Criminal Procedure Act 1972*, any information for an offence against this Act may be laid at any time within 5 years after the date of the offence.

[subs (2) am Act 14 of 2024 s 7, opn 20 Aug 2024]

265 Court may order payment of money in respect of duty

(1) Where:
(a) a person is convicted of an offence against Section 211, 212, 223, or 224; and
(b) the court is of the opinion that the offence has been committed for the purpose of enabling the destruction or concealment of any evidence that would support a claim for duty under this Act,
the court may, in addition to any other penalty, order the defendant to pay to the Republic any further sum in respect of that claim as it thinks fit.

(2) An order for payment under this Section may be enforced in the same manner as a fine.

(3) The recovery of any amount under this Section in respect of a claim does not extinguish the claim for duty, but shall be taken into account in determining any amount to be awarded in any subsequent proceedings that may be taken on the claim for duty.

266 Power of Chief Collector of Customs to deal with minor offences

(1) This Section applies to the following offences:
(a) an offence against this Act that is committed:
(i) in relation to goods; and
(ii) in circumstances that the Chief Collector of Customs is satisfied would not amount to more than minor offending; and
(b) an offence against this Act that is not punishable by imprisonment.

(2) At any time before an information is laid against a person for an offence to which this Section applies, the Chief Collector of Customs may accept from the person:
(a) a written admission that the person committed the offence;
(b) a request that the offence be dealt with under this Section by the Chief Collector of Customs; and
(c) payment of an amount, not exceeding the limit specified in subsection (4) that the Chief Collector of Customs considers just in the circumstances of the case in full satisfaction of any fine or other penalty to which the person would otherwise be liable under this Act.

(3) For the purposes of subsection (2), the Chief Collector of Customs may indicate to the person at the time of the commission of the alleged offence or as soon as practicable after that whether the Chief Collector of Customs considers that the offence is an offence to which this Section applies.

(4) The amount referred to in subsection (2)(c), shall not exceed one-third of the maximum total monetary penalty to which the person would be liable if the person were convicted of the offence by a court.

(5) Where the Chief Collector of Customs accepts payment of an amount under subsection (2)(c), the offender is not liable to be prosecuted for the offence in which the payment was made.

(6) Where the Chief Collector of Customs declines to exercise the power under

subsection (2), the admission in writing made by the offender is not admissible as evidence in any prosecution for that offence.

[s 266 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

[The next page is 423,461]

PART 15 — FORFEITURE AND SEIZURE

DIVISION 1 — FORFEITURE

267 Application

This Part applies to all forfeitures that arise under this Act.

268 Goods forfeited

(1) The following goods are forfeited to the Republic:

(a) goods for which an offence has been committed under:

(i) Section 215, which relates to counterfeit seals or marks;

(ii) Section 242, which relates to offences in relation to entries;

(iii) Section 243, which relates to offences in relation to declarations and documents;

(iv) Section 247, which relates to possession of incomplete documents;

(v) Section 250, which relates to offences in relation to importation or exportation of prohibited goods;

(vi) Section 251, which relates to offences in relation to exportation of goods;

(vii) Section 252, which relates to defrauding the revenue of Customs;

(viii) Section 253, which relates to possession or custody of uncustomed goods or prohibited imports;

(ix) Section 254, which relates to purchase, sale, exchange of uncustomed goods or prohibited imports; and

(x) Section 255, which relates to possession or control of concealed goods;

(b) goods dealt with in contravention of Section 66, 68, 71, or 72;

(c) dutiable or prohibited goods found in the possession of any person who, when questioned under Section 160 or 162, denied or failed to disclose the possession of those goods;

(d) dutiable or prohibited goods found in the course of a search under Section 159 or seized under Section 173(1) or (2)(b);

(e) dangerous items seized under Section 173;

(f) goods for which an erroneous statement, declaration, certificate or claim as to the country of which the goods are the produce or manufacture has been made or produced to any Customs officer;

(g) dutiable or prohibited goods found on or in any craft, bulk cargo container, or pallet or a similar device that is lawfully in any place;

(h) dutiable or prohibited goods found on or in any craft, bulk cargo container, or pallet or a similar device after arrival in any Customs place from a point outside the Republic, not being goods specified or referred to in the inward report or baggage belonging to the crew or passengers and not being accounted for to the satisfaction of a Customs officer;

(i) dutiable or prohibited goods found concealed in or on any craft, vehicle, bulk cargo container, pallet or a similar device, or any other thing;

(j) goods in a package where those goods are not fully accounted for in the entry or declaration relating to that package;
(k) dutiable goods or prohibited goods found so packed as to be likely to deceive Customs officers;
(l) uncustomed goods that are found in any place;
(m) goods imported that have been acquired in another country, whether by the importer or some other person, by an act which, if done in the Republic would have amounted to a crime involving dishonesty under the *Crimes Act 2016*;
(n) goods exported, or for which an attempt to export has been made, that have been acquired in the Republic, whether by the exporter or some other person, by an act that amounts to a crime involving dishonesty under the *Crimes Act 2016*;
(o) goods unlawfully exported or for which an attempt to so export has been made; and
(p) goods that have been unlawfully imported into the Republic.

[subs (1) am Act 18 of 2016 s 66, opn 12 May 2016]

(2) Despite Section 81, for the purposes of subsection (1)(o), goods, the exportation of which is prohibited under this Act are treated to have been exported as soon as they are placed in or on any craft for exportation.

(3) The forfeiture of goods extends to the forfeiture of the case, covering, or other enclosure, not being a bulk cargo container, pallet or a similar device, in or on which the goods are contained at the time of seizure, importation, or exportation.

(4) Despite subsection (3), forfeiture of goods extends to the forfeiture of a bulk cargo container, pallet or a similar device where that bulk cargo container, pallet or other similar device has been adapted for the purpose of concealing goods.

(5) A craft, vehicle, or any other thing, including any machinery or equipment on or in the craft or vehicle or thing, or any animal that is being or has been used for the carriage, handling, deposit or concealment of any goods referred to in subsection (1), whether at or after the time of any alleged offence in relation to those goods is forfeited to the Republic.

(6) Without limiting subsection (5), a craft is forfeited to the Republic if:
(a) the craft is one for which an offence under Section 228(1)(a) or (d) is committed; and
(b) that offence was committed to facilitate non-compliance with a requirement under Sections 28, 29 and 30 by a person or persons who arrived in the Republic having been brought, in that craft or in any other craft, from a point outside the Republic.

269 Procedure for seizure

(1) A Customs officer or police officer may seize any forfeited goods or any goods that the officer has reasonable cause to suspect are forfeited.

(2) Goods may be seized as forfeited wherever the goods are found within the Republic.

(3) Forfeited goods, other than prohibited goods, may be seized at any time within 2 years after the forfeiture has arisen.

(4) Goods that are forfeited because they are prohibited goods may be seized at any time after the forfeiture has arisen.

(5) A Customs officer or police officer may use force as is reasonably necessary for effecting the seizure and securing the goods.

(6) Except as provided in subsections (7) and (8), a Customs officer shall direct that all goods seized to be taken to a place of security to be detained.

(7) Where goods including a craft, vehicle or animal, have been seized under this Section, a Customs officer may leave those goods in the custody of either:
(a) the person from whom the goods have been seized; or
(b) any other person, authorised by a Customs officer, who consents to having custody of the goods.

(8) A person who has the custody of goods under subsection (7), shall:
(a) hold the goods in safekeeping, without charge to the Republic and under any reasonable conditions that may be imposed by a Customs officer, until a final decision is made as to whether or not the goods are to remain forfeited;
(b) make the goods available to a Customs officer on request;
(c) not alter or dispose of, or remove the goods from the Republic unless the person is authorised to do so by a Customs officer; and
(d) return the goods on demand to the custody of Customs.

270 Notice of seizure

(1) Where any goods have been seized under Section 269, Customs shall, as soon as is reasonably practicable, give notice in writing of the seizure and the reasons for the seizure, in the prescribed form, to:
(a) a person known or believed to have an interest in the goods; or
(b) the person's agent in the Republic if the person is overseas.

(2) A seizure is not invalidated or illegal by reason of a failure to give the seizure notice if reasonable steps were taken to give the notice.

271 Forfeiture to relate back

Where, under Section 269, goods are forfeited and seized, the forfeiture relates back to the date of the act or event from which the forfeiture arose.

272 Delivery of goods seized on deposit of value

(1) Where any goods have been seized as forfeited, the Chief Collector of Customs may, at any time before their condemnation, deliver the goods to the owner or the person from whom they were seized, on the deposit with Customs of a cash sum equal:
(a) for imported goods, to the Customs value of the goods; or
(b) for goods manufactured in a Customs controlled area, to the Customs value of the goods determined under Schedule 2 of the *Customs Tariff Act 2014*,

together with any duty to which the goods may be liable as determined by the Chief Collector of Customs.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020; am Act 12 of 2022 s 7, opn 1 July 2022]

(2) The money deposited is treated to be substituted for goods seized, and all the provisions of this Part, so far as they are applicable, extend and apply to the money accordingly.

273 Sale of certain seized goods

(1) Where:

(a) a living creature;

(b) a thing that, in the opinion of the Chief Collector of Customs, is of a perishable nature;

(c) a thing that, in the opinion of the Chief Collector of Customs, is likely to deteriorate or diminish in value by keeping the thing; or

(d) a thing that, in the opinion of the Chief Collector of Customs, it is desirable to sell,

has been seized as forfeited, the Chief Collector of Customs may sell the thing seized before its condemnation.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The net proceeds of sale are treated to be substituted for the thing sold, and all the provisions of this Part, so far as they are applicable, extend and apply to the proceeds accordingly.

274 Mode of exercising of sale

Where the Chief Collector of Customs is empowered by this Act to sell any goods, the following provisions apply, except so far as different provision is made by this Act in any particular case:

(a) the goods shall be sold by auction or tender, after prescribed public notice, or if no notice is prescribed, after reasonable public notice;

(b) the price is to be paid in cash on the acceptance of the bid or tender;

(c) no bid or tender is necessarily accepted, and the goods may be re-offered until sold at a price satisfactory to the Chief Collector of Customs;

(d) the Chief Collector of Customs or any Customs officer, authorised by the Chief Collector of Customs, may act as an auctioneer in the sale of goods without being licenced in that behalf; and

(e) the proceeds of the sale are to be paid in the following order of priority:

(i) the expenses of the sale;

(ii) the duty, as if the goods had been entered for home consumption;

(iii) the warehouse Customs controlled area charges and any other charges;

(iv) any freight due on the goods, if written notice claiming such freight has been given to the Chief Collector of Customs; and

(v) any balance, to the person entitled to it.

[s 274 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

DIVISION 2 — APPEALS AGAINST SEIZURE

275 Application for review of seizure

(1) A person who has an interest in goods that have been seized under Section 269 may, within the time specified in subsection (2), apply to the Chief Collector of Customs to review the seizure.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The time is:

(a) 20 working days after the date on which the notice of seizure is given to the applicant; or

(b) any further time allowed by the Chief Collector of Customs if satisfied that the applicant did not receive the notice of seizure or that a further period is required in the interests of justice.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) An application under this Section may be made on either or both of the following grounds:

(a) that there was no legal basis for the seizure of the goods; or

(b) that the applicant should, in all the circumstances, be granted relief.

(4) The application shall:

(a) be in writing;

(b) state the ground on which the application is made; and

(c) give an address at which the applicant wishes to receive correspondence relating to the application.

276 Conduct of review

(1) Where an application is received under Section 275, the Chief Collector of Customs shall conduct the review on the papers, unless the Chief Collector of Customs directs other means of conducting the review.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) In undertaking the review, the Chief Collector of Customs:

(a) shall consider the application and any written submissions made by the applicant; and

(b) may consider any statement, document, information, or matter that in the Chief Collector's opinion may assist the Chief Collector of Customs to deal effectively with the subject of the review, whether or not it would be admissible in court.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The Chief Collector of Customs may ask the applicant for supplementary information and have regard to that supplementary information.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) The applicant shall establish, on the balance of probabilities, that the applicant has an interest in the seized goods and acquired that interest in good faith.

277 Decision on review

(1) The Chief Collector of Customs may:

(a) dismiss the application for review; or

(b) if satisfied that there was no legal basis for the seizure of all or any of the goods, disallow the seizure, in whole or in part, and direct that the goods be given, in whole or in part, to:

(i) the person from whom the goods were seized; or

(ii) if the goods were not seized from a particular person, the person who, in the opinion of the Chief Collector of Customs, is entitled to possess the goods; or

(c) grant relief by making any of the determinations described in Section 279, either unconditionally or subject to any conditions described in that Section, if satisfied that it is equitable to do so, having regard to the matters specified in Section 278.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The Chief Collector of Customs shall decide the application within 20 working days after the day on which the Chief Collector of Customs receives the application.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Where in the opinion of the Chief Collector of Customs, the circumstances of the case do not permit a decision to be made within the period specified in subsection (2), the Chief Collector of Customs may extend that period by a further period that is reasonable in the circumstances.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) As soon as practicable after deciding the application, the Chief Collector of Customs shall give written notice of the decision to:
(a) the applicant;
(b) any other person on whom the notice of seizure was given under Section 270; and
(c) any person, other than a person referred to in paragraph (b), who claims an interest in the goods.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(5) Where the application for review is dismissed, the written notice shall contain the reasons for the dismissal.

(6) The written notice shall state that a person who is dissatisfied with the decision of the Chief Collector of Customs has a right to appeal to the Minister against the decision.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

278 Matters concerning grant of relief

When deciding whether or not to grant relief, the Chief Collector of Customs may take into account, without limitation, any or more of the following matters:
(a) the seriousness and nature of any act or omission giving rise to the seizure;
(b) whether or not the person who is alleged to have done any act or omitted to do any act giving rise to the seizure has previously engaged in any similar conduct;
(c) whether the seizure has arisen from, or is related to, a deliberate breach of this Act;
(d) the nature, quality, quantity, and estimated value of the seized goods;
(e) the nature and extent of any loss or damage suffered by any person as a consequence of the seizure;
(f) whether or not granting relief would undermine the purpose or objective of any import or export prohibition or restriction imposed by this Act or any other written law; or
(g) the effect of any other action that has been taken or is proposed to be taken in respect of any offending related to the seizure.

[s 278 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

279 Determinations where relief granted

(1) Where the Chief Collector of Customs grants relief under Section 277(1)(c), the Chief Collector of Customs may, subject to conditions, determine:
(a) that the goods be given to the applicant or to another person who, but for the seizure, is entitled to their possession; or

(b) that the goods be sold and that 1 or more of the following persons be paid any part of the proceeds approved by the Chief Collector of Customs:

(i) the applicant;

(ii) any other person who has an interest in the goods; or

(iii) the Republic.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Without limiting subsection (1), the Chief Collector of Customs may impose any of the following conditions:

(a) that there be paid to the Customs for the seized goods a sum equal to the whole or any part of 1 or more of the following:

(i) any costs or expenses incurred by the Customs in transporting, storing, or disposing of the goods including returning or giving the goods to any person, or any incidental costs or expenses relating to their detention;

(ii) any duty not already paid;

(iii) any duty already refunded; or

(iv) the value of the detained goods, as determined by the Chief Collector of Customs;

(b) that the goods be modified, in a manner directed by the Chief Collector of Customs, so as to render them inoperable for unlawful purposes; or

(c) that the costs or expenses incurred by the Customs in modifying the goods under a direction under paragraph (b) be paid to the Customs.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The Chief Collector of Customs shall not make a determination under this Section if he or she is of the opinion that all or any of the goods may be required to be produced in evidence in any criminal proceedings.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

280 Condemnation of seized goods

(1) Where the Chief Collector of Customs dismisses an application for review, the dismissal is treated to be an order for condemnation of the goods to the Republic.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The order for condemnation of the goods takes effect on the close of the 20th working day after the Chief Collector of Customs gives his or her decision on the application unless an appeal against the decision on the application is made to the Minister.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Where no application for review is made within the time specified by Section 275(2), or if the application is discontinued, the seized goods are condemned to the Republic.

DIVISION 3 — APPEAL FROM REVIEW

281 Appeal to Minister

(1) A person who is dissatisfied with a decision of the Chief Collector of

Customs made under Section 277, including any determination or condition described in Section 279, may appeal to the Minister against the decision or any part of the decision.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The appeal shall be brought within 20 working days after the date on which notice of the decision under Section 277 is given.

282 Condemnation of goods subject to appeal

The goods that are the subject of an appeal under Section 281 are condemned to Customs if:

(a) the appeal is discontinued; or

(b) the decision of the Minister neither:

(i) disallows the seizure of the goods under Section 277(1)(b); nor

(ii) grants relief under Section 277(1)(c).

DIVISION 4 — GENERAL PROVISIONS AS TO FORFEITURE

283 Condemnation of seized goods on conviction

(1) Subject to subsection (2), if this Act provides that on the commission of an offence any goods are forfeited, the conviction of a person for that offence has effect as a condemnation, without suit or judgment, of any goods that have been seized under this Act and:

(a) for which the offence was committed; or

(b) which were forfeited under Section 268(3), (4) or (5).

(2) Where the court imposes a sentence on a person on the conviction of that person for an offence to which subsection (1) applies, the court may:

(a) order the restoration of the goods forfeited to the person from whom the goods were seized and, if the restoration order is made, the conviction does not have effect as a condemnation of those goods; and

(b) if required, impose conditions on the restoration order.

(3) Subsection (2) does not apply if the goods have, before the conviction, been sold, or restored to the person from whom they were seized, or otherwise disposed of by the Chief Collector of Customs under any other provision of this Act.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

284 Disposal of forfeited goods

(1) The Republic has the property in forfeited goods or in a deposit made under Section 272 or in the proceeds of sale under Section 273.

(2) The Chief Collector of Customs may direct that the forfeited goods be sold, used, destroyed, or disposed of after their condemnation.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

285 Application of forfeiture provisions

The provisions of this Act on forfeiture of goods extend and apply to a craft, vehicle, or other thing forfeited under this Act.

[The next page is 423,661]

286 Burden of proof

(1) In any proceedings under this Act instituted by or on behalf of or against the Republic, an allegation made on behalf of the Republic in a statement of claim, statement of defence, plea or information, is presumed to be true unless the contrary is proved, if the allegation relates to:
  (a) the identity or nature of any goods;
  (b) the value of any goods for duty;
  (c) the country or time of exportation of any goods;
  (d) the fact or time of the importation of any goods;
  (e) the place of manufacture, production or origin of any goods; or
  (f) the payment of any duty on goods.

(2) The presumption in subsection (1) is not excluded by the fact that evidence is produced on behalf of the Republic in support of the allegation.

(3) This Section extends and apply to proceedings in which the existence of an intent to defraud the revenue of the Republic is in issue.

(4) Despite subsections (1) to (3), in any proceedings for an offence against this Act if it is alleged that the defendant intended to commit the offence, the prosecution has the burden of proving that intent beyond reasonable doubt.

287 Documents made overseas

(1) In any proceedings under this Act, the court may admit in evidence as proof of any fact in issue a document made in another country whether or not the document is legally admissible as evidence in other proceedings.

(2) Subsection (1) does not apply to an offence under Section 218(1), 219(1), 244(5) or 250(1)(c).

288 General admissibility of hearsay

(1) A hearsay statement is admissible in any proceeding under this Act if:
  (a) the circumstances relating to the statement provide reasonable assurance that the statement is reliable; and
  (b) either:
    (i) the maker of the statement is unavailable as a witness; or
    (ii) the Judge considers that undue expense or delay would be caused if the maker of the statement were required to be a witness.

(2) This Section is subject to Part 2 of the *Civil Evidence Act 1972*.

289 Admissibility of hearsay statements contained in business records

(1) A hearsay statement contained in a business record is admissible in a proceeding under this Act, if:
  (a) the person who supplied the information used for the composition of the record is unavailable as a witness;
  (b) the Judge considers no useful purpose would be served by requiring that person to be a witness as that person cannot reasonably be

expected, having regard to the time that has elapsed since the person supplied the information and to all the other circumstances of the case, to recollect the matters dealt with in the information the person supplied; or

(c) the Judge considers that undue expense or delay would be caused if that person were required to be a witness.

(2) This Section is subject to the *Civil Evidence Act 1972*.

290 Definition

(1) In this Part:

'business':

(a) means any business, profession, trade, manufacture, occupation, or calling of any kind; and

(b) includes the activities of any Government department or an agency or other office of the Government, public body, body corporate, organisation or society;

'business record' means a document:

(a) that is made:

(i) to comply with a duty; or

(ii) in the course of a business, and as a record or part of a record of that business; and

(b) that is made from information supplied directly or indirectly by a person who had, or may reasonably be supposed by the court to have had, personal knowledge of the matters dealt with in the information the person supplied;

'circumstances', in relation to a statement by a person who is not a witness, includes:

(a) the nature of the statement;

(b) the contents of the statement;

(c) the circumstances that relate to the making of the statement;

(d) any circumstances that relate to the veracity of the person; and

(e) any circumstances that relate to the accuracy of the observation of the person; and

'duty' includes any duty imposed under this Act or arising under any contract, and any duty recognised in carrying on any business practice.

(2) In this Part, a person is 'unavailable as a witness' in a proceeding if the person:

(a) is dead;

(b) is in another country and it is not reasonably practicable for the person to be a witness;

(c) is unfit to be a witness because of the person's age or physical or mental condition;

(d) cannot with reasonable diligence be identified or found; or

(e) is not compellable to give evidence.

(3) Subsection (2) does not apply to a person whose statement is sought to be offered in evidence by a party who has caused the person to be unavailable in order to prevent the person from attending or giving evidence.

291 Admissibility of expert opinion evidence

(1) An opinion by an expert that is part of expert evidence offered in a proceeding under this Act is admissible if the fact-finder is likely to obtain substantial help from the opinion in understanding other evidence in the proceeding or in ascertaining any fact that is of consequence to the determination of the proceeding.

(2) An opinion by an expert is not inadmissible simply because it is about:
(a) an ultimate issue to be determined in the proceeding; or
(b) a matter of common knowledge.

(3) Subject to subsection (4), if an opinion by an expert is based on a fact that is outside the general body of knowledge that makes up the expertise of the expert, the opinion may be relied on by the fact-finder only if that fact is or will be proved or judicially noticed in the proceeding.

(4) Where expert evidence about the sanity of a person is based in whole or in part on a statement that the person made to the expert about the person's state of mind:
(a) the statement of the person is admissible to establish the facts on which the expert's opinion is based; and
(b) neither the hearsay rule nor the previous consistent statements rule applies to evidence of the statement made by the person.

292 Proof of forms made under Section 317

(1) The production of an approved form made under Section 317(1) is, in a court and in all proceedings, sufficient evidence, until the contrary is proved, of the matters in the form.

(2) The production of a copy of the public notice in which an approved form was notified, is, in a court and in all proceedings, sufficient evidence, until the contrary is proved, of the existence and notification of the form.

293 Customs record of computer transmission admissible evidence

In any proceedings under this Act, a computer printout of an extract of a record kept by Customs under Section 151, certified by or on behalf of the Chief Collector of Customs under the seal of Customs as a true copy, is in a court admissible as evidence of the electronic message received by or sent to Customs set out in that printout, unless the contrary is proved.

[s 293 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

294 Presumption of authenticity of documents

All documents purporting to be signed by or on behalf of the Chief Collector of Customs or to be sealed with the seal of Customs, are, in all courts and proceedings under this Act, and any other written law, treated to have been signed or sealed with the due authority, unless the contrary is proved.

[s 294 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

[The next page is 423,861]

295 Grant or refusal of licence

(1) A person may apply to the Chief Collector of Customs to be licenced as a Customs broker.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The application shall be in the prescribed form and accompanied by the prescribed fee.

(3) The Chief Collector of Customs may:
(a) grant the licence, subject to conditions; or
(b) refuse the application, if the Chief Collector of Customs is satisfied that the applicant is not capable of complying with any licence conditions.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) The Chief Collector of Customs shall, in writing, notify the applicant of the decision, including the reason for refusal of the application if the application is refused.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

296 Revocation or suspension of licence

(1) The Chief Collector of Customs may suspend or revoke the licence of a Customs broker, if the Chief Collector of Customs is satisfied that the Customs broker has:
(a) contravened a term, condition or restriction imposed on the licence;
(b) ceased to operate as an agent on behalf of owners;
(c) been convicted of an offence under this Act;
(d) failed to remain a fit and proper person to hold a licence;
(e) failed to pay the prescribed annual fee for the licence; or
(f) made entries materially incorrect as defined under Section 142(2).

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The Chief Collector of Customs shall, before deciding to suspend or revoke the licence, give a written notice to the Customs broker to show cause, within the time specified in the notice, as to why the licence should not be suspended or revoked.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The Chief Collector of Customs shall, in writing, notify the Customs broker of the decision, including the reasons for suspension or revocation of the licence.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

297 Authorised agents

(1) The owner of any goods, whether the goods are of a personal private nature or are goods imported for commercial purposes, shall comply with this Act by or through an authorised agent who is a licenced Customs broker.

(2) A Customs broker shall obtain from the owner of the goods, a written

document authorising that broker to act, as the authorised agent of the owner, on behalf of the owner of the goods.

(3) The authority granted by an owner under subsection (2), may be for a particular shipment or shipments or for a period not exceeding 5 years.

298 Production of authority

(1) Where a person:
(a) is authorised by the owner to act as the authorised agent under Section 297(2); or
(b) represents or passes himself or herself, or acts as a broker,
the person is treated to be the owner of the goods and personally liable for any duties chargeable or any penalties recoverable under this Act in the same manner and to the same extent as if the person were the owner.

(2) Subsection (1) does not relieve the owner of the goods from personal liability.

299 Liability of the owner for actions of a broker

A declaration authorised by this Act that is made by a broker, is treated to be made with the knowledge and consent of the owner, so that in a criminal proceeding on a declaration made by the broker, the owner is liable as if the owner had made the declaration.

300 Unlawfully acting as Customs broker

(1) A person commits an offence:
(a) if the person is a Customs broker or a broker's employee or a person acting under the instructions of a Customs broker, who acts as the agent of the owner of the goods without written authorisation of the owner; or
(b) other than a Customs broker, who assumes or uses in connection with a trade, business, calling or profession that would give reasonable cause to believe that it is operated under a Customs broker's licence.

(2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding $10,000.

DIVISION 3 — GENERAL PROVISIONS

301 Payments by Chief Collector of Customs out of public money

Subject to any prescribed limitations, the Chief Collector of Customs may incur expenses without further appropriation than this Section to pay:
(a) all lawful refunds of duty;
(b) all lawful drawbacks of duty; or
(c) all lawful refunds of administrative penalties under Section 143(2).

[s 301 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

302 Application of Act to postal articles

(1) Subject to any order made under subsection (2), the provisions of this Act apply to postal articles and to goods contained in postal articles in the same manner as those provisions apply to other goods.

(2) The Minister, acting on the advice of the Chief Collector of Customs, may, by order:
  (a) provide that any separate postal articles and goods contained in them, whether addressed to the same or to different persons, may be treated for the purposes of this Act as a single postal article consigned to a single person; or
  (b) prescribe the persons who are to be treated for the purposes of this Act to be the importers or exporters of any postal articles or goods.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) In this Section:

'company' means a corporation within the meaning of the *Corporations Act 1972*; and

'postal article' means any letter, parcel, packet, or any other article received or transmitted by or through the Naoero Postal Services Corporation and includes any articles imported by any air courier company.

303 Declarations

(1) A declaration, including a declaration that is made and transmitted electronically, that is required or authorised by this Act shall be made in the prescribed form.

(2) Where any form requires that a declaration shall be made before any person, the declaration may be made before a Customs officer, or before a person authorised under the *Oaths Affirmations and Statutory Declarations Act 1976*.

(3) Where a declaration is made to the Chief Collector of Customs or a Customs officer under this Act or any other written law, Customs shall keep or cause to be kept the declaration and all information contained in or related to the declaration for a period of 5 years.

[subs (3) insrt Act 14 of 2024 s 8, opn 20 Aug 2024]

[s 303 am Act 14 of 2024 s 8, opn 20 Aug 2024]

304 Power of Chief Collector of Customs to determine seals, stamps and marks

The Chief Collector of Customs may determine any seal, stamp or mark for the use of Customs.

[s 304 subst Act 31 of 2020 s 7, opn 23 Oct 2020]

305 Information about border crossing craft, persons and goods

(1) Customs may collect and use the following information about craft, persons, and goods arriving in or departing from the Republic including:
  (a) details of craft movements including the craft name, registration number or identifier, estimated date and time of arrival or departure, place of origin and destination, and the details of any movement of goods; and
  (b) personal information including the person's name, date of birth, gender, passport number, nationality, travel movements or any other relevant matter.

(2) Customs may collect and use the information in subsection (1) for the purposes of facilitating the:
  (a) exercise of powers, and performance of functions and duties under this Act;
  (b) prevention, detection, investigation, prosecution, and punishment of an offence that is, or that if committed in the Republic would be, an offence under this Act;
  (c) monitoring and processing of border-crossing persons, goods and craft; and
  (d) protection of border security.

306 Supply of information about border crossing craft, persons and goods

(1) The Chief Collector of Customs may supply any information specified in Section 305 to an agency, body or person, in the Republic or another country, whose functions include:
  (a) the prevention, detection, investigation, prosecution, or punishment of an offence that is, or if committed in the Republic would be an offence under this Act;
  (b) the processing of international passengers at the border by public authorities;
  (c) border security;
  (d) the enforcement of a written law imposing a pecuniary penalty;
  (e) the protection of the health and safety of members of the public;
  (f) the protection of the public revenue; or
  (g) any other purpose as may be prescribed.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The disclosure of information under subsection (1) shall be:
  (a) under an agreement between the Chief Collector of Customs and the agency, body or person concerned, or a person authorised by the agency, body or person concerned to make the agreement, that complies with subsections (3) and (4); or
  (b) under subsection (6).

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The Chief Collector of Customs shall not enter into an agreement under subsection (2) unless satisfied that it is justified for one or more of the purposes set out in subsection (1).

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) For the purposes of subsection (2), an agreement:
  (a) shall be in writing;
  (b) shall state criteria for the supply of information under it; and
  (c) shall state, in respect of information to be disclosed:
    (i) the use that the person may make of it; and
    (ii) either:
      (A) that the person shall not disclose it to any other agency, body or person; or
      (B) the other agencies, bodies, or persons to which the agency, body or person may disclose;
  (d) may state:

(i) the form in which the information may be disclosed; or

(ii) the method by which the information may be disclosed; and

(e) may be varied.

(5) This Section does not limit the powers of the Chief Collector of Customs to enter into agreements not related to the disclosure of information with any agency, body or person.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) The Chief Collector of Customs may disclose information to an agency, body, or person, in the Republic or another country, without a written agreement specified in subsection (2)(a), if:

(a) the functions of the agency, body or person include the prevention, detection, investigation, prosecution or punishment of an offence under this Act;

(b) the information is disclosed subject to conditions stating:

(i) the use that the agency, body or person may make of it; and

(ii) either:

(A) that the agency, body or person shall not disclose it to any other agency, body, or person; or

(B) the other agencies, bodies, or persons to which the agency, body or person may disclose any of it, and the extent to which, and conditions subject to which, the agency, body, or person may do so; and

(c) the Chief Collector of Customs makes and keeps a record of:

(i) the information that is disclosed;

(ii) the agency, body or person to whom it is disclosed; and

(iii) the conditions subject to which it is disclosed.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

307 Chief Collector of Customs to give written reasons for decisions open to appeal to the Minister

(1) Where a decision of the Chief Collector of Customs is subject to appeal to the Minister the notice of the decision of the Chief Collector of Customs shall, without undue delay, give the notice of decision, including the reasons for the decision.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Subsection (1) does not limit any duty of the Chief Collector of Customs under this Act to give written notice of a decision, including the reasons for the decision.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

308 Giving of notice

(1) A notice by the Chief Collector of Customs or a Customs officer to a company incorporated in the Republic may be given:

(a) for a company incorporated under the *Corporations Act 1972*, by delivery to a person named as a director in the most recent particulars sent to the Registrar of Corporations under that Act;

(b) by delivery to an employee of the company at the company's head office or principal place of business;

(c) by leaving it at the company's registered office;
(d) by posting it to the company's registered office;
(e) by sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the company's registered office or its head office or principal place of business; or
(f) where an individual who is a director, or an employee, or an agent of the company is a registered user of a Customs electronic entry processing system and uses the system for the purposes of the business of the company, by transmitting it by electronic means to the registered user at the company's registered office or at its head office or principal place of business or otherwise under the normal procedure of operation of the relevant Customs electronic entry processing system in relation to that registered user in respect of the business of the company.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A notice by the Chief Collector of Customs or a Customs officer to an overseas company may be given:
(a) by delivery to a person named in the overseas register as a director of the overseas company and who is resident in the Republic;
(b) by delivery to a person named in the overseas register as being authorised to accept service in the Republic of documents on behalf of the overseas company;
(c) by delivery to an employee of the overseas company at the overseas company's place of business in the Republic or, if the overseas company has more than one place of business in the Republic, at the overseas company's principal place of business in the Republic;
(d) by posting it to the address of the overseas company's principal place of business in the Republic or delivering it to a box at a document exchange which the overseas company is using at the time;
(e) by sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the principal place of business in the Republic of the overseas company; or
(f) where an individual who is a director, or an employee, or an agent of the overseas company is a registered user of a Customs electronic entry processing system and uses the system for the purposes of the business of the overseas company, by transmitting it by electronic means to the registered user at the principal place of business in the Republic of the overseas company or otherwise under the normal procedure of operation of the relevant Customs electronic entry processing system in relation to that registered user in respect of the business of the overseas company.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) A notice by the Chief Collector of Customs or a Customs officer to a body corporate, other than a company or an overseas company, may be given:
(a) by delivery to a person who is a principal officer of the body corporate;
(b) by delivery to an employee of the body corporate at the principal office or principal place of business of the body corporate;
(c) by posting it to the address of the principal office of the body corporate or delivering it to a box at a document exchange which the body corporate is using at the time;

(d) by sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the principal office or principal place of business of the body corporate; or

(e) where an individual who is an employee or an agent of the body corporate is a registered user of a Customs electronic entry processing system and uses the system for the purposes of the business of the body corporate, by transmitting it by electronic means to the registered user at the principal office or principal place of business of the body corporate or otherwise under the normal procedure of operation of the relevant Customs electronic entry processing system in relation to that registered user in respect of the business of the body corporate.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) A notice by the Chief Collector of Customs or a Customs officer to an individual including a trustee may be given:

(a) by delivery to that person;

(b) by posting it to that person's address or delivering it to a box at a document exchange which that person is using at the time;

(c) by sending it by facsimile machine to a telephone number used by that person for the transmission of documents by facsimile; or

(d) where the individual is a registered user of a Customs electronic entry processing system, by transmitting it by electronic means to that individual in accordance with the normal procedure of operation of the relevant Customs electronic entry processing system in relation to that individual.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

309 Additional provision relating to notices under this Act

(1) For the purposes of this Act, a notice is treated to be given when it is received under subsection (2).

(2) For the purposes of this Act:

(a) a notice posted or delivered to a document exchange is treated to be received 10 working days after it is posted;

(b) a notice sent by facsimile machine is treated to have been received on the working day following the day on which it was sent;

(c) a notice transmitted by electronic means is treated to have been received on the working day following the day on which it was transmitted;

(d) in proving the giving of notice by post, it is sufficient to prove that:

(i) the document was properly addressed;

(ii) all postal or delivery charges were paid; and

(iii) the document was posted or was delivered to the document exchange;

(e) in proving the giving of notice by facsimile machine, it is sufficient to prove that the document was properly transmitted by facsimile machine to the person concerned; and

(f) in proving the transmitting of notice by electronic means, it is sufficient to prove that the notice was properly transmitted by electronic means under a normal operating procedure of the Customs electronic entry processing system.

(3) A notice is not to be regarded to have been given to a person if the person

proves that, through no fault on the person's part, the notice was not received within the time specified or was not received at all.

310 Regulations

(1) The Cabinet may make regulations to give effect to the provisions or for the purposes of this Act, and in particular may make regulations to:

(a) prescribe application procedures for licencing of an area as a Customs controlled area;

(b) prescribe the circumstances in which and the time for which no charges be made by the CCA licencee to receive or store imported goods;

(c) prescribe the time within which inward reports shall be delivered under this Act:

(d) exempt persons or classes of persons from the requirements of Sections 29, 30, 31 and 33;

(e) exempt craft or classes of craft from the application of Section 37 or 41;

(f) prescribe the circumstances in which goods subject to the control of Customs may be unloaded;

(g) prescribe the method by which the Chief Collector of Customs shall notify the rates of exchange, of foreign currency to the currency in use in the Republic;

(h) prescribe the manner in which volume of alcohol in an alcoholic beverage be specified on entry or for the purpose of this Act;

(i) prescribe exceptions, restrictions or conditions to which the Chief Collector's power to refund or remit duty is subject;

(j) prescribe the nature or value of sample goods that may be delivered free of duty and the conditions subject to which sample goods may be delivered free of duty;

(k) prescribe the conditions subject to which a person may be released from a security given for the payment of duty on goods temporarily imported;

(l) prescribe the conditions subject to which drawbacks of duty may be allowed, and the amounts of drawback that may be allowed;

(m) prescribe the period for which records of transmissions to or from a Customs electronic entry processing system shall be kept by Customs:

(n) prescribe appeal procedures and conduct of appeals by the Minister, including publication of decisions;

(o) prescribing the manner by which the Chief Collector of Customs may exercise any power to sell goods under this Act, and the manner, including the order of priority, in which the proceeds of sale shall be dispersed;

(p) prescribe the working hours of Customs, and providing for the fixing by the Chief Collector of Customs of particular working hours in respect of any particular place;

(q) prescribe offences in regulations, including penalties not exceeding $10,000 or 6 months imprisonment, or both; and

(r) prescribe any matter required under a provision of this Act to be prescribed.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Regulations made under subsection (1) for areas used for the manufacture or processing of goods that are exempted from the requirement of Section 11 to be licenced as a Customs controlled area may prescribe conditions:
(a) as to the manner of the goods being manufactured or processed;
(b) as to the source of the product being manufactured or processed;
(c) limiting the use that may be made of the goods (for example, permitting personal use only);
(d) limiting the age of any person involved in the manufacture or use of the goods; and
(e) limiting the quantity of goods that may be produced by any measure or other form of description.

311 Incorporation of provisions by reference in regulations

(1) Regulations made under this Act may incorporate by reference any provisions set out in:
(a) an international trade agreement to which the Republic is a party (such as, a free trade agreement); or
(b) another document made to give effect to an international trade agreement.

(2) The provisions may be incorporated in the regulations:
(a) in whole or in part; and
(b) with modifications, additions, or variations specified in the regulations.

(3) The incorporated provisions:
(a) are the provisions as they exist at the time that the regulations are made; and
(b) form part of the regulations for all purposes and have legal effect accordingly.

312 Effect of amendments to, or replacement of, provisions incorporated by reference

An amendment to, or replacement of, provisions incorporated under Section 311 has legal effect as part of the regulations only if regulations are made that state that the particular amendment or replacement has that effect.

313 Proof of provisions incorporated by reference

(1) A copy of the provisions incorporated under Section 311, including any amendment to, or replacement of, the provisions, shall be:
(a) certified as a correct copy of the provisions by the Chief Collector of Customs; and
(b) retained by the Chief Collector of Customs.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The production in proceedings of a certified copy of the provisions is, in the absence of proof to the contrary, sufficient evidence of the incorporation in the regulations of the provisions.

314 Access to provisions incorporated by reference

(1) The Chief Collector of Customs shall:

(a) ensure that copies of any provisions incorporated under Section 311 are available for inspection during working hours, free of charge, at places specified in a notice given under paragraph (d);
(b) ensure that copies of the provisions are published on an internet site that is, so far as practicable, publicly available free of charge;
(c) ensure that copies of the provisions are available for purchase at a reasonable price at places specified in a notice given under paragraph (d); and
(d) give notice by public notice stating that:
(i) the provisions are incorporated in particular regulations and the date on which the regulations were made;
(ii) copies of the provisions are available, at all reasonable times, for inspection during working hours, free of charge, at specified places;
(iii) copies of the provisions are available on a specified internet site; and
(iv) copies of the provisions can be purchased at specified places.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) A failure to comply with this Section does not invalidate regulations that incorporate provisions under Section 311.

315 Appeals to the District Court

(1) A party who is dissatisfied with a decision under this Act as being erroneous in point of law or fact may appeal to the District Court.
(2) The notice of appeal is to be filed:
(a) within 20 working days after the date of the decision appealed against; or
(b) within a further time allowed by order of the District Court.
(3) The appellant shall:
(a) within 2 months after the date of receiving notice of decision from the Minister, submit the case to the Chief Collector of Customs; and
(b) set out the facts and the questions of law or fact to be determined by the District Court.

[subs (3) subst Act 31 of 2020 s 6, opn 23 Oct 2020]

[The next page is 423,881]

316 Fees, charges and expenses

(1) The Minister may, acting on the advice of the Chief Collector of Customs, by order:
  (a) subject to the approval of the Cabinet, prescribe fees and charges payable under this Act or the method by which they are to be assessed and the persons liable to the fees and charges;
  (b) subject to the approval of the Cabinet, prescribe charges for the attendance of Customs officers for the purposes of this Act;
  (c) provide for the liability of any person to pay any actual and reasonable expenses incurred by any Customs officer in respect of any attendance by that officer for the purposes of this Act; and
  (d) prescribe the person or classes of persons by whom the charges or expenses referred to in paragraphs (b) and (c) shall be paid, or authorising the Chief Collector of Customs to determine the person by whom they shall be paid.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) Different rates of fees or charges, or both, may be prescribed under subsection (1)(a) for different classes of persons, or different types of Customs controlled areas, or on any other differential basis.

(3) Different rates of charges may be prescribed under subsection (1)(b) for attendances during the working hours of Customs or attendees outside the working hours of Customs, or on any other differential basis.

(4) An order made under subsection (1), may:
  (a) prescribe the circumstances in which any fee, charge or expense may be refunded, remitted or waived, in whole or in part; and
  (b) fix a date by which any fee or charge is to be paid.

317 Approved forms

(1) The Chief Collector of Customs may approve forms for any application, declaration, notice, certificates, report, licence, permit or any other authorisation or document required to be issued in a form, including the following forms:
  (a) the form and content of, and the particulars to be verified by declaration in, inward reports required to be delivered under this Act and the manner in which those reports shall be delivered to Customs;
  (b) the form, or forms, of certificates of clearance to be issued under this Act;
  (c) the form and manner in which goods to which Section 60 applies shall be entered, and the particulars to be provided in the entry, and the form of any declaration to be made in the entry;
  (d) the form and manner in which goods to which Section 74 applies shall be entered, and the particulars to be provided in the entry, and the form of any declaration to be made in the entry;
  (e) the form of application for a Customs ruling; and
  (g) the form and manner, and the time within which, the following goods shall be reported to Customs:
    (i) goods exempted from the requirements of Section 60, by regulations made under Section 63(c);
    (ii) goods treated to be entered for the purposes of Section 60, by regulations made under Section 63(d);

(iii) goods exempted from the requirements of Section 74, by regulations made under Section 75(a); or

(iv) goods treated to be entered for the purposes of Section 74, by regulations made under Section 75(b).

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The power to approve forms under subsection (1) includes the power to:

(a) approve electronic message formats to be used for the electronic transmission of data to or between computers; and

(b) amend or revoke any form.

(3) The Chief Collector of Customs shall not delegate the power under this Section to any other person.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) The Chief Collector of Customs shall publish the forms in a public notice approved by the Chief Collector of Customs.

[subs (4) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

318 Use of reasonable force shall be reported

(1) Where force was used when carrying out a function, duty or power under this Act, a written report, setting out the nature of the force use and circumstances in which it was used, shall be given to:

(a) the Chief Collector of Customs, if the force was used by a Customs officer; or

(b) the Commissioner of Police, if the force was used by a police officer.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The report shall be given within 5 days of the use of force.

319 Disclosure of information overseas

(1) The Chief Collector of Customs may disclose any information specified in Section 320(1) to an overseas agency, body, or person, whose functions include:

(a) the prevention, detection, investigation, prosecution, or punishment of an offence that is, or that if committed in the Republic would be an offence under this Act;

(b) the processing of international passengers at the border by public authorities;

(c) border security;

(d) the enforcement of a written law imposing a pecuniary penalty; or

(e) the protection of public revenue.

[subs (1) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(2) The disclosure of information under subsection (1), shall be:

(a) under an agreement between the Chief Collector of Customs and the agency, body, or person concerned that complies with subsections (3) and (4); or

(b) under subsection (6).

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) The Chief Collector of Customs shall not enter into an agreement for the purpose of subsection (2)(a) unless satisfied that it is justified to help prevent, identify, or respond to violations of any written law of the Republic or:

(a) for an agreement with an international agency or body, to help prevent, identify, or respond to actions of a kind whose prevention or identification, or responding to which, is among the functions of the agency or body; and

(b) in any other case, to help prevent, identify, or respond to violations of the laws of that other country concerned.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) For the purposes of subsection (2)(a), an agreement:

(a) shall be in writing;

(b) shall state criteria for the disclosure of information under it;

(c) shall state, in respect of information to be disclosed:

(i) the use that the agency, body, or person may make of it; and

(ii) either:

(A) that the agency, body or person shall not disclose it to any other agency, body, or person; or

(B) the other agencies, bodies, or persons to which the agency, body, or person may disclose any of it, and the extent to which, and conditions subject to which, the agency, body, or person may do so;

(d) may state:

(i) the form in which the information may be disclosed; and

(ii) the method by which the information may be disclosed; and

(e) may be varied.

(5) This Section does not limit the general powers of the Chief Collector of Customs to enter into agreements not related to the disclosure of information with any overseas agency, body, or person.

[subs (5) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(6) The Chief Collector of Customs may disclose information to an overseas agency, body, or person without a written agreement specified in subsection (2)(a), if:

(a) the functions of the agency, body, or person include the prevention, detection, investigation, prosecution, or punishment of Customs offences of any kind or of other offences punishable by imprisonment; and

(b) the information is disclosed subject to conditions stating:

(i) the use that the agency, body, or person may make of it; and

(ii) either:

(A) that the agency, body or person shall not disclose it to any other agency, body or person; or

(B) the other agencies, bodies, or persons to which the agency, body, or person may disclose any of it, and the extent to which, and conditions subject to which, the agency, body, or person may do so; and

(c) the Chief Collector of Customs makes and keeps a record of:

(i) the information that was disclosed;

(ii) the agency, body, or person to which it was disclosed; and

(iii) the conditions subject to which it was disclosed.

[subs (6) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(7) Despite subsection (4), if, before the commencement of this Section, the Government or Chief Collector of Customs has entered into any agreement

or arrangement with an agency, body, or person in another country and that agreement or arrangement could have been made or entered into under this Section, the agreement or arrangement continues and has effect as if it had been made or entered into under this Section.

[subs (7) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(8) The Chief Collector of Customs shall not disclose any information under subsection (6) unless satisfied that it relates to a suspected:

(a) violation of any written law of the Republic;

(b) for a disclosure to an international agency or body, action of a kind whose prevention or identification, or responding to which, is among the functions of that international agency or body; or

(c) in any other case, violation of any written law of that other country.

[subs (8) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

320 Information that may be disclosed

(1) The following information may be disclosed under Section 319:

(a) airline passenger and crew lists;

(b) craft movements, which may include passenger and crew lists;

(c) past travel movements of specified persons;

(d) previous convictions of specified persons;

(e) general history of specified persons, which may include associates and networks;

(f) *modus operandi* of specified persons;

(g) known currency and other financial transactions of relevant interest, including involvement in money laundering;

(h) intelligence analysis assessments and reports;

(i) details of mail interceptions;

(j) personal identification details, which may include photographs, distinguishing features, and details of identity or travel documents;

(k) names and details of Customs officers or other Customs employees, freight forwarding and transport employees, and employees in the trade and travel business;

(l) details of known or suspected involvement of persons in illicit activities; and

(m) information in import and export entries.

(2) Section 319 does not prevent or limit any disclosure of information otherwise than under that Section that may be required or authorised by or under any written law, or treaty, agreement, or arrangement to which the Republic is a party, whether by ratification, accession or otherwise.

321 Customs may for certain purposes collect, use or disclose certain information

(1) This Section applies to information viewed by Customs under Section 50 or 54, and to information to which Customs is given access under Section 112.

(2) Customs may collect, use, or disclose the information for any of the following purposes:

(a) carrying out a power, function or duty under this Act;

(b) the prevention, detection, investigation, prosecution, and punishment of an offence that is, or that if committed in the Republic would be an offence under this Act;

(c) the processing of international passengers at the border by public authorities;
(d) the protection of border security; or
(e) the protection of the health and safety of members of the public.

(3) Where information disclosed for a specified purpose under Section 319(2) is personal information, the agency, body or person:
(a) is authorised by this Section to obtain and collect that information for that purpose; but
(b) may keep, use, or disclose that information to another enforcement agency with the approval of the Chief Collector of Customs.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) Section 319 applies, with necessary modifications, to the disclosure of the information to an agency, body or person in another country whose functions include:
(a) the prevention, detection, investigation, prosecution, and punishment of an offence that is, or that if committed in the Republic would be an offence under this Act;
(b) the processing of international passengers at the border by public authorities;
(c) border security; or
(d) the protection of the health and safety of members of the public.

(5) Nothing in this Section limits Section 54 or 57.

DIVISION 4 — AMENDMENT, REPEALS, VALIDATIONS, SAVINGS AND TRANSITIONAL PROVISIONS

322 Consequential amendments

Every reference in any enactment to the *Customs Act 1921* is to be read as a reference to the *Customs Act 2014*.

323 Repeals

(1) The *Customs Act 1921* is repealed.

(2) Despite the repeal of the Act listed under subsection (1), the provisions of those regulations made under that Act that are not inconsistent with the provisions of this Act continue in force as if they are made under this Act until those provisions are replaced or repealed under this Act.

(3) Any other regulations or other statutory instrument, existing at the commencement of this Act, made under the *Customs Act 1921* continue as if they were made under this Act until they are replaced or repealed under this Act.

324 Validation of acts under Inter-Governmental Agreements relating to Customs duties suspensions

An act done pursuant to an Inter-Governmental Agreement relating to Customs duties suspensions before the commencement of this Act continues to have effect as if they are authorised under this Act.

325 Savings for proceedings and other matters

Despite the repeal of the *Customs Act 1921*, any:

(a) civil proceedings commenced in a court before the commencement of this Act;
(b) administrative decisions or tariff classification opinions given under the *Customs Act 1921*;
(c) existing rights or proceedings relating to a refund, remission or drawback of duty under the *Customs Act 1921*;
(d) any application made under the provisions of the *Customs Act 1921* for waiver of any forfeiture; or
(e) any condemnation of goods in accordance with the provisions of the *Customs Act 1921*,

continue in force as if they have been made or authorised under this Act.

DIVISION 5 — TRANSITIONAL PROVISIONS

326 Transitional provisions relating to terminology

(1) Subject to any other provisions of this Act, at the commencement of this Act:
(a) any reference to Customs Department, in any written law, order or document, is to be read as a reference to the Naoero Customs Service;
(b) any reference to an officer of Customs or proper officer, in any written law or any document, is to be read as a reference to a Customs officer; and
(c) any reference to the Chief Collector of Customs in any written law or document, is to be read as a reference to the Chief Collector of Customs the Naoero Customs Service.

[subs (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) On and after the commencement of this Section:
(a) all proceedings that were pending by or against the Customs Department immediately before the commencement of this Act may be carried on, completed, or enforced by or against the Naoero Customs Service; and
(b) all rights and obligations of the Customs Department existing immediately before the commencement of this Section become the rights and obligations of the Naoero Customs Service.

[subs (2) am Act 21 of 2026 s 5, opn 12 May 2026]

327 Transitional provision concerning assessment and payment of duty

The provisions of the *Customs Act 1921* and any regulations, Orders, warrants, and acts of authority under that Act continue in force and apply to:
(a) the payment of duty payable before the commencement of this Section; and
(b) the assessment and payment of duty assessable before the commencement of this Section,

as if this Act had not been passed.

328 Examination place treated to be a Customs controlled area

Any place that was, immediately before the commencement of this Section, an examination place appointed by the Chief Collector of Customs in accordance

with Section 14(b) of the *Customs Act 1921* is treated for the purposes of this Act to be a CCA licenced area for the purposes described in Section 11(d) and (e).

329 Sufferance wharf and wharf treated to be a Customs controlled area

A place that was, immediately before the commencement of this Section, a sufferance wharf appointed by the Chief Collector of Customs under the Section 14 of the *Customs Act 1921*, is treated for the purposes of this Act to be a CCA licenced area for the purposes described in Section 11(d) and (e).

330 Staff accommodation, facilities and transit buildings treated to be a Customs controlled area

(1) A place that was, immediately before the commencement of this Section:
   (a) staff accommodation under Section 16 or facilities directed by the Minister to be for the exclusive use of officers of Customs under the *Customs Act 1921*; or
   (b) a transit building declared by the Minister to be required under the *Customs Act 1921*,

   is treated for the purposes of this Act to be a CCA licenced area for the purposes described in Section 11(d) and (e).

(2) Where an area in any place referred to in subsection (1)(a) was, immediately before the commencement of this Section, entitled to be exempt from charges under the *Customs Act 1921*, that area continues to be exempt from those charges until an application in respect of that area has been made under Section 334 of this Act and dealt with under this Act.

331 Export warehouse treated to be a Customs controlled area

A place that was, immediately before the commencement of this Section, an export warehouse licenced under the *Customs Act 1921* is treated for the purposes of this Act to be a CCA licenced area for the purpose described in Section 11(b) of this Act.

332 Manufacturing area treated to be a Customs controlled area

A place that was, immediately before the commencement of this Section, a manufacturing area licenced under the *Customs Act 1921* is treated for the purposes of this Act to be a CCA licenced area for the purpose described in Section 11(a) of this Act.

333 Transitional provision relating to conditions of appointment or licence

A specification, limitation, condition, or restriction that, immediately before the commencement of this Act, applied under the *Customs Act 1921* to any examination place, wharf, sufferance wharf, export warehouse or manufacturing area continues to apply despite the passing of this Act until an application in respect of that area has been made in accordance with Section 334 of this Act and dealt under this Act.

334 Application for licence as Customs controlled area to be made within 40 working days

Not later than 40 working days after the commencement of this Act, the owner or occupier of or person operating in any area to which Sections 328, 329, 330, 331 and 332 of this Act may apply under Section 12 of this Act for a CCA licence.

335 Transitional status to continue until application made and disposed of

(1) Subject to subsection (2), an area that is treated to be a Customs controlled area under any of Sections 328, 329, 330, 331 and 332 continues to be a Customs controlled area until an application under Section 12 has been made pursuant to Section 334 of this Act and dealt with under this Act.

(2) If, at the expiry of the period specified in Section 334 of this Act, no application has been made in accordance with that Section in respect of an area to which any of Sections 328, 329, 330, 331 and 332 of this Act apply, that area ceases to be a Customs controlled area.

336 Transitional provision relating to persons approved to defer payment of duty

(1) Subject to subsection (2), a person who, immediately before the commencement of this Section, was approved under the *Customs Act 1921* to defer the payment of duty is treated to be an approved person for the purposes of Section 102(6) of this Act.

(2) As soon as practicable after the commencement of this Section, the Chief Collector of Customs shall issue to the person referred to in subsection (1), a notice under this Act specifying the terms and conditions applicable for the deferment of duty in place of the conditions imposed under the *Customs Act 1921*.

[subs (2) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(3) Despite subsection (2), the Chief Collector of Customs may vary or cancel any approval to which subsection (1) applies, or may vary or cancel any term or condition affecting the approval.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

337 Transitional provisions relating to any civil or criminal investigations under the Customs Act 1921

(1) A person who may exercise a power under any of Sections 162, 176, 184, 185, 189, 190, 197, and 203 of this Act for the purpose of investigating offences suspected of having been committed against this Act may also exercise that power under this Act for the purpose of investigating offences suspected of having been committed against the *Customs Act 1921*.

(2) For the purposes of subsection (1), a reference to this Act:

(a) to any offence in Sections 176(1), 189(1), 190(1), and 197(1) of this Act;

(b) to goods in Section 184(1) of this Act; and

(c) to a thing in Section 197(1)(c) of this Act,

is taken to include a reference to the *Customs Act 1921*.

(3) After exercising, by virtue of subsection (1), any power under this Act in relation to a suspected offence against the *Customs Act 1921*, the Chief Collector of Customs or a Customs officer, as the case may be, shall not exercise any corresponding power under the *Customs Act 1921* in relation to that suspected offence.

[subs (3) subst Act 31 of 2020 s 7, opn 23 Oct 2020]

(4) This Section does not affect Section 30 of the *Interpretation Act 2011*.

338 Transitional regulations

(1) The Cabinet may, within 2 years of the commencement of this Act, make regulations to deal with any other transitional and savings matters.

[The next page is 424,081]

SCHEDULE 1

[Section 91]

PROHIBITED IMPORTS

(a) False or counterfeit coin or banknotes; and any coin that is not of the established standard in weight or composition; and any coin or banknotes that are intended for circulation in the Republic and are not legal tender in the Republic.

(b) Objectionable publications as defined in Section 2.

(c) All goods the importation of which is prohibited by any written law.

[The next page is 424,281]

SCHEDULE 2

[Sections 94, 95 and 272(1)(b)]

CUSTOMS VALUATION OF GOODS FOR TARIFF

[Sch 2 rep Act 12 of 2022 s 9, opn 1 July 2022]

[The next page is 432,001]

General Customs Duties (Mode of Collection) Regulations 1997

TABLE OF PROVISIONS

Regulation	*Title*
1	Citation, commencement and application
2	Interpretation
3	Bill of Lading to be delivered
4	Consignee to be notified
5	Payment of duties
6	Forfeiture of goods
7	Receipt of payment
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	FORM 1 — CUSTOMS DECLARATION OF IMPORTS (DUTIABLE)
	FORM 2 — DUTIES PAYABLE ON DUTIABLE IMPORTS
	FORM 3 — APPLICATION FOR DUTY DRAWBACKS & ADJUSTMENTS

[The next page is 432,201]

General Customs Duties (Mode of Collection) Regulations 1997

TABLE OF AMENDMENTS

The General Customs Duties (Mode of Collection) Regulations 1997 were notified on 15 July 1997 and commenced on 1 July 1997 (reg 1(2)).*

Amending Legislation	Notified	Date of Commencement
General Customs Duties (Mode of Collection) (Amendment) Regulations 2010 (GN No 76/2010)	16 February 2010	16 February 2010
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

* These Regulations were made under the Customs Act 1921, as adopted by the Law Adoption (Customs) Act 1922, but continue in force under the Customs Act 2014 until replaced or repealed (see Customs Act 2014 s 323(3)).

[The next page is 432,401]

IN EXERCISE of the powers under Section 3 of the *Customs Act 1921*, the Cabinet hereby makes the following Regulations to provide for the mode of collection of duties on petroleum products and matters connected therewith.

1 Citation, commencement and application

(1) These Regulations may be called the *General Customs Duties (Mode of Collection) Regulations 1997*.

(2) They shall come into force on the 1st day of July 1997.

(3) They apply to Petroleum Products.

2 Interpretation

In these Regulations:

'Act' means the *Customs Tariff Act 2014*;

'consignee' means the person whose name appears on an air waybill, bill of lading or shipment record for goods as the party to whom the goods shall be delivered by the carrier of the goods;

'Customs' has the meaning assigned to it in the *Customs Act 2014*;

'Duties' with its grammatical variations means any duty chargeable under the Act; and

'Officer' includes any person employed in the services of Customs.

[reg 2 am GN No 76/2010 reg 4, opn 16 Feb 2010]

3 Bill of Lading to be delivered

Upon the arrival of a ship the Master or the Agent shall, as soon as possible, deliver to the officer a copy of the Bill of Lading in relation to Petroleum Products.

4 Consignee to be notified

The Officer may permit consignment of goods to be offloaded and cause them to be kept in the places provided or legally authorised for storage of such goods, and notify the consignee and required him to fill in the Customs Declaration of Imports (Dutiable) in Form 1.

5 Payment of duties

(1) After receiving the declaration mentioned in Regulation 4, the officer shall:
  (a) assess the amount of duty chargeable on the goods under the Act; and
  (b) give the consignee written notice of the amount showing how the amount was calculated.

(2) The goods shall be released to the possession of the consignee as soon as practicable after the amount is paid.

(3) Where the consignee does not owe any other amount of duty to the Republic:
  (a) the consignee may make the declaration in Form 2; and

(b) the goods shall be released to the possession of the consignee as soon as practicable after the declaration is made.

(4) Where the consignee is body corporate that is wholly owned by the Republic:

(a) the Cabinet may enter into a written agreement with the body corporate for the body corporate to pay the amount of duty in instalments, whether or not the body corporate owes any other amount of duty to the Republic; and

(b) the goods shall be released to the possession of the consignee as soon as practicable after the agreement is made.

[reg 5 subst GN No 76/2010 reg 5, opn 16 Feb 2010]

6 Forfeiture of goods

(1) This Regulation applies if:

(a) the consignee fails to pay an amount of duty owing to the Republic within the time for payment under Section 120(b) of the Act or Regulation 5(3); and

(b) the amount is not the subject of a dispute being determined under the Act.

(2) The Minister may give the consignee written notice specifying that:

(a) within 30 days after the date the notice is given, the consignee shall:

(i) pay the outstanding amount; or

(ii) give a written undertaking to pay the amount in fortnightly instalments, so that the amount is paid in full within 60 days after the notice is given; and

(b) failure to comply with the notice will result in forfeiture of the goods to the Republic.

(3) Where a consignee breaches an undertaking made under subregulation (2)(a)(ii), the Minister may give the consignee a further written notice specifying that:

(a) within 14 days after the date the notice is given, the consignee shall remedy the breach; and

(b) failure to comply with the notice will result in forfeiture of the goods to the Republic.

(4) Where the consignee fails to comply with a notice given under this regulation, the goods are forfeited to the Republic.

(5) Where the goods are not in the custody of the Republic, an officer may seize the goods to effect their forfeiture.

(6) The forfeited goods shall be offered for sale by public auction as soon as reasonably practicable after forfeiture.

(7) The Chief Collector of Customs shall publish an advertisement of the auction in the Gazette listing the forfeited goods for sale at least 1 week before the auction.

(8) The proceeds of the sale of the goods shall be distributed as follows:

(a) the amount of duty owing to the Republic shall be paid into the Treasury Fund;

(b) the reasonable costs of storage and sale of the goods shall be paid into the Treasury Fund; and

(c) the remaining amount shall be paid to the consignee.

[reg 6 subst GN No 76/2010 reg 5, opn 16 Feb 2010]

7 Receipt of payment

Whenever any payment of duties or penalty, if any, is made, a receipt in token of payment shall be issued to the consignee.

8 Care for the protection of goods stored

(1) Where any consignee of the goods in respect of which duty is imposed does not take delivery thereof, the officer in-charge of the place of storage of the goods shall take reasonable care for the protection of such goods till they are delivered to the consignee or sold off.

(2) Where the Minister for Finance considers it expedient so to do, he or she may require or permit the consignee of the goods in respect of which duties are imposed but not paid, to store them in a place properly provided by the consignee till the recovery of the duties so however that such goods shall subject to the directions of the Minister for Finance shall be kept sealed.

9 Drawbacks

(1) In relation to the goods which after import into the Republic, are exported, drawbacks shall be allowed to the extent of the amount of duties charged in respect thereof when the Customs is satisfied that the export of these goods have been made. In such cases the provisions of Sections 155, 156, 157, 158, 159 and 160 of the *Customs Ordinance of 1921 for the Territory of New Guinea* as applicable to Naoero shall be complied with.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) Where out of the goods on which duties are imposed and charged, any goods are purchased by the Government of Naoero, duty drawbacks shall be allowed provided the seller submits to the Treasury a Duty Drawback Form 3.

[subreg (2) am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 432,601]

FORM 1

REPUBLIC OF NAOERO

CUSTOMS ACT 2014

[Regulation 4]

CUSTOMS DECLARATION OF IMPORTS (DUTIABLE)

IMPORTER/CONSIGNEE					
NAME OF SHIP/AIRCRAFT		**VOYAGE/FLIGHT NO**		**PORT OF DEPARTURE**	
DATE OF ARRIVAL		**COUNTRY WHERE GOODS ORIGINATED**			
CONTAINER NO		**AIRWAY BILL NO**		FREIGHT TYPE	Please tick one
				Baggage 0	Break bulk 0
Quantity	Description of Goods	Unit Price	Amount	Rate of Duty	Amount of Duty

TOTAL | | TOTAL | |

DECLARATION:

I hereby declare that the description and particulars of the goods as stated in this declaration of imports are true and correct in every respect and in accordance with the Customs Act and Regulations. I also declare that this is a complete statements of all goods subject to duties of Customs consigned to and delivered to me ex above aircraftship

FOR OFFICE USE

_____
Signature of Consignee

_____
PRINT NAME

_____
DATE

_____
Signature of Customs Officer

_____
DATE

[Form 1 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 2

REPUBLIC OF NAOERO

CUSTOMS ACT 2014

[Regulation 5]

DUTIES PAYABLE ON DUTIABLE IMPORTS

30 DAY BILLING NOTICE

Importer/Consignee:			
Name of Ship/Aircraft	**Voyage/Flight No**	**Port of Departure**	
Date of Arrival	**Country where goods originated from**		
Container Number	**Airway Bill No**	**Freight Type**	**(Please tick)**
		Baggage	**Break bulk**
Duties Payable ($)			
Fees Payable ($)			

TOTAL AMOUNT DUE TO TREASURY: $_____

DECLARATION	**FOR OFFICE USE ONLY**
I, the Importer/Consignee do hereby accept the terms and conditions of this 30 day Billing Notice and hereby agree to pay all amounts due to Treasury for duties imposed on imports within 30 Days.	

_____ Signature of Consignee/ Nominee

_____ DATE

_____ Signature of Cashier

_____ DATE

[Form 2 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 3

REPUBLIC OF NAOERO

CUSTOMS ACT 2014

[Regulation 9]

APPLICATION FOR DUTY DRAWBACKS & ADJUSTMENTS

(For Goods/Fuel Purchased by the Government of Naoero)

Date Goods/Fuel Purchased :_____

Name of Business/Seller :_____

Goods purchased by (Dept.) :_____

	Type/Quantity of Goods	**Retail Value**	**Duty paid**
Please List Goods Purchased, their respective retail values, and the duty paid by the seller if known. (Note: Treasury will make its own calculations on the duties paid and the drawback entitlements due)	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

Drawback/Adjustments Entitlement: $ _____

_____

Signature of Seller/Agent

Date:_____ _____ Cashier _____ Chief Accountant

[Form 3 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 435,001]

Customs Duties on Petroleum Products (Mode of Collection) Regulations 1997

TABLE OF PROVISIONS

Regulation	*Title*
1	Citation, commencement and application
2	Interpretation
3	Bill of Lading to be delivered
4	Consignee to be notified
5	Imposition of duties
6	Imposition of penalty
7	Receipt of payment
8	Care for the protection of goods stored
9	Drawbacks
	FORM 1 — CUSTOMS DECLARATION OF IMPORTS (DUTIABLE)
	FORM 2 — DUTIES PAYABLE ON DUTIABLE IMPORTS
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[The next page is 435,201]

Customs Duties on Petroleum Products (Mode of Collection) Regulations 1997

TABLE OF AMENDMENTS

The Customs Duties on Petroleum Products (Mode of Collection) Regulations 1997 were notified on 5 August 1997 and commenced on 1 July 1997 (reg 1(2)).*

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

* These Regulations were made under the Customs Act 1921, as adopted by the Law Adoption (Customs) Act 1922, but continue in force under the Customs Act 2014 until replaced or repealed (see Customs Act 2014 s 323(3)).

[The next page is 435,401]

IN EXERCISE of the powers under Section 3 of the *Customs Act 1921*, Cabinet hereby makes the following Regulations to provide for the mode of collection of duties on petroleum products and matters connected therewith.

1 Citation, commencement and application

(1) These Regulations may be called the *Customs Duties on Petroleum Products (Mode of Collection) Regulations 1997*.

(2) They shall come into force on the 1st day of July 1997.

(3) They apply to Petroleum Products.

2 Interpretation

In these Regulations:

'Act' means the *Customs Tariff Act 2014*;

'Customs' has the meaning assigned to it in the *Customs Act 2014*;

'Duties' with its grammatical variations means any duty chargeable under the Act; and

'Officer' includes any person employed in the services of Customs.

3 Bill of Lading to be delivered

Upon the arrival of a ship the Master or the Agent shall, as soon as possible, deliver to the officer a copy of the Bill of Lading in relation to Petroleum Products.

4 Consignee to be notified

The Officer may permit consignment of goods to be offloaded and cause them to be kept in the places provided or legally authorised for storage of such goods, and notify the consignee and required him to fill in the Customs Declaration of Imports (Dutiable) in Customs Form 1.

5 Imposition of duties

(1) On receipt of the declaration as aforesaid, the officer shall assess and impose the duties chargeable on such goods in accordance with the Schedule to the Act and notify the consignee accordingly.

(2) The consignee shall, unless he or she makes the payment of duties immediately, give to the officer a declaration in the Customs Form 2 to pay the duties within 30 days from the date of declaration. The goods shall be released only when either payment of duties is made and a receipt of payment is shown to the officer or a declaration as aforesaid in this Regulation is made.

6 Imposition of penalty

(1) Where the consignee fails to pay the duty as aforesaid, the officer shall report the matter to the Minister for Finance, who may, subject to the provisions of the Act, impose such penalty therefor as he or she may

consider expedient in the circumstances of the case. All duties imposed under and in accordance with these Regulations and the penalty, if any imposed as aforesaid, shall be deposited within the period of 30 days from the date on which the consignee is notified about the imposition of penalty.

(2) Where the consignee fails to deposit the duties required by subregulation (1) the Minister shall without prejudice to any action that may be taken under the law, have the power to direct the officer to recover the amount of duties and the penalty, if any, or any balance thereof, by sale or auction of such goods.

(3) Where the proceeds of sale of such goods exceed the amount of duties and penalty, if any, the excess shall be refunded to the consignee after deduction of the expenses, if any, incurred in sale.

7 Receipt of payment

Whenever any payment of duties or penalty, if any, is made, a receipt in token of payment shall be issued to the consignee.

8 Care for the protection of goods stored

(1) Where any consignee of the goods in respect of which duty is imposed does not take delivery thereof, the officer in-charge of the place of storage of the goods shall take reasonable care for the protection of such goods till they are delivered to the consignee or sold off.

(2) Where the Minister for Finance considers it expedient so to do, he or she may require or permit the consignee of the goods in respect of which duties are imposed but not paid, to store them in a place properly provided by the consignee till the recovery of the duties so however that such goods shall subject to the directions of the Minister for Finance shall be kept sealed.

9 Drawbacks

(1) In relation to the goods which after import into the Republic, are exported, drawbacks shall be allowed to the extent of the amount of duties charged in respect thereof when the Customs is satisfied that the export of these goods have been made. In such cases the provisions of Sections 155, 156, 157, 158, 159 and 160 of the *Customs Ordinance of 1921 for the Territory of New Guinea* as applicable to Naoero shall be complied with.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) Where out of the goods on which duties are imposed and charged, any goods are purchased by the Government of Naoero, duty drawbacks shall be allowed provided the seller submits to the Treasury a Duty Drawback Form 3.

[subreg (2) am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 435,601]

FORM 1

REPUBLIC OF NAOERO

CUSTOMS ACT 2014

[Regulation 4]

CUSTOMS DECLARATION OF IMPORTS (DUTIABLE)

IMPORTER/CONSIGNEE					
NAME OF SHIP/AIRCRAFT		**VOYAGE/FLIGHT NO**		**PORT OF DEPARTURE**	
DATE OF ARRIVAL		**COUNTRY WHERE GOODS ORIGINATED**			
CONTAINER NO		**AIRWAY BILL NO**		FREIGHT TYPE	Please tick one
				Baggage 0	Break bulk 0
Quantity	Description of Goods	Unit Price	Amount	Rate of Duty	Amount of Duty

TOTAL | | TOTAL | |

DECLARATION:

I hereby declare that the description and particulars of the goods as stated in this declaration of imports are true and correct in every respect and in accordance with the Customs Act and Regulations. I also declare that this is a complete statements of all goods subject to duties of Customs consigned to and delivered to me ex above aircraftship

FOR OFFICE USE

_____
Signature of Consignee

_____
PRINT NAME

_____
DATE

_____
Signature of Customs Officer

_____
DATE

[Form 1 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 2

REPUBLIC OF NAOERO

CUSTOMS ACT 2014

[Regulation 5]

DUTIES PAYABLE ON DUTIABLE IMPORTS

30 DAY BILLING NOTICE

Importer/Consignee:			
Name of Ship/Aircraft	**Voyage/Flight No**	**Port of Departure**	
Date of Arrival	**Country where goods originated from**		
Container Number	**Airway Bill No**	**Freight Type**	**(Please tick)**
		Baggage	**Break bulk**
Duties Payable ($)			
Fees Payable ($)			

TOTAL AMOUNT DUE TO TREASURY: $_____

DECLARATION	**FOR OFFICE USE ONLY**
I, the Importer/Consignee do hereby accept the terms and conditions of this 30 day Billing Notice and hereby agree to pay all amounts due to Treasury for duties imposed on imports within 30 Days.	

_____ Signature of Consignee/Nominee

_____ DATE

_____ Signature of Cashier

_____ DATE

[Form 2 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 3

REPUBLIC OF NAOERO

CUSTOMS ACT 2014

[Regulation 9]

APPLICATION FOR DUTY DRAWBACKS & ADJUSTMENTS

(For Goods/Fuel Purchased by the Government of Naoero)

Date Goods/Fuel Purchased :_____

Name of Business/Seller :_____

Goods purchased by (Dept.) :_____

	Type/Quantity of Goods	**Retail Value**	**Duty paid**
Please List Goods Purchased, their respective retail values, and the duty paid by the seller if known. (Note: Treasury will make its own calculations on the duties paid and the drawback entitlements due)	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

Drawback/Adjustments Entitlement: $

_____

Signature of Seller/Agent

Date:_____ _____ Cashier _____ Chief Accountant

[Form 3 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 439,001]

Customs (Prohibition of Export of Scrap Metal) Proclamation 2007

TABLE OF AMENDMENTS

The Customs (Prohibition of Export of Scrap Metal) Proclamation 2007 was notified and commenced on 21 September 2007 (GN No 462/2007; Gaz 97/2007).*

Amending Legislation	Notified	Date of Commencement
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

* This Proclamation was made under the Customs Act 1921, as adopted by the Law Adoption (Customs) Act 1922, but continues in force under the Customs Act 2014 until replaced or repealed (see Customs Act 2014 s 323(3)).

[The next page is 439,201]

[instr am Act 21 of 2026 s 5, opn 12 May 2026]

WHEREAS the Customs Ordinance 1921 of the Territory of New Guinea was by virtue of the Customs Regulations Ordinance 1922-1926 adopted as an Ordinance for the Island of Naoero so far, inter alia, as it can reasonably be made applicable to the circumstances of the Island

AND WHEREAS the said Customs Regulations Ordinance 1922-1926 continues in force by operation of Article 85(1) as a law of Naoero

AND WHEREAS references in an Ordinance to the Administrator are by application of Article 86(2) to be read as references to the President or where responsibility for the administration of the Ordinance has been assigned to a Minister, to that Minister

AND WHEREAS sub-Section 101(1) of the Customs Regulations Ordinance 1922-1926 provides, inter alia,—

> "The Administrator may by proclamation prohibit the exportation of any goods—
>
> . . .
>
> (e) the prohibition of which is in his opinion necessary for the protection of the revenue or the prevention of fraud and deception."

AND WHEREAS sub-Section 101(2) if the said Ordinance provides—

> "The power contained in sub-Section (1) of this Section shall extend to authorize the prohibition of goods generally, or to any specified place, and either absolutely or so as to allow of the exportation of the goods subject to any condition or restriction."

AND WHEREAS sub-Section 101(3) of the said Ordinance provides—

> "All goods the exportation of which is prohibited shall be prohibited exports to the extent to which the prohibition extends."

AND WHEREAS the price of scrap copper, aluminium, and steel in various forms has resulted in undesirable activity such as theft of goods, destruction of property and other unlawful acts in order to recover saleable metals

AND WHEREAS, having regard to the above matters, I am satisfied that it is in the interests of the Republic that the exports of certain metals for their scrap value should be prohibited except under certain conditions

NOW THEREFORE, I Roland Kun, Minister for Customs and Immigration do hereby prohibit the export from Naoero, without written approval of the Minister for Customs and Immigration or his delegate, the following—

Copper waste and scrap, and copper bars, rods, ingots and profile
Aluminium waste and scrap
Steel waste and scrap
Waste Lead Acid Batteries whole or crushed
Cadmium slurry in dry or wet form

AND I FURTHER DIRECT that approval for the export of any of the above may be obtained only by application to the Minister for Customs and Immigration or his delegate together with an application fee of $100 and supported by such evidence as to lawful ownership thereof by the proposed exporter and such further evidence as to the lawful ownership thereof by the applicant's predecessors in title provided that the said Minister has absolute discretion to approve any application.

AND I GIVE NOTICE that such directives and forms as may be deemed necessary or expedient for the better enforcement hereof shall be notified in the Gazette.

GIVEN at Yaren this 21st day of September 2007

Hon Roland Kun MP

Minister for Customs and Immigration

[The next page is 441,001]

Customs (Prohibition of Imports) Proclamation No 1 2014

TABLE OF PROVISIONS

Clause

1 Citation
2 Commencement
3 Proclamation

[The next page is 441,201]

Customs (Prohibition of Imports) Proclamation No 1 2014

TABLE OF AMENDMENTS

The Customs (Prohibition of Imports) Proclamation No 1 2014 No 8 was notified and commenced on 11 August 2014 (GN No 504/2014; Gaz 107/2014).[*]

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[*] This Proclamation was made under the Customs Act 1921, as adopted by the Law Adoption (Customs) Act 1922, but continues in force under the Customs Act 2014 until replaced or repealed (see Customs Act 2014 s 323(3)).

[The next page is 441,401]

IN EXERCISE of the powers conferred upon me by Section 46(g) and Section 49 of the *Customs Act 1921*, as Minister responsible for Customs, I make the following Proclamation:

1 Citation

This Proclamation shall be cited as the *Customs (Prohibition of Imports) Proclamation No 1 2014*.

2 Commencement

This Proclamation shall commence on the date it is gazetted.

3 Proclamation

(1) No business shall import any goods into the Republic without an approved import licence issued by the Naoero Customs Division of the Department of Finance.

[subcl (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) Restrictions and conditions for the issuance of an import licence shall be as follows:

(a) an approved import licence will be issued to businesses registered in Naoero if the majority shares are owned by Naoero citizens.

(b) the business shall be registered in Naoero hold a valid incorporation certificate and/or business licence.

(c) an approved import licence may only be issued to a business registered in Naoero where 90% of their employees are Naoero citizens. An exception will only apply where the business shows cause as to why other than Naoero citizens are employed. Where any doubt arises with respect to this condition (c), the Department of Justice and Border Control shall make a determination and that decision shall be final.

(d) the application form for an import licence shall be in a manner prescribed by the Customs Division, Department of Finance.

(e) in the interest of the Naoero economy, any import licence issued under this Proclamation may have conditions that restrict supply of goods to the Regional Processing Centres; such conditions will be as determined by the Department of Justice and Border Control and Department of Finance.

(f) any variation sought in regards to the conditions of an import licence shall be directed in writing to the Department of Justice and Border Control and Department of Finance.

[subcl (2) am Act 21 of 2026 s 5, opn 12 May 2026]

(3) An exemption shall apply to any goods currently being shipped or in the process of shipment to the Republic, and in any event, any goods shipped after Wednesday 1st October, 2014 shall be subject to this Proclamation.

[The next page is 443,001]

Customs (Extension of Import Licence Due Date) Order No 1 2014

TABLE OF PROVISIONS

Clause

1 Citation
2 Commencement
3 Amendment of Customs (Prohibition of Imports) Proclamation No 1 2014

[The next page is 443,201]

Customs (Extension of Import Licence Due Date) Order No 1 2014

TABLE OF AMENDMENTS

The Customs (Extension of Import Licence Due Date) Order No 1 2014 No 16 was notified and commenced on 16 October 2014 (GN No 701/2014; Gaz 143/2014).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

[The next page is 443,401]

In exercise of the powers conferred upon me by Section 91(3) of the *Customs Act 2014*, and with the approval of Cabinet, as Acting Minister responsible for Customs, I make the following Order:

1 Citation

This Order shall be cited as the *Customs (Extension of Import Licence Due Date) Order No. 1, 2014*.

2 Commencement

This Order shall commence on the date it is gazetted.

3 Amendment of Customs (Prohibition of Imports) Proclamation No 1 2014

(1) The effective date for Import Licences is extended from 1st October 2014 to 1st November 2014.

(2) Order (31) above does not apply to Importers who are currently importing bottled water.

[The next page is 447,001]

Customs (Prohibited Exports) Order 2023

TABLE OF AMENDMENTS

The Customs (Prohibited Exports) Order 2023 No 25 was notified and commenced on 24 July 2023 (GN No 799/2023; Gaz 154/2023).

Amending Legislation	Notified	Date of Commencement

[The next page is 447,201]

IN exercise of the powers conferred upon me by Section 92(3) of the *Customs Act 2014*, as Minister responsible for Customs, I make the following order:

THAT the exportation by a person whether on his or her person, by luggage or cargo of cash the sum in Australian Dollars of $5,000 or more, is prohibited, unless the written approval of the Chief Collector of Customs has first been obtained.

The *Customs Proclamation No 2 Gazette No 28 of 1999* published on 4 May 1999 is hereby repealed.

[The next page is 447,801]

Customs Regulations 2023

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18	Appointed place for landing
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[The next page is 447,901]

Customs Regulations 2023

TABLE OF AMENDMENTS

The Customs Regulations 2023 SL 38 were notified and commenced on 4 January 2023 (GN No 16/2024; Gaz 7/2024).

Amending Legislation	Notified	Date of Commencement
Customs (Brokers) Regulations 2024 SL 23	29 July 2024	reg 27: 29 July 2024
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 448,001]

The Cabinet makes the following Regulations under Sections 42, 63, 65, 75 and 310 of the *Customs Act 2014*:

PART 1 — PRELIMINARY

1 Citation

These Regulations may be cited as the *Customs Regulations 2023*.

2 Commencement

These Regulations commence on the date they are notified in the Gazette.

3 Interpretation

(1) In these Regulations:

'Act' means the *Customs Act 2014*;

'approved form' means a form approved by the Chief Collector of Customs or his or her delegate;

'cargo' means the wares, merchandise and articles of every kind whatsoever including animals that a carrier undertakes to carry under a contract of carriage and includes the packing and any equipment and container not supplied by or on behalf of the carrier;

'cargo manifest' means the consolidated list of all the goods on board an aircraft or a ship, that shows the name, type, quantity and weight of each item, and the name and address of the consignor and consignee, and that are on the ship for di arge at a particular destination or at various destinations;

'carrier' means a person that enters into a contract of carriage of goods with a shipper;

'CIF' means Cost, Insurance and Freight which is paid by the buyer or seller to cover the costs, the insurance and freight of a buyer's order, including the actual travel of the aircraft or ship;

'consignee' means a person entitled to delivery of the goods under a contract of carriage or a transport document or electronic transport record;

'consolidator' means a person whose function involves grouping or assembling diverse shipments from various customers so as to make up full container loads;

'container' means any type of container, transportable tank or flat, swap body, or any similar unit load used to consolidate goods;

'Customs Broker' means a person who acts as the agent of exporters and importers in order to process customs declarations and other border formalities and pay duties and taxes;

'Customs system' means an integrated customs management system known as the ASYCUDA System, that is used by Customs for international trade and transport operations;

'Customs Warehouse' means a designated Customs area or a building licensed by Customs for the purpose of storing goods under customs control;

'FAS' means free alongside ship;

'FOB' means free on board;

'freight forwarder' means a person who acts as an agent when he or she performs functions on behalf of, and under the instructions of the exporter or importer and procure the services of third parties on handling and customs clearance of the goods and is responsible for the safe carriage of goods from a point of export to the country of destination;

'inward report' means the report referred to in Section 27 of the Act;

'liquor' has the meaning given in Section 4 of the *Liquor Control Act 2017*;

'official purpose' has the meaning given in Section 73(2) of the *Public Service Act 2016*;

'passenger manifest' means the list of passengers, and crew of a ship, aircraft, or vehicle, for the use of Customs;

'person' includes an incorporated or unincorporated body;

'prescribed' means prescribed by regulations;

'Secretary' means the Secretary responsible for customs;

'shipper' means a person that enters into a contract of carriage with a carrier;

'shipping agent' means a person acting on behalf of the master or the principal of the carrier in discharging and loading operations, collecting sea freight, paying port charges, and other administrative operations; and

'stores' means consumables meant for the crew of an aircraft or a ship that are kept under seal for the crew while the aircraft or ship is in port.

(2) In these Regulations, words and phrases have the same meaning as those under the Act.

[The next page is 448,051]

4 Working days and hours

(1) The working day of a Customs officer shall be each day of a week except for Saturday, Sunday and any public holiday.

(2) The working hours of a Customs officer shall be from 9am to 5pm on each working day, with one hour for a meal break between that period.

(3) A Customs officer shall only collect duties and other taxes on each working day at the following times:

Purpose	Working Day	
	From	To
Collection of duties and other taxes	9 am	12.30 pm
	2 pm	4.30 pm

5 Additional hours of attendance

A Customs officer may be required to attend work for a reasonable number of hours in addition to his or her working hours if he or she is compensated for the additional hours by way of:

(a) overtime allowance; or

(b) leave of absence in lieu of overtime allowance.

6 Overtime allowance

(1) Any person requiring Customs to clear cargo outside the working hours specified in Regulation 4(2) on any working day or at any time on a non-working day shall:

(a) make a written request to the Chief Collector of Customs within reasonable time to enable the Chief Collector of Customs to arrange for a Customs officer to perform such duty; and

(b) where a Customs officer performs such duty, the person shall pay the Customs officer's overtime allowance at the following rates to the Naoero Revenue Office:

Overtime	Rate
Outside working hours on a working day	$20 per hour
Saturday, Sunday or public holiday	$40 per hour

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) Notwithstanding any other provision in these Regulations, the Chief Collector of Customs may:

(a) require any Customs officer to work for 7 hours on any working day outside the working hours specified in Regulation 4 without the Customs officer being entitled to overtime allowance;

(b) in special cases, grant a consolidated overtime allowance to a Customs officer in lieu of any overtime allowance calculated at the rate under subregulation (1);

(c) refuse the payment of any overtime allowance to a Customs officer; and
(d) grant leave of absence to a Customs officer in lieu of any overtime allowance.

(3) For the avoidance of doubt, a person may only make a request for overtime work to be undertaken by Customs where the purpose of the overtime work is for the clearance of cargo by Customs.

7 Customs officers not eligible for overtime allowance when travelling for official purpose

A Customs officer shall not be eligible for overtime allowance for the period he or she is travelling for an official purpose.

8 Additional copies of forms

The Chief Collector of Customs may require that he or she be provided with a copy of any approved form, and he or she may require to be shown on any form information additional to that required by such form if he or she decides that the furnishing of the additional information is necessary.

[The next page is 448,151]

9 Declaration of stores of aircraft and ships

(1) The pilot of an aircraft arriving from a place outside Naoero shall make a declaration, in the approved form, of all the unconsumed stores of the aircraft.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) The master of a ship arriving from a place outside Naoero shall make a declaration, in the approved form, of all the unconsumed stores of the ship.

[subreg (2) am Act 21 of 2026 s 5, opn 12 May 2026]

(3) The declarations under subregulations (1) and (2) shall be given to the Customs officer who boards the aircraft or ship for inspection of the stores.

10 Stores to be produced

All stores which are required for use by the pilot, master, crew and passengers of an aircraft or a ship while the aircraft or ship is in Naoero shall, upon request by a Customs officer, be produced separately to the Customs officer.

[reg 10 am Act 21 of 2026 s 5, opn 12 May 2026]

11 Cargo remaining on board

Any cargo remaining on board an aircraft or a ship for exportation shall be reported as "General cargo remaining on board for exportation: of. . . . . tonnes", unless the Customs officer otherwise directs.

12 Allowance for the master and crew

(1) The master and members of the crew of a ship may retain the following quantities of tobacco and liquor for their own consumption on board the ship while the ship is in Naoero and such goods in such quantities shall not be subject to the payment of any duty:

	Tobacco in any form (per day)	Potable Spirits (per day)	Wine and Beer (per day)
Master	25 grams	1 litre	2 litres
Officers	25 grams	250 millilitres	2 litres
Other members of the crew	25 grams	Nil	2 litres

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) A Customs officer may, in special circumstances, allow such other quantity provided that the quantity shall not exceed the maximum allowance for 4 consecutive days.

13 Security of stores

(1) The pilot of an aircraft or master of a ship shall provide on board the aircraft

or ship a suitable store for the security of any goods which the Customs officer may require to be placed under seal.

(2) The Customs officer may secure and seal any quantity of dutiable goods in excess of the quantities specified in Regulation 12, and any stores which, subsequent to the arrival of the aircraft or ship, are loaded on board from a bonded warehouse or are under drawback or on which a remission, rebate or refund of excise duty has been or shall be claimed:

Provided that the Customs officer may permit any stores to remain unsealed if he or she is satisfied that due precaution has been taken against the smuggling of stores so left unsealed.

(3) Subregulation (2) shall, *mutatis mutandis*, apply to the securing and sealing of dutiable goods and stores on board an aircraft.

(4) Any goods other than cigarettes, liquor and other high dutiable goods that are, or are not, regarded as stores for use by the passengers and crew or for the service of the aircraft or ship departing from any Customs place are not required to be placed under seal.

[The next page is 448,201]

14 Time of arrival of aircraft and ships

(1) The master, owner or agent of a ship shall, not less than 48 hours before the expected arrival of the ship in Naoero, inform the Customs officer at the port of the expected time of arrival of the ship.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) The pilot, owner or agent of an aircraft shall, not less than 3 hours before the expected arrival of the aircraft in Naoero, inform the Customs officer at the airport of the expected time of arrival of the aircraft.

[subreg (2) am Act 21 of 2026 s 5, opn 12 May 2026]

(3) The master or pilot, owner or agent of a ship or an aircraft, as the case may be, shall register the inward manifests of the ship or aircraft immediately before the information required under subregulations (1) and (2) is provided to the Customs officer.

(4) Any person who contravenes subregulation (1) or (2) commits an offence.

15 Arrival and report of aircraft and ships

(1) A report on arrival or departure, which contains a manifest, shall be in the approved form.

(2) The manifest shall be submitted by electronic means before the arrival or departure of the carrier.

(3) The manifest shall pertain to all goods consigned in a conveyance to or from Naoero.

[subreg (3) am Act 21 of 2026 s 5, opn 12 May 2026]

(4) For the purposes of Customs control, a manifest shall take the form of a master waybill.

16 Report of ships and cargo

(1) The inward report by the master of a ship arriving from a port outside Naoero shall be in the approved form and signed by the master or the authorised agent.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) The inward report shall be made to the Customs officer at the port or place of arrival.

(3) The master of a ship shall, where required by the Customs officer, produce the certificate of registry of the ship at the time of making his or her inward report.

(4) An inward manifest shall in the like manner be declared and shall be made in the approved form.

(5) All packages for which no bill of lading has been issued shall be declared on the Parcels List in the approved form, which shall be produced with the goods to the Customs officer boarding the ship on arrival.

17 Report of aircraft and cargo

(1) The inward report by the pilot of an aircraft arriving from outside Naoero shall be in the approved form and shall be made to the Customs officer at the airport or place of arrival.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) The report of the cargo of an aircraft shall be made in the approved form and shall be attached to the inward report.

(3) The report of all consumable stores on board the aircraft shall be submitted in the approved form.

(4) The Customs officer may permit the pilot of a private aircraft not carrying cargo and operated for pleasure and recreation only, or a pilot who is not flying for reward or remuneration or operating for business purposes, to make a report in the approved form.

(5) Notwithstanding the requirements in subregulations (1), (2) and (3), the Chief Collector of Customs may dispense with the approved forms and instead accept the International Civil Aviation Organisation's General Declaration Form in lieu of the approved forms.

[The next page is 448,251]

PART 5 — LANDING AND LOADING OF GOODS

18 Appointed place for landing

(1) A person shall not land any aircraft, or berth any ship, at any place unless the place has been appointed as a place for landing or berthing by the Minister.

(2) On the landing at the airport, port or place of an aircraft or a ship which has arrived from or called at a place outside Naoero, the following persons shall proceed to the baggage room or any other place assigned by Customs for the examination of baggage:

(a) a person who is disembarking at the airport, port or place;

(b) a person who has any uncustomed goods in his or her possession whether upon his or her person or in his or her baggage;

(c) the crew of any aircraft or ship who are leaving the aircraft or ship, either temporarily or otherwise, and wish to remove their baggage, or any part of their baggage, from the aircraft or ship;

(d) a passenger who is temporarily leaving the aircraft or ship and wishes to remove his or her baggage, or any part of his or her baggage, from the aircraft or ship; and

(e) any other person who may be required by the Customs officer so to do.

[subreg (2) am Act 21 of 2026 s 5, opn 12 May 2026]

(3) Any person who contravenes this Regulation commits an offence.

[The next page is 448,301]

PART 6 — EXAMINATION AND DELIVERY

19 Examination of baggage

(1) A person shall not enter the baggage room or any other place assigned for the examination of baggage, except a person:
  (a) specified in Regulation 18;
  (b) required by Customs to enter the baggage room or other place; or
  (c) permitted by a Customs officer.

(2) Any person who contravenes this Regulation commits an offence.

20 Baggage to be taken to examination place

(1) The baggage and any uncustomed goods in the possession of any person to whom Regulation 18 applies, whether the goods are on his or her person or in his or her baggage, shall be taken without delay to the nearest place assigned for the examination of baggage or such other place as the Customs officer may direct, and shall not be removed from the assigned place or such other place, except as authorised by the Customs officer, unless the baggage or goods have been examined and passed by, and any duty due on the baggage or goods paid to, the Customs officer.

(2) A person shall not remove any baggage or goods out of the baggage room or such other place unless the Customs officer authorises its removal.

(3) Any person who contravenes this Regulation commits an offence.

(4) In the case of a person referred to in Regulation 18, the baggage and uncustomed goods which are to be dealt with pursuant to this Regulation are such only as are removed from the aircraft or ship.

21 Unaccompanied baggage

Except in the case of unaccompanied baggage or baggage which is short shipped, the Customs officer may refuse to attend to any person unless the whole of that person's baggage is presented to him or her in one place, or, where the baggage belongs to more than one person, unless all the owners of the baggage are present before him or her.

22 Unclaimed baggage

The pilot of an aircraft or the master of a ship, or an agent of the aircraft or ship, shall remove all unclaimed or uncleared baggage after one day to a Customs warehouse.

23 Unaccompanied baggage declaration

The owner of a passenger's unaccompanied baggage shall make a declaration in the approved form of his or her ownership of the baggage and the articles contained in the baggage before the baggage is released to him or her by Customs.

24 Unmanifested baggage

(1) A passenger's unmanifested baggage shall:

(a) only be unloaded from an aircraft or a ship on the authorisation of a Customs officer;
(b) be landed only at a place approved by a Customs officer; and
(c) not be removed from the place of examination except with the authorisation of a Customs officer.

(2) Subject to subregulation (1), a passenger's unmanifested baggage shall:
(a) not remain on board an aircraft or a ship; and
(b) be landed immediately on the arrival of the aircraft or ship at the port of destination of the aircraft or ship.

(3) A passenger arriving from a place outside Naoero shall, where required to do so, make an oral declaration to a Customs officer of any unmanifested baggage.

[subreg (3) am Act 21 of 2026 s 5, opn 12 May 2026]

(4) Where the Customs officer considers it necessary, he or she may require the passenger to make a written declaration in the approved form.

25 Perishable goods

(1) Where, in any special circumstances, the importer or the agent of the importer of perishable or other goods wishes to take delivery of such goods prior to the goods being examined and any applicable duty being paid, the importer or agent shall apply in the approved form to the Customs officer.

(2) Where goods have not previously been passed, the importer or agent shall enter the goods and pay any applicable duty within 5 working days of taking delivery of the goods.

(3) An application under subregulation (1) shall be accompanied by:
(a) a fee of $10 per application per Electronic Singular Administrative Document; and
(b) such security which shall be equivalent to the duty payable.

(4) For the purposes of subregulation (3)(b), where the importer or agent has paid security to Customs prior to the application being made under subregulation (1), the Customs officer shall deduct from the pre-paid security the amount equivalent to the duty payable if the importer or agent fails to enter the goods and pay the applicable duty under subregulation (2).

(5) Any fee and security received under subregulation (3) shall be paid into the Treasury Fund.

(6) Where the importer or agent contravenes subregulation (2), the importer or agent of the importer shall not be permitted to apply under this Regulation for any perishable or other goods to be taken prior to the entry being passed or prior to the goods being examined, and where such an application is made by the importer or the agent of the importer, the Customs officer shall reject such application.

26 Special delivery

Any goods authorised for delivery in special circumstances under Regulation 25 are deemed to be under Customs control and the owner of such goods shall be responsible to Customs unless the goods have been entered and duty on the goods paid and, where required by the Customs officer, the goods have been examined and duly released.

27 Seizure or detention of goods delivered in special circumstances

Where a Customs officer reasonably believes that any goods to which Regulations 25 and 26 apply are liable to forfeiture, the Customs officer may seize or detain such goods and cause such goods to be removed to a Customs warehouse or to such other place as the Customs officer may approve, at the expense of the owner of such goods.

[The next page is 448,351]

28 Manifest

(1) An electronic copy of the manifest shall be registered electronically in the Customs system not less than 48 hours for a cargo ship and not less than 3 hours for an aircraft before the arrival of the carrier in Naoero.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) Where an aircraft or a ship arrives from a place outside Naoero, the pilot of the aircraft or the master of the ship shall, immediately on demand, present to a Customs officer a:

(a) list in the approved form of the passengers disembarking the aircraft or ship and the passengers remaining on board the aircraft or ship;

(b) a statement of the stores of the aircraft or ship in the approved form; and

(c) a declaration in the approved form by each member of the crew of all dutiable goods in his or her possession.

[subreg (2) am Act 21 of 2026 s 5, opn 12 May 2026]

(3) A manifest shall contain:

(a) the content of every container and of all cargo in bulk intended for discharge at the airport or port of arrival;

(b) the content of every container and of all cargo intended for transshipment according to the description on the bill of lading or airway bill; and

(c) a list of restricted goods with as much information on the goods as possible.

(4) An airline or a shipping agent or freight forwarder may amend the manifest of the aircraft or ship before the actual arrival of the aircraft or ship at the airport or port of arrival.

29 Recording excess and shortage of cargo

Where there is excess or shortage of cargo, the airline or shipping agent shall:

(a) attach supporting documents to the airway bill or bill of lading confirming the excess or shortage of cargo;

(b) validate the shortage and excess in cargo; and

(c) amend the existing manifest.

30 Amendments to the manifest

(1) Any excess or shortage of cargo in the manifest after the manifest has been submitted to Customs shall be referred to the airline and shipping agent.

(2) The airline and shipping agent shall:

(a) verify and confirm the excess and shortages; and

(b) issue a new air way bill and bill of lading for any surplus cargo.

(3) The airline and shipping agent shall amend the manifest highlighting the new bill of lading and airway bill before submitting the manifest to the Customs officer.

(4) A fee of $50 shall be paid per in-house bill of lading to the Treasury Fund by the shipping and airline company or their agent for any amendment to the original manifest.

31 Ballast

An aircraft or a ship that does not have on board any goods other than stores and passengers' baggage shall be reported "in ballast".

32 Weight or measurement of cargo to be reported

The report of every ship shall show the weight or cubic measurement of the cargo reported according to which freight has been charged, or where no freight has been charged, the weight or measurement normally chargeable for the like kind and quantity of goods.

33 Description of cargo

(1) The contents of every package and of all cargo in bulk intended for discharge at an airport or a port or place in Naoero, shall be reported in accordance with the description of the cargo in the relevant bill of lading.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) An application to break bulk prior to making report and to unload goods prior to entry shall be made to a Customs officer in the following forms:
   (a) for cargo ships and cruise ships, in the approved form;
   (b) for fishing ships, in the approved form;
   (c) for small ships under 500 tonnes net tonnage, in the approved form; and
   (d) for any type of aircraft, in the approved form, provided the pilot, owner or agent has already registered the manifest electronically with Customs.

34 Cargo remaining on board

Cargo remaining on board an aircraft or a ship for transshipment shall be reported as "transshipment cargo remaining on board: . . . . . tonnes", unless a Customs officer otherwise directs.

35 Consolidated cargo

(1) A freight forwarder and consolidator shall prepare and submit all bills of lading or airway bills electronically to Customs for any consolidated cargo consigned to the freight forwarder or consolidator before the arrival of the ship at port.

(2) Shipping agents may notify a freight forwarder or consolidator by forwarding the acknowledgment of manifest submission through the Customs system.

(3) The details of a freight forwarder shall be clearly identified on all bills of lading or airway bills.

(4) A freight forwarder and consolidator shall have the consignee code and other details filled on each bill of lading with the corresponding code assigned by Customs to identify the consignee.

(5) The bill of lading or airway bill number shall be shown against each item on the manifest of every aircraft or ship.

(6) A freight forwarder shall use the Customs system to enter the data for each bill of lading or upload files directly to the Customs system.

(7) All house bill of lading and air waybill (delivery notices) created in the Customs system may only be viewed by the declarant or the Customs Broker.

(8) The clearance of all cargo shall be on:
(a) an in-house bill of lading for sea freight; or
(b) a house airway bill for airfreight.

[The next page is 448,401]

36 Entry of imported goods

The importer or his or her agent shall electronically enter goods on imports and exports for duty purposes and for any other requirements under the law in the approved form and be provided with receipt of the goods before clearance.

37 Import entries

(1) The entries required to be made for imported goods other than goods in transit or for transshipment shall be in one of the following customs forms: (enter entry code)
   (a) IM4 — import for home consumption form;
   (b) IM5 — provisional import for home consumption form;
   (c) IM7 — import for warehousing form for normal or provisional warehousing; and
   (d) IM8 — warehousing for transhipment.

(2) If goods referred to in subregulation (1) are entered provisionally, the perfect entry for such goods shall be made on whichever of the undermentioned approved form is appropriate:
   (a) IM4 — perfecting provisional import for home consumption form;
   (b) IM7 — perfecting provisional import for warehousing form;
   (c) IM6 — re-imported goods; and
   (d) IM4 — simplified declaration.

(3) The Chief Collector of Customs may, subject to consideration of relevant risks, permit the submission of an entry for imported goods into the system prior to the arrival of the goods.

38 Forms of entry and entry fee

(1) Subject to Regulations 37(1)(a), (b) and (d) and 37(2), a fee of $10 per entry, per lodgement, shall be payable to the Treasury Fund for each entry lodged and processed by Customs.

(2) In addition to the fee prescribed in subregulation (1), the agent, importer, exporter or owner as the case may be, shall pay to Customs a fee of $10 per entry, if entries are not claimed and collected within 10 working days after lodgement.

(3) Where before Customs has processed entry documents, the agent, importer, exporter or owner notifies in writing, within 10 days from the date of lodgment, to the Chief Collector of Customs that the documents are no longer required due to goods being over carried, short landed etc, the Chief Collector of Customs may at his or her discretion, refund or remit in whole or in part the fee paid or payable pursuant to this Regulation.

39 Number of copies of Customs entry

The importer or his or her agent shall be required to submit one electronic copy of entry for the purpose of clearance.

40 Making of entries

(1) Entries of imported or exported goods shall be made by lodging of the completed approved forms in the Customs systems and the payment of the prescribed fees by or on behalf of the importer or exporter.

(2) Any person making any entry shall, if so required by the Chief Collector of Customs, answer questions relating to the goods referred to in the entry.

(3) The condition for self-assessment where the importer is required to declare any discrepancies in the entry after the goods have been cleared by the importer and the import entry shall be referred back to customs to re-assess and pay the rightful duty that would be applicable.

(4) Where the office is satisfied that an excess duty has been paid, he or she may allow the refund of duty overpaid in error.

41 Particulars on invoices

(1) Any invoice electronically transmitted through the system, shall be from the seller and authenticated by the signature of the seller of the goods, stating:

(a) the invoice date, number or other identifying particulars;

(b) the name and address of the seller or consignor of the goods;

(c) the name and address of the buyer or consignee of the goods;

(d) the name of the aircraft or ship in which the goods are shipped if it is known at the time the invoice is made out;

(e) the country of origin of the goods;

(f) a description of the goods;

(g) the quantity of the goods;

(h) the number of packages containing the goods and the marks and numbers of each package containing the goods;

(i) the selling price of the goods to the purchaser of the goods, or the actual price for which the consignors would, on the date of exportation, have been prepared to sell the goods to an importer in Naoero;

(j) the terms of delivery (ex-factory, FOB, CIF, etc);

(k) the costs, charges and expenses specified in Regulation 37(1) and (2).

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) If the information specified in subregulation (1) is contained in any packing list or other documentary evidence produced to the satisfaction of the Customs officer it shall not be necessary for such information to be included in the invoice.

42 Powers of Chief Collector of Customs in special cases

(1) Where the Chief Collector of Customs is satisfied in any special case or class of case that it is not possible for the importer to produce an invoice as prescribed in Regulation 41 in respect of imported goods or in any case in which the Customs officer considers it necessary, he or she may examine the goods and assess the amount of duty leviable thereon.

(2) The amount of duty so assessed shall be deemed to be the proper duty payable and shall be paid together with all expenses connected with the examination of the goods.

43 Passing of entries

(1) All completed customs entries from the declarant shall be transmitted electronically through the Customs System.

(2) An entry may be stored on the Customs System anytime in advance of the registration of the manifest.

(3) Entries shall be processed and, where they are found to be satisfactory, shall be passed by Customs.

(4) On the passing of the entry, the goods shall be deemed to have been entered, and any entry so passed and full duty paid shall be the warrant to the Customs officer for dealing with the goods in accordance with the entry.

(5) Entries may be assessed on the Customs system any time after registration of the manifest.

(6) Commercial cargo imported in passenger's baggage shall be declared in the same manner as cargo reported on a cargo manifest.

(7) Returning nationals, diplomats and expatriates and technical workers on work permits shall attend an interview to determine their eligibility of concessions with the Customs officer prior to a declaration being submitted on their behalf.

[The next page is 448,451]

PART 9 — GOODS FOR EXPORT

44 Export of goods

(1) A carrier shall transmit the outward manifest through the Customs system within 24 hours before the departure of the aircraft or ship.

(2) Any commercial cargo exported in a passenger's baggage shall be declared by the passenger in the same manner as cargo exported on a cargo manifest.

(3) An export declaration shall be submitted to Customs for the following:

(a) EX1 — general export;

(b) EX2 — temporary export;

(c) EX3 — transshipment;

(d) EX3 — re-exportation;

(e) EX3 — goods under drawback; and

(f) EX3 — export ex warehouse.

45 Certificate of export for goods intended for re-importation

(1) Any person desiring to export any goods temporarily and intending to re-import the goods in accordance with the Act shall produce such goods for examination to the Customs officer at the airport, port or place of exportation.

(2) Where a Customs officer is satisfied that on re-importation of such goods it shall be possible to identify the goods by reason of marks or numbers indelibly marked on the goods or by affixing a Customs seal to the goods, he or she shall be allowed to clear the goods in the system as re-imported goods.

(3) On re-importation, the goods shall be produced to the Customs officer at the airport, port or place of importation for examination and identification of the goods, and where the Customs officer is satisfied that the goods are the same goods as those exported, he or she may authorise importation under the provisions of the Act.

(4) Subject to subregulation (3), where goods are exported for repair, on the re-importation of the goods to Naoero, duty shall be levied on any new parts that have been incorporated into the goods.

[subreg (4) am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 448,501]

46 Privileged goods

(1) For the purpose of this Part, ***"privileged goods"*** means:

(a) goods for display or use at an exhibition, fair, meeting or similar event;

(b) goods for alteration or repair;

(c) goods imported by bona fide tourists for their own use while in Naoero;

(d) goods which are imported solely for use in connection with some particular project or occasion;

(e) goods of a specialised nature or which are of a kind covered by approved international convention concerning temporary importation; or

(f) traveller's samples.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) The Chief Collector of Customs may allow goods to be entered as privileged goods.

47 Provisional entries

(1) The importer or agent shall make a provisional entry in the prescribed form if the importer:

(a) is unable to immediately supply the full particulars of the goods for making an entry; and

(b) makes (by himself or herself or the importer's agent) a declaration to that effect before the Chief Collector of Customs or other Customs officer.

(2) A provisional entry, on being passed by Customs, is warrant for the landing and examination of the goods by the importer.

(3) The Chief Collector of Customs, in his or her own discretion, may require the importer to pay one and half times the proposed duty payable or demand security for the release of such goods.

(4) The importer of the goods included in a provisional entry:

(a) shall make a complete entry within 5 days after the passing of that entry or within any further time allowed by the Chief Collector of Customs; and

(b) if the importer makes default in so doing, the goods may be dealt with by the Chief Collector of Customs as if no provisional entry had been made.

(5) A complete entry of the goods included in a provisional entry shall be made in the same manner as if the provisional entry had not been made.

(6) The Chief Collector of Customs may refund or remit any duty paid on excess or payable pursuant to this Regulation.

48 Forms of entry

(1) Imported goods other than goods in transit or for transshipment which are not entered for warehousing, shall be entered on whichever of the undermentioned approved forms is appropriate:

(a) provisional import for home consumption form; and
(b) provisional import for warehousing form.

(2) If goods referred to in subregulation (1) are entered provisionally, the perfect entry for such goods shall be made on whichever of the undermentioned approved forms is appropriate:
(a) perfecting provisional import for home consumption form; and
(b) perfecting provisional import for warehousing form.

49 Fees, etc to be paid into Treasury Fund

All fees, charges and expenses payable under these Regulations shall be paid into the Treasury Fund.

50 Certified entries

Where an importer or exporter has entered and paid duty on any goods and has not received or shipped the goods, as the case may be, in pursuance of the relative entry or shipping bill he or she may claim refund of the duty been paid or make an appropriate amending entry with reference to the first declaration.

51 Entry outwards of ships

(1) A ship's report outwards and the outward manifest shall be in the approved forms respectively.

(2) The master of any ship reporting outwards shall transmit electronically to the Customs officer a list of passengers embarking and of stores shipped in the appropriate approved forms and together with such other documents or further particulars as the Customs officer may require in connection with the voyage not less than 3 hours before the ship is about to depart.

52 Entry outwards of aircraft

(1) An aircraft's report outwards and the outward manifest shall be in the relevant approved forms respectively.

(2) The master of any aircraft reporting outwards shall, immediately on demand, present to the Customs officer a list of passengers embarking and stores shipped in the appropriate approved form together with such other documents or further particulars as the Customs officer may require in connection with the flight on which the aircraft is about to depart.

53 Entries for exportation

(1) Goods for exportation, other than:
(a) warehoused goods;
(b) goods under drawback; or
(c) goods for transhipment,
shall be entered in the approved form.

(2) Subject to subregulation (1), a fee of $10 per entry, per lodgement, shall be payable to the Treasury Fund for each entry lodged and processed by Customs.

(3) In addition to the fee prescribed in subregulation (2), the agent, importer, exporter or owner, as the case may be, shall pay to the Treasury Fund an

additional fee of $10 per entry, if entries are not claimed and collected within 10 working days after lodgement.

(4) Where before the Chief Collector of Customs has processed entry documents, the agent, importer, exporter or owner notifies in writing, within 10 days from the date of lodgement, to the Chief Collector of Customs that the documents are no longer required due to goods being over-carried, short landed etc, the Chief Collector of Customs may refund or remit in whole or in part the fee paid or payable pursuant to this Regulation.

[The next page is 448,551]

54 Place of embarkation

(1) A person shall not embark on any aircraft or ship, except at a place appointed under this Regulation, or, in the case of a passenger, unless permission to embark has been granted by the Chief Collector of Customs.

(2) The baggage of passengers of an aircraft or a ship proceeding to a place outside Naoero shall be loaded at such place as the Customs officer may direct, and unless the Customs officer otherwise allows, shall not be loaded unless it has been examined and passed by him or her for shipment.

[subreg (2) am Act 21 of 2026 s 5, opn 12 May 2026]

(3) Any person who contravenes this Regulation commits an offence.

55 Loading before entry

(1) Where, under the provisions of the Act, the Customs officer permits the loading, prior to entry, of goods, whether liable to or free of export duty, an application shall be made by the exporter in the approved form and in the case of goods liable to export duty such security as the Customs officer requires shall be provided.

(2) Applications referred to in subregulation (1) shall be accompanied by the fee prescribed in subregulation (3).

(3) A fee of $10 shall be payable to the Treasury Fund in respect of each application per entry referred to in subregulation (1).

56 Cargo landed in error

Where goods have been unloaded in error, the master or agent of the aircraft or ship shall arrange for the goods to be reloaded or immediately added to the inward report of the aircraft or ship.

57 Transfer of stores

(1) The pilot of an aircraft or master of a ship who desires to transfer stores from one aircraft or ship to any other shall make an application to the Customs officer in the approved form.

(2) The application to transfer stores shall be accompanied with the fee prescribed in subregulation (3).

(3) A fee of $10 shall be payable in respect of each application under subregulation (2).

(4) Stores subject to import duty shall not be transferred from one aircraft or ship to any other unless a bond has been given in the approved form.

(5) Any person who contravenes this Regulation commits an offence.

58 Conditions of loading or transfer of stores

The loading or transfer of stores shall be subject to the observance by the

applicant of any conditions imposed by the Customs officer and shall not commence unless the appropriate entry has been passed or approval has been granted.

59 Production of stores before loading

(1) Every store shall be produced to the Customs officer before being put on board an aircraft or a ship, and upon being put on board (except in the case of commissioned ships), shall not be taken into use while the aircraft or ship is in Naoero without the express approval of the Customs officer, provided that stores on which duty has been paid and on which a drawback of duty or a remission, refund or rebate of duty is not claimed and stores which are not liable to duty may be taken into immediate use.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) Any person who contravenes this Regulation commits an offence.

60 Shipment of stores from bonded or Customs warehouse

Goods may be shipped from a bonded warehouse or a Customs warehouse free of import duty as stores for the use of the master, crew and passengers of an outward-bound aircraft or ship, provided that:

(a) a requisition has been made by the master or agent in the approved form;

(b) a bond in the approved form has been given for the due exportation of the goods as stores in accordance with this Regulation; and

(c) an export entry in the approved form has been passed for stores allowed on the requisition.

61 Certification of value of imported goods

(1) The importer of any goods shall, at the time of making entry, or within such period thereafter as the Customs officer may in special circumstances allow, deliver to the Customs officer a combined certificate and invoice in the form set out in this Regulation or in such other form as the Chief Collector of Customs may approve.

(2) The importer shall produce at the request of the Customs officer such documentary evidence relating to the goods as he or she may require to substantiate the correctness of the particulars contained in the combined certificate and invoice or in such other approved form of invoice.

(3) Subject to subregulations (1) and (2), if in the case of goods liable to *ad valorem* duty, the invoice and the combined certificate of value and of origin do not furnish particulars of all the charges necessary to arrive at the value for the purposes of assessing duty in accordance with the provisions of Act, the importer at the time of making entry shall produce to the Customs officer a declaration in respect thereof in the Customs form and shall give such further particulars as the Customs officer may consider necessary for a proper valuation and account of the goods.

(4) Combined certificates and invoices in respect of goods shall be retained by the Customs officer.

62 All books, documents, etc, to be produced

(1) The importer shall produce to the Customs officer upon demand any books of account or other documents of whatever nature relating to the purchase,

importation or sale of any goods, in addition to any declaration or documents required by the Act or these Regulations.

(2) Subject to subregulation (1), the Customs officer shall on demand from the importer, proof of the Value of the goods by the production of documents relating to the correctness of the importation or sale of any goods.

[The next page is 448,601]

PART 12 — PROVISIONS RELATING TO BONDED AREA AND WAREHOUSES

63 Responsibility for goods in a Customs area

(1) The agent of the aircraft and a ship required to discharge goods into a Customs area, the property of Government and under the sole control of Customs, and the owner or occupier of a private Customs area, shall be responsible for the goods in such Customs areas so far as their storage and delivery are concerned.

(2) A person shall not deliver any goods from any Customs area without the authority or except in accordance with the directions of the Customs officer.

64 Government bonded area

Where a Customs area is owned by the Government, the area shall be:

(a) deemed to be a private Customs area; and

(b) controlled by Customs.

65 Goods delivered in special circumstances

(1) If, in any special circumstances, the owner of any goods or other goods wishes to take delivery of such goods prior to the entry being passed or prior to the goods being examined, he or she shall apply to the Customs officer in the approved form and furnish such security as cash bond or bank security as may be required, with the amount as the Customs officer may determine.

(2) Where goods have not previously been entered, the importer shall enter the goods within 48 hours of taking delivery of the goods.

66 Appointment of bonded warehouse

An application for the approval of a building, storage tank or enclosure as a bonded warehouse shall be made in the approved form to the Chief Collector of Customs.

67 Unsuitable premises

(1) Premises situated in a private yard except under special circumstances shall not be accepted as suitable for a bonded warehouse.

(2) Subject to subregulation (1), the doors of all bonded warehouses shall open into a street or public thoroughfare and be at all times accessible for the examination of the locks and fastenings without passing through other doors or gates.

68 Construction

(1) Bonded warehouses shall be constructed of substantial materials to the satisfaction of the Chief Collector of Customs.

(2) A person shall not make any alteration or addition to any bonded warehouse without first obtaining the permission of the Chief Collector of Customs.

(3) Any person who contravenes this Regulation commits an offence.

69 Bond security fee payable on general and private bonded warehouse

(1) The bond security payable for each:
 (a) general bonded warehouse shall be $5,000; and
 (b) private bonded warehouse shall be $2,000.

(2) Where the bond security fee has not been paid by 7 January in any year following the year in which such licence was first granted, the Chief Collector of Customs may refuse to allow any transactions to take place in the warehouse, enclosure or tank in respect of which the fee may be due, unless such fee has been paid.

(3) A certificate for a bonded warehouse shall be in the approved form.

(4) A person who does not pay the requisite fee payable under this Regulation commits an offence.

70 Licence Fee payable for a bonded warehouse

(1) The licence fee payable by an operator of a bonded warehouse whether for the general bonded warehouse or the private bonded warehouse is $1,000.

(2) The licence fee shall expire on 31 December in each year.

(3) Where any annual licence fee has not been paid by 7 January in any year following the year in which such licence was first granted, the Chief Collector of Customs may refuse to allow any transactions to take place in the warehouse, enclosure or tank in respect of which the fee may be due, unless such fee has been paid.

71 Bonded warehouses to be numbered

(1) Bonded warehouses shall be distinguished by numbers allocated by the Chief Collector of Customs.

(2) The words "Bonded Warehouse"; and the number allocated to the warehouse shall be clearly marked on the principal entrance to the warehouse or elsewhere as the Customs officer shall approve and shall be removed where the warehouse ceases to be licensed as a bonded warehouse.

(3) Any person who contravenes this Regulation commits an offence.

72 Obligations of warehouse keeper

(1) Every warehouse keeper shall at his or her own expense:
 (a) provide at his or her bonded warehouse such office accommodation and weights, scales, measures, and other facilities for examining and taking account of goods and for securing them as the Customs officer may reasonably require; and
 (b) keep a record of all goods warehoused in his or her bonded warehouse and shall keep such record at all reasonable times but not less than 5 years from the time of importation to be available for examination by the Customs officer.

(2) Any warehouse keeper who contravenes this Regulation or any requirement of the Chief Collector of Customs under this Regulation commits an offence.

73 Only approved goods in a bonded warehouse

A warehouse keeper shall not without the authorisation of the Chief Collector of Customs allow goods of a dangerous nature to be stored in a bonded warehouse which has been approved for general merchandise and where any bonded warehouse has been approved for the deposit of special goods, shall not allow any other goods to be deposited therein.

74 Warehouse keeper to keep packages in repair

A warehouse keeper shall maintain in a proper state of repair the packages in which warehoused goods are contained.

75 Goods refused for warehousing

(1) Where goods to be warehoused are found by the Customs officer examining them to be insecurely packed, he or she may refuse to permit them to be warehoused.

(2) Where, in accordance with the provisions of the Act, a Customs officer refuses to permit goods to be warehoused, the warehousing entry shall be deemed to be void, and the goods shall be deemed to be unentered.

(3) Where the goods have been removed from a Customs area, they shall be returned thereto without delay by, or at the expense of the owner, unless the Customs officer allows them to be entered for home consumption.

(4) The owner shall be responsible for any loss or damage which may take place between the time the goods are removed from a Customs area to the time they are returned or received in a Customs area when examined by the Customs officer.

76 Time during which goods may be removed for warehousing

Unless the Customs officer in any special circumstances otherwise allows, goods shall not be removed from a Customs area to a bonded warehouse, or from one bonded warehouse to any other, unless the warehousing of the goods can be completed during working days and hours.

77 Conditions of repacking in warehouse

(1) Permission to repack warehoused goods may be granted on application being made to the Customs officer in the approved form.

(2) An overtime fee of $20 per hour from Mondays to Fridays from 5pm to 9am and $40 for Saturdays, Sundays and public holidays shall be paid by the warehouse operator for work performed within those hours shall be paid by the warehouse operator or his agent for work performed.

(3) The owner of the goods shall observe all the requirements of the Customs officer in regard to opening, repacking removing, marking, stacking, sorting, weighing, measuring and closing the packages, and as to the payment of duty on any part of such goods.

(4) A fee of $10 shall be payable to the Treasury Fund in respect of each application under subregulations (1) and (2).

78 Transfer of ownership of goods

(1) Where the owner of any goods deposited in a bonded warehouse desires to

transfer ownership of those goods to any other person, he or she and the person to whom it is desired to transfer the goods shall each complete and sign in the appropriate places a form of transfer in the approved form.

(2) The completed approved form shall be accompanied with the fee under subregulation (3).

(3) A fee of $10 shall be payable to the Treasury Fund in respect of each application under subregulation (1).

79 Entries for warehoused goods

Warehoused goods shall be entered in whichever of the undermentioned approved forms is appropriate:

(a) IM4 — ex-warehouse for home consumption form;
(b) IM7 — removal from warehouse to warehouse form;
(c) EX3 — export or transhipment ex-warehouse form; and
(d) IM7 — import warehousing form for re-ware housing.

80 Goods to be consigned to the Customs officer

(1) All goods:

(a) entered for warehousing at the airport or port; or
(b) removed from the airport or port to a bonded warehouse or port,

shall be consigned care of the Customs officer to the bonded warehouse, airport or port at which the goods are to be so warehoused, and the relative consignment note in the approved form relating to the movement of the goods shall be delivered to the Customs officer.

(2) The goods referred to in these Regulations shall not be delivered to any person without the authority of the Customs officer.

81 Remit or waive fees and charges in certain circumstances

The Chief Collector of Customs may, in his or her or her discretion, and having regard to any special or exceptional circumstance under the law remit, refund, or exempt any fee or charge paid or payable, pursuant to these Regulations.

[The next page is 448,651]

82 Basis of drawback

(1) Drawback shall be payable according to the actual quantity of goods exported or shipped for use as stores, as the case may be.

(2) For the purpose of assessing the amount of drawback of duty payable on any goods on which drawback is claimed, the value of such goods shall be calculated to the nearest dollar, so that in any value an amount being $0.50 or less shall be disregarded and in any value an amount in excess of $0.50 shall be taken to be $1.

83 When drawback is not payable

Drawback shall not be allowed on any goods:

(a) where such goods are prohibited by any law from being exported;

(b) unless perfect entry of the goods has been made and the relative invoice deposited with the Customs officer;

(c) unless the person claiming drawback enters the goods for exportation on the approved form and establishes the claim to drawback by completion of the relevant certificate thereon prior to the passing of the entry;

(d) unless the Chief Collector of Customs is satisfied that they are being re-exported from the Republic of Naoero for use for trade, commerce or industry;

(e) unless security by bond or in such other form as the Customs officer may require has been given that the goods shall be shipped and exported, or otherwise accounted for to the satisfaction of the Customs officer;

(f) which are damaged or spoiled; or

(g) which after importation were used in local manufacturing or production, except as otherwise provided in any regulations concerning drawback of duty on goods.

[reg 83 am Act 21 of 2026 s 5, opn 12 May 2026]

84 Minimum amount

The minimum amount of $10 drawback of duty allowable on goods, and the circumstances in which drawback below the prescribed amount shall not be allowed.

85 Drawback on locally manufactured goods

A drawback of duty equal to the duty paid may be allowed on the quantity of any imported article or material which has been used in the manufacture of goods or articles of any class or description manufactured in the Republic of Naoero and exported, subject to such conditions as may be prescribed.

[reg 85 am Act 21 of 2026 s 5, opn 12 May 2026]

86 Drawback of duty on certain goods

(1) Subject to Regulation 81, drawback of duty may be allowed, at such amounts and subject to any prescribed conditions, on:

(a) goods imported into the Republic that are later exported from the Republic;
(b) goods that are produced in a manufacturing area and exported from the Republic;
(c) imported parts, and materials used in, worked into, or attached to, goods manufactured or produced in the Republic and exported from the Republic; or
(d) imported materials, except fuel or plant equipment consumed in the manufacture or production of goods produced in the Republic and exported from the Republic.

(2) If, under this Regulation, drawback is allowed to any person, the Chief Collector of Customs may apply the whole or any part of the sum allowed towards the payment of any duty that is payable by that person.

87 Goods not allowed for drawback

Drawback shall not be allowed on the following:

Every liquor product falling under tariff headings 2203; 2204; 2205; 2206; 2208; Tobacco and Tobacco products of Chapter 24 and mobile phone and smart phone falling under tariff headings 8517 and PC Tablet falling under 8471 of the Tariff.

[The next page is 448,701]

PART 14 — UNCLEARED AND UNENTERED CARGO AND DISPOSAL OF SUCH GOODS

88 Uncleared cargo

(1) All manifested goods not entered and cleared within 14 days of the departure of the carriers shall be treated as uncleared cargo.

(2) Notice shall be given that unless such goods are entered and removed from the custody of Customs, the goods may be sold by public auction.

(3) All goods pursuant to subregulation (2) shall be sold by public auction after 30 days' notice of the sale has been published in the Gazette.

(4) Goods which are of a perishable nature may be sold by the Customs officer, either by public auction or otherwise, and after notice of intention to sell has been published in the Gazette.

(5) Abandoned goods may be sold by the Chief Collector of Customs at any time by a private treaty or, when he or she deems it to be practicable, by public auction.

(6) Transhipment goods deposited in a Customs warehouse, bonded warehouse or any other Customs area and are not transhipped within a period of 6 months from the date when such goods arrived in the Republic of Naoero shall be deemed to be uncleared goods and shall be sold by public auction.

[subreg (6) am Act 21 of 2026 s 5, opn 12 May 2026]

(7) Goods stored in a bonded warehouse for export only which are not removed therefrom within 12 months or any other period but not exceeding 24 months as directed by the Chief Collector of Customs after the date of expiry therein, may be sold by the Chief Collector of Customs in the prescribed manner, and the proceeds of sale thereof shall be paid to the Treasury Fund.

89 Unaccounted goods in the manifest

(1) The carrier shall be responsible for any duty payable when the goods appearing in the manifest cannot be accounted for by the carrier or provide a satisfactory explanation as to the whereabouts of the goods.

(2) The carrier shall be responsible for any landing certificate in the event of goods being landed in any other country.

[The next page is 448,751]

90 Sales by auction

(1) Except with the authorisation of the Chief Collector of Customs, goods shall not be exposed or offered for sale in any Customs area or bonded warehouse.

(2) Before any sale commences to which the provisions of this Regulation apply, the auctioneer shall announce that the bids taken shall be:
(a) inclusive of duty;
(b) inclusive of any rent and charges due to the Government; and
(c) inclusive of the expenses of sale reasonably incurred.

(3) Any goods sold but not cleared within 48 hours from the day of sale shall be forfeited to Customs.

91 Auctioneer to certify sale record

On the conclusion of any sale and before leaving the place where the sale takes place, the auctioneer shall:
(a) give a certificate of correctness of the particulars of the sale; or
(b) in the case of a dispute, record full particulars of the matter in dispute.

92 Delivery of goods sold at auction

(1) Where the auctioneer receives the amount of the purchase price, he or she shall make and sign an order to the Customs officer in charge of the warehouse to deliver the goods.

(2) The purchaser of the goods shall present the order to the Customs officer in charge of the warehouse and on surrender thereof if in order and on giving a receipt for the goods in the auction sales record to the Customs officer in charge of the warehouse the purchaser may take delivery.

93 Auctioneer's account

An auctioneer shall deliver to the Customs officer a full account of the goods sold and the prices realised within 48 hours from the date of sale together with the amount received by him for the goods after deduction of an approved commission of 2.5% of the total sale and of such expenses of the sale as may be approved by the Chief Collector of Customs.

94 Owner may receive net proceeds of sale

Any person entitled to receive any balance of the proceeds of a sale by auction after the payment of duties-storage fees and other expenses shall make an application to the Chief Collector of Customs in the customs form and shall produce therewith proof to the satisfaction of the Chief Collector of Customs of his or her title to such balance.

95 Penalty

A person who commits an offence against these Regulations for which no specific penalty is provided is liable to a fine not exceeding $5,000.

96 Auction sale on special occasion

(1) Subject to the Act, all other goods which may be sold under the provisions of the Act shall be sold by public auction after 30 days' notice of sale has been given in the Gazette or any official online platform.

(2) If any goods liable to be sold cannot be sold for a sufficient sum to cover the duty and other charges due on them, such goods may be destroyed or otherwise disposed of as the Chief Collector of Customs may direct.

(3) Goods advertised for sale by public auction in the Gazette may in exceptional circumstances, at the sole discretion of the Chief Collector of Customs, be withdrawn from sale if he or she receives a written notice from the owner of the goods requesting withdrawal not less than 48 hours before the sale is due to take place.

(4) The owner of any goods withdrawn from sale under this Regulation shall pay all duties and charges due on such goods and remove them from customs control within 48 hours from the day on which they were to be sold.

(5) The purchaser of any goods at any customs sale shall pay the purchase price and remove the goods from customs control within 48 hours of the time and date of sale.

(6) The Chief Collector of Customs shall not be liable to compensate any person in respect of any sale made pursuant to this Regulation.

97 Proceeds of sale

(1) Where goods are sold under this Part, the proceeds of the sale shall be applied in the order set out below in discharge of:
 (a) the duties, if any;
 (b) the expenses of sale reasonably incurred; and
 (c) the rent and charges due to the Customs.

(2) If, after the proceeds of sale have been applied in accordance with subregulation (1), there is a balance, the balance shall be payable to the person claiming to be the owner of the goods if he or she makes an application therefore within 6 months of the date of the sale or such further period as the Chief Collector of Customs may allow.

[The next page is 448,781]

PART 16 — TREATMENT FOR SAMPLES

98 Samples

(1) Commercial travellers who import samples of dutiable goods and who desire to exhibit the same in Naoero without payment of duty thereon shall withdraw the sample without submitting a separate Customs entry.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) If goods referred to in subregulation (1) are entered provisionally, the perfect entry for such goods shall be made on whichever of the undermentioned approved forms is appropriate:

(a) perfecting provisional import for home consumption form; and

(b) perfecting provisional import for warehousing form.

[The next page is 448,801]

PART 17 — VALUATION ON IMPORTS

99 Valuation of imported goods

(1) For the determination of the value of goods for the purpose of the customs laws, there shall be delivered to Customs:
  (a) the entry of such goods;
  (b) a declaration of terms and conditions under which the goods have been imported or exported, as the case may be, on whichever of the approved forms is appropriate;
  (c) a commercial invoice, if goods have been the subject of a bona fide sale at the time of importation or exportation, as the case may be;
  (d) such documents as the Customs officer may deem necessary, showing the commercial circumstances in which the goods are to be marketed or put to use by the consignee, if goods have not been the subject of a sale at the time of importation or exportation, as the case may be; and
  (e) such documents as the Customs officer may reasonably deem necessary.

(2) All invoices, declarations and other documents shall contain the particulars specified in this Regulation and the Customs officer may refuse to accept any invoice, declaration, certificate or other document which does not contain these particulars.

(3) There shall also be delivered, if the proper office so requires, the original invoice, bill of lading, bill of parcel, policy of insurance, letter and other documents showing the value of the goods at the place at which they were purchased, together with freight, insurance and other charges on the goods.

[The next page is 448,851]

PART 18 — SECURITY AND BOND

100 Security

(1) The Chief Collector of Customs may require and take security for compliance with the provisions of these Regulations.

(2) For the protection of the revenue of the Customs, and, pending the giving of the required security in relation to any goods subject to the control of the Customs, may refuse to deliver the goods or to pass any entry relating thereto.

(3) Where any security is required to be given, such security shall be given by bond or guarantee or cash deposit or all or any of these methods and, in each case, the security shall be subject to the approval of the Chief Collector of Customs.

(4) The forms of security prescribed shall be sufficient for all purposes of a bond or guarantee under the provisions of this Act, and, unless otherwise provided therein, shall bind the subscribers thereto jointly and severally for the full amount.

(5) All securities may, after the expiration of 3 years from the date thereof, or from the time specified for the performance of the particular conditions thereof, whichever is the later date, be cancelled by the Chief Collector of Customs.

101 Bond

(1) Whenever the Chief Collector of Customs shall require a bond or other form of security, such bond or security shall be furnished on the approved form.

(2) The security provided to be as low as possible but not lower than the duty payable.

(3) Security to be disposed as soon as transaction is received.

[The next page is 448,901]

102 Advance ruling

(1) A person may, in the prescribed form, apply (for particular goods specified in the application) to the Chief Collector of Customs for a Customs ruling on any one or more of the following matters:
- (a) Tariff Classification of those goods under Part 1 of the Tariff;
- (b) valuation of any goods under the *Customs Tariff Act 2014*;
- (c) Rules of Origin under the provision of these Regulations; and
- (d) whether or not those goods are subject to a specified duty concession under Part 2 of the Tariff Schedule.

(2) In a matter of classification whether the goods have a particular tariff classification under Part 1 of the Tariff Schedule:
- (a) the date on which any information on which Customs ruling was made ceases to be correct in all material respects;
- (b) the date of a material change in any of the information or fact on which Customs ruling was made;
- (c) the date of expiry of 3 months from the date that notice of the Customs ruling, or any amendment to that Customs ruling is given to the applicant;
- (d) information on which it was made was not correct in all material respects; or
- (e) a material change has occurred in any information or facts on which it was made.

[The next page is 448,951]

103 Originating goods

All goods shall be allowed under duty concession when imported into Naoero when deemed to be originating and entitled to preferential tariff treatment for the purposes of a free-trade agreement if it is:

(a) wholly produced or obtained in the territory of a party; or

(b) has undergone substantial transformation in the territory of a party.

[reg 103 am Act 21 of 2026 s 5, opn 12 May 2026]

104 Substantial transformation

(1) All goods are deemed to originate in Naoero even though it may contain non-originating material provided it satisfies the criteria in subregulation (2).

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) The criteria for manufactured goods to qualify as originating through substantial transformation are two-fold:

(a) the last process of manufacture shall be performed within a party to the free-trade agreement; and

(b) the total qualifying expenditure of originating material costs, labour costs, and overhead costs as determined in the terms of the free-trade agreement.

105 Release of goods under special circumstances

(1) Customs shall not wait for the completion of administrative or legal action before they release the goods.

(2) The importer shall not pay duty on goods where the importer decides to abandon the goods to the Government or in case of goods being destroyed by a competent authority.

(3) Customs shall destroy all goods which have been abandoned under subregulation (2).

106 Risk management

(1) Any person entering, transiting or departing Naoero shall be subject to examination by Customs using risk assessment.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) Customs shall carry out targeted controls based on risk management that Customs may use to target shipments or cargo that represent a threat to the revenue of the Government or the safety or interests of legitimate traders.

(3) Customs shall adopt a risk management and compliance strategy to support risk management.

(4) Customs may work in cooperation with other customs authorities in the region in gathering intelligence relevant to the performance of its duties.

107 Post clearance audit

(1) Customs control procedure shall include audit-based controls.

(2) A Customs officer shall examine a trader's relevant commercial systems and processes, financial and non-financial records, physical stock and other assets, as a means to measure and improve compliance under customs laws.

(3) For the purposes of this Regulation, an importer shall be required to keep all records of importation or exportation for a period not less than 5 years from the date of importation.

(4) Any person who contravenes this Regulation commits an offence and is subject to a penalty of not more than $10,000 or other penalty provided for in the Act.

108 Bill of lading

(1) The holder of a draft with a bill of lading in guarantee of the payment of the draft may give notice to the Chief Collector of Customs that he or she holds those documents, and thereupon the Chief Collector of Customs shall not allow the entry of such goods without the written consent of the holder of those documents.

(2) Where the goods have been entered in compliance with the provisions of this Regulation but have not been taken delivery of by the importer, the Chief Collector of Customs may, at any time before such goods are disposed of as unclaimed, allow delivery of such goods to any person holding a draft with a bill of lading.

109 Place of clearance

The Chief Collector of Customs may, with the approval of the Minister, appoint and specify areas or places outside the limits of ports and airports to be used for the purpose of storing, examination and clearance of goods, including baggage, subject to such conditions as may be notified at the time when such areas or places are appointed and to the payment of such sum as may be authorised by the Minister.

110 Customs control area

(1) The Minister may, on application, and subject to such conditions as he or she may deem necessary, licence:
   (a) any international airport;
   (b) seaport;
   (c) wharf; or
   (d) any other area, for temporary storage of goods.

(2) For the purposes of this Regulation, the Minister may further permit any place in an area of a seaport or airport to be used for temporary storage of goods, and may approve or licence such place as a bonded consolidated freight station, a bonded export freight station or a bonded Customs area.

(3) The Customs shall not be liable for the loss of or damage to any goods subject to their control unless such loss or damage shall have been occasioned by the wilful or negligent act of any Customs officer.

111 Interference with goods subject to Customs control

(1) A person shall not, except as may be allowed under the Act, the *Customs Tariff Act 2014* and any regulations made under such Acts, alter or interfere in any way with goods subject to Customs control.

(2) Any person who contravenes subregulation (1) commits an offence.

112 Right of examination and cost

(1) The control of goods by the Customs includes the right of the Customs to examine at any time all goods subject to customs control.

(2) Where goods are detained or seized under the Act, the bringing of such goods from the place of examination to a Customs warehouse or such other place as may be directed by the Customs officer, shall be provided by and at the expense and risk of the owner, importer, exporter or agent of the goods as the case may be.

113 Import through post

(1) Goods may be allowed duty free if the value of the goods is $200 or less.

(2) When goods are imported in postal parcels or postal packets, the Customs officer, in his or her discretion, may accept for the purpose of assessing the duty on the goods from the information provided on parcel notification provided by Naoero Postal Services Corporation.

(3) The duty shall be assessed by the Customs officer and any duty payable shall be paid through Customs Declaration to the Treasury Fund before the good is released from Customs.

(4) Where goods are exported by post, the Customs officer may, in his or her discretion, deem any form or label affixed to the parcel and bearing a description of the contents and a declaration of their value to be the entry required under customs laws.

114 Transhipment under bond

(1) Upon the entry inwards of an aircraft or a ship, the Chief Collector of Customs may, on the application of the owner or his or her agent, permit the transhipment of goods without payment of the import or export duty leviable thereon, if such goods are specifically entered for transhipment at the time of importation.

(2) Transhipment under the provisions of subregulation (1) shall take place under the supervision of the Customs officer at the expense of the applicant after the due entries inwards and outwards have been passed for the goods and a bond has been entered into for the exportation of the goods in like manner as if they had been actually landed and deposited in a warehouse.

115 Transhipment procedure

(1) Before presentation at the Custom, transhipment shipping bills shall be presented to the Customs officer in charge of the place of export who shall indicate thereon that the entry outwards where required, has been delivered for the exporting ship or, that the exporting ship has arrived, or alternatively, that the Customs officer has granted an application which such importer shall attach to the shipping bill to allow the goods to be put afloat pending the arrival of the exporting ship.

(2) Provided that where the exporting ship has not arrived and the cargo is to remain ashore pending its arrival, the shipping bill shall be presented for

initialing to the Customs officer at the import station, instead of to the Customs officer at the place of export.

[The next page is 449,001]

PART 21 — CUSTOMS CARRIERS

116 Customs carriers

(1) The Chief Collector of Customs may, upon written application, grant a licence to any person approved by him or her to act as a Customs carrier for conveying Customs goods, whether by water or by land.

(2) Any such licence may be revoked by the Chief Collector of Customs by notice in writing at any time.

117 Security by carrier

(1) An annual fee of $200 is payable for each carrier's licence.

(2) Before any Customs carrier's licence is granted, the person applying for the licence shall, where the Chief Collector of Customs so requires, provide details of the vehicle in the approved form to the satisfaction of the Chief Collector of Customs.

118 Customs carrier's licence

A customs carrier's licence shall be issued by the Chief Collector of Customs in the approved form and shall expire on 31 December of the year of issue unless previously revoked.

[The next page is 449,051]

119 Customs broker

[reg 119 rep SL 23 of 2024 reg 27, opn 29 July 2024]

120 Making of entries

An entry of imported or exported goods shall be made by the delivery of the approved forms and the payment of the prescribed fees by or on behalf of the importer or exporter to the Chief Collector of Customs and any person making any entry shall, if so required by the Chief Collector of Customs, answer questions relating to the goods referred to in the entry.

121 Damage to any Customs warehouse

A person who causes any damage to any Customs warehouse or other building or equipment in the possession of Customs shall pay the cost of the damage and the person, where the damage was caused wilfully, commits an offence.

122 Entrances and exits

All vehicles and pedestrians shall enter and leave any Customs area through such gates and entrances and exits as the Customs officer may direct and any person failing to comply with any such directions shall be guilty of an offence.

123 Enforcement of Regulations

The introduction of the Customs Regulations shall not affect licences, permits, bonds, securities, appointments, orders and rules issued, executed, given or made under or by virtue of those other Regulations and in force immediately before the commencement of these Regulations; and those licences, permits, bonds, securities, appointments, orders and rules shall remain in force, unless replaced or revoked by a licence, permit, bond, security, appointment, order or rule made under or by virtue of other laws.

[The next page is 449,151]

Customs (Brokers) Regulations 2024

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Customs (Brokers) Regulations 2024

TABLE OF AMENDMENTS

The Customs (Brokers) Regulations 2024 SL 23 were notified and commenced on 29 July 2024 (GN No 1064/2024; Gaz 345/2024).

Amending Legislation	Notified	Date of Commencement
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 449,201]

The Cabinet makes the following Regulations under Sections 295, 296, 297, 298, 299, 300 and 310 of the *Customs Act 2014*:

PART 1 — PRELIMINARY

1 Citation

These Regulations may be cited as the *Customs (Brokers) Regulations 2024*.

2 Commencement

These Regulations commence on the day they are notified in the Gazette.

3 Definitions

In these Regulations:

'Act' means the *Customs Act 2014*;

'court' means the District Court;

'customer due diligence' has the meaning given to it under the *Anti-Money Laundering and Targeted Financial Sanctions Act 2023*;

'Customs system' has the meaning given to it under the *Customs Regulations 2023*;

'Licence' means a licence issued under Section 295 of the Act; and

'line' means an individual tariff line entered in an electronic declaration for imported items made by a broker.

[The next page is 449,221]

PART 2 — CUSTOMS BROKERS LICENCE

4 Prohibition on conducting business without a Licence

(1) No person shall commence or carry on any business as a Customs Broker without a Licence granted under the Act.

(2) A person who contravenes subregulation (1), commits an offence and shall be liable upon conviction to a fine not exceeding $10,000 or imprisonment for a term not exceeding 6 months or both.

5 Particulars required for a Broker's Licence application

(1) A person applying for a Customs Broker's Licence shall provide the following information and particulars:

(a) the surname and forenames;
(b) date of birth;
(c) gender;
(d) usual residential address;
(e) correspondence address, if different from address of the business;
(f) nationality;
(g) general nature of any other business, if there is already a business registered;
(h) full address of the registered or principal place of business;
(i) telephone number;
(j) email address;
(k) intended date of the commencement of the Customs Broker's Licence Business;
(l) Tax Identification Number issued under the *Revenue Administration Act 2014*;
(m) passport size photograph of the individual when registering for the first time;
(n) identity instrument such as driver's licence, biodata page of passport or birth certificate; and
(o) a certificate of completion of the Naoero Customs Broker's Examination.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) Where a person already has an existing business and is applying for a Customs Broker's Licence to carry on a business of a Customs Broker, he or she shall provide the following additional information or particulars:

(a) in case of an individual, a copy of the Certificate of Registration of Business Name issued under the *Business Names Registration Act 2018*;
(b) in case of a corporation, the Incorporation Certificate issued under the *Corporations Act 1972*;
(c) in case of a partnership, the Certificate of Partnership issued under the *Partnership Act 2018;*
(d) in case of a trust, the Certificate of Registration of Trust issued under the *Trusts Act 2018*; and
(e) a copy of the valid business licence of the applicant.

(3) A person applying for a Broker's Licence shall declare the following in Form 1 of Schedule 1:
  (a) he or she has successfully completed the Naoero Customs Broker's Examination;
  (b) he or she has knowledge of trade-related transport and finance matters;
  (c) he or she has knowledge and understanding of the law and practice of customs and border control in relation to movement of goods to and from the Republic; and
  (d) he or she has not been convicted of a criminal offence.

[subreg (3) am Act 21 of 2026 s 5, opn 12 May 2026]

(4) In case of a partnership, corporation or trust, a partner of the partnership, director or Chief Executive Officer of the corporation and a trustee of the trust shall declare:
  (a) subject to paragraph (b) a partner, director or a trustee has successfully completed the Naoero Customs Broker's Examination;
  (b) the partner, director or trustee have not completed the Naoero Customs Broker's Examination but the business employs or engages the Chief Executive Officer or senior management officers who have successfully completed the Naoero Customs Broker's Examination;
  (c) for the purposes of paragraph (b), the partnership, corporation or trust shall continue to employ or engage qualified Chief Executive Officer or senior management officers and where there are none available, the licence shall be surrendered to the Chief Collector of Customs and the business of Customs Brokers shall cease with immediate effect;
  (d) one or more of the partners, directors, trustees, Chief Executive Officer or senior management staff have knowledge of trade-related transport and finance matters;
  (e) one or more of the partners, directors, trustees, Chief Executive Officer or senior management staff have knowledge and understanding of the law and practice of customs and border control in relation to the movement of goods to and from the Republic; and
  (f) one or more of the partners, directors, trustees, Chief Executive Officer or senior management staff who have successfully completed the Naoero Customs Broker's Examination and on whose behalf the licence is to be issued, has not been convicted of a criminal offence.

[subreg (4) am Act 21 of 2026 s 5, opn 12 May 2026]

(5) The Chief Collector of Customs may require such other additional information or particulars before considering an application for a Customs Broker's Licence.

6 Application for Customs Broker's Licence

(1) A person who intends to carry on a business of Customs Broker shall apply for a licence under Section 295 of the Act.

(2) The application shall be in Form 1 of Schedule 1.

(3) The Chief Collector of Customs shall consider and determine an application for a licence under subregulation (2), within 14 days of receiving the application.

(4) The Chief Collector of Customs may:
  (a) grant the Licence;

(b) require further information before granting or declining the application; or

(c) decline to issue the Licence.

(5) Where the Chief Collector of Customs declines to grant the licence, he or she shall provide the reason for his or her decision.

7 Licence fee

The annual Licence fee as set out in Schedule 2 shall be paid before the issuance or renewal of the Licence.

8 Certificate for Licence

The Customs Broker's Licence Certificate shall be in Form 2 of Schedule 1.

9 Display of Licence

(1) A Licence shall be displayed in a conspicuous place in or at each of the Customs Broker's business offices at which the Customs Broker conducts business.

(2) A Customs Broker who contravenes subregulation (1), commits an offence and shall pay a fixed penalty of $500 to the Chief Collector of Customs.

10 Duration and renewal of Licence

(1) A Licence is valid for 12 months from the date the Licence is granted.

(2) A Licence granted under subregulation (1) may be renewed on the application of the Customs Broker.

(3) Any application for renewal of Licence shall be made in Form 1 of Schedule 1, no later than 30 days before the expiry of the current Licence.

(4) Where a Customs Broker fails to apply for renewal in accordance with subregulation (3) before expiry or where the Licence has expired, the Chief Collector of Customs may renew the Licence:

(a) after being satisfied with the reasons provided by the Customs Broker; and

(b) payment of the late renewal fee in Schedule 2.

11 Licence not transferrable or assigned

(1) A Licence shall not be transferred or assigned to be used by another person other than the person named in the Customs Broker's Licence Certificate.

(2) A person who contravenes subregulation (1), commits an offence and upon conviction is liable to a fixed penalty of $2,000.

(3) Notwithstanding subregulation (2), the Chief Collector of Customs may require the Customs Broker to show cause within 14 days as to why the Licence should not be suspended or revoked for the contravention of this regulation.

12 Variation or change in particulars of Licence

(1) A Customs Broker shall within 7 days notify the Chief Collector of Customs of any variation or change in particulars of registration.

(2) A Customs Broker who contravenes subregulation (1), commits an offence and shall be liable:
  (a) for a first offence to pay a fixed penalty of $100 to the Chief Collector of Customs;
  (b) for a second offence to pay a fixed penalty of $500 to the Chief Collector of Customs; and
  (c) for a third offence, to pay a fixed penalty of $1,000 and the Controller of Customs may consider suspending the Customs Broker Licence for a period not exceeding 6 months.

[The next page is 449,241]

PART 3 — RESPONSIBILITIES, DUTIES AND OBLIGATIONS OF A CUSTOMS BROKER

13 Responsibilities, duties and obligations of a customs broker

The responsibilities, duties and obligations of a Customs Broker under the Licence are:

(a) to obtain an authority from the importer or exporter as required under Section 297(2) of the Act, in Form 3 of Schedule 1;

(b) to submit accurate and verified information when submitting customs entries manually or electronically;

(c) to transact business personally or only through a licenced Customs Broker;

(d) to promptly pay to the Chief Collector of Customs any duties, taxes and other debts or obligations owing to the Government and also account for such payments to the importer or exporter on whose behalf he or she is acting;

(e) to immediately report to the Chief Collector of Customs on any variations of the Customs entries made on the actual goods being imported or exported;

(f) immediately report to the Chief Collector of Customs, where the Customs Broker has any reason to believe that any importer or exporter is attempting to defraud the Customs laws by innocent or intentional misrepresentation, including with the intent to carry out trade-based money laundering;

(g) not to procure or attempt to procure directly or indirectly, any information from Customs or any other Government authority or body, which information is ordinarily not accessible or granted under a lawful authority;

(h) not to attempt to influence the conduct of any public official including customs officers by use of threat, false accusation, duress or the offer of any special inducement or promise of advantage or by giving any gift, money or any other thing of value;

(i) act in accordance with terms and conditions of the Licence as determined by the Chief Collector of Customs;

(j) ensure compliance with the *Counter Terrorism and Transnational Organised Crime Act 2004*, *Proceeds of Crimes Act 2004* and the *Anti-Money Laundering and Targeted Financial Sanctions Act 2023* and in particular, including identifying and reporting to the Financial Intelligence Unit and the Chief Controller of Customs, any importation and exportation of goods to and from any designated high-risk countries or persons who are listed or designated by the United Nations Security Council;

(k) conduct simplified or enhanced customer due diligence, as appropriate and in any case of an importer or exporter who is not known to the Customs Broker;

(l) conduct a fit and proper person test when employing qualified or trained Customs Brokers as employees;

(m) ensure compliance with the Act, these Regulations and any other written law;

(n) cooperate and conduct with due courtesy with public officials including customs officers and shall assist in the conduct of any investigation or inquiry; and

(o) provide information as and when required by the Chief Collector of Customs or authorised officer.

14 Customs Broker's Fees

(1) A Customs Broker shall not charge a fee in excess of the amount provided in Schedule 3 of these Regulations, which is based on the lines provided in the Customs system.

(2) A Customs Broker who contravenes subregulation (1), commits an offence and shall be liable:
   (a) for a first offence to pay a fixed penalty of $100 to the Chief Collector of Customs;
   (b) for a second offence to pay a fixed penalty of $500 to the Chief Collector of Customs; and
   (c) for a third offence, to pay a fixed penalty of $1,000 and the Controller of Customs may consider suspending the Customs Broker's Licence for a period not exceeding 6 months.

(3) The fees provided in these Regulations shall not apply to the importation and exportation through air cargo.

15 Customs Broker's fees for importation through air cargo

(1) The Customs Broker shall not charge a fee in excess of the amount provided in Schedule 3 which is based on the lines provided in the Customs system for imported items through air cargo.

(2) A Customs Broker who contravenes subregulation (1), commits an offence and shall be liable:
   (a) for a first offence to pay a fixed penalty of $100 to the Chief Collector of Customs;
   (b) for a second offence to pay a fixed penalty of $500 to the Chief Collector of Customs; and
   (c) for a third offence, to pay a fixed penalty of $1,000 and the Controller of Customs may consider suspending the Customs Broker's Licence for a period not exceeding 6 months.

16 Record keeping

(1) A Customs Broker shall keep and maintain a record of:
   (a) bill of entry, shipping bill, transhipment applications;
   (b) all correspondence or other documents relating to the business of the Customs Broker;
   (c) accounts including financial transactions in an orderly manner;
   (d) list of all the importers and exporters on whose behalf he or she has acted, including any customer due diligence undertaken;
   (e) the application for a Licence and other statutory requirements including details of an employee holding a Customs Broker's Licence;
   (f) all persons employed by the Customs Broker; and
   (g) any complaints or information provided to the Chief Collector of Customs, Financial intelligence Unit or any other law enforcement agency in respect of any import and export.

(2) The Customs Broker shall keep and maintain the information under subregulation (1) for a period of 5 years.

(3) The Customs Broker shall make available the record when required by the Chief Collector of Customs, authorised officer or any other law enforcement agency or body.

(4) A Customs Broker who contravenes subregulation (1), (2) or (3), commits an offence and shall be liable:

(a) for a first offence to pay a fixed penalty of $100 to the Chief Collector of Customs;

(b) for a second offence to pay a fixed penalty of $500 to the Chief Collector of Customs; and

(c) for a third offence, to pay a fixed penalty of $1,000 and the Controller of Customs may consider suspending the Customs Broker's Licence for a period not exceeding 6 months.

[The next page is 449,261]

PART 4 — CUSTOMS BROKER'S EXAMINATION

17 Customs Broker's Examinations

(1) The Chief Collector of Customs shall approve in writing a Naoero Customs Broker's Examination for the purposes of obtaining a Customs Broker's Licence.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) The Examination shall include such matters that are relevant to the general conduct and operations of the work of the Customs Broker under the Act, which is provided in Form 1 of Schedule 4.

(3) The training, practice and procedure of Examination shall be provided by the Chief Collector of Customs to all the persons who intend to undertake the Naoero Customs Broker's Examination.

[subreg (3) am Act 21 of 2026 s 5, opn 12 May 2026]

(4) The Controller of Customs shall issue a Certificate of Completion of the Naoero Customs Broker's Examination to a person who has successfully completed the examination approved under subsection (1).

[subreg (4) am Act 21 of 2026 s 5, opn 12 May 2026]

(5) No person shall be permitted to conduct any business or provide any assistance to an importer or an exporter unless he or she has duly completed the examination in subregulation (1).

(6) The fee payable for the Examination is set out in Schedule 2, unless waived by the Chief Collector of Customs.

(7) The Certificate of Completion shall be issued in Form 2 under Schedule 4.

[The next page is 449,281]

PART 5 — REGISTER OF CUSTOMS BROKERS

18 Register of Customs Brokers

(1) There shall be a Register of Customs Brokers in Schedule 5.

(2) The Chief Collector of Customs shall keep and maintain a Register of Customs Brokers.

(3) The Register shall contain a list of:

(a) persons who have successfully completed the Naoero Customs Broker's Examination;

(b) persons who have been issued with Customs Brokers' Licences;

(c) Customs Brokers' Licences that have been suspended or revoked;

(d) expired Customs Brokers' Licences; and

(e) persons who may have become prohibited from obtaining a Customs Brokers' Licences as a consequence of any contravention of the Act and these Regulations.

[subreg (3) am Act 21 of 2026 s 5, opn 12 May 2026]

(4) Upon the payment of prescribed fee:

(a) the Register shall be made available for inspection by any person during business hours; and

(b) certified copies of the entries in the Register be provided.

(5) The Chief Collector of Customs shall annually publish the list of all duly licenced Customs Brokers in the Gazette.

19 Information sharing

For the purposes of enforcement of a written law, the Chief Collector of Customs shall upon request of a law enforcement agency or body, grant access to the Register or provide any information under his or her control.

[The next page is 449,301]

20 Chief Collector of Customs or Customs officer to issue a Fixed Penalty Notice

The Chief Collector of Customs or a Customs officer shall have the power to issue a Fixed Penalty Notice for the purpose of these Regulations.

21 Fixed Penalty Notice

(1) A Customs officer shall issue a Fixed Penalty Notice to a Customs Broker liable to a fixed penalty under these Regulations and any other written law.

(2) Where a Customs officer issues a Fixed Penalty Notice, the Customs officer shall inform the Customs Broker:
  (a) of the contents of the Fixed Penalty Notice;
  (b) that the Customs Broker shall pay the penalty or appear in court to contest or defend the Fixed Penalty Notice;
  (c) that payment of the penalty is to be made within 21 days of service of the Fixed Penalty Notice;
  (d) that non-acceptance of the service of the Fixed Penalty Notice is an offence; and
  (e) that the Customs Broker's Licence shall not be renewed until the fixed penalty and costs ordered by the court is paid.

(3) Subject to Regulation 23, a Customs Broker who fails to pay the fixed penalty in accordance with the Fixed Penalty Notice, shall be liable to pay the additional sum of $50 for each day the fixed penalty is not paid.

(4) A Customs Broker who does not accept the service of a Fixed Penalty Notice under subregulation (2), commits an offence and shall be liable upon conviction to a fine not exceeding $5,000.

(5) The Fixed Penalty Notice shall be in the Form in Schedule 6.

(6) A copy of the Fixed Penalty Notice shall be:
  (a) provided to the Naoero Revenue Office by the Chief Collector of Customs, within 7 days of it being issued to enable Naoero Revenue Office to receive payment of the penalty; and
  (b) file a copy of the Notice in the District Court.

[subreg (6) am Act 21 of 2026 s 5, opn 12 May 2026]

22 Payment of Fixed Penalty Notice

(1) A Customs Broker shall pay the fixed penalty to the Naoero Revenue Office within 21 days of receiving the Fixed Penalty Notice and a copy of the official receipt shall be submitted to the Registrar of Courts and the Chief Collector of Customs.

[subreg (1) am Act 21 of 2026 s 5, opn 12 May 2026]

(2) Upon receiving the payment of the fixed penalty, Naoero Revenue Office shall issue an official receipt for the payment of the fixed penalty.

[subreg (2) am Act 21 of 2026 s 5, opn 12 May 2026]

(3) Where the Registrar is provided the copy of the official receipt of the Naoero Revenue Office, he or she shall remove the matter from the court's list and the matter not be listed before the Resident Magistrate.

[subreg (3) am Act 21 of 2026 s 5, opn 12 May 2026]

23 Customs Broker may contest a Fixed Penalty Notice

(1) Where a Customs Broker elects not to pay the fixed penalty, he or she shall appear in court to show cause as to why he or she should not be compelled to pay the fixed penalty.

(2) The proceedings of the court in subregulation (1) shall be the hearing of the Fixed Penalty Notice and any opposition filed by the Customs Broker.

24 Fixed Penalty Notice is deemed a summons under the *Criminal Procedure Act 1972*

(1) A Customs Broker, who is issued with a Fixed Penalty Notice and fails to pay the fixed penalty within the time specified under Regulation 22(1) shall be summoned to appear in the court.

(2) The Fixed Penalty Notice shall be regarded for all purposes as a summons issued under the *Criminal Procedure Act 1972*.

25 Evidence of payment of Fixed Penalty

In any proceedings, a certificate signed by the Registrar of the Courts or the Chief Collector of Customs that the fixed penalty has or has not been paid, shall unless the contrary is proved, be conclusive evidence of the matters stated in the certificate.

[The next page is 449,321]

PART 7 — MISCELLANEOUS

26 Fees

The fees to be paid for the purposes of these Regulations are set out in Schedule 2.

27 Consequential amendment

The *Customs Regulations 2023* is amended by repealing Regulation 119.

28 Savings and transitional provision

(1) Any Customs Broker's Licence issued under the Act prior to the commencement of these Regulations shall be deemed to have been issued in accordance with these Regulations.

(2) An act or decision made regarding a Customs Broker's Licence under the Act prior to the commencement of these Regulations, shall be deemed to have been made in accordance with these Regulations.

(3) The conduct of the business of a Customs Broker, whose Licence had been issued prior to the commencement of these Regulations, shall be subject to the requirements of these Regulations upon their commencement.

[The next page is 449,421]

SCHEDULE 1

FORM 1

REPUBLIC OF NAOERO

CUSTOMS ACT 2014

[Regulation 6(2)]

APPLICATION FORM FOR CUSTOMS BROKER'S LICENCE

Please provide passport sized photograph

Required documents: • copy of driver's licence, passport bio data or any other photo ID; • copy of Certificate of Naoero Customs Broker's Examination; • copy of any other business licence; • copy of TIN number; • copy of Certificate of Registration of Business Name; • copy of registration of partnership (if applying for a partnership); • copy of Certificate of Incorporation (if applying for a corporation); and • copy of registration of trust (if applying for a trust).
To: Chief Collector of Customs Naoero Customs Service Republic of Naoero

PART 1

DETAILS OF THE APPLICANT

Full name of the applicant	For individual — Full Name	

	For partnership — Full name of partner and name of the partnership	
	For corporation — Full name of director or chief executive officer and name of the corporation	
	For trust — Full name of trustee and name of trust	
Date of Birth		
Gender		
Residential Address		
Correspondence Address if different from address of business		
Nationality		
Nature of other business (if there is a business registered)		
Address of principal place of business		
Telephone number		
Email address		
Intended date of commencement of Broker's Business Licence		
Tax Identification Number		
Intended date of commencement of business of Customs Broker		
PART 2 **ADDITIONAL INFORMATION OR PARTICULARS**		
For individual applicant copy of the *Business Names Registration Certificate*		□
For corporation, copy of the *Incorporation Certificate*		□
For partnership, copy *Certificate of Partnership*		□
For trust, copy of the *Certificate of registration*		□
Copy of valid business licence		□
[Please indicate by √ the appropriate box above, of the document(s) attached to this application]		
PART 3 **DECLARATION**		
For an Individual I [*insert name of person making application*] of [*insert place of residence*], [*insert occupation*] do solemnly and sincerely declare that:		

(a) I have successfully completed the Naoero Customs Broker's Examination (*attach Certificate*);

(b) I have knowledge of trade-related transport and finance matters (*attach evidence*);

(c) I have knowledge and understanding of the law and practice of customs and border control in relation to movement of goods to and from the Republic;

(d) I have not been convicted of a criminal offence (*attach Police clearance*);

And I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declaration Act 1976* conscientiously believing in the statement contained therein to be true in every particular.

Signed. . . . . .

Name of person filing this form: . . . . . .

Declared at . . . . . .this . . . . . .day of . . . . . .20 . . . . . .

Before me:

(Signature)

(Title)

NOTE: A person making a false statement is guilty of an offence and liable to imprisonment for 5 years.

For a Partnership, Corporation or Trust

I [*insert name of person making application*] of [*insert place of residence*], [*insert occupation*] do solemnly and sincerely declare that:

(a) I as a *partner / *director / *trustee, have not completed the Naoero Customs Broker's Examination but employ the Chief Executive Officer or senior management officers who have successfully completed the Naoero Broker's Examination (*attach Certificate*);

(b) I have knowledge of trade-related transport and finance matters (*attach evidence*);

(c) I have knowledge and understanding of the law and practice of customs and border control in relation to movement of goods to and from the Republic;

(d) I as a *partner / *director / *trustee will continue to employ or engage a qualified Chief Executive Officer / senior management officers who have completed the Naoero Customs Broker's Examination;

(e) I as a *partner / *director / *trustee / *Chief Executive Officer / *senior management staff / have knowledge of trade-related transport and finance matters;

(f) I as a *partner / *director / *trustee / *Chief Executive Officer / *senior management staff / have knowledge of and understanding of the law and practice of customs and border control in relation to movement of goods to and from the Republic;

(g) I as a *partner / *director / *trustee as a holder of a Naoero Broker's Examination Certificate, have not been convicted of a criminal offence (*attach Police clearance*);

(h) The *Chief Executive Officer / *senior management staff we have engaged who holds a Naoero Broker's Examination Certificate, has not been convicted of a criminal offence (*attach Police clearance*).

And I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declaration Act 1976* conscientiously believing in the statement contained therein to be true in every particular.

Signed. . . . . .

Name of person filing this form: . . . . . .

Declared at . . . . . .this . . . . . .day of . . . . . .20 . . . . . .

Before me:

(Signature)

(Title)

** delete whichever is not applicable*

NOTE: A person making a false statement is guilty of an offence and liable to imprisonment for 5 years.

[Form 1 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 2

REPUBLIC OF NAOERO

CUSTOMS ACT 2014

[Regulation 8]

CUSTOMS BROKER'S LICENCE

Licence No: CBL. . . ./NRU/20. . .

This is to certify that [*name of individual applicant / partnership / corporation / trust*] is hereby licensed as a Customs Broker under the provisions of Section 295 of the *Customs Act 2014*, and the Regulations pursuant thereto.

This licence will expire within 12 months of the date of issuance.

Issued at ..... District on [*day*] of [*month*], [*year*].

.....

Chief Collector of Customs

[Form 2 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 3

[Regulation 13(a)]

CUSTOMS ACT 2014

CUSTOMS BROKER'S AUTHORISATION TO ACT ON BEHALF OF AN IMPORTER OR EXPORTER

To: Chief Collector of Customs

I [*insert name of importer or exporter*] do hereby authorise and give full authority to [*insert name of Customs Broker*], Customs Broker to act on my or our behalf in respect of the import or export contained:

(a) in the consignment or shipment number [*insert number*];

(b) in the consignment through air cargo number [*insert number*];

This authority gives unconditional power to the Customs Broker to carry out any inspection of goods, pay for any duties, taxes or penalties and to receive any such goods from shipment or air cargo on mine (or on behalf of).

A Customs officer is entitled to act on the production of this authority, for the purposes of the *Customs Act 2014* and I keep any other person indemnified on the acts or omissions of the Customs Broker.

Yours sincerely,
[*Insert name of importer/exporter*]

[The next page is 449,431]

SCHEDULE 2

[Regulations 7, 10 and 17]

FEES

	Type	Fee	Regulation
1	Annual Licence	$200	7
2	Late renewal fee	$100	10(4)(b)
3	Examination	$50	17(6)

[The next page is 449,441]

SCHEDULE 3

[Regulations 14 and 15]

Type	Lines	Fee
Customs Broker's Fees	1 – 5	$30
	6 – 10	$40
	10 – 15	$50
	16 – 20	$100
	21 or more	$150 + $5 per line
Customs Broker's fees for importation through air cargo	1 – 50	$80
	51 – 100	$100
	101 or more lines	$150 + $5 per line

[The next page is 449,451]

SCHEDULE 4

FORM 1



REPUBLIC OF NAOERO

CUSTOMS ACT 2014

[Regulation 17(2)]

NAOERO CUSTOMS BROKER'S EXAMINATION CONTENT

The Naoero Customs Broker's Examination may include the following subject matters for training and examination:

(a) The preparation of various types of bills of entry or bills of export, shipping bills, air cargo bills and any other clearance documents;
(b) The operations of the Customs system;
(c) Arrival entry and clearance of vessels;
(d) Tariff classification and rates of duties;
(e) Determination of value of imported and exported goods;
(f) Currency conversion;
(g) Prohibition on import and export;
(h) Procedure for customs bonding and clearance from bond;
(i) Procedure for assessment of duties;
(j) Re-importation and conditions of free entry;
(k) Examination of goods on arrival at the port;
(l) List of high-risk countries and designated entities and persons involved in imports and exports;
(m) Anti-corruption laws;
(n) Restrictions on movement of any currency, high value goods and bearer negotiable instruments;
(o) Online filing of electronic bills of entry and shipping bills;
(p) Knowledge of the Act, Regulations and orders and instructions given by various authorities; and
(q) Any other matters for which the Chief Collector of Customs may require Examination.

[Form 1 am Act 21 of 2026 s 5, opn 12 May 2026]

FORM 2

[Regulation 17(7)]

CERTIFICATE OF COMPLETION

REPUBLIC OF NAOERO

Certificate of Completion

This is to certify that

[INSERT NAME]

has successfully completed the

NAOERO CUSTOMS BROKERS EXAMINATION

. . . . .	. . . . .
Date	Signature Chief Collector of Customs

[Form 2 am Act 21 of 2026 s 5, opn 12 May 2026]

[The next page is 449,461]

SCHEDULE 5

REPUBLIC OF NAOERO

CUSTOMS ACT 2014

[Regulation 18(1)]

REGISTER OF CUSTOMS BROKERS

[Sch 5 am Act 21 of 2026 s 5, opn 12 May 2026]

#	PERSONS WHO HAVE SUCCESSFULLY COMPLETED THE NAOERO CUSTOMS BROKER'S EXAMINATION			
	Full Name	Contact Details		
1				
2				
3				
	PERSONS WHO HAVE BEEN ISSUED WITH CUSTOMS BROKERS' LICENCES			
	Full Name	Contact Details	Licence No	
1				
2				
3				
	CUSTOMS BROKERS WHOSE LICENCES HAVE BEEN SUSPENDED OR REVOKED			
	Full Name	Contact Details	Licence No	Date of Suspension/Revocation
1				
2				
3				
	CUSTOMS BROKERS WHOSE LICENCES HAVE EXPIRED			
	Full Name	Contact Details	Licence No	Date of Expiry
1				
2				
3				
	PERSON'S WHO HAVE BECOME PROHIBITED FROM OBTAINING A CUSTOMS BROKER'S LICENCE FOR CONTRAVENTION OF ACT OR REGULATIONS			
	Full Name	Contact Details	Licence No	Details of Contravention
1				

2				
3				

[The next page is 449,471]

SCHEDULE 6

REPUBLIC OF NAOERO

CUSTOMS ACT 2014
CUSTOMS (BROKERS) REGULATIONS 2024

[Regulation 21(5)]

FIXED PENALTY NOTICE

[Sch 6 am Act 21 of 2026 s 5, opn 12 May 2026]

Fixed Penalty Notice No	
Date of Issue	
Penalty Due	
This Fixed Penalty Notice is issued pursuant to Regulation 21 of the *Customs (Brokers) Regulations 2024*.	
Important Notice: Payment shall be made at the Naoero Revenue Office within 21 days from the date of service of this Fixed Penalty Notice. The consequence of not paying the penalty will result in the Customs Brokers Licence being suspended.	
PART 1 — OFFENCE DETAILS	
Offender: Surname:. . . . . Given Names:	
Residential Address:. . . . . Telephone number:.	
Nature of Offence: Contrary to Regulation . . . . . of the *Customs (Brokers) Regulations 2024*	
Location: . . . . . Date: . . . . . Time:	
Customs Broker's Licence No:. . . . . Licence Expiry Date:.	
Particulars of Offence:.	
. . . . .	
. . . . .	
Customs Officer's Signature:	
Customs Officer's Name:.	
Date: / / 20	
Acknowledgement of Service of Fixed Penalty Notice by:	
Name:	
Signature:	
Note:	
1 *This Notice shall only be served to the offender at the time of the offence or as soon as practicable.*	

2 *If the offender refuses to accept the Notice, he or she commits an offence under Regulation 21(3) for which he or she is liable to a fine not exceeding $5,000.*

PART 2 — TIME FOR PAYMENT OF PENALTY

1 **Take Notice** that the penalty shall be paid to the Naoero Revenue Office within 21 days of the date of the issuance of this fixed penalty notice. Failure or late payment of the penalty will result in payment of additional costs in the sum of $10 for each day the penalty remains unpaid.

2 **Contesting the Fixed Penalty Notice**

If you intend to defend or contest the Notice, you are to appear in person or by a legal representative in court on the date and time provided in Part 3 of this Notice.

PART 3 — NOTICE TO ATTEND TO COURT

Take Notice that if you intend to contest or defend this notice, you must attend the District Court at Yaren on . . . . . day the . . . . . day of . . . . . 20 . . . . . .at . . . . . am/pm for the hearing.

If you fail to attend the hearing, the court will proceed to hearing of the Fixed Penalty Notice in your absence and impose a fine and costs. If you fail to pay the fine and costs ordered by the court, you will be arrested under a committal warrant without any further notice and be imprisoned.

PART 4 — FIXED PENALTY OFFENCES

Regulation	Fixed penalty offence		Fixed penalty
9(2)	Display of Licence		$500
11(2)	Licence not transferrable or assigned		$2,000
12(2)	Variation or change in particulars of Licence	First offence	$100
		Second offence	$500
		Third offence	$1,000
14(2)	Variation or change in particulars of Licence	First offence	$100
		Second offence	$500
		Third offence	$1,000
15(2)	Variation or change in particulars of Licence	First offence	$100
		Second offence	$500
		Third offence	$1,000
16(4)	Variation or change in particulars of Licence	First offence	$100
		Second offence	$500
		Third offence	$1,000

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Customs (Prohibited Imports) Order 2024

TABLE OF AMENDMENTS

The Customs (Prohibited Imports) Order 2024 SL 30 was notified and commenced on 11 October 2024 (GN No 1379/2024; Gaz 437/2024).

Amending Legislation	Notified	Date of Commencement

[The next page is 449,621]

In exercise of the powers conferred upon me by Section 91(3) of the *Customs Act 2014*, as the Minister responsible for Customs, I make the following order:

THAT the following goods are prohibited imports and a such shall not be imported into the Republic:

a. Asbestos, in any of the following asbestiform varieties:
    i. asbestos actinolite;
    ii. asbestos grunerite (amosite) (brown asbestos) (cummingtonite-grunerite);
    iii. asbestos anthophyllite;
    iv. asbestos chrysotile (white asbestos) (serpentine);
    v. asbestos crocidolite (blue asbestos) (riebeckite);
    vi. asbestos tremolite; or
    vii. a mixture that contains one or more of the above; and
b. Asbestos containing such material, including waste material and soil, that contains asbestos.

[The next page is 449,701.001]

Order for Exemption from Duty for Global Mission Support Services under the Customs Act 2014

TABLE OF AMENDMENTS

The Order for Exemption from Duty for Global Mission Support Services under the Customs Act 2014 SL 50 was notified and commenced on 10 September 2025 (GN No 1073/2025; Gaz 410/2025).

Amending Legislation	Notified	Date of Commencement
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 449,701.101]

Order for Exemption from Duty for Global Mission Support Services under the Customs Act 2014

[instr am Act 21 of 2026 s 5, opn 12 May 2026]

In accordance with Section 103(1) of the *Customs Act 2014*, this Order is made to exempt from duty, the goods that are imported by the Global Mission Support Services (GMSS DMCC), for the implementation of the Naoero Health Services Management Agreement.

This exemption has received the concurrence of the Cabinet as confirmed in the Cabinet resolution dated Thursday, 19th June 2025.

Dated this 8th day of September 2025

. . . . . .

His Excellency, Hon. David W.R. Adeang, MP
PRESIDENT AND MINISTER FOR FINANCE

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Customs (Conditional Prohibited Imports) Order 2026

TABLE OF AMENDMENTS

The Customs (Conditional Prohibited Imports) Order 2026 SL 6 was notified and commenced on 16 February 2026 (GN No 168/2026; Gaz 55/2026).

Amending Legislation	Notified	Date of Commencement

[The next page is 449,701.801]

Customs (Conditional Prohibited Imports) Order 2026

In exercise of the powers conferred upon me by Section 91(3) and in accordance with Section 91(5)(a) of the *Customs Act 2014*, as the Minister responsible for Customs, I make the following Order:

THAT the following goods are prohibited imports and as such, shall not be imported into the Republic, except where a licence for importation of the specified goods are obtained from the Eigigu Holdings Corporation:

(a) Mineral Composite Fibre-Reinforced (MCFR) bricks;
(b) Fibre-Reinforced Polymer (FRP) Rebar tendons including such made from glass fibre, carbon fibre or basalt fibre; or
(c) related construction material including composite wall panels, composite floor or roof panels, composite reinforcing mesh, bent composite bars or cages or bonding agents used to assemble MCFR systems.

Dated this 16th day of February 2026.

(His Excellency, Hon. David W.R. Adeang, MP)

PRESIDENT

AND

MINISTER FOR FINANCE AND SUSTAINABLE DEVELOPMENT

[The next page is 449,702.101]

Customs (Exemption from Duty – Fuel Purchases from Vital Energy for the Naoero Marine Port Authority and Naoero Shipping Line) Order

TABLE OF AMENDMENTS

The Customs (Exemption from Duty — Fuel Purchases from Vital Energy for the Naoero Marine Port Authority and Naoero Shipping Line) Order SL 15 was notified and commenced on 4 April 2026 (GN No 365/2026; Gaz 120/2026).

Amending Legislation	Notified	Date of Commencement
Constitution (Amendment) (No 2) Act 2026 No 21	12 May 2026	s 5: 12 May 2026

[The next page is 449,702.201]

Customs (Exemption from Duty — Fuel Purchases from Vital Energy for the Naoero Marine Port Authority and Naoero Shipping Line) Order

[instr am Act 21 of 2026 s 5, opn 12 May 2026]

PURSUANT to the powers vested in me under Section 103, **I**, **Hon David WR Adeang, MP**, President, and Minister for Finance, on the recommendation of the Chief Collector of Customs, hereby issue this **ORDER** to grant exemptions from duty in respect of goods or classes of goods imported into the Republic for the purposes of the fuel purchases from Vital Energy for the Naoero Marine Port Authority (NMPA) and Naoero Shipping Line (NSL) for the duration of the construction period.

Dated this 4th day of April 2026.

His Excellency, Hon. David W.R. Adeang, MP
President and Minister for Finance

[The next page is 449,702.701]

Customs (Exemption from Duty for imported goods by Downer EDI Engineering Power Pty Ltd and Downer New Zealand Ltd and its Sub-contractors, including fuel purchase from Vital Energy for the Naoero Airport Upgrade and Road Rehabilitation Project) Order

TABLE OF AMENDMENTS

The Customs (Exemption from Duty for imported goods by Downer EDI Engineering Power Pty Ltd and Downer New Zealand Ltd and its Sub-contractors, including fuel purchase from Vital Energy for the Naoero Airport Upgrade and Road Rehabilitation Project) Order SL 30 was notified and commenced on 24 August 2026 (GN No 847/2026; Gaz 292/2026).

Amending Legislation	Notified	Date of Commencement

[The next page is 449,702.801]

Customs (Exemption from Duty for imported goods by Downer EDI Engineering Power Pty Ltd and Downer New Zealand Ltd and its Sub-contractors, including fuel purchase from Vital Energy for the Naoero Airport Upgrade and Road Rehabilitation Project) Order

(Section 103(1))

PURSUANT to the powers vested in me under Section 103(1) of the *Customs Act 2014*, **I Honourable Charmaine Eraidinomo Scotty, M.P.,** Acting President and Acting Minister for Finance, on the recommendation of the Chief Collector of Customs, hereby issue this **ORDER** to grant exemptions from duty in respect of goods or classes of goods imported into the Republic, including fuel purchased from Vital Energy by the Downer EDI Engineering Power Pty Ltd and Downer New Zealand Ltd and the Sub-contractors of these two entities for the purposes of the Naoero Airport Upgrade and Road Rehabilitation Project.

Dated this 24th day of August 2026.

Her Excellency, Hon. Charmaine Eraidinomo Scotty, MP
Acting President and Acting Minister for Finance

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