
**Council for Trade-Related Aspects of
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

ESTONIA

The present document reproduces the text¹ of the Customs Act, as notified by Estonia under Article 63.2 of the Agreement (see document IP/N/1/EST/1).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

ESTONIE

Le présent document contient le texte¹ de la Loi douanière, notifiée par l'Estonie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/EST/1).

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

ESTONIA

En el presente documento se reproduce el texto¹ de la Ley de Aduanas, notificado por Estonia en virtud del párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/EST/1).

¹ In English only. The text in the original language is available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter le texte dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto en su idioma original.

Customs Act

Passed on 17 December 1997

(RT² I 1998, 3, 54; consolidated text RT I 1999, 86, 782),

entered into force 19 January 1998,

amended by the following Acts:

15.12.1999 entered into force.10.01.2000 - RT I 1999, 102, 907

09.12.1999 entered into force 06.01.2000 - RT I 1999, 97, 859.

Chapter 1

General Provisions

§ 1. Definitions

In this Act, the following definitions are used:

- 1) “declarant” means a person who presents goods to be declared and makes a customs declaration either in the person’s name and on the person’s behalf, or in the person’s name but on behalf of another person;
- 2) “declaration” means an application or act in the form prescribed by the customs rules whereby a person provides information necessary for customs control;
- 3) “goods to be declared” means goods for which a customs declaration shall be made in the cases prescribed in this Act or other legislation;
- 4) “import and export duties” means customs duties and other charges payable on the importation and exportation of goods which do not include fees payable for customs services;

² RT = *Riigi Teataja* = *State Gazette*

- 5) “person” means a natural person or legal person of Estonia or of a foreign state, a state agency or local government agency, or an agency of an international organisation regardless of whether or not it is a legal person;
- 6) “personal effects” means articles to be used on a journey by a traveller, including any means of transport in his or her possession which is not a commercial means of transport;
- 7) “holder of goods” means a person who keeps goods in a warehouse or is otherwise responsible for the storage of goods, who carries goods or performs other acts with goods, or a person in whose means of transport, building, construction or territory goods are located unless the person proves to the customs authorities that the goods are there against the person’s will;
- 8) “goods” means property which is to be or has been carried across the customs frontier including things, currency, securities, animals and plants; goods also means strategic goods;
- 9) “commercial means of transport” means a self-propelled, trailed or sliding water craft, aircraft, means of road transport or railway rolling stock which is used for the transport of travellers for a charge or for the carriage of goods for a charge or free of charge;
- 10) (Repealed - 13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)
- 11) “principal” means a person who undertakes to arrange the carriage of goods under a customs transit procedure from the customs office of departure to the customs office of destination and who provides security or is relieved of the provision of security to the customs authorities;
- 12) “traveller” means a natural person who legally crosses the customs frontier regardless of the purpose for doing so;
- 13) “security” means a document which ensures payment of the amount of a customs debt to the satisfaction of the customs authorities;

14) “customs authorities” is a general term unless the structural unit of the Customs Board (hereinafter customs office) is specified;

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

15) “customs declaration” means a document containing particulars required by the customs authorities which is submitted for customs clearance in writing or using a data-processing technique;

16) “customs rules” means Acts and the regulations of the Government of the Republic and of the ministers which regulate customs organisation;

17) “customs formalities” means the operations which shall be completed by holders of goods, declarants or other persons concerned and the customs authorities in order to comply with this Act and other legislation for the compliance of which the customs authorities are responsible and which are enacted for inspection of persons on the customs frontier and for the registration of baggage, goods and means of transport in the importation, exportation or transit thereof;

18) “customs supervision” means the measures taken by the customs authorities in order to keep record of the movement and storage of goods or means of transport subject to customs control;

19) “customs control” means the measures taken to ensure compliance with the Acts and other legislation for the implementation of which the customs authorities are responsible;

20) “customs control zone” means the part of the customs territory where all customs control measures may be applied to goods and persons;

20¹) “customs treatment” means placing goods under a customs procedure, bringing goods into a free zone, removal of goods from the customs territory, destruction of goods under

customs supervision or transfer of goods into the ownership of the state pursuant to procedure prescribed by the customs rules;

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

21) “customs examination” means an inspection performed by the customs authorities in order to verify the accuracy of the information declared to the customs authorities;

22) “customs clearing agent” means a third person who, as a declarant, deals directly with the customs authorities in connection with the bringing of goods into or removal of goods from the Estonian customs territory, and arranges for customs clearance in the name of the customs clearing agent on behalf of another person by agreement with the latter;

23) (Repealed - 13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

24) “customs procedure” means a procedure applied by the customs authorities to goods subject to customs control;

25) (Repealed - 13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

26) “customs route” means a route designated by the customs rules for transit in the customs territory;

27) “customs seal” means a seal, stamp or any other preventive means affixed by customs officials to ensure the inviolability of goods, commercial means of transport or warehouses;

28) “customs clearance” means completion of the customs formalities in order to permit the exportation or importation of goods or to place goods under a customs procedure;

29) “customs debt” means the obligation of a person to pay import or export duties to the customs authorities in the importation or exportation of goods;

30) “free circulation” means disposal of goods independent of the customs authorities;

31) “means of transport” means a commercial means of transport or any other vehicle;

32) “debtor” means a person who is liable for payment of the amount of a customs debt;

33) “carriage across the customs frontier” means the importation of goods into the Estonian customs territory, exportation of goods therefrom or transit of goods by any means of transport, including pipelines and power transmission lines;

34) “person relocating” means a person who is leaving Estonia in connection with a change of permanent residence or a person who is settling in Estonia permanently and has resided in a foreign state continuously for longer than twelve months.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 2. Customs policy and customs organisation

(1) The Republic of Estonia exercises a unitary customs policy that ensures the protection of state interests and development of customs organisation in accordance with the generally recognised rules and standards of international practice.

(2) The customs policy of the Republic of Estonia is implemented and customs organisation is directly managed by the Customs Board.

§ 3. Customs territory and customs frontier

(1) The customs territory of Estonia (hereinafter the customs territory) comprises the territory under the jurisdiction of the Republic of Estonia which includes the land, territorial waters and airspace above them.

(2) The customs territory is surrounded by the customs frontier.

(3) Free zones may be established in the customs territory by an order of the Government of the Republic.

§ 4. Free zone

- (1) A free zone is a part of the customs territory that is separated from the rest of the customs territory by a boundary and where special customs control measures apply. Goods in a free zone are deemed to be outside of the customs territory in respect of import and export duties and measures established for the regulation of importation.
- (2) Goods carried from a free zone to the rest of the customs territory and from the customs territory to a free zone shall be subject to import and export duties pursuant to law.
- (3) Goods carried to a free zone from a foreign state and to a foreign state from a free zone are, as a rule, not subject to customs clearance and, outside of a free zone, such goods are transported within the customs territory under a customs transit procedure.
- (4) Any economic activity or construction of a building or structure in a free zone requires written permission from the customs authorities. The customs authorities may prohibit continuation of such activity in a free zone by a person who fails to comply with the requirements of the customs rules.
- (5) Holders of goods who are involved in the storage, processing, sale or purchase of goods in a free zone shall keep stock records in the form approved by the customs authorities. Goods shall be entered in the stock records promptly after they come into the possession of the above-mentioned persons.
- (6) The retail sale of goods in a free zone is prohibited, except for the provision of catering services for persons working therein.
- (7) The customs authorities shall exercise supervision over the boundaries, entries and exits of free zones. The Government of the Republic shall establish the rules for customs control on the boundaries of free zones and in free zones.

§ 5. Customs control zone

(1) The customs control zone includes the frontier zone, territorial waters, customs routes, customs offices, customs terminals, customs warehouses and any land, inland water area or building which the Customs Board has, in agreement with the owner and the possessor, permanently or temporarily designated for completion of the customs formalities.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(2) The customs authorities shall designate a place in the customs control area for the completion of customs formalities.

(3) In the customs control zone, it is prohibited to unload and load goods from a means of transport without the permission of the customs authorities, and to remove goods from the customs control zone before the required customs formalities are completed.

(4) Sales points which provide services for travellers may only operate in the customs control zone of an international airport open for traveller transport. Activity licences for sales points are issued and revoked by the Customs Board. A licence may be revoked if the owner of a sales point or an employee of the owner violates the regime established by the licence, is convicted of a violation of customs rules or an Act concerning a tax or has submitted inaccurate information to the Customs Board upon application for the licence. The Government of the Republic shall establish the conditions and procedure for the foundation, operation and termination of sales points.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 6. Language of customs clearance

(1) Customs documents shall be prepared in Estonian.

(2) In the cases prescribed by international agreements or the customs rules, customs documents may also be prepared in other languages.

(3) In the customs clearance of goods arriving from a foreign state, the customs authorities may also accept documents in a foreign language.

§ 7. Customs insignia

(1) The Customs Board has a revenue flag, a customs badge and a customs emblem.

(2) The Government of the Republic shall approve the description of the revenue flag, customs badge and customs emblem.

(3) The Minister of Finance shall establish the procedure for using the revenue flag, customs badge and customs emblem.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 8. International agreements

If an international agreement that is in force in respect of the Republic of Estonia establishes provisions different from the provisions of this Act or other legislation regulating customs organisation, the provisions of the international agreement apply.

Chapter 2

Customs Authorities

§ 9. Structure of Customs Board

(1) The Customs Board is divided into departments and regional customs inspectorates.

(2) Regional customs inspectorates perform the functions of the Customs Board in specified regions.

(3) Regional customs inspectorates conduct customs formalities at customs posts.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 10. Functions of customs authorities

In executing the customs policy of the Republic of Estonia, the customs authorities perform the following functions:

- 1) implementation of the customs rules and monitoring of the lawfulness of the carriage of goods into and out of the customs territory;
- 2) provision of access by all interested persons to information necessary for completion of customs formalities;
- 3) determination, collection and keeping the corresponding records of import and export duties, interest, state fees and fees for customs services;
- 4) collection of information necessary for customs statistics;
- 5) performance of obligations assumed by international agreements of the Republic of Estonia concerning customs organisation;
- 6) co-operation of the customs authorities with the customs authorities and other competent agencies of foreign states and international organisations.

§ 11. Customs officials

(1) Customs officials are officials of the customs authorities, and the requirements, rights and duties established for state officials which are specified in the customs rules extend to them.

- (2) Only Estonian citizens may be employed as customs officials or heads of customs laboratories or research or educational institutions within the customs authorities.
- (3) In the performance of their duties, customs officials are required to present identification upon request.
- (4) When on duty, customs officials wear a uniform and carry a weapon in the prescribed cases. The procedure for carrying weapons is established by the Weapons Act (RT I 1995, 62, 1056; 1997, 93, 1564) and the corresponding legislation of the Government of the Republic.
- (5) Customs officials shall not be involved in transactions with goods carried across the customs frontier. Employment of a customs official outside of the customs authorities shall be registered with the customs authority.
- (6) Customs officials are required to maintain the confidentiality of state, bank and business secrets and official information of which they become aware in performing their duties.
- (7) In performing their duties, customs officials are independent and act pursuant to this Act and other legislation.
- (8) (Repealed - 13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 12. Co-operation of customs authorities with other executive agencies

- (1) In performing their functions, the customs authorities co-operate with other executive agencies pursuant to the customs rules.
- (2) Estonian border guard officials and police officers are required, within their competence, to assist customs officials in the performance of their duties to ensure public order, compliance with the lawful orders of customs officials and prevention of violation of the customs rules.

(3) In the cases and pursuant to the procedure established by the Government of the Republic, the Border Guard Administration is required to complete customs formalities and prevent the unlawful carriage of goods into or out of the customs territory on the customs frontier between the customs offices and in the territorial waters.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(4) Customs officials are required, within their competence, to assist in the prevention of unlawful attempts by natural persons to cross the border and to promptly notify the border guards of relevant information known to them.

§ 13. Complaints against activities of customs authorities

A complaint against the activities of the customs authorities shall be filed with the superior customs authority within thirty calendar days after the date on which the complainant becomes or should have become aware of the violation of his or her rights. The complaint shall be reviewed and the complainant shall be informed of the results of the review within thirty days after the date on which the complaint is received. The complainant has the right of appeal to a court at any stage of the dispute.

§ 14. Liability of customs authorities for damage

Damage which the customs authorities cause by their unlawful activities shall be compensated for by way of civil proceedings.

Chapter 3

Declaration

§ 15. General provisions

(1) In order to obtain permission for the carriage of goods into or out of the customs territory, such goods shall be declared to the customs authorities. For this purpose, a customs declaration which shall contain the information required by the customs rules shall be submitted to the customs authorities either in writing or using a data-processing technique.

(2) The goods to be declared and the customs declaration shall be presented to the customs authorities by the declarant or a person authorised by the declarant. In the cases prescribed in the customs rules, the customs authorities have the right to require that the authorised person present a notarised authorisation.

(3) A declarant and the person for whom a declaration of goods is submitted are liable for the completeness and correctness of information contained in the customs declaration, the authenticity of the submitted documents and the compliance of the goods which are to be or have been carried across the customs frontier with the customs declaration.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(4) A traveller who enters a customs control zone and who is not carrying any goods to be declared shall declare this to the customs authorities orally or through the appropriate behaviour in accordance with the customs rules.

(5) Goods requiring an authorisation must be declared unless the establisher of the authorisation provides otherwise.

§ 16. Customs clearing agent

- (1) A customs clearing agent shall submit a customs declaration to the customs authorities in the name of the customs clearing agent but on behalf of another person and is responsible for performance of the customs clearance of the goods and payment of the amount of the customs debt pursuant to the customs rules.
- (2) Activity licences for customs clearing agents are issued by the Customs Board to persons registered in Estonia. Customs clearing agents may operate customs terminals or customs warehouses, and act as principals in the transit of goods.
- (3) The Minister of Finance shall establish the conditions and procedure for issue of activity licences to customs clearing agents and the rules on their activities.

§ 17. Customs declarations

- (1) The following customs declarations shall be prepared for goods subject to customs control:
 - 1) general declarations;
 - 2) declarations of goods;
 - 3) customs value declarations;
 - 4) traveller's declarations;
 - 4) declarations of postal consignments.
- (2) A customs declaration or an equivalent document prescribed in the customs rules is deemed to be a customs document after the customs authorities have checked and accepted the completeness of the information contained in the document and the existence of the requisite additional documents.

§ 18. General declaration

(1) A general declaration is the basic document on the arrival and departure of a commercial means of transport which contains general information on the commercial means of transport, itinerary, commodities, goods being carried, crew and travellers.

(2) In the cases prescribed in the customs rules, a form prescribed therefor, a document for the international carriage of goods or a document for international customs transit which contains the information necessary for the identification of goods may be used as a general declaration. General declarations are submitted by persons registered in Estonia unless the customs rules prescribe otherwise.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(3) Persons who bring goods into the customs territory are required, upon crossing the customs frontier, to submit or ensure submission of a general declaration and the goods to the nearest prescribed customs authority.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(4) The Minister of Finance shall approve the form of general declarations specified in subsection (2) of this section and instructions for completion thereof.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 19. Declaration of goods

(1) A declarant shall submit a declaration of goods to the customs authorities for determination of the customs procedure applicable to goods which are to be or have been carried across the customs frontier.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(2) Declarations of goods shall be submitted by declarants who are persons registered in Estonia unless the customs rules prescribe otherwise.

(2¹) Before submission of a declaration of goods to the customs authorities, the declarant has the right to take samples and specimens of goods for analysis or examination, which shall be declared separately from the goods or together with the goods.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(3) In the carriage of goods across the customs frontier, a person shall submit a declaration of goods if the customs value of the goods exceeds 1 000 kroons. A declaration of goods may also be submitted if the customs value of the goods does not exceed 1 000 kroons.

(4) The Minister of Finance shall establish the form of declarations of goods and the instructions for completion thereof.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(5) The Minister of Finance shall establish the procedure for annulment of declarations of goods and notations made therein and for making corrections to declarations of goods after the release of goods.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(6) In order to take account of newly discovered facts, the person concerned has the right to apply, after the release of goods, to the customs authorities, or the customs authority has the right to require the person concerned to make adjustments in the declaration of goods within three years as of the date of acceptance of the declaration of goods.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 20. Customs value declaration

- (1) A declarant shall submit a customs value declaration to the customs authorities for determination of the customs value of goods.
- (2) Customs value declarations shall be submitted in the customs clearance of goods together with declarations of goods under the conditions and pursuant to the procedure established in the Customs Valuation Act (RT I 1995, 20, 298).

§ 21. Traveller's declarations

- (1) A traveller who, upon crossing the customs frontier, carries goods to be declared, including awards or gifts, shall complete and submit a traveller's declaration to the customs authorities if the goods are intended for non-commercial use. Upon declaration of goods intended for commercial use, and baggage not carried by a traveller, subsection 19 (3) of this Act applies.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

- (2) Goods subject to declaration include goods specified in subsection (1) of this section which enter the customs territory and the value of which exceeds 5000 kroons or the amount of which exceeds the limit established by the Government of the Republic. Personal effects are not included in goods subject to declaration if a special licence is not needed for the importation and exportation thereof.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

- (3) The Government of the Republic shall establish the form of traveller's declarations and the instructions for completion thereof.

§ 22. Declaration of postal consignments

- (1) The sender of an international postal consignment containing goods which is sent out of Estonia shall complete a declaration of postal consignments; the declaration of postal consignments shall be appended to the postal consignment.
- (2) In addition to an international declaration of postal consignments, a declaration of goods shall be completed for postal consignments delivered to or sent by a person if the customs value of the goods exceeds the value specified in subsection 19 (3) of this Act or the quantity of the goods exceeds the limit established by the Government of the Republic.
- (3) The Government of the Republic shall establish the procedure for customs clearance of international postal consignments.

§ 23. Classification of goods

- (1) Declarants are required to classify goods in customs declarations in accordance with the Nomenclature of Estonian Commodities (hereinafter NEC), this Act and other nomenclatures established pursuant to other Acts. On the basis of the specified nomenclatures, the customs authorities shall implement preventive measures in the importation and exportation of goods, collect customs statistics and collect import and export duties.
- (2) The NEC shall be in accordance with the Combined Nomenclature of the European Union used for the description and coding of goods. The nomenclatures established on the basis of this Act and other Acts shall be in accordance with the NEC. The NEC shall be established by the Government of the Republic.
- (3) Upon classification of goods, the numerical code of goods shall be determined pursuant to the nomenclatures specified in subsection (1) of this section in accordance with

the classification rules of the NEC. The Minister of Finance shall establish the procedure for answering enquiries concerning the classification of goods.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(4) The Government of the Republic shall establish the procedure for administration and maintenance of the nomenclatures specified in subsection (1) of this section.

§ 24. Origin of goods

(1) Declarants shall determine the country of origin of goods pursuant to the rules of origin prescribed by international agreements or established by the Government of the Republic.

(2) The customs authorities may require that a declarant present documentation to certify the country of origin of goods pursuant to international agreements or in the cases established by the Government of the Republic.

(3) In order to obtain preferential customs duty rates arising from international agreements, the customs authorities shall, at the request of a declarant, issue a certificate of origin that certifies the preferential origin of goods to be exported and shall conduct a follow-up inspection thereof. Certificates of origin may also be issued by exporters pursuant to the procedure provided by international agreements.

(4) In order to obtain preferential customs duty rates arising from the Generalized System of Preferences, the customs authorities shall issue a Form A certificate of origin for goods of Estonian origin to be exported, approve the certificate and conduct a follow-up inspection. The Government of the Republic shall establish the procedure for issue and completion of Form A certificates of origin of goods.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(5) The Government of the Republic shall establish the rules of non-preferential origin of goods and the procedure for issue and completion of certificates of origin in order to prove non-preferential origin of goods.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(6) The Government of the Republic shall establish the cases where certification of the country of origin is required.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

Chapter 4

General Rules on Customs Control

§ 25. General Provisions

(1) Customs control shall be carried out in order to check the lawfulness of the carriage of goods into and out of the customs territory, to place goods under a customs procedure and to impose import or export duties on goods.

(2) The lawful carriage of goods into and out of the customs territory shall be carried out under the supervision of the customs authorities through the specified customs authorities in accordance with the customs rules.

(3) Goods the importation or exportation of which is not prohibited may enter or leave the customs territory. A prohibition on the importation or exportation of goods also extends to goods placed under a customs transit procedure.

(4) Goods that require an authorisation for importation or exportation may enter or leave the customs territory if the authorisation is presented in the course of customs clearance. The presented authorisation shall be registered with the customs authorities and returned to the

person who presented it. The requirement for an authorisation extends to goods placed under a customs transit procedure unless the establisher of the authorisation determines otherwise. The Government of the Republic specifies goods that require an authorisation upon importation or exportation and the ministers who shall establish the nomenclatures and procedures for the importation or exportation of such goods.

(5) Customs control shall be exercised by customs officials within their competence, who shall check documents and goods, and apply other customs control measures prescribed in the customs rules.

(6) The customs authorities have the right to involve experts in the performance of customs control. The declarant shall bear the costs of an expert analysis unless the customs rules prescribe otherwise.

(7) Customs control shall not endanger the life and health of persons, or damage the goods under control or the environment.

(8) The customs authorities have the right to obtain premises conforming to occupational safety and health requirements for use free of charge in customs terminals, customs warehouses, free zones, post offices, ports, airports and railway stations and other transport terminals, including furnished office rooms and means of communication, from the possessors thereof in order to arrange for the customs control of goods and travellers. The customs authorities shall pay for telecommunications services.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 26. Counterfeit goods and pirated goods

(1) For the purposes of this Act, counterfeit goods means:

- 1) goods within the meaning of subsection 33 (4) of the Trade Marks Act (RT 1992, 35, 459; RT I 1998, 15, 231; 1999, 93, 834);
- 2) goods to which a registered geographical indication is unlawfully affixed.

(15.12.1999 entered into force 10.01.2000 – RT I 1999, 102, 907)

(2) For the purposes of this Act, pirated goods means:

- 1) goods that are manufactured based on such industrial design which is identical with or confusingly similar to an industrial design registered in Estonia without the permission of the proprietor of the industrial design or with which the rights of the proprietor of the industrial design as provided for in the Industrial Designs Protection Act (RT I 1997, 87, 1466; 1998, 108/109, 1783) are violated;
- 2) pirate copies as defined in § 101 of the Copyright Act (RT 1992, 49, 615; RT I 1996, 49, 953; 1998, 36/37, 552).

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

(3) Any form or matrix which is specifically designed or adjusted for the manufacture of counterfeit goods or pirated goods is deemed to be counterfeit goods or pirated goods on the condition that the rights of the owner of the trade mark or of the proprietor of the industrial design, or copyright, or legislation concerning the protection of geographical indications or international agreements are violated with the use of such form or matrix.

(15.12.1999 entered into force 10.01.2000 – RT I 1999, 102, 907)

(4) It is prohibited to import or export counterfeit goods and pirated goods.

(5) (Repealed - 21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

§ 27. Customs supervision over goods

(1) Goods shall be under customs supervision from the time of entry of the goods into the customs territory until the goods are assigned a customs treatment. Upon assignment of a customs treatment, the goods shall be under customs supervision pursuant to procedure prescribed by the customs rules.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(2) If goods are unlawfully removed from customs supervision or if customs authorities suspect unlawful removal of goods from customs supervision and the debtor is unable to prove that the goods have been assigned a customs treatment, the debtor is required to pay the amount of the customs debt within five calendar days after the date of unlawful removal of the goods from customs supervision or discovery thereof.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(3) Only procedures and transactions approved by the customs authorities may be performed with goods under customs supervision.

(4) If goods under customs supervision perish or are damaged, the holder or declarant of the goods is required to notify the customs authorities thereof at the earliest opportunity and present evidence concerning the destruction of or damage to the goods. If the evidence presented does not satisfy the customs authorities, the goods are deemed to be unlawfully removed from customs supervision.

(5) In the case of doubt as to whether the importation of goods has occurred or whether the information declared upon importation of goods is correct, the customs authorities may consider the following documents as proof of the importation of goods or of correctness of the information declared:

1) a document certifying registration of the exportation of the goods which is issued by the customs authorities of the foreign state from which the goods were directly to arrive in Estonia;

2) a document certifying registration of the exportation of the goods or of declaration of the goods which is issued by the customs authorities of the foreign state from which the goods were declared into Estonia.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(6) In the case of doubt as to whether the exportation of goods has occurred or whether the information declared upon exportation of goods is correct, the customs authorities may consider the following documents as proof of the exportation of goods or of correctness of the information declared:

1) a document certifying registration of the importation of the goods which is issued by the customs authorities of the foreign state where the goods were to arrive directly from Estonia;

2) a document certifying registration of the importation of the goods or of declaration of the goods which is issued by the customs authorities of the foreign state where the goods were declared to from Estonia.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(7) If importation or exportation of goods is not proved pursuant to the procedure provided for in subsections (5) or (6) of this section, customs authorities have the right to annul the corresponding notation in the declaration of goods. If the correctness of information declared upon importation or exportation of goods is not proved pursuant to the procedure provided for in subsections (5) or (6) of this section, customs authorities have the right to make adjustments in the declaration of goods.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 28. Unforeseeable circumstances

(1) Unforeseeable circumstances are an event or the probability of an event as a result of a natural disaster, catastrophe or other *force majeure* that damages goods in a commercial means of transport or warehouse.

(2) If, by virtue of unforeseeable circumstances, the holder of goods which are brought into the customs territory fails to deliver the goods to the place prescribed or accepted by the customs authorities or to keep the goods in such place, the holder is required to notify the customs authorities thereof at the first opportunity. If goods are destroyed or damaged, the holder of the goods shall notify the customs authorities of the location where the goods were destroyed or the location of the preserved goods, respectively, having taken all necessary measures to ensure the intactness of the goods.

(3) If goods are destroyed by virtue of unforeseeable circumstances, no import or export duties shall be imposed on the goods provided that the destruction is ascertained to the satisfaction of the customs authorities. Damaged goods shall be removed from the customs territory, stored in a customs warehouse, released for free circulation or destroyed under customs supervision.

§ 29. Customs documents

(1) A customs document is a permit or certificate issued by a customs authority, or a customs declaration or any other document accepted by a customs authority on the basis of which a customs official allows the importation or exportation of goods, places goods under a customs procedure or affixes tax incentives.

(2) In the cases prescribed in the customs rules, customs officials shall make notations and corrections in customs documents.

(3) Exporters, importers and other persons who are involved in the bringing of goods into or carriage of goods from the customs territory shall keep customs documents for seven years as of the beginning of the calendar year following customs clearance.

§ 30. Customs seals

(1) The customs authorities may affix a customs seal to commercial means of transport with which goods are carried or to warehouses where goods under customs supervision are stored in order to ensure the inviolability of the commercial means of transport, warehouses and the goods stored therein. Customs seals may also be affixed to goods. Several customs seals may be affixed to one object.

(2) The possessors of commercial means of transport and warehouses are liable for the inviolability of the commercial means of transport, warehouses and goods stored therein which are protected by a customs seal and for the intactness of the customs seal. It is prohibited to remove a customs seal without the permission of the customs authorities, except in unforeseeable circumstances in order to ensure the preservation of goods carried in the commercial means of transport or stored in the warehouses.

(3) The customs authorities may accept customs seals affixed in a foreign state. Customs seals accepted by the customs authorities are equivalent to customs seals affixed by the customs authorities.

(4) The customs authorities have the right to demand the presence of persons concerned upon affixation and removal of customs seals by customs officials.

(5) Customs seals shall be affixed in a manner that prevents access to goods without damaging the seals or without leaving traces of tampering on commercial means of transport or warehouses. The manner in which customs seals are affixed shall exclude removal of the customs seals without damage thereto. Customs officials shall make notations on the customs documents concerning the affixation of customs seals.

(6) The procedure for affixation and removal of customs seals and the requirements for commercial means of transport or warehouses specified in subsection (1) of this section shall be established by the Government of the Republic.

(7) The possessors of commercial means of transport or warehouses shall notify the customs authorities of the break or loss of customs seals, traces of tampering on or other damage to the commercial means of transport or warehouses protected by customs seals at the first opportunity.

§ 31. Post-clearance examination

(1) Customs officials have, within their competence and on the basis of an authorisation granted by the Director General of the Customs Board or the head of a regional customs inspectorate, the right to examine the territories, buildings and structures belonging to persons involved in transactions with import, export or transit goods, other places connected with the storage, processing or marketing of such goods, and commercial means of transport belonging to them.

(2) At the request of the customs authorities, persons are required to submit all documents and correspondence concerning importation, exportation, transit, storage, processing, marketing and payment transactions with goods and to assist the customs authorities in inspection.

(3) The examination specified in subsection (1) of this section may be performed without prior warning outside the working time of the persons or the opening hours or hours of use of the territories, buildings, structures or other places connected with the storage, processing or marketing of goods. It is prohibited for customs officials to enter a dwelling without the permission of the persons residing therein.

Chapter 5

Customs Procedures

§ 32. General provisions

(1) At the request of a declarant, the customs authorities shall place goods entering or leaving the customs territory under one of the following customs procedures:

1. Upon the exportation of goods:
 - 1) exportation;
 - 2) exportation for outward processing with notification of intended re-importation;
 - 3) exportation subject to re-importation in an unaltered state;
 - 4) re-exportation;
 - 5) (Repealed - 13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)
 - 6) customs transit.
2. Upon the importation of goods:
 - 1) (Repealed - 13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)
 - 2) release for free circulation;
 - 3) importation for inward processing with notification of intended re-exportation;
 - 4) importation subject to re-exportation in an unaltered state;

- 5) re-importation;
- 6) processing under customs control;
- 7) customs warehousing;
- 8) customs transit.

(2) The Government of the Republic shall establish the rules for placing goods under customs procedures.

(3) A declarant is responsible for the application of customs procedure pursuant to the customs rules.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 33. Exportation of goods

(1) It is permitted to export goods after submission of a declaration of goods and requisite additional documents to the customs authorities and completion of other customs formalities prescribed in the customs rules.

(2) Customs clearance for the exportation of goods commences with the submission of a declaration of goods to the customs authorities and is completed with the making of a notation on the declaration of goods by a customs authority concerning release of the goods from customs supervision.

(3) Goods declared for exportation shall be removed from the customs territory within fifteen calendar days after acceptance of the declaration of goods by the customs authorities unless the customs rules prescribe otherwise. Upon expiry of the time limit, the declarant shall, within five calendar days after the date on which the time limit expires, apply to the customs authorities for annulment of the declaration of goods or extension of the time limit

for removal of the goods from the customs territory. The declarant is responsible for the exportation of goods and completion of customs clearance.

§ 34. Temporary exportation of goods out of customs territory

(1) Goods in free circulation which belong to persons permanently residing in Estonia may be temporarily exported out of the customs territory under the conditions and for the purposes specified in the customs rules under the following customs procedures:

- 1) exportation for outward processing with notification of intended importation;
- 2) exportation subject to re-importation in an unaltered state.

(2) Under the conditions prescribed in the customs rules, goods may be temporarily exported out of the customs territory with the permission of the customs authorities for up to one year from the date on which the goods are placed under the temporary exportation customs procedure or from the date on which permission for temporary exportation is granted. At the request of the declarant, the customs authorities may extend the time limit.

(3) Goods temporarily exported out of the customs territory shall be under customs supervision and, before expiry of the time limit for exportation, the goods shall be:

- 1) declared for re-importation;
- 2) declared for exportation.

(4) The customs authorities have the right to demand security from a declarant in order to ensure payment of the amount of a customs debt if re-importation does not take place.

(5) Unusable or destroyed goods shall be written off pursuant to the customs rules.

(6) A declarant is responsible for the exportation of goods and completion of customs clearance.

§ 35. Re-exportation or re-importation of goods

(1) Goods are placed under the customs procedure for re-exportation of goods after completion of the following customs procedures:

- 1) importation for inward processing with notification of intended exportation;
- 2) importation subject to re-exportation in an unaltered state;
- 3) customs warehousing.

(2) Goods are placed under the customs procedure for re-importation of goods after completion of the following customs procedures:

- 1) exportation for outward processing with notification of intended importation;
- 2) exportation subject to re-importation in an unaltered state.

(3) Upon re-exportation or re-importation, a declarant shall be responsible for the exportation or importation of goods, respectively, and for the completion of customs clearance.

§ 36. Temporary storage of goods

(Repealed - 13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 37. Release of goods for free circulation

(1) Goods may be released for free circulation after submission of the declaration of goods and requisite additional documents to the customs authorities and completion of other customs formalities prescribed in the customs rules.

(2) Goods may be released for free circulation immediately after the goods enter the customs territory or leave a free zone, after temporary storage of goods or completion of the following customs procedures:

- 1) (Repealed - 13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)
- 2) importation for inward processing with notification of intended re-exportation;
- 3) importation subject to re-exportation in an unaltered state;
- 4) processing under customs control;
- 5) customs warehousing;
- 6) customs transit.
- (3) (Repealed - 13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 38. Temporary importation of goods into customs territory

(1) Persons registered in Estonia may temporarily import goods belonging to persons who are outside of Estonia into the customs territory under the conditions and for the purposes specified in the customs rules under the following customs procedures:

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

- 1) importation for inward processing with notification of intended re-exportation;
- 2) importation subject to re-exportation in an unaltered state.

(1¹) Under the conditions specified in the customs rules, goods of persons registered in Estonia may be subjected to importation for inward processing with notification of intended re-exportation with the permission of customs authorities.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(2) Under the conditions specified in the customs rules, persons registered in Estonia may temporarily import, with the permission of the customs authorities, goods which are exempted from import duties in full or in part into the customs territory for up to one year from the date of application of the customs procedure for temporary importation or grant of

permission for temporary importation. The customs authorities may extend the time limit at the request of the declarant.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(3) Goods temporarily imported into the customs territory shall be under customs supervision and shall, after completion of the prescribed customs formalities and before the time limit for importation expires, be:

- 1) declared for re-exportation;
- 2) delivered to a free zone;
- 3) declared for release for free circulation;
- 4) declared for customs warehousing;
- 5) assigned to the customs authorities for transfer into state ownership;
- 6) destroyed under customs supervision.

(4) The customs authorities have the right to demand security from a declarant in order to ensure payment of the amount of a customs debt if re-exportation of goods does not take place. The declarant shall be responsible for the goods within the whole time limit for temporary importation and is required to ensure the preservation and storage conditions of the goods.

(5) The Minister of Finance shall establish the list of goods temporarily imported into the customs territory which are subject to re-exportation in an unaltered state.

(6) The Minister of Finance shall establish the nomenclatures and cost limits of goods imported for inward processing and the economic conditions for the issue of licences.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 39. Processing goods under customs control

(1) Upon the processing of goods under customs control, the nature or state of the goods brought into the customs territory shall be altered before release of the goods for free circulation. The customs authorities shall grant permission for processing under customs control at the written request of a person registered in Estonia who carries out processing or arranges for processing to be carried out.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(2) Goods imported for processing under customs control shall not be subject to import duties. Processed goods shall be subject to import duties upon their release for free circulation.

(3) The Government of the Republic shall establish the nomenclature of goods imported for processing under customs control and the list of applicable processing procedures.

§ 40. Customs warehousing of goods

(1) Goods entering or leaving the customs territory may be declared for customs warehousing in a customs warehouse where the goods are placed under customs supervision without the payment of import duties. In the cases prescribed in the customs rules, the customs authorities may permit declaration of goods for warehousing without placement of the goods in a customs warehouse. Customs warehousing shall be followed by placement of the goods under one of the following customs procedures:

- 1) (Repealed - 13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)
- 2) re-exportation;
- 3) release for free circulation;
- 4) importation for inward processing with notification of intended re-exportation;

- 5) importation subject to re-exportation in the unaltered state;
 - 6) customs transit as internal transit (carriage to another customs warehouse);
 - 7) processing under customs control.
- (2) A customs warehouse may be either available for use by any person (public customs warehouse) or reserved for specified persons (private customs warehouse). The customs authorities shall grant permission for the foundation of customs warehouses to persons registered in Estonia.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

- (3) The processing of goods in customs warehouses is prohibited. Processing is deemed not to include repair of the packaging of goods and assembly, sorting, and preparation for transportation or sale of goods. Assembly of goods means handling of goods in the course of which the quality or technical specifications of the goods remain unaltered.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

- (4) The duration of customs warehousing is not limited.
- (5) Customs warehouse keepers shall keep records of goods placed in the customs warehouses in a manner accepted by the customs authorities. Goods being declared for customs warehousing shall be entered in the warehouse stock records without delay after the arrival of the goods in the customs warehouse. Customs warehouse keepers shall provide security in order to ensure payment of customs debts that may incur. The customs authorities have the right to inspect goods in a customs warehouse and documents concerning the goods at all times.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(6) Customs warehouse keepers shall be liable for the intactness of goods admitted into a customs warehouse and correctness of warehouse stock records and for compliance with the conditions prescribed for customs warehouse keepers and warehouses by the customs rules.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(7) The Minister of Finance shall establish the conditions and procedures for foundation, operation and termination of customs warehouses.

(8) The right of ownership in goods admitted into a customs warehouse may be transferred from one person to another. A transfer of the right of ownership shall be stated in the warehouse stock records and shall be declared with the customs authorities by the declarant within five calendar days.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 41. Customs transit procedure of goods

(1) For the carriage of goods under customs supervision within the customs territory, the goods are placed under the following customs transit procedures:

1) through transit: from one customs office at the customs frontier to another customs office at the customs frontier;

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

2) inward transit: from one customs office at the customs frontier to an inland customs office;

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

3) outward transit: from an inland customs office to a customs office at the customs frontier;

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

4) internal transit: from one inland customs office to another inland customs office.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(2) The customs transit procedures shall be performed at the responsibility of the principal or a person determined by an international agreement.

(3) Goods placed under a customs transit procedure and the customs and accompanying documents thereof shall be presented at the customs office of destination within the period specified by the customs office of departure. Goods presented to the customs authorities at the customs office of destination shall be stored temporarily or assigned a customs treatment.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(4) The customs authorities have the right to demand security from the principal in order to ensure payment of the amount of a customs debt.

(5) Mandatory customs routes for goods in transit through Estonia shall be established in the customs rules.

Chapter 6

Customs Clearance

§ 42. General provisions

(1) The grant of permission for the importation or exportation of goods and placement of goods under a customs procedure shall be carried out in the course of customs clearance.

(2) As a rule, the following customs formalities shall be completed in the course of customs clearance:

1) completion of a customs declaration, presentation of a customs declaration and additional documents attached thereto to the customs authorities and their receipt and acceptance by the customs authorities;

2) sanitary, veterinary, phytosanitary and other examination of goods;

3) presentation of goods to the customs authorities;

3¹) temporary storage of goods;

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

4) customs examination of goods;

5) customs examination of means of transport;

6) customs examination of personal effects and travellers;

7) taking of samples and specimens from examined goods;

8) imposition of import and export duties;

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

9) payment of import and export duties or provision of security to the customs authorities;

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

10) release of goods.

(3) Procedures and transactions with goods brought into the customs territory are prohibited before the completion of customs clearance unless the customs authorities prescribe otherwise.

(4) The Government of the Republic shall establish the scope of customs clearance and procedures for carrying out customs formalities.

(5) Customs clearance shall not be completed before payment of the amount of a customs debt or provision of security in order to secure a customs debt.

(6) Upon application of a customs procedure, the customs authorities may, pursuant to the customs rules, permit simplified customs clearance on the basis of a partly completed declaration of goods in the form of a periodic declaration of goods or by replacement of a declaration of goods by other documents. Information specified in the documents used upon simplified customs clearance shall enable identification of the goods.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(7) In the case of simplified customs clearance, the date of acceptance of a partly completed declaration of goods or of the document replacing a declaration of goods is deemed to be the date of acceptance of the declaration of goods.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 43. Place and time of customs clearance

(1) Customs clearance shall be carried out in the places and at the times determined by the Director General of the Customs Board.

(2) At the written request of a declarant, customs clearance shall, in justified cases, be carried out as a customs service for an appropriate charge in the place agreed upon with the customs authority or outside of its usual working hours.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(3) In unforeseeable circumstances, the customs authorities shall resolve customs clearance issues independently, based on the specific situation and national interests.

(4) The Government of the Republic shall establish the list of customs services and the rates and procedure for payment of charges.

§ 44. Receipt and acceptance of customs declarations

1. (1) Upon the receipt of a customs declaration, the customs authorities shall check the identity of the person, the authorisation of the person and his or her authorisation for submission of a declaration for the particular goods.

(2) Customs authorities shall accept a customs declaration after the completeness of the information contained therein and the existence of additional documents prescribed in the customs rules are verified if the presentation of goods to customs authorities is ensured.

(3) After the acceptance of a customs declaration, customs authorities may request the submission of additional documents in order to specify the information presented in the customs declaration, may perform the customs examination and take samples and specimens of goods.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 44¹. Temporary storage of goods

(1) Goods which enter the customs territory from a foreign state are deemed to be temporarily stored from the acceptance of a general declaration until a customs treatment is assigned to the goods.

(2) Temporarily stored goods may be kept in a warehouse prescribed therefor (customs terminal) or in other storage facilities accepted by customs authorities. Customs authorities issue permissions to establish customs terminals or storage facilities to persons registered in Estonia. All persons bringing goods into the customs territory may temporarily store goods in a customs terminal; a storage facility is prescribed for specified users.

(3) In order to ensure a customs debt that may incur, customs authorities may demand a satisfactory security from the person who is responsible for the temporary storage of goods pursuant to the customs rules.

(4) Persons responsible for the temporary storage of goods shall be liable for the intactness of goods, correctness of records and for compliance with the conditions prescribed for such persons and storage facilities for goods by the customs rules.

2. (5) Persons responsible for the temporary storage of goods shall keep records of goods pursuant to procedure prescribed by the customs rules. Goods shall be entered in the records immediately after the arrival of the goods in the storage space. The customs authorities have the right to inspect the temporarily stored goods and documents concerning the goods at all times.

(6) Temporarily stored goods shall be assigned a customs treatment within fifteen calendar days as of the date of acceptance of a general declaration. Temporarily stored goods which are in transit through the customs territory may be kept in a customs terminal located in the territory of a port for up to sixty calendar days. The customs authorities may, at the written request of the person who submitted a general declaration or of another person concerned, extend the period of temporary storage of goods once, for thirty calendar days.

(7) Only such procedures may be performed with temporarily stored goods as are necessary for preservation of the same goods in the course of which the appearance or technical specifications of the goods remain unaltered.

(8) The Minister of Finance shall establish the conditions and procedure for the storage of temporarily stored goods.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 45. Sanitary, veterinary, phytosanitary and other examination of goods

(1) Procedures prescribed in legislation for determination of the conformity of goods which are to be or have been carried across the customs frontier to sanitary, veterinary and phytosanitary requirements and requirements prescribed in legislation, and for determination of any other state of the goods, as well as the safety of goods for people and the environment are inseparable components of customs clearance and shall be performed by corresponding examination authorities.

(1¹) Goods with regard to which there is reason to believe that they are counterfeit or pirated goods shall be assessed by:

1) the proprietor or a representative of the proprietor of the trade mark, or the holder or a representative of the holder of the rights of the proprietor of the trade mark, or;

1¹) the lawful user of the registered geographical indication, or

(15.12.1999 entered into force 10.01.2000 – RT I 1999, 102, 907)

2) the owner or a representative of the owner of the industrial design, or the holder or a representative of the holder of the rights of the owner of the industrial design, or;

3) the author or the representative of the author, or the holder or the representative of the holder of the rights of the author, or;

4) the holder or a representative of the holder of the rights related to the copyright.

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

(2) Based on legislation of the corresponding field, declarants shall submit documents concerning the conformity of goods to the requirements prescribed in such legislation to the customs authorities in the course of customs clearance.

§ 46. Customs examination of goods

- (1) The customs authorities shall arrange for the customs examination of goods in order to verify whether the name, origin, state, quantity and value of the goods are in accordance with the information set out in the customs declaration.
- (2) The declarant or a person authorised by the declarant has the right to be present at the customs examination of goods.
- (3) At the request of the customs authorities, declarants and keepers of customs terminals or customs warehouses are required to arrange, at their own expense and responsibility, for the carriage of goods subject to customs examination to the place prescribed or accepted by the customs authorities, for the unloading from and loading to commercial means of transport or transhipment of goods, the repair of damaged packaging, opening of packaging, and packaging and repackaging of goods; and to open rooms, containers and other warehouses that may contain goods subject to customs examination and to relocate commercial means of transport at the request of the customs authorities.
- (4) If a person refuses to perform the operations prescribed in subsection (3) of this section, the customs authorities shall perform the operations at the expense of the person.
- (5) Based on a partial examination of a lot of goods, the customs authorities may make a decision concerning the whole lot of goods. At the request of a declarant, the customs authorities may arrange for the customs examination of the whole lot of goods if there is reason to believe that the decision made on the basis of the partial customs examination cannot be extended to the whole lot of goods.

§ 47. Customs examination of means of transport

(1) The customs authorities may carry out the customs examination of means of transport entering, staying in and leaving the customs territory.

(2) Means of transport that cross the Estonian customs frontier are required to stop at the customs office at the customs frontier, or, in the absence thereof, to proceed directly to the designated customs office by the specified route. In the case of an unavoidable stop, the customs authorities or border guard shall be informed promptly.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(3) Officials of ports, post offices, railway stations and airports are required to inform the customs authorities in advance of the arrival and departure of any commercial means of transport and shall not permit the unloading, loading or transshipment of import and export goods or goods in transit without the permission of the customs authorities.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(4) Commercial means of transport registered in a foreign state are temporarily permitted to enter the customs territory, whereupon they are subject to removal from the customs territory in an unaltered state. The customs authorities may establish a time limit for removal of such commercial means of transport from the customs territory.

(5) Commercial means of transport registered in a foreign state that are temporarily staying in the customs territory shall not be used in internal transport.

§ 48. Taking of samples and specimens from examined goods

(1) The customs authorities have the right to take samples or have samples taken free of charge from goods examined for laboratory analysis or other examination. The quantity of

samples and specimens of goods taken shall not be greater than necessary for carrying out such operations.

(2) The customs authorities have the right to demand that the holder of goods or a representative of the holder of goods be present when samples and specimens are taken.

(3) The customs authorities shall inform the holder of goods in writing of the results of the examination, analysis and other such treatment of samples and specimens. Unused samples and specimens or the remaining samples and specimens shall be returned to the holder of the goods at the holder's request.

(4) The Government of the Republic shall establish the procedures for the taking and examination of samples and specimens and for the use of remaining samples and specimens.

§ 49. Provision of security to customs authorities

(1) The customs authorities may require the provision of security that satisfies the customs authorities to ensure payment of a customs debt that is or may be incurred. The amount of security shall not exceed the amount of the customs debt. A person who has incurred or who may incur a customs debt shall provide security to the customs authorities.

(2) No security is required from state agencies.

(3) The customs authorities require the provision of a single security for the customs clearance of one customs procedure. At the request of a person registered in Estonia, the customs authorities shall allow provision of a comprehensive security to cover several customs procedures.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(4) The customs authorities shall accept a document certifying payment to the bank account of the Customs Board, or a guarantee document issued by a guarantor or surety to a

person registered in Estonia as security. Persons required to provide security to the customs authorities are free to choose between several types of security.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(5) A guarantor or surety is a third person approved by the customs authorities who is registered in Estonia. A guarantor or surety shall issue a guarantee document whereby the guarantor or surety undertakes to pay solidarily with the person who incurs a customs debt the secured amount of the customs debt at the first request of the customs authorities.

(6) The customs authorities may refuse to accept security provided by a guarantor or surety if:

- 1) in the opinion of the customs authorities, the guarantor or surety is not reliable to ensure payment of the customs debt;
- 2) the amount specified in the guarantee document is insufficient to ensure payment of the customs debt.

(7) The customs authorities shall return the amount of security paid to the bank account of the Customs Board as a deposit within ten calendar days after submission of a corresponding application and certification of the performance of the obligation to the customs authorities with a customs document.

(8) If the customs authorities do not require security to be provided, they may require a person to undertake in writing to pay the amount of a customs debt at the first request of the customs authorities.

(9) The Minister of Finance shall establish the procedures for provision and release of security and the methodological bases for determination of the amount of security.

§ 50. Release of goods

Release of goods is a customs formality whereby goods are delivered to the disposal of the holder. Release of goods does not exclude leaving goods under customs supervision if this is prescribed in the rules concerning placement of goods under customs procedures.

§ 51. Customs examination of personal effects

(1) Customs officials have the right to require that travellers crossing the customs frontier and staying in the customs control zone present their personal effects, currency and securities subject to customs control pursuant to subsection 60 (2) of this Act for customs examination and customs officials have the right to examine them. A person under examination shall present his or her baggage and means of transport to a customs official and unpack the baggage on the order of a customs official.

(2) Customs examination of personal effects shall be conducted in the presence of the owner or his or her authorised representative. If the owner of personal effects cannot be identified or if he or she refuses to be present at the customs examination, the personal effects may be examined in the presence of two impartial witnesses on the order of the senior officer of the shift of the customs office without the presence of the owner or his or her authorised representative.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(3) The customs authorities shall carry out the examination of the personal effects of a person staying in the transit area of a port or airport if there is reason to believe that the person possesses goods the importation, exportation or transit through the customs territory of which is prohibited or subject to an authorisation.

§ 52. Customs examination of travellers

(1) Before the examination of a traveller, a customs official of the same sex may externally feel the clothes of the person under examination in order to ascertain whether he or she carries articles which are prohibited or require an authorisation and are subject to declaration but have not been presented.

(2) If there is reason to believe that a persons crossing the customs frontier or staying in the customs control zone is hiding goods subject to customs control on or in the body, the customs examination of the person may be performed on the order of the senior officer of the shift of the customs office. If, in the course of the customs examination of the traveller, goods subject to declaration which have not been presented to the customs authorities are discovered, the activity of the traveller examined is deemed to be an unlawful carriage of goods across the customs frontier.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(3) The customs examination of a traveller shall be performed in a separate room by an authorised person of the same sex as the person under examination in the presence of two impartial witnesses of the same sex. At the request of a person under examination, a witness chosen by him or her from the persons present shall be present at the examination.

(4) The customs examination of travellers shall be performed and formalised pursuant to the procedure established by the customs rules.

(5) Before the customs examination of travellers, customs officials are required to present their identification and introduce the procedure for customs examination of travellers.

(6) During the customs examination of a traveller, a customs official has the right to:

- 1) demand that the traveller get undressed and examine him or her by observation;
- 2) search the items of clothes of the traveller;

3) send the traveller to a medical institution for bodily examination in the presence of a customs official if the customs official suspects that goods may be in the body of the traveller.

(7) A traveller under examination shall answer questions posed to him or her in the event of doubt as precisely as possible, and is required to comply with the orders of customs officials given in order to discover hidden goods.

(8) The Government of the Republic shall establish the customs rules for travellers.

§ 53. Customs clearance of postal consignments

(1) The customs examination of postal consignments containing goods which arrive from foreign states shall be performed at post offices before delivery of the postal consignments to the addressees, and the customs examination of postal consignments to be sent to foreign states shall be carried out after or upon receipt of the postal consignments at the post office.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(2) Goods contained in a postal consignment the importation or exportation of which is prohibited or restricted by the requirement to apply for an authorisation shall be returned to the consignor at the consignor's expense or seized by the customs authorities of which the consignor shall be notified, if the corresponding documents have not been presented to the customs authorities.

(3) The customs clearance of postal consignments is performed pursuant to the customs rules.

Chapter 7

Customs Preferences

§ 54. General provisions

(1) Goods admitted to the customs territory with customs preferences may be used only for the purposes for which the customs preferences are established. The use of such goods for other purposes is permitted only after completion of the customs formalities arising from the new purposes of use and after payment of import duties.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(2) Goods which enter the customs territory of Estonia and which are exempted from import duties on the basis of an Act concerning a tax are deemed to be goods admitted to the customs territory with customs preferences.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 55. Customs clearance applicable to units of armed forces and border guard

(1) The customs authorities shall not examine the warships, military aircraft and other military equipment which perform the functions of the armed forces of the Republic of Estonia, the vessels and aircraft which perform the functions of the border guard, the means of transport and equipment which perform the functions of the rescue service units and the personal effects of the personnel who perform their duties unless the customs authorities have reason to believe that the personal effects contain goods not intended for personal consumption. The commander of a unit shall declare the crossing of the customs frontier pursuant to the procedure prescribed in the customs rules.

(2) In the cases not specified in subsection (1) of this section, the means of transport, goods and personal effects of the personnel of units of the armed forces, border guard and rescue service shall be subject to customs control under a simplified procedure. The Government of the Republic shall establish the procedure for customs clearance of means of transport, goods and personal effects of the personnel of units of the armed forces, border guard and rescue service.

(3) The commander of a unit of the armed forces, border guard or rescue service crossing the customs frontier shall be responsible for compliance with the requirements prescribed in the customs rules.

(4) The customs control of warships, military aircraft and other military means of transport, means of transport and equipment of rescue service units of foreign states, and the personal effects of members of the military and rescue service units of foreign states shall be performed pursuant to the customs rules or international agreements.

§ 56. Customs clearance of goods of foreign diplomatic missions

(1) The Government of the Republic shall establish the procedure for customs clearance of goods belonging to foreign diplomatic missions and intended for internal use in such missions which are to be or have been carried across the customs frontier.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(2) Goods of foreign diplomatic missions intended for internal use in such missions are exempt from import and export duties.

§ 57. Customs clearance of diplomatic mail and consular consignments of foreign states and Republic of Estonia

(1) Diplomatic mail and consular consignments which have been or are to be delivered across the customs frontier shall not be opened or detained. If there is serious reason to believe that consular consignments contain goods not specified in subsection (2) of this section, the customs authorities have the right to ask the addressee or an authorised person of the sending state to open the consignment in the presence of a customs official. Upon refusal to open the consignment, the consignment shall be returned to the place of departure at the expense of the sender.

(2) Diplomatic mail and consular consignments may contain only documents and goods intended for internal use.

(3) All packages of diplomatic mail and consular consignments shall be marked with clearly visible external marks indicating their contents.

(4) A special customs declaration concerning diplomatic mail and consular consignments signed by a diplomat shall be prepared and submitted to the customs authorities. The required customs formalities shall be completed according to the customs rules.

§ 58. Customs preferences for staff of diplomatic missions and representations of international organisations

(1) Customs preferences provided for in international agreements apply to the staff of foreign diplomatic missions, consular posts and representations of international organisations located in Estonia, and to members of parliamentary and governmental delegations of foreign states.

(2) Property belonging to the staff of diplomatic missions and consular posts of the Republic of Estonia to be carried across the customs frontier in connection with the sending of such persons on an assignment abroad of a duration of at least twelve months or in

connection with their return from an assignment abroad of a duration of at least twelve months shall not be subject to import and export duties unless otherwise prescribed by an Act concerning a tax. The Government of the Republic shall establish the rules for customs clearance of goods belonging to foreign diplomatic missions and consular posts which are intended for private use and which are to be or have been carried across the customs frontier.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

§ 59. Customs preferences on carriage across customs frontier of estate and property of persons relocating

(1) An estate to be carried across the customs frontier to the disposal of a successor is not subject to import or export duties unless otherwise prescribed by an Act concerning a tax.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(2) Property which has been in the ownership of a person relocating for longer than six months and is carried across the customs frontier in connection with permanent settlement shall be exempted from import and export duties on the basis of a corresponding application submitted to customs authorities unless otherwise prescribed by an Act concerning a tax. Property of a person relocating may be carried across the frontier within twelve months as of the date of submission of the application.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(3) The property specified in subsections (1) and (2) of this section shall be subject to import or export duties if it becomes evident from the nature and quantity of the property that the goods are imported or exported for commercial purposes.

(4) The Minister of Finance shall establish the procedures for determination of the estate and property of persons who are relocating and the scope of customs clearance and completion of customs formalities thereof.

§ 60. Customs preferences to the Bank of Estonia and customs clearance of currency and securities

(1) The property necessary for the issue of money and guarantee of the stability of the national currency which is carried across the customs frontier by the Bank of Estonia shall not be subject to import or export duties. The Government of the Republic shall approve the list of such property.

(2) Currency and securities carried across the customs frontier shall not be subject to import or export duties and the customs clearance thereof shall be carried out pursuant to the procedure established by the Bank of Estonia.

Chapter 8

Imposition of Customs Duties

§ 61. General provisions

(1) Goods to be carried across the customs frontier of Estonia shall be subject to import or export duties pursuant to law.

(2) If import and export duties are assessed on the basis of the value of goods (*ad valorem*), the customs value of goods shall be determined pursuant to the Customs Valuation Act.

(3) In order to take account of newly discovered facts, the customs authorities have the right to adjust imposed import and export duties on their own initiative or at the request of persons concerned within three years after imposition of such duties. Customs authorities have the right not to adjust import or export duties if the amount to be returned or collected as a result of the adjustment is less than 200 kroons.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731

§ 62. Customs debt

(1) A customs debt is incurred on importation of goods as of the date of:

1) acceptance of the declaration of goods by the customs authorities if goods liable to import duties are released for free circulation or are permitted to be temporarily imported under the conditions of a commercial lease or if goods exported for outward processing are being re-imported. The debtor is the declarant and the person on whose behalf the declaration of goods is made;

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731

2) carriage of the goods across the customs frontier or discovery thereof if goods liable to import duties are unlawfully carried across the customs frontier or from a free zone to elsewhere in the customs territory. The debtor is the person who unlawfully carried the goods across the customs frontier or from a free zone to elsewhere in the customs territory, and the person who participated in the unlawful carriage of such goods across the customs frontier or from a free zone to elsewhere in the customs territory or acquired or held goods that were unlawfully carried across the customs frontier or from a free zone to elsewhere in the customs territory;

3) unlawful removal of the goods from customs supervision or discovery thereof if the goods are unlawfully removed from customs supervision. The debtor is the person who unlawfully removed the goods from customs supervision, the person who is liable for payment of the amount of the customs debt and the person who participated in the unlawful removal of such goods from customs supervision or acquired or held goods unlawfully removed from customs supervision;

4) consumption or use of goods liable to import duties in a free zone if such goods were consumed or used under conditions other than those prescribed in this Act or other legislation. The debtor is the person who is required to meet the condition which was not met when such goods were consumed or used.

(2) A customs debt is incurred on exportation of goods as of the date of:

1) acceptance of the declaration of goods by the customs authorities if goods liable to export duties are exported out of the customs territory. The debtor is the declarant and the person on whose behalf the declaration of goods was made;

2) carriage of the goods across the customs frontier or discovery thereof if goods liable to export duties are unlawfully carried across the customs frontier. The debtor is the person who unlawfully carried the goods across the customs frontier and the person who participated in the unlawful carriage of such goods across the customs frontier.

(3) If several persons are debtors, they are solidarily liable for payment of the amount of a customs debt.

§ 63. Payment of import and export duties

(1) Import and export duties shall generally be paid in the course of customs clearance on the basis of declarations of goods accepted by the customs authorities. The customs

authorities may extend the time limit for payment of duties in the cases and pursuant to the procedure prescribed in the customs rules.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(2) Extension of the time limit for payment of duties shall be granted on the condition that the applicant provides security to the customs authorities.

(3) If simplified customs clearance is applied upon placing goods under a customs procedure, import or export duties shall be paid during the term prescribed by the rules concerning placement of goods under customs procedures.

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(4) The amount of import and export duties subject to payment shall be determined on the date on which the customs debt is incurred, under the conditions and pursuant to the procedure provided by tax legislation in force.

(5) Upon failure to pay the amount of a customs debt by the due date, the customs authorities shall collect the amount under the conditions and pursuant to the procedure provided for in the Taxation Act (RT I 1994, 1, 5; 1996, 35, 714; 49, 953; 78, 1379; 81, 1447; 1997, 24, 363; 29, 447; 48, 778; 51, 822; 73, 1201; 77, 1313; 1998, 86/87, 1409).

(6) The Minister of Finance shall establish the procedures for payment and adjustment of import and export duties.

§ 64. Accrual of import and export duties and fees charged for customs services

Import and export duties and fees charged for customs services shall accrue to the Customs Board, which shall transfer them to the state budget.

Chapter 9

Violation of Customs Rules

§ 65. List of violations of customs rules

(1) Violations of the customs rules are:

- 1) failure to comply with the customs regime requirements;
- 2) serious failure to comply with the customs regime requirements;
- 3) unlawful carriage of goods across the customs frontier, failure to carry goods across the customs frontier, or performance of operations and transactions with goods under customs supervision without the permission of the customs authorities.

(2) Failure to comply with the customs regime requirements is:

- 1) failure to stop a means of transport in the place prescribed in the customs rules or at the signal of a customs official on duty;
- 2) driving a means of transport under customs clearance without the permission of the customs authorities;
- 3) hindrance of a customs official in the performance of customs examination;
- 4) intentional failure to carry out the lawful demands or orders of a customs official by a natural person;
- 5) coming alongside of a vessel under customs clearance without the permission of the customs authorities;
- 6) deviation from a customs route or prescribed route when moving to the customs office of destination;
- 7) failure by port, railway or airport officials to give advance notice to the customs authorities of the arrival or departure of a commercial means of transport;

8) exceeding the time limit for presentation of goods and customs documents to the customs office of destination in customs transit;

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

9) use of a commercial means of transport registered in a foreign state which is temporarily in the customs territory for internal transport;

10) exceeding the storage period of temporarily stored goods;

(13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

11) failure to comply with the requirements established by the customs authorities concerning the storage of goods in customs terminals or customs warehouses and the keeping of records of goods;

12) failure to submit customs documents necessary for customs clearance to the customs authorities within the set time limit;

13) failure to perform acts by virtue of unforeseeable circumstances.

(3) A serious failure to comply with the requirements of the customs regime is:

1) intentional failure by a legal person to comply with the lawful demands or orders of a customs official;

2) avoidance of supervision over the conformity with sanitary, veterinary and phytosanitary requirements and requirements provided by legislation, and other supervision of the state of goods provided for in the customs rules;

3) exceeding the time limit for re-exportation or re-importation of goods brought into or removed from the customs territory temporarily;

4) tampering with or unauthorised removal of a customs seal or unlawful entry into a commercial means of transport or warehouse protected by a customs seal;

- 5) opening, re-packaging, transshipment or unloading of cargo under customs supervision without the permission of the customs authorities;
 - 6) admittance of goods for storage in a customs terminal or customs warehouse, and release of goods from a customs terminal or customs warehouse in violation of the customs rules, or the non-conformity of goods or the quantity of goods stored in a customs terminal or customs warehouse with the stock records or customs documents;
 - 7) economic activities and the construction of buildings or structures in a free zone without the written permission of the customs authorities;
 - 8) retail sale of goods in a free zone, except for provision of catering services for persons working therein;
 - 9) failure to submit documents necessary for customs control to the customs authorities, submission of documents containing false information, or invalid or falsified documents;
 - 10) sale or transfer in another manner of released goods under a customs procedure under which the goods are not subject to import duties, in violation of the conditions of the permission granted by the customs authorities, and the performance of transactions with such goods;
 - 11) issue of documents containing false information which certify the origin of goods to be exported out of the customs territory in order to obtain customs preferences in other states on the basis of the general system of preferences or an international agreement;
 - 12) failure to comply with the time limits for keeping customs documents.
- (4) The unlawful carriage of goods across the customs frontier, failure to carry goods across the customs frontier or performance of operations and transactions with goods under customs supervision without the permission of the customs authorities is:

1) carriage of goods across the customs frontier or failure to do so in any secret or other fraudulent manner in avoidance of customs control, or the loading, carriage, storage or acquisition of such goods (in the absence of the elements of a criminal offence);

2) carriage across the customs frontier of forbidden goods, carriage across the customs frontier of goods requiring an authorisation without such authorisation, or the loading, carriage, storage or acquisition of such goods (in the absence of the elements of a criminal offence);

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

3) failure to declare goods being carried or to be carried across the customs frontier which are subject to declaration, failure to submit the documents certifying declaration of such goods or the declaration of such goods under a false name or numerical code of goods, including goods transported as through transit, or the declaration of false information about the declarant of goods or consignee (in the absence of the elements of a criminal offence);

4) use of goods brought into the customs territory with customs preferences in breach of the conditions of preferences (in the absence of the elements of a criminal offence);

5) performance of operations and transactions with goods under customs supervision without the permission of the customs authorities;

6) absence of a licence, quality certification or document certifying conformity with the prescribed requirements upon importation or exportation of goods if the requirement for such documents is prescribed in legislation;

7) unlawful bringing of goods into or removal of goods from a free zone.

§ 66. Subject of violation of customs rules

Legal persons and natural persons who have attained at least fifteen years of age are held liable for violation of the customs rules.

§ 67. Liability for violation of customs rules

(1) The customs authorities may initiate a proceeding within seven years after the date of violation and impose a punishment within two years after the date of discovery of a violation of the customs rules.

(2) Both legal persons and natural persons are liable for violation of the customs rules pursuant to § 69 of this Act unless the violation results in the criminal liability of a natural person.

(3) If a natural person acting on behalf or in the interests of a legal person violates the customs rules, punishment in such matter may be imposed on the natural and legal person at the same time within the limits of the prescribed sanction.

(4) A person who participates in a violation of the customs rules as an organiser, instigator or facilitator or knowingly finances such violation is held liable on the same basis as the person who committed the offence.

(5) A person who violates the customs rules in an emergency situation, in a state of mental incompetence or upon carriage of cargo under control is not held liable.

(6) Upon the imposition of a punishment for a violation of the customs rules, the gravity and nature of the violation, the personality of the offender and mitigating and aggravating circumstances shall be considered.

§ 68. Preparation of report

(1) Customs, police and border guard officials shall prepare a report on a violation of the customs rules provided for in § 65 of this Act, which shall set out the date and place of preparation thereof, the name and address of the agency in whose name the report is prepared, the official title, given name and surname of the person who prepared the report, the name and address of the offender of the customs rules (in the case of a legal person, state agency, local government agency or international organisation, the given name and surname and official title of the representative of the person who violated the customs rules), the place, date and description of the violation of the customs rules, a reference to clauses 65 (2), (3) or (4) of this Act which prescribe liability for violation of the customs rules, the explanation provided by the offender or his or her representative, and other information necessary for determination of the matter.

(2) The person who prepared the report and the offender of the customs rules or the offender's representative shall sign the report. If the offender of the customs rules or the offender's representative refuses to sign the report, a corresponding entry shall be made therein. Written notations of the offender of the customs rules or the offender's representative concerning the report and on refusal to sign the report shall be appended to the report.

§ 69. Punishment for violation of customs rules

(1) A fine of up to 5 000 kroons or administrative detention for up to twenty days is imposed on a natural person for failure to comply with the customs regime requirements in the cases specified in clauses 65 (2) 1)–7) of this Act.

(2) If a legal or natural person:

1) fails to comply with the customs regime requirements in the cases specified in clauses 65 (2) 8)–13) of this Act, a fine of up to 10 000 kroons is imposed on the person or, in the case of a natural person, administrative detention for up to thirty days is imposed;

2) seriously fails to comply with the customs regime requirements in the cases specified in subsection 65 (3) of this Act, a fine of up to 100 000 kroons is imposed on the person or, in the case of a natural person, administrative detention for up to thirty days is imposed;

3) unlawfully carries goods across the customs frontier, fails to carry goods across the customs frontier, or performs operations and transactions with goods under customs supervision without the permission of the customs authorities in the cases specified in subsection 65 (4) of this Act, a fine of up to the threefold value of the goods which are the direct object of the violation is imposed.

(3) Administrative court judges, the Director General of the Customs Board, his or her deputy, the heads of regional customs inspectorates and customs officials authorised by them have the right to hear matters concerning violations of the customs rules and impose punishments therefor.

(4) The following persons have the right to hear matters concerning violations of law specified in clause 65 (2) 6) and to impose punishments therefor:

1) police prefects and deputy police prefects;

(13.05.98 entered into force 19.06.98 - RT I 1998, 51, 756)

2) The Director General of the Border Guard Administration, his or her deputy, the heads of regional border guard units and border guard officials authorised by them.

(13.05.98 entered into force 19.06.98 - RT I 1998, 51, 756)

(5) The persons specified in subsection (3) of this section may hear matters concerning violations of the customs rules for which a police officer or border guard official shall prepare a report pursuant to § 65 of this Act.

(6) Customs, police and border guard officials have the right to prepare a report concerning a violation of the customs rules pursuant to this section and § 65 of this Act.

(7) Customs and border guard officials may impose and collect fines of up to 2050 kroons at the place of violation of the customs rules.

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

(8) In the case of a violation specified in clause (2) 3) of this section, the customs authorities may seize the goods which are presumed to be the direct object of the violation of the customs rules. Objects, substances and other assets subject to mandatory seizure by the customs authorities shall be provided in subsection 238 (1) of the Code of Administrative Offences. Application of seizure is not connected to the imposition of a punishment. Seizure may be applied regardless of the fact to whom the seized objects, substances or other assets belong or whether the legal holder thereof is identified.

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

(9) The sanctions prescribed in subsections (1) and (2) of this section are applied and may be appealed pursuant to the rules of procedure provided for in the Code of Administrative Offences (RT 1992, 29, 396; RT I 1997, 66-68, 1109; 73, 1201; 81, 1361 ja 1362; 86, 1459 ja 1461; 87, 1466 ja 1467; 93, 1561, 1563, 1564, 1565; 1998, 2, 42; 17, 265; 23, 321; 30, 410; 34, 484; 36/37, 552, 553; 38, 562; 51, 756; 52/53, 771; 51, 759; 60, 951, 952; 64/65, 1004; 86/87, 1409; 98/99, 1574; 103, 1695; 108/109, 1783; 1999, 4, 53; 10, 149, 156).

§ 70. Liability for preparation of violation of customs rules and attempt of violation

- (1) The preparation of a violation of the customs rules is an intentional act committed by the offender to create conditions for the violation of the customs rules.
- (2) An attempt to violate the customs rules is an intentional act the purpose of which is to violate the customs rules which is not carried out regardless of the intent of the offender.
- (3) Punishments for preparation of a violation of the customs rules and for attempts of violation are imposed pursuant to the provisions of this Act which prescribe liability for the corresponding violation of the customs rules.

§ 71. Requirement to submit documents

A customs official processing a particular violation of the customs rules is competent to require submission of documents necessary for determination of the matter. The person who is required to submit documents shall submit the documents without charge within ten calendar days from the moment the request is received.

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

§ 72. Inspection

- (1) A customs official processing a particular violation of the customs rules who has sufficient information that goods which constitute the object of a violation of the customs rules, specific storage space for the concealed carriage of such goods across the customs frontier or documents revealing violation of the customs rules may be found on the territory of a person or in the rooms or means of transport belonging to the person, has the right to inspect the territory, rooms or means of transport on a written order of the head of the

customs authority in the presence of a representative of the administration and impartial witnesses, and to involve experts of the corresponding field if necessary.

(2) The results of an inspection shall be formalised in an inspection report, a copy of which shall be delivered to the appropriate person or his or her representative within forty-eight hours.

§ 73. Inspection of compliance with customs rules in economic activities

A customs official processing a particular violation of the customs rules may inspect compliance by a person with the customs rules in the economic activities of the person. The results of such inspection shall be formalised in a statement and communicated to the person under inspection after the completion of the inspection.

§ 74. Detention of goods and means of transport by customs, police and border guard officials

(1) In the case of a violation of the customs rules, customs, police and border guard officials have the right to detain the following until execution of a decision on the violation of the customs rules:

- 1) the goods and means of transport which are the direct object of the violation;
- 2) the goods and means of transport connected with the violation of the customs rules established in the course of customs control;
- 3) the means of transport with which the customs rules were violated within one year before the detention if no punishment was imposed on the offender therefor and the means of transport has not been transferred into the possession of an owner in good faith, unless otherwise provided for in subsection 69 (8) of this Act.

(2) The goods and means of transport specified in subsection (1) of this section which are detained by police or border guard officials shall be transferred to the customs authorities by the officials. Competent officials of the transferor and transferee shall prepare a statement concerning the transfer.

(3) Goods or means of transport detained by customs, police or border guard officials for which no decision on seizure is made but which the holder fails to reclaim within one month after a decision concerning the violation of the customs rules is made shall be sold pursuant to § 77 of this Act.

(4) Goods and means of transport unlawfully detained by customs, police or border guard officials shall be returned to the holder, who shall be compensated for damage.

§ 75. Preliminary investigation

(13.05.98 entered into force 19.06.98 - RT I 1998, 51, 756)

(1) The customs authorities are pre-trial investigation authorities in matters concerning violation of the customs rules and they shall operate in their activities pursuant to legislation regulating criminal procedure.

(13.05.98 entered into force 19.06.98 - RT I 1998, 51, 756)

(2) If elements of a criminal offence which are not connected with a violation of the customs rules are discovered in the course of customs control, the head of the customs authority or a customs official substituting for him or her shall notify the preliminary investigation authority under whose jurisdiction the investigation of the criminal offence falls and shall take measures to preserve evidence and physical evidence of the criminal offence and to detain the suspect.

§ 76. Enforcement of administrative punishments

(1) Fines imposed for violation of the customs rules shall be collected pursuant to the procedure established in the Code of Administrative Offences and the Code of Enforcement Procedure (RT I 1993, 49, 693; 1997, 43/44, 723; 1998, 51, 756; 61, 981; 103, 1695).

(2) Goods for which a decision on seizure is made shall promptly be transferred into the ownership of the state free of charge.

(21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

(3) Fines imposed for violation of the customs rules accrue to the state budget.

(4) If a decision on seizure is annulled, the seized goods and means of transport shall be returned to their holder or the holder shall be compensated for damage caused in the amount of the sum obtained from the sale.

§ 77. Sale of seized or abandoned goods

(1) Goods or means of transport for which a decision on seizure has entered into force or whose owner has not been established within one month after the date of seizure thereof by the customs authorities or which the holder has not reclaimed from the customs authorities within the time limit provided for in § 74 of this Act, or goods or means of transport which are the direct object of a violation of the customs rules specified in subsection 65 (4) and if the offender does not appear at the customs authority within ten calendar days after the date on which the violation is discovered shall be sold at a customs auction or in some other manner, or shall be sent back to a foreign state under the conditions provided by an international agreement. Highly perishable goods may be sold within a shorter time limit.

(2) The sale of goods or means of transport specified in subsection (1) of this section in any other manner than by auction shall be effected pursuant to the procedure established by

the Government of the Republic. It is permitted to transfer such goods and means of transport free of charge to health care institutions and social welfare institutions.

(3) Seized goods of cultural value, except pirate copies, shall be transferred free of charge to a state museum specified by the Ministry of Culture. Seized public records of archival value and private records entered in the archives register shall be transferred without charge to the public archives designated by the State Archivist.

(25.03.98 entered into force 01.05.98 - RT I 1998, 36/37, 552; 21.01.99 entered into force 15.02.99 - RT I 1999, 10, 156)

(3¹) Goods specified in subsection (1) of this section which belong among protected species or are subject of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (RT II 1993, 27/28, 83) shall be transferred without charge to the agency designated by the Ministry of the Environment.

3. (13.10.99 entered into force 31.10.99 – RT I 1999, 79, 731)

(4) The organiser of a customs auction or the person to whom the goods or means of transport specified in subsections (1) and (3) of this section are sold shall, within ten calendar days from the date of the customs auction or sale in some other manner, make a declaration of goods for release of the goods for free circulation. If goods or means of transport are sold in any other manner than by auction, the amount accrued from the sale shall be transferred to the state budget after deduction of storage and transport costs whereupon the storage and transport costs shall be paid in an amount up to the amount obtained from the sale.

(5) Seized or abandoned goods which cannot be sold shall be destroyed at the expense of the person who attempted to carry such goods across the customs frontier. If the person who attempted to carry such goods across the customs frontier cannot be ascertained, the goods

shall be destroyed at the expense of the state. A statement concerning destruction shall be prepared and approved by the Director General of the Customs Board.

(6) The owner or holder of goods or a means of transport shall retain the right to reclaim from the customs authorities the amount transferred to the state budget after the deductions specified in subsection (4) of this section are made within one month after the sale of the goods or means of transport if the owner thereof could not be established within one month after the date on which the violation of the customs rules was discovered, or if the holder did not reclaim such goods or means of transport from the customs authorities within the time limit provided for in § 74 of this Act.

§ 78. Customs auction

(1) The goods specified in subsection 77 (1) of this Act shall be sold at a customs auction unless the customs rules provide otherwise.

(2) The Minister of Finance approves the regulations for organisation of customs auctions.

(3) Six per cent of the amount obtained from the sale of goods at a customs auction shall accrue to the organiser of the customs auction. The remaining amount shall be transferred to the state budget after the deduction of storage and transport costs.

§ 79. Consignments under surveillance

In order to combat organised crime, the Customs Board has the right to allow consignments containing goods which are being or have been carried across the customs frontier to arrive unhindered at their destination under customs surveillance (carriage under surveillance method), in co-ordination with the Police Administration.

Chapter 10

Implementing Provisions

§ 80. Repeal of Act

The Customs Act (RT I 1993, 62, 891; 76, 1129; 1994, 30, 466; 1995, 20, 297; 1996, 83, 1487) is repealed.
