

Chapter Two

Investigation of Smuggling

Article 179:

A- In enforcing the provisions of this Law and combating smuggling, authorized Department's Officials shall be entitled to inspect goods and means of transport and to search people in accordance with the provisions of this Law and other Laws in effect. Drivers of means of transport shall comply with the orders of customs officials and judicial police, who are entitled to use all the necessary means to stop vehicles whose drivers do not comply with orders.

B- Females may be searched by females only.

C- In the presence of sufficient evidence about smuggled goods, authorized customs officials and public security forces shall have the right to search houses, stores or other places. However residences may be searched only in the presence of the "mukhtar" or two witnesses, and by permission of the public prosecutor.

D- The criminal prosecution of customs judicial police officers for work related crimes shall only be by approval of a committee of:

1- Two civil judges appointed by the Judiciary Council.
One of the appointed judges, who shall chair the committee, must enjoy at least a special rank.

2- A representative of the Department appointed by the Minister.

3- The committee decisions shall be reached by unanimity or majority vote, and shall be conclusive.

Article 180: The Department's officials may board all ships anchored at local ports, or incoming or outgoing therefrom, and to remain on board until cargo is completely unloaded. They may also order opened compartments, cabins, cupboards and parcels on board, and may lead-seal restricted goods, or

goods subject to exorbitant duties, or ascertained prohibited goods as provided for in Article 2 of this Law, and may ask the ship master to submit a list of such goods upon entry to the port.

Article 181: The Department's officials may board ships within the customs territory for search purposes, and may ask for the cargo declaration-manifest- and other documents required under the provisions of this Law. If the documents are not submitted, or are unavailable, or if there is reason to suspect the presence of smuggled or prohibited goods of the kinds mentioned in Article 2 of this Law, customs officials shall have the right to take all the necessary measures- including the use of force- to seize the goods and bring the ship to the nearest customs port.

Article 182:

A- Smuggling and customs offenses may be investigated and goods may be seized as follows:-

- 1- Within the land and maritime customs territory.
- 2- In the customs premises, ports and airports, and generally in all areas subject to customs control, including public and private warehouses.
- 3- Outside the land and sea customs territory, but only in cases involving the pursuit and chase of goods first observed within the customs territory under circumstances suggestive of intent to smuggle.

B- In the case of goods other than the ascertained prohibited goods and goods subject to exorbitant duties, customs officials may investigate and verify smuggling offenses and seize goods outside the areas designated in paragraph (A) of this Law, only if they possess evidence about smuggling written in a preliminary verbal process. Customs officials shall not be held responsible for seizures carried out according to the provisions of this Law, if the offenses are not subsequently confirmed, unless gross negligence is committed.

C- The ascertained prohibited goods, prohibited goods, or the goods subject to exorbitant duties, and other goods ascertained by the Director's decision according the provisions of Article 2 of this Law shall be considered to be smuggled unless otherwise proven, if the owners and carriers fail to present the proofs required by the Director.

Article 183:

A- Department's officials charged with verification and investigation may review bills of lading, invoices, commercial correspondence, contracts, records and any other document directly or indirectly related to customs formalities. If necessary, Department officials may seize documents from any entity whose work relates to customs operations, which entities shall maintain the such records and documents for a period of three years.

B- Authorized Department officials may arrest without a warrant any persons caught in flagrant crime.

Title Thirteen

Customs Cases

Chapter One

Verbal Processes and their Applicable Procedures

Article 184: Smuggling crimes and customs offenses shall be recorded in a verbal process prepared according to the procedures stipulated in this Law.

Article 185:

A- The verbal process shall be prepared by at least two members of the Customs Department or the judicial police or any other official entity, as soon as possible after the customs offense or the smuggling crime is discovered. If necessary, the verbal process may be prepared by one official only.

B- Smuggled goods, or goods used in concealing the offense or the smuggling crime, and the means of transport thereof, shall be brought to the nearest customs house, if possible.

Article 186: The verbal process shall include the following:-

A- The Place, date and time of its preparation in letters and numbers.

B- The names, signatures, ranks and jobs of those who prepare the verbal process.

C- The names of offenders or smugglers, their descriptions, professions, full addresses, and their domicile of choice if possible.

D- The class, quantity and value of seized goods, and to the extent possible, the duties and taxes thereupon.

E- Goods that have escaped seizure to the extent that they may be known or inferred.

F- Detailed facts, and statements of offenders, smugglers, and if possible, witnesses.

G- The legal Articles applicable to the offense or the smuggling crime, to the extent possible.

H- A statement affirming that the contents of the verbal process were read to the offenders and smugglers present then, and indicating whether or not they consented to and endorsed the contents of the verbal process.

I- All other relevant facts, including whether the offenders or smugglers were present or absent at the time of taking inventory of the goods.

Article 187:

A- Material events recorded in verbal process in accordance with Articles (185&186) of this Law, and witnessed by those who prepared the verbal process, shall be considered established facts, unless otherwise proven.

B- A verbal process which is formally defective shall not be considered invalid and may be returned to the preparer for completion. A verbal process which is factually incomplete may not be returned for completion. Verbal processes

prepared according to the previous Articles, and incorporating testimonies, facts, and statements verified in other countries shall be of equal evidentiary force.

Article 188:

A- Smuggling crimes may be verified and proven by all means of evidence, and not necessarily on the basis of seizure of goods within or outside the customs territory. Declared goods which are inspected and cleared without comment or reservations by the Department regarding smuggling, may, nonetheless be subject to investigation for smuggling subsequently.

B- Customs offenses may be verified and proven by all means of evidence, and the importer shall bear liability for such offenses.

Article 189: Forgery claims must be submitted to the Customs Court of First instance at the first court session, and in accordance with the court procedures in effect. If the court finds evidence and indications of forgery, it shall refer the forgery investigation to the Attorney General and shall postpone hearings until the forgery claim is settled. However, if the verbal process includes items other than the ones covered by the forgery claim, the court shall hear and reach decisions about the remaining items without delay.

Article 190: A single verbal process may cover more than one offense if the value of goods for each offense does not exceed five JDs, but subject to the limits and instructions set by the Director. Moreover, such goods may be confiscated by a decision of the Director, or a deputy thereof. Petitions for review of any kind shall not be admitted before payment by owners of the customs duties and other fees and taxes and fines due upon the goods.

Chapter Two
Precautionary Measures
Section One: Precautionary Seizure

Article 191: Preparers of the verbal process may seize smuggled good or goods which are subject of an offence, and the means of concealment and of transport thereof, as well as any documents, for the purpose of proving offenses and smuggling crimes and ensuring payment of fees, duties and fines.

Section Two

Precautionary Detention

Article 192:

A- Precautionary detention of persons is allowed only in cases of:-

- 1-Flagrant smuggling crimes .
- 2- Acts which obstruct investigations of the smuggling crime or what amount thereto.
- 3- Persons who are likely to flee or disappear to evade penalties and compensation sentences.

B- The detention decision shall be issued by the Director or a mandatory thereof, who shall also notify the competent public prosecutor. The detainee shall be referred to the competent court within 24 hours. If necessary for purposes of interrogation, this period may be extended by another 24 hours subject to the Attorney General's approval, provided the detainee is referred to the customs court immediately after interrogations are concluded.

Section Three

Restrictions on Travel of Smugglers and Offenders

Article 193: The Director may ask the competent authorities to stop offenders and smugglers from leaving the country if the materials seized are not sufficient to cover the customs duties, taxes and fines. The Director may cancel the request if the offender or smuggler submits a bank guarantee to

cover the amounts that may be due over and above the value of the seized property.

Chapter Three

Customs Offenses and Penalties Applicable Thereto

Section one: General Provisions

Article 194: The customs fines and confiscation provided for in this Law shall be considered a compensation to the Department, and shall not be subject to the provisions of General Amnesty Laws.

Article 195: In the case of multiple offenses, separate fines shall be imposed on each offence, unless the offenses are inseparable, in which case the highest fine shall apply.

Article 196: Wherever it is provided that a customs fine shall be set at a certain percentage of the "fees", the term fees shall designate the customs duties and other fees and taxes which are subject to loss.

Article 197: A customs fine not exceeding the amount of fees shall be imposed on the following:-

A-Goods, other than ascertained prohibited goods, which are imported or exported through smuggling, and whose value does not exceed 100 JDs.

B- Items and objects for personal use, and travelers personal effects, and gifts carried therewith, whose value does not exceed 500 JDs and which are not declared at the customs house upon entry or exit, and are not exempt from customs duties.

In the former two cases, a part or all of the seized goods may be returned, without prejudice to the provisions in effect.

Section Two

Customs Offences and Penalties Applicable Thereto

Article 198:

A- Except for cases amounting to smuggling and which are covered by Article (204) of this Law, a fine not exceeding half the amount of duties and taxes due shall be imposed on the following:

- 1- Unjustified shortages against what is listed in the maritime cargo manifest, or the equivalent document thereof.
- 2- A manifest in which the actual values does not exceed 10% of the declared value of the goods, or 10% of the weight, quantities, or size thereof, provided the goods are not prohibited goods.

B- Except for cases amounting to smuggling and which are covered by Article (204) of this Law, a fine not exceeding twice the amount of the duties or half the value of goods, whichever is less, shall be imposed upon the following offenses:

- 1- A declaration intended to affect without a valid basis, eligibility for drawback, or a settlement of the accounts of goods admitted under a temporary admission status, or manufacturing and re-export status, if the value of the duty on such goods does not exceed 500JDs.
- 2- Unjustified overages against what is listed in the cargo manifest or the document equivalent thereto. Parcels found in overage and which carry signs and numbers identical to those on other parcels shall be considered subject to higher fees or to prohibition.
- 3- Unjustified shortages against what is listed in the land or air cargo manifest or the document equivalent thereto, whether the shortage is in the number of parcels, in the contents thereof, or in the quantities of knocked goods.
- 4- The use of items subject to exemption or reduced tariff in or for other than the purpose of import, or the illegal exchange, sale or disposal of such items without the Department's approval and without submitting the documents.

5- The sale of goods which are admitted under a suspended duty status, or their use outside permitted areas or for other than the purpose of import or in other than their intended function, or the illegal exchange or disposal of such goods, before notifying the Department and submitting the required document.

6- Obtaining drawbacks in a value exceeding 500JDs without a valid basis.

Article 199: Except for cases amounting to smuggling, and which are provided for in Article (204) of this Law, the following offenses shall be subject to a fine not less than 50 JDs and not more than 500 JDs:-

A- Submitting an export declaration which leads invalidly to evading export licensing or currency repatriation requirements.

B- Submitting a declaration which is invalidly intended to affect eligibility for drawbacks, or a settlement of the accounts of goods admitted under a temporary admission status, or manufacturing and re-export status, if the value of the duty on such goods does not exceed 500JDs.

C- Transporting passengers or goods within the Kingdom by means of vehicles admitted under a suspended duties status in violation of the provisions of Laws and regulations.

D- Taking a route other than the designated transit route or re-exporting goods without the Department's approval .

E- Removing the lead, buttons or the customs seals from goods consigned by transit or prepared for re-export.

F- Submitting late after the expiry of the delay period, the documents required for the discharge and settlement of transit declarations or undertakings regarding temporary admission, or admission for internal manufacturing under a suspended duties status or re-export.

G- Violating any of the terms and provisions of this Law and its pursuant regulations which are applicable to transit, internal manufacturing, temporary admission or re-export.

H- Violating the provisions of private and public warehouses, in which case the due fine shall be fall upon the warehouse owners or investors.

I- Possession by the person concerned of more than one cargo manifest or the document equivalent thereto.

J- Possession or transport of goods which are subject to the customs territory's judicial police, illegally or in a manner which is inconsistent with the contents of the transport permit.

K- Ferrying by ships with loads of less than 200 freight tons, within the maritime customs territory, of restricted or prohibited goods, or goods subject to exorbitant duties, or ascertained prohibited goods, whether or not such goods are listed in the manifest, or a change of course by such ships in other than cases of maritime emergency or force majeure.

L- Anchoring ships, or landing planes, or parking other means of transport in other than the designated sites authorized by the Department.

M- The departure of ships, planes or other means of transport from the harbor or the customs premise without the Department's authorization.

N- Anchoring ships of any load and landing planes at other than set harbors and airports, whether in ordinary or in emergency situations, without informing the nearest customs house about this.

O –Transferring goods from one means of transport to another, or re-exporting goods without a declaration or due authorization.

P- Loading and unloading ships, trucks, cars or other means of transport, or withdrawing goods without the Department's authorization, or in the absence of the Department officials,