

- (6) Notwithstanding any other enactment, no person who is aggrieved by the decision of the Comptroller on classification, valuation or origin of goods, shall appeal to the Tax Appeal Tribunal except within 28 days after the matter in dispute has been reviewed by the Committee and the Committee has given its findings.
- (7) The Comptroller shall, without unreasonable delay, refer every dispute under this section, except any matter involving fraud, to the Committee for review and inform the importer or exporter, as the case may be, accordingly.
- (8) The Committee shall meet as often as necessary at the request of its Chairman.

Sub-Part III - Temporary Admission, Duty-Free Shops and Refunds

21. Conditions for Temporary Admission of Goods.

- (1) Subject to the provisions of this section, the Comptroller may, for a period of six months, which may be extended by another period of six months, authorise the temporary admission of goods where the importer furnishes adequate security to cover the duty, excise duty and taxes which would otherwise be payable.
- (2) The Comptroller may exempt an importer of any goods from furnishing security if the goods are covered by documents for temporary admission issued under any international convention and if so approved by the Minister.
- (3) The Comptroller may, for the purpose of identifying the goods for temporary admission, affix Customs marks, seals, stamps, perforations or other devices to such goods or may take a sample of such goods or such other steps as he thinks necessary.
- (4) Subject to the provision of any law in force relating to the import of goods or the protection of revenue, the Comptroller may allow goods imported under subsection (1) to remain in Mauritius on payment of duty, excise duty and taxes, and interest computed on the basis of duty and taxes payable on such goods, at the rate of twelve percent *per annum* or such other rate as may be prescribed, for the period for which payment of duty, excise duty and taxes has been deferred.
- (5) The Comptroller may terminate temporary admission at the request of the importer, if the goods are abandoned, destroyed or rendered commercially valueless under his supervision.
- (6) Where the Comptroller is satisfied that any goods imported under subsection (1) have been destroyed or lost by accident or force majeure, no duty shall be payable on such goods.

- (7) Any waste or scrap remaining after the destruction of any goods under subsection (5) or (6) shall, if put to any use in Mauritius, be liable to any applicable duty, excise duty and taxes.
- (8) Except where goods have been allowed to remain in Mauritius under subsection (4)-
 - (a) any importer who fails to export temporarily admitted goods at the end of the period specified under subsection(1);
 - (b) any person who sells or purchases temporarily admitted goods; and
 - (c) any person who alters, replaces or otherwise modifies any such goods or any parts thereof,

shall commit an offence and shall, on conviction, be liable to a fine which shall not be less than treble the value of the goods, and any goods which are the subject-matter of the offence shall be seized by the Comptroller and shall be forfeited by the Court, or where no proceedings can be instituted by reason of the death or absence from Mauritius of the offender, by the Comptroller.

- (9) Notwithstanding the rules of temporary admission as described under this Act, the Comptroller may authorise for such period as he may determine, the temporary admission of goods for the purpose of processing and re-exporting such goods.

22. Goods for Sale in Duty-Free Shops.

- (1) Any goods which are intended for sale in a duty-free shop shall be exempted from payment of any duty, excise duty and taxes.
- (2) The conditions under which such goods may be imported, exported or otherwise dealt with shall be as prescribed.

23. Refunds.

- (1) Where goods have been damaged, pilfered, lost or destroyed during the voyage or where duty or excise duty has been paid through an error of fact or an erroneous construction of the law or where any goods have been ordered to be destroyed as being unfit for human consumption, the Comptroller, upon request, may refund or adjust the amount of duty or excise duty payable accordingly.
- (2) Where, in the case of a provisional entry, any sum paid under Section 37 of this Act by the importer is in excess of the correct amount of duty or excise duty, a refund shall be made.
- (3) Where any duty excise duty or charge have been paid and repayment of such duty or of any portion thereof, is claimed by the importer on the ground that the duty, excise duty or charge were paid under an erroneous construction of the law or from other error, no repayment of such duty, excise duty or charge, or of any portion thereof, shall be made by the Comptroller where such claim is made after three years from the date of the payment.
- (4) Where a claim for refund of duty is made and the Comptroller is not satisfied that the importer is entitled to a refund, he shall give written notice to the importer of his decision.

- (5) Where the importer is dissatisfied with the decision of the Comptroller under subsection (4), he may appeal to the Tax Appeal Tribunal.

24. Erroneous Refund, Remission or Reduction.

Where the importer has benefitted through an error from a refund, remission or reduction of duty, excise duty or taxes, he shall be liable to pay the amount of duty, excise duty or taxes which has been erroneously refunded, remitted or reduced on a demand being made by the Comptroller within three years from the date of the duty, excise duty or taxes having been erroneously refunded, remitted or reduced.

PART IV

CONTROL, EXAMINATION, ENTRIES AND SECURITIES

25. Customs Control of Goods.

- (1) Goods shall be subject to the control of Customs-
- (a) in case of goods imported, from the time of import until removal for home consumption, or until the time of export, whichever shall first happen;
 - (b) in the case of goods under drawback, from the time of the claim for drawback until the time of export;
 - (c) in the case of goods for export, from the time when the goods are brought to an approved place of loading for export until the time of export.
- (2)
- (a) Except as otherwise provided by this Act, no goods subject to Customs control shall be moved, altered or interfered with.
 - (b) Except with the written authorisation of the Comptroller, no goods subject to Customs control shall be removed from Customs or delivered to any person.

26. Minimum Size of Ships.

Except with the permission in writing of the Comptroller, no goods shall be imported into or exported from Mauritius in any ship of less than fifty tons net tonnage.

27. Rights of Examination and Cost.

- (1) The control of goods by Customs shall include the right of Customs to examine all goods subject to such Control.
- (2) The loading, unloading, carrying and landing of all goods, including passengers' baggage, and the bringing of the goods to the place of examination and the measuring, weighing, counting, unpacking and repacking, and the opening and closing of the packages, shall be performed by and at the expense and risk of the importer or exporter.

28. No Customs Liability.

Customs shall not be liable for the loss of, or damage to, any goods subject to their control unless such loss or damage has been caused by the wilful act or negligence of any officer.

29. Goods Imported or Exported by Post.

Goods imported or exported in any form or packaging through the Post Office shall be subject to Customs control.

30. Entries for Import.

(1) All entries in respect of imported goods shall be made on the form prescribed in respect of goods -

(a) for home consumption;

(b) for warehousing;

(c) for transshipment; or

(d) for processing, export or re-export in accordance with the Industrial Expansion Act.

(2) Notwithstanding subsection (1), newspapers and magazines for sale in Mauritius imported by airfreight and airmail may, subject to any prescribed conditions, be delivered at the time of arrival to importers without previous entry being made.

31. Form prescribed for Export.

All entries in respect of exported goods shall be made on the form prescribed in respect of goods exported.

32. Passengers' and Crew's Luggage.

Notwithstanding sections 30 and 31, the *bona fide* personal goods which are luggage of passengers, master and crew in any aircraft or ship may, subject to any prescribed conditions, be imported or exported without entry having been made.

33. Holder of a Draft.

- (1) The holder of a draft with a bill of lading in guarantee of the payment thereof may give notice in writing to the Comptroller that he holds those documents and, thereupon, the Comptroller shall not allow the passing of entry of such goods without the written consent of the holder of those documents.
- (2) Where goods have been entered but have not been taken delivery of by the importer, the Comptroller may, at any time before such goods are disposed of as unclaimed, deliver such goods to any person holding a draft with a bill of lading or other documents of title to such goods in guarantee of the payment thereof, notwithstanding that an entry has already been made by the importer, and such goods as described under subsection (2) shall be dealt with in accordance with the Bill of entry presented and the importer shall have no claim against the Comptroller for any expenses or other costs incurred by him in connection with the entering of the goods.

34. Particulars of Bill of Entry.

- (1) The person entering any goods, whether for himself or on behalf of any importer or exporter, shall deliver to the Comptroller the bill of entry in the prescribed form in respect of such goods and such copies as may be required.
- (2) The particulars required to be given on such bill of entry shall be written and arranged in such form and manner as the Comptroller shall require.

35. Making of Entries.

Any person making an entry shall, if so required by the Comptroller, answer questions relating to the goods referred to in the entry.

36. Passing of Entries.

Entries shall be passed by the Comptroller and, on the passing of the entry, the goods shall be deemed to have been entered, and any entry so passed shall be the warrant to the proper officer for dealing with the goods in accordance with the entry.

37. Provisional Entry.

Where the importer of any goods is unable immediately to supply the full particulars required for making an entry and makes a declaration to that effect before the Comptroller, he may be authorised to make a provisional entry as prescribed. In such case, such importer shall pay an estimated duty, excise duty and taxes, and shall make a deposit as may be required by the Comptroller.

38. Perfect Entry.

- (1) Within three months from the passing of the provisional entry, or within such further period not exceeding three months as the Comptroller thinks fit to allow, the importer of the goods shall make complete entry, failing which the deposit described under section 39 shall be forfeited.
- (2) A complete entry of the goods included in a provisional entry shall be made in such manner as if the provisional entry had not been made.
- (3) Where an importer is in possession of all particulars required by the Comptroller, the importer shall complete such perfect entry immediately. Failure to complete perfect entry in this case shall constitute an offence and the importer shall, on conviction, be liable to a fine not exceeding three times the amount of duty, excise duty and taxes involved.

39. Power to require Security.

- (1) The Comptroller may require and take security for compliance with this Act and generally for the protection of revenue and pending the giving of the required security in relation to any goods subject to the control of Customs, the Comptroller may refuse to deliver the goods or to pass any entry relating to them.
- (2) Every security in the nature of a bond which is issued by a company or a partnership shall, in the absence of fraud, be binding on the company and on the partners of the partnership, as the case may be.
- (3) Where any security is required to be given, such security shall be given by bond or bank guarantee or cash deposit or all or any of those methods and, in each case, the security shall be subject to acceptance by the Comptroller.
- (4) The forms of security specified by the Comptroller shall be sufficient for all purposes of a bond or guarantee under this Act and shall bind the subscribers thereto jointly and severally for the full amount.
- (5) Every security shall be valid for such period as may be specified in the bond or guarantee and, subject to section 41, may be reviewed.

40. Production of security.

Where any security is issued upon by the Comptroller, its production on its due date or thereafter, without further proof, shall entitle the Comptroller to judgement for its stated liability against the persons who have subscribed such security unless release or satisfaction of such security is established.

41. Fresh Security.

Where the Comptroller is dissatisfied with the sufficiency of any security previously given, he may require a fresh security.

42. General Bonds.

Where security is required for any particular purpose, the security may, by authority of the Comptroller, be accepted to cover all transactions for such time and for such amount as the Comptroller may approve.

43. Cancellation of Security.

All securities may, after the expiration of three years from the date thereof or from the time specified for the performance of the conditions thereof, whichever may be the later date, be cancelled by the Comptroller.

43A. Record

- (1) Every person who, in the course of his business, imports or exports goods shall, for purposes of any customs laws, keep a full and true written record, whether on computer or otherwise, in English or French language of every transaction he makes.
- (2) Every person referred to in subsection (1) shall, in respect of any goods keep in chronological order, a copy of the entry he makes, either electronically through the TradeNet or otherwise, together with a copy of the documents delivered to the Comptroller with that entry.
- (3) Every record under subsection (1) and (2), shall be kept for a period of at least 5 years after the completion of the transaction to which it relates and shall be made available on demand by the proper officer.
- (4) For the purposes of subsection (2), "TradeNet" has the same meaning as in the Customs (Use of Computer) Regulations 1997.
- (5) Any person who fails to keep, or to make available to the proper officer, any record required to be kept under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 3 years.

PART V

REPORT OF AIRCRAFT AND SHIPS AND IMPORT OF GOODS

Sub-Part I - Boarding of Aircraft and ships

44. Ships to Enter Ports.

- (1) The master of a ship from parts beyond the seas shall not permit his ship to enter any place in Mauritius other than a port unless from stress of weather or other reasonable cause.
- (2) Subject to Section 48, the Comptroller may authorise pleasure boats to proceed to any place other than a port in Mauritius.

45. Ship to Bring to on Being Signalled.