

**105. Penalty for Breaking the Seal.**

- (1) Where such lock, mark or seal is unlawfully opened, altered or broken, the master shall commit an offence and shall, on conviction, be liable to a fine which shall-
  - (a) where the value of the goods does not exceed 1,500 rupees, be Rs 4,000;
  - (b) where the value of the goods exceeds 1,500 rupees, be 3 times the value thereof or Rs 20,000, whichever is the higher.
- (2) where stores are secretly conveyed away before the departure of such aircraft or ship on the outward voyage, the master shall commit an offence and shall, on conviction, be liable to a fine which shall-
  - (a) where the value of the goods does not exceed 1,500 rupees, be Rs 4,000;
  - (b) where the value of the goods exceeds 1,500 rupees, be 3 times the value thereof or Rs 20,000, whichever is the higher.

**PART XI  
DRAWBACK**

**106. Drawback Allowed on Re-Export.**

- (1) Where goods have been imported for the purpose of undergoing processing (including repacking, sorting and grading), manufacturing or repair and are thereafter exported, duty and excise duty paid at the time of import of such goods may be repaid as drawback on such conditions as may be prescribed.
- (2) Where goods have been imported and subsequently re-exported without having undergone any processing and without having been put to use, duty and excise duty paid at the time of import of such goods may be repaid as drawback on such conditions as may be prescribed.
- (3) No payment of drawback shall be made until the aircraft or ship carrying such goods has left Mauritius.
- (4) Notwithstanding subsection (3) payment of drawback shall be made at the time the goods are admitted into a freeport zone exclusively for export.

**107. Application by Actual Exporters.**

Actual exporters demanding payment of drawback on any goods duly exported shall make and subscribe an application in such form and manner as may be prescribed.

**108. When no Drawback Allowed.**

Where any goods upon which drawback is claimed or allowed are shipped or brought to any quay, wharf or other place to be shipped for export and are, upon examination by the proper officer, found not to be of the description borne on the bill of entry or other document for the allowance of drawback or shipment, all such goods and the packages containing them with all other contents therein shall be liable to forfeiture and the person entering such goods and claiming the drawback thereon shall in every case commit an offence and shall, on conviction, be liable to a fine which shall-

- (a) where the value of such goods does not exceed 1,500 rupees, an amount of Rs 4,000;
- (b) where the value of such goods exceeds 1,500 rupees, be 3 times the value thereof or Rs 20,000, whichever is the higher.

**109. Standard Drawback Rates.**

In case of goods manufactured in and exported from Mauritius a drawback on the duty and excise duty may be allowed in respect of any imported raw material used in the manufacture of such goods at such standard drawback rates and subject to such conditions as may be prescribed.

**PART XII  
GOODS FOR TRANSHIPMENT**

**110. Transhipment.**

- (1) On the entry inwards of any aircraft or ship the Comptroller may, on the application of the owner (or his agent) of any imported goods which have been specially manifested at the time of the import as being for transhipment, permit the transhipment of such goods without payment of import or export duties and taxes, if any, leviable thereon.
- (2) Such transhipment shall take place under the supervision of an officer at the expense of the applicant after the due entries inwards and outwards have been passed for the goods.
- (3) Where goods as described under subsection (1) for any reason have to leave the customs area prior to their transhipment, the Comptroller may require and take security to cover the duty, excise duty and taxes payable if any.

- (4) Any person who, without the previous authorisation of the Comptroller-
- (a) tranships or attempts to tranship any goods from an aircraft or ship to another aircraft or ship; or
  - (b) attempts to take out of the Customs Area any goods entered for transhipment,.

shall commit an offence, and the goods, the subject-matter of the offence shall be liable to forfeiture.

### **PART XIII COASTING TRADE**

#### **111. Coasting Aircraft or Ship.**

- (1) No goods, being carried coastwise, shall be taken into or put out of any coasting aircraft or ship at sea or in parts beyond the seas, and no coasting aircraft or ship shall touch at any port beyond the seas, or deviate from its flight or voyage, unless forced so to do by unavoidable circumstances.
- (2) Where the master (or his agent) of any coasting aircraft or ship, which has touched at any port beyond the seas or deviated from its flight or voyage does not declare such fact in writing to the Comptroller on the arrival of the aircraft or ship in Mauritius, he shall commit an offence under this Act and upon conviction shall be liable to a fine not exceeding 2 million rupees.

#### **112. Foreign Aircraft or Ships in Coasting Trade.**

Every foreign aircraft or ship proceeding either with cargo or passengers or in ballast on any voyage from one part of Mauritius to another part shall be subject, as to stores for the use of the crew and in all other respects, to the same laws and regulations to which Mauritian aircrafts or ships, when so employed, are subject.

#### **113. Officers May Board.**

The proper officer may go on board any aircraft or ship in Mauritius and search such aircraft or ship engaged in coasting trade and examine all goods and all goods being laden or unladen and may require the production of all documents which ought to be on board such aircraft or ship.

#### **114. Goods Entered Outwards Without Landing.**

Where the master of any aircraft or ship has brought any goods not liable to duty, excise duty and taxes coastwise, and wishes to proceed with such goods or any of them to parts beyond the seas, he may, with the authorisation of the Comptroller, enter outwards the aircraft or ship, as well as such goods for the intended voyage without first landing the same.

**115. Bond for Stores**

- (1) The master of any aircraft or ship bound for any island (other than the island of Mauritius) which is under the jurisdiction of the State of Mauritius, shall furnish bond that only such stores as the Comptroller may consider necessary for the use of the master, crew and passengers of the said aircraft or ship during its flight or voyage to that island and back again, shall be carried for the purpose to and from the island.
- (2) Where it is found on the return of the aircraft or ship to a port in the island of Mauritius that there is a deficiency in the quantity of stores remaining on board on its arrival at the port in excess of such deficiency as the Comptroller considers reasonable, the master shall be liable to pay treble the duty, excise duty and taxes on such excess.

**116. Goods to be Carried Coastwise.**

No goods shall be carried coastwise except goods produced in Mauritius and goods which have been legally imported into Mauritius and upon which duty, excise duty and taxes, if any, have been paid.

**PART XIV  
AGENTS AND BROKERS**

**117. Authorised persons.**

The Minister may, on the recommendation of the Comptroller, authorise such persons as he thinks fit to act as agents or brokers for transacting business relating to the entry or clearance of any aircraft or ship or any goods or baggage other than the accompanied non-manifested personal baggage of persons travelling by air or sea.

**118. Execution of Bond.**

- (1) Every broker and agent shall subscribe and execute a bond with two sufficient sureties for the proper compliance by such broker and agent, and their customs clerks, with the customs laws.
- (2) In the case of brokers, the bond shall be in the amount of Rs 25,000.
- (3) In the case of clearing and forwarding agents the bond shall be in the amount of not less than Rs 500,000.
- (4) The Comptroller may at any time call for the renewal of a bond for any valid reason, including the replacement of sureties who have ceased to be acceptable as sureties.

**119. Requisites for Agents and Brokers.**

- (1) No person shall be authorised by the Minister to act as agent or broker unless, on the recommendation of the Comptroller, the Minister is satisfied that such person has the necessary ability or, as the case may be, the necessary equipment and storage facilities for the handling and safe custody of cargo to effectively transact his business.
- (2) The storage facilities of an agent or broker shall be deemed to form part of a quay or wharf for the purposes of section 55 of this Act.
- (3) The Minister may prescribe the maximum number of persons to be authorised under subsection (1).
- (4) The Minister may, on the recommendation of the Comptroller and by order in writing, revoke the authority given to any person to act as agent or broker-
  - (a) where that person has been guilty of an offence involving fraud or other dishonesty or been guilty of any crime or misconduct;
  - (b) where findings of fraud or misconduct in the exercise of such person's function as broker or agent, have been established;
  - (c) where that person is unable efficiently to act as agent or broker by reason of mental or physical incapacity;
  - (d) where that person fails to execute or renew the bond required by section 118, or fails to take out or renew the licence of broker under the Licences Act; or
  - (e) where that person has not, on a continual basis, practised as agent or broker for a period of one year.
- (5) Where an order in writing made under subsection (3) specifying the reason or reasons for which the authority is revoked has been given to that person or to his clerk or at his usual place of abode or business, such authority shall cease to have effect.
- (6) For the purposes of this Part, "agents or Brokers" does not include shipping or aircraft agents entering or clearing the aircraft or ship, or their principals, in the discharge of their duties as agents or proxies.

**120. Appointment and Revocation of Clerk.**

- (1) Any person authorised to act as agent or broker under this Part may, with the written approval of the Comptroller, designate clerks to assist him in transacting his business.
- (2) Any clerk so designated shall not assist any person other than the person appointing him.
- (3) Where any such clerk commits any fraud or misconduct the Comptroller may, by notice in writing to such clerk and to the agent or broker employing him, withdraw his approval of the designation of that clerk and the designation shall thereupon cease to have effect.

- (4) Importers, exporters and consignees shall register their clerks with the Comptroller.

**121. No Entry of Goods by Unauthorised Persons.**

- (1) Where-

- (a) any person not authorised to act as agent or broker for transacting business relative to the clearance of any aircraft or ship, goods or baggage;
- (b) any person not being the designated clerk to any duly authorised agent, broker, importer, exporter or consignee;
- (c) any person, whether so authorised or designated or not,

makes or causes to be made entry of any goods without being duly authorised for the purpose by the importer, exporter or consignee of these goods, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 20,000 rupees.

**122. Authority May be Required.**

- (1) Where any person makes an application to the Comptroller to transact business on behalf of any the person, the Comptroller may require the person so applying to produce a written authority from the person on whose behalf the application is made and, in default of the production of such authority, reject such application.
- (2) The Comptroller may require the authority to specify the business and such other reasonable information as he may determine.

**123. Liability of Agents and Brokers.**

- (1) Subject to subsection (2), an agent, broker or person who performs any act on behalf of the owner of any goods shall, for the purposes of this Act, be deemed to be the owner of such goods and shall accordingly be personally liable for the payment of any duty, excise duty and taxes to which such goods are liable and for the performance of all acts in respect of such goods which the owner thereof is required to perform under the provisions of this Act.

- (2) The liability of the agent, broker or other person under this section shall not extend to the payment of any such duty, excise duty and taxes which become payable, or the performance of any such act which falls to be performed, after the agent, broker or other has ceased, in respect of such goods, to be the agent of the owner unless he has undertaken a personal liability.
- (3) Nothing contained in this section shall relieve the owner of such goods from any such liability.

**124. Liability of Owner for Acts of Agent or his Own Employee.**

- (1) Unless otherwise established to the satisfaction of the Comptroller, an owner of goods shall be liable for the acts and declarations of his duly authorised agent or designated clerk and may accordingly be prosecuted for an offence committed by such agent or designated clerk in relation to any such goods as if such owner had himself committed the offence.
- (2) An owner shall not be sentenced to imprisonment for any offence committed by his duly authorised agent or designated clerk unless such owner actually consented to the commission of the offence.
- (3) Nothing herein contained shall relieve the duly authorised agent or designated clerk from any liability to prosecution in respect of any such offence.

**PART XV**

**POWERS OF OFFICERS**

**Sub-Part I - General**

**125. Power of Comptroller to Enforce Customs Laws.**

- (1) The Comptroller has, within the customs area, exclusive power to enforce customs laws and any other enactment in so far as import or export of goods is concerned, including the power to question, detain and search passengers and to search their luggage and goods.
- (2) The Comptroller has power to enforce anywhere in Mauritius, customs laws and any other enactment in so far as import or export of goods is concerned.
- (3) The Comptroller may request the assistance of the police in enforcing customs laws within the customs area.

**126. Power of Officers to Enforce Laws Relating to Customs.**

Every Officer is hereby empowered to enforce the provisions of the present Act and the Customs Tariff Act and any other enactment in so far as import or export is concerned and in so far as the assistance of Customs is required for the implementation of such enactments.