

127. Power to Examine All Goods.

- (1) Any officer may, at the risk of the owner, open packages and examine, weigh, mark and seal any goods subject to the control of Customs.
- (2) The expenses of the examination including the cost of removal to and from the place of examination shall be borne by the owner.

127A. Production of Books and Records

- (1) The Comptroller or a proper officer may, in respect of the entry of any goods, require the importer or exporter of those goods
 - (a) to produce for
 - (i) Examination, books, records, invoices or other documents of any kind relating to those goods, whether on computer or otherwise, which the Comptroller or the proper officer considers necessary and which are in the possession or custody or under the control of that importer or exporter;
 - (ii) Retention, for a period not exceeding 2 months by the Comptroller, of any record or document specified in subparagraph (i) or for taking copies of or extracts therefrom;
 - (b) to give all reasonable assistance and to answer all proper questions either orally or in writing.
- (2) Any person who, when so required, fails to comply with the provisions of subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 20,000 rupees and to imprisonment for a term not exceeding 2 years.

128. Power to Board and Search Aircraft or Ship.

- (1) Any proper officer may, within the borders of Mauritius including its territorial waters and airspace-
 - (a) board any aircraft or ship;
 - (b) search any aircraft or ship; and
 - (c) secure any goods on any aircraft or ship.
- (2)
 - (a) The power of an officer to board extends to staying on board any aircraft or ship in or for the performance of his duties.
 - (b) The Comptroller may station an officer on board any ship and the master shall provide suitable accommodation and suitable and sufficient food for that officer.
- 3) The power of an officer to search extends to every part of any aircraft or ship and includes the power to open any package, locker or place and to examine all goods.
- 4) The power of an officer to secure any goods includes the power to fasten down hatchways and other openings into the hold and to lock

up, seal, mark or otherwise secure any goods and to remove any goods to Customs Warehouse.

- 5) No person shall open, alter, break or erase any fastening, mark, lock or seal placed by an officer upon any goods or upon any door, hatchway, opening or place upon any aircraft or ship except by authority of the Comptroller, so long as the goods upon which the fastening, lock, mark or seal is placed, or which are intended to be secured, remain subject to the control of Customs.

129. Patrol of Coasts.

Any officer in the course of his duty, and any person or persons assisting him, may patrol upon and pass freely along and over any part of the coast or of the shores, banks or beaches of any port, bay or harbour.

130. Boats to be Moored in any Place.

The officer in charge for the time being of any vessel or boat employed in the service of Customs may haul that vessel or boat upon any part of the coast or upon the shores, banks, or beaches of any port, bay or harbour and may moor that vessel or boat there and keep her so moored for such time as he thinks necessary.

131. Power to Question.

- (1) Any person on board any aircraft or ship or who has landed from or got out of any aircraft or ship may be questioned by any officer as to whether he has any dutiable or other goods or any prohibited goods in his possession. The power to question passengers shall include the power to question passengers leaving Mauritius.
- (2) In the course of any questioning as described under subsection (1), such officer may inspect such persons' travel documents including passport or *laissez-passer* and tickets.

132. Detention and search of Suspected Persons.

- (1) Where any officer has reasonable cause to believe that any person is unlawfully carrying, whether concealed or secreted about his person or not, any goods subject to the control of Customs or any prohibited goods, that officer may detain and search the suspected person.
- (2) A female shall not be searched except by a female officer.

133. Power to Stop Vehicles Within Customs Area.

- (1) Any officer may, upon reasonable suspicion, stop and search any vehicle within the customs area for the purpose of ascertaining whether any dutiable goods, or any prohibited or restricted imports or exports, are contained therein.
- (2) The driver of any vehicle who fails to stop or who fails to permit such search whenever required by any such officer shall commit an offence.

134. Power to Stop Vehicles Outside Customs Area.

- (1) Any officer or police officer may, upon reasonable suspicion, stop and search any vehicle for the purpose of ascertaining whether any dutiable goods, or any prohibited or restricted imports or exports, are contained therein.
- (2) The driver of any vehicle who fails to stop or who fails to permit that search whenever required by any such officer shall commit an offence.

135. Search warrant.

- (1) Where the Comptroller reasonably suspects that an offence against this Act has been, is being or is likely to be committed, he may issue to an officer a warrant in the form set out in the Schedule to this Act for the search of any premises.
- (2) Notwithstanding subsection (1), licensed premises may be searched without warrant.

136. Power to take Assistance.

Any officer acting under a warrant issued under section 135 of this Act may be assisted by any police officer and such other persons as he thinks necessary.

137. Arrest of Persons.

- (1) Any officer may, without warrant, arrest any person whom he has reasonable ground to believe is involved in the commission or attempted commission of any of the following offences-
 - (a) smuggling;
 - (b) importing any prohibited goods;
 - (c) exporting any prohibited goods;
 - (d) unlawfully conveying or having in his possession any smuggled goods or prohibited goods; or
 - (e) striking, obstructing, molesting or assaulting any officer in the execution of his duty.
- (2) Every person so arrested shall, as soon as practicable and at any rate not later than within 24 hours of his arrest, be referred to the Police.
- (3) The police shall make an appropriate entry of the referrant in the occurrence book of the Police Station where an arrested person is brought by an officer.
- (4) Any such officer may use reasonable force to make the arrest.

138. Impounding of Documents.

The Comptroller may impound or retain any document presented in connection with any entry or required to be produced under this Act and the person otherwise entitled to such documents shall, on his application, be given in lieu thereof a copy of the document duly

certified by the Comptroller. Such certified copy shall be admissible in evidence at any trial to the same extent and in the same manner as the original.

139. Further proof of Proper Entry.

The Comptroller may require from the importer or exporter of any goods proof by declaration, or by the production of documents, that the goods are owned as claimed and are properly described, valued or rated for duty and, failing such proof, the Comptroller may refuse to deliver the goods or allow the exporter to pass any entry relating thereto.

140. Translation of Foreign Documents.

Where any document in a language other than English is presented to any officer for any purpose connected with the business of Customs, the Comptroller may require a translation in the English language to be made at the expense of the owner by such person as the Comptroller may approve.

141. Customs Samples.

Samples of any goods under the control of Customs may, for any purpose deemed necessary by the Comptroller, be taken, utilised and disposed of by him in the prescribed manner.

142. Officers may Board Ships Hovering on Coast.

- (1) Any officer, in the course of his duty, may require the master of any ship hovering within the territorial waters of Mauritius to depart and, if the ship fails to depart accordingly within 24 hours thereafter, any officer may, in the course of his duty, board such ship and have her brought into port and searched.
- (2) Any officer, in the course of his duty, may examine all persons on board that ship and they shall each thereupon answer question relative to the ship and her cargo, crew, passengers, stores and voyage and produce documents relative to the ship and her cargo.
- (3) For the purposes of subsections (1) and (2) such officer may request the assistance of the National Coast Guard.

Sub-Part II - Legal Proceedings

143. Notice of Seizure to be Given.

- (1) Where any goods have been seized under this Act, the Comptroller shall serve notice in writing of the seizure and the cause thereof to the owner of the goods or his agent.
- (2) All goods which have been seized shall be deemed to be condemned by the Comptroller and may be sold as provided in section 144 unless the person from whom such goods were seized, or the owner thereof, gives notice in writing to the Comptroller within one month from the date of seizure or service of the notice of such seizure as the case may be, that he claims such goods and enters an action claiming the goods before the competent court within three months from the date of his notice to the Comptroller.

- (3) Where any goods so seized are of a perishable nature or are living animals, they may forthwith be sold by the Comptroller in accordance with section 144 of this Act and the proceeds of the sale shall be retained by the Comptroller and be subject to the same conditions as other seized goods.

144. Seized Goods to be Sold By Public Auction or Public Tender.

- (1) All goods which are seized under this Act shall be delivered into the custody of the Comptroller who shall subject to section 143 (2) or to the order of a court, cause them to be sold by public auction or by public tender, as he may determine.
- (2) Notwithstanding subsection (1), the Minister may direct that *in lieu* of being sold, such goods shall be destroyed or shall be reserved for the public service.

145. Value of Goods Seized.

- (1) The value of goods seized shall be the value at the time of seizure.
- (2) Notwithstanding subsection (1), where any penalty or fine, the amount of which is to be determined in relation to the value of any goods, is incurred under any customs laws, the goods shall not be deemed to be of less value by reason of any damage or injury they may have sustained in the course of any attempt to destroy or make away with them by any person.

146. Security may be Given for Goods Seized.

- (1) Where any goods have been seized under this Act, the judge may, unless the Comptroller objects to a delivery, order the delivery thereof on the provision of security and with two sufficient sureties approved by the Comptroller.
- (2) The security mentioned in subsection (1) shall be given for double the value of the goods and delivered to the Comptroller.

147. Burden of Proof.

In any action or proceedings arising out of the seizure of any goods on the ground that the duty, excise duty and taxes thereon have not been paid or on any other ground, the burden of proving that the seizure was illegal shall lie on the person making the allegation.

148. Proceedings How Instituted.

- (1) Subject to subsection (2), proceedings for the recovery of duty, excise duty, taxes and penalties imposed under this Act or for the forfeiture of goods under this Act shall be instituted in the name of the Comptroller and shall be commenced within a period of 5 years from the date of commission of the offence by reason of which the duty, excise duty and taxes have not been paid or the penalty has been incurred or the forfeiture made.
- (2) Proceedings for any offence under section 156 or 158 may be instituted at any time.

149. Security to Abide by Decree of Court.

- (1) Wherein any proceedings, the court delivers judgement ordering the return of any goods to the owner or claimant, the execution of the judgement shall not be stayed pending the appeal where the party to whom the goods are ordered to be returned furnishes security to the satisfaction of the Court for the restitution of the goods, or the payment of the full value thereof in case the judgement is reversed on appeal.
- (2) The full value of the goods, for the purposes of subsection (1), shall either be ascertained by agreement between the parties or, where the parties cannot agree, by appraisalment under the authority of the court.

Sub-Part III - Protection To Officers

150. Reasonable Cause for Seizure - A Bar to Action.

Notwithstanding the Public Officers Protection Act, where any action has been entered before a court on account of the seizure of any goods, aircraft or ship, or pursuant to any act done by any officer in the execution of his duty under any customs laws and it appears to the Court that there was a probable cause for such seizure or act, the court shall so declare and thereafter the person who effected the seizure or performed the act shall be immune from all proceedings, whether civil or criminal, on account of such seizure or act.

PART XVI

PENAL PROVISIONS

Sub-Part I - Seizures and Forfeitures

151. Seizure of Goods.

- (1) The following goods may be seized by an officer-
- (a) all goods imported into Mauritius, including but not limited to those listed below, in relation to which an offence under the Customs laws is reasonably suspected to have been committed by any person;
 - (b) all goods which have been smuggled into Mauritius;
 - (c) all goods which are not claimed by any person or which are disclaimed by any person on any ground;
 - (d) all goods which are imported while being prohibited or restricted;
 - (e) all prohibited or restricted goods put on any aircraft or ship or brought to any wharf, port or place for export;
 - (f) all goods in respect of which bulk is unlawfully broken;
 - (g) all dutiable goods concealed in any manner in respect of which applicable duty, excise duty and taxes have not been paid;
 - (h) all dangerous drugs specified in the Dangerous Drugs Act 1986, which are unlawfully imported or unlawfully in the possession of any person;
 - (i) all goods which are not properly classified or described in an import entry or which are classified or described in a manner likely to deceive an officer in the discharge of his duties, unless the same does not appear to have been done wilfully or deliberately;
 - (j) all goods which are imported in a name, including a purported trade name, which is fictitious, false or misleading;
 - (k) all goods which are consigned to an address which is fictitious, false or misleading or an address which is designed to conceal the true name or identity of the importer or consignee;