

- (l) all goods which are imported in the name of a corporate body which is not registered or not registered under that name;
- (m) all goods which being required under this Act to be removed or dealt with in any particular way, are not removed or dealt with accordingly;
- (n) all goods, other than baggage belonging to any crew, master or passenger, which are found in any aircraft or ship after reporting inward or outward, as the case may be, in a port or airport and which are not specified in the inward or outward manifest or parcel list;
- (o) All dutiable goods found in the possession or in the baggage of any person who has landed from any aircraft or ship and who has denied that he has any such goods in his possession or in his baggage or who, when questioned by an officer, does not fully disclose such goods;
- (p) All dutiable, prohibited or restricted goods, which are found to be unlawfully in any aircraft or ship;
- (q) All goods, which are falsely or incorrectly described in the manifest of an aircraft or ship or in any document relating to the import thereof;
- (r) the cargo of any aircraft or ship which hovers in the vicinity of the coast and does not depart within 24 hours after being required to depart in accordance with section 142 of this Act.

All goods seized by an officer under subsection (1) shall be liable to forfeiture,

152. Seizure of Modes of Transport.

The power to seize goods as described under section 151 of this Act shall extend to any vehicle, aircraft or ship knowingly used or permitted to be used by the owner thereof in the conveyance of such goods.

153. Seizure of Goods and Packages.

- (1) The seizure of any goods shall extend to the seizure of the packages in which such goods are contained.
- (2) Where a ship, aircraft, vehicle or container, or any part thereof, has been specially constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that ship, aircraft, vehicle or container may be seized and shall be liable to forfeiture.

Sub-Part II - Various Offences and Penalties

154. Penalties applying to Owner of Aircraft or Ship.

- (1) The owner of -
 - (a) any aircraft or ship used in smuggling or used in the unlawful import, export, or conveyance of any prohibited or restricted goods;
 - (b) any aircraft or ship found within the territorial waters or air space of Mauritius, as the case may be, and failing to bring to for boarding upon being lawfully requested to do so;
 - (c) any aircraft or ship hovering within the territorial waters or airspace of Mauritius, as the case may be, and not departing within 24 hours after being requested to depart by an officer;
 - (d) any aircraft or ship from which any goods are thrown overboard, staved or destroyed, to prevent seizure by Customs;
 - (e) any aircraft or ship found within any port or airport with cargo on board, and afterwards found light or in ballast or with the cargo deficient, and the master of which is unable lawfully to account for the deficiency to the satisfaction of the Comptroller;
 - (f) any aircraft or ship found within Mauritius including its territorial waters or the airspace, as the case may be, having false bulk-heads, false bows, sides or bottoms, or any secret or disguised place adapted for the purpose of concealing goods or having any hole pipe or other device adapted for the purpose of smuggling goods;
 - (g) any aircraft or ship found within any port or airport having on board or in any manner attached thereto, or conveying or having conveyed any goods in a manner such as to be in contravention of customs laws or any other laws of Mauritius, whenever a responsible officer of such aircraft or ship is involved, even by neglect;
 - (h) any aircraft or ship engaged in coasting trade in violation of section 116,

Shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2 million rupees and the aircraft or ship may be detained until the penalty is paid or until security, to the satisfaction of the Court, is given for payment of such penalty.

- (2) For the purposes of subsection (1)(g) -

"**responsible officers**" shall be the master, mates and engineers of any aircraft or ship, and in the case of an aircraft or ship carrying passengers, the purser or chief steward;

"**neglect**" includes cases where goods not claimed, or owned by any of the crew are discovered in a place in which they could not reasonably have been put if the responsible officer or officers having supervision of such place had exercised care at the time of the loading of the aircraft or ship or of the coming on board the aircraft or ship of the crew or subsequently.

155. Collusion.

Any person who, being an officer or police officer -

- (a) makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any aircraft or ship or goods liable to forfeiture;
- (b) conspires or connives with any person to import or export or is in any way concerned in the import or export, of any goods for the purpose of seizing or causing the seizure of any aircraft or ship or goods and obtaining any reward for such seizure;
- (c) rescues any goods which have been seized;
- (d) before, at or after any seizure, staves in or destroys any such goods or destroys any documents relating thereto to prevent the seizure thereof,

shall commit an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding five years.

156. Smuggling and Other Prohibited Activities.

(1) Any person who-

- (a) smuggles into Mauritius any goods;
- (b) imports any prohibited or restricted goods;
- (c) unlawfully conveys or has in his possession-
 - (i) any goods on which duty, excise duty and taxes payable have not been paid; or
 - (ii) any goods, whether dutiable or not, which cannot be accounted for to the satisfaction of the Comptroller; or
 - (iii) any smuggled goods, prohibited goods or restricted goods,

shall commit an offence.

(2) Any person who commits an offence under subsection (1) shall, on conviction, be liable -

(a) to a fine which shall-

(i) where the value of the goods does not exceed 1,500 rupees, be 4,000 rupees;

(ii) where the value of the goods exceeds 1,500 rupees, be 3 times the value of the goods or Rs. 20,000, whichever is the higher; and

(iii) to imprisonment for a term not exceeding 8 years,

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

157. Shooting Offences.

Any person who-

(a) Shoots at any ship in the services of Customs;

(b) shoots at any officer;

(c) wounds or maims any officer,

shall commit an offence and shall, on conviction, be liable to penal servitude.

158. Customs Offences.

(1) Every person who -

(a) evades or attempts to evade payment of any duty, excise duty or taxes which are payable;

(b) in relation to the entry of any goods, declares a value which he knows to be false or below their true value;

(c) obtains or attempts to obtain any drawback which is not payable; or

(d) smuggle out of Mauritius any goods or exports any prohibited or restricted goods,

shall commit an offence.

(2) Every person who, on board any aircraft or ship in a port or airport, as the case may be, has in his possession for sale or for any other commercial dealing or sells or attempts to sell any goods without the prior authorisation in writing of the Comptroller shall commit an offence.

- (3) Every person who, for any purpose under this Act -
- (a) prepares, passes or presents any document purporting to be a genuine invoice which is not, in fact a genuine invoice;
 - (b) makes an entry which is false in any particular;
 - (c) makes, produces or delivers to any officer any certificate, document or declaration which is false in any particular;
 - (d) misleads any officer in any particular likely to affect the discharge of his duty;
 - (e) refuses or fails to answer any question or to produce any document,

shall commit an offence.

- (4) For the purposes of subsection (3) a certificate, document, invoice, declaration entry, statement or a statement contained in a document produced by a computer in accordance with section 16A and subject to Section 158A shall be deemed to be false if it is incorrect or misleading in any material particular.

158A. Admissibility of Documents produced by Computers

- (1) In any legal proceedings under this Act, a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated therein of which direct oral evidence would be admissible if it is shown that the prescribed conditions have been satisfied.
- (2) In any proceedings the court may for special cause require oral evidence to be given of any matter under this section.
- (3) Any person giving any information under this section which is false or misleading in any material particular shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 3 years and to a fine not exceeding 20,000 rupees.

159. Joint and Several Liability to Penalties.

Where a pecuniary penalty is jointly and severally incurred by any number of persons, each and every one of them shall be liable to pay such penalty in full.

160. Other Penalties.

- (1) Any person who, in relation to any import, commits an offence under this Act for which no specific penalty is provided or who otherwise contravenes this Act shall , on conviction, be liable to a fine which shall -
 - (a) where the value of the goods which are the subject-matter of the offence does not exceed 1,500 rupees, be 4,000 rupees;
 - (b) where the value of the goods which are the subject-matter of the offence exceeds 1,500 rupees , be three times the value of the goods or Rs 20,000, whichever is the higher.

and the goods shall be liable to forfeiture.

- (2) Without prejudice to any other enactment, any person who, in relation to any export, commits an offence under this Act for which no specific penalty is provided or who otherwise contravenes this Act shall, on conviction, be liable to a fine which shall not exceed 100,000 rupees.

161. Jurisdiction.

Notwithstanding-

- (a) section 114 of the Courts Act; and
- (b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try all offences under this Act other than section 157, and may impose any penalty provided under this Act.

**PART XVII
SETTLEMENT OF CASES BY THE COMPTROLLER**

162. Compounding of Cases by Comptroller.

- (1) The Comptroller may compound any offence or act committed by any person against the customs laws where such person agrees in writing to pay such amount acceptable to the Comptroller, with the concurrence of the Revenue Authority established under the Revenue Authority, not exceeding the maximum pecuniary penalty imposable under such customs laws for such offence or act.
- (2) Any vessel, means or conveyance, goods or other articles liable to forfeiture under the customs laws under which an offence or act so compounded has been committed may be seized by the Comptroller.

- (3) Every agreement to compound shall be in writing and signed by the Comptroller and such person as described under subsection (1), and witnessed by an officer, and a copy shall be delivered to such person.
- (4) Every agreement to compound shall be final and conclusive.
- (5) Where the amount agreed upon under this section or any part of such amount is not paid in accordance with the compounding agreement, the Comptroller shall send a certified copy of such compounding agreement to the District Court of Port Louis which shall thereupon proceed to enforce such agreement in the same manner as if it had imposed such agreed amount by way of fine.
- (6) The compounding of an offence under the Customs or of any act committed against any such customs laws shall take into account the excise duty and taxes payable on the goods which are the subject-matter of such offence or act.
- (7) On payment of the agreed amount in accordance with the compounding agreement, no further proceedings in regard to such particular offence or act shall be taken against the person who has so agreed to the compounding.
- (8) The authority of the Comptroller to compound as described under this section shall extend to compounding of any offence or act committed by any person against the Health Development Certificate Act and Industrial Expansion Act in relation to Customs.

**PART XVIII
POWERS OF MINISTER**

163. Regulations.

- (1) The Minister may make such regulations as he thinks fit for-
 - (a) the purpose of this Act and generally for the better carrying of the objectives and purposes of this Act; and
 - (b) the proper implementation of any International Convention, Treaty or Agreement to which Mauritius is a contracting party.
- (2) Regulations made under subsection (1) may provide that any person who contravenes them shall commit an offence and shall on conviction, be liable to a fine not exceeding Rs 200,000 and that goods which are the subject-matter of the contravention shall be liable to forfeiture.
- (3) Regulations made under subsection (1) may provide for the method of assessing *ad valorem* duty on exported sugar.

164. General Directions.

The Minister may give to the Comptroller any general directions which are not inconsistent with the provisions of customs laws.

**PART XIX
MISCELLANEOUS**