Customs Revenue and Border Protection

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The Customs Revenue and Border Protection Act 2012 No 5 was assented to on 20 June 2012 and commenced on 1 August 2012 and 1 July 2014, as amended by:

Amending Legislation	Date of Assent	Date of Commencement
Customs Excise Order 2014 No 10	1 April 2014	2 April 2014
Customs Revenue and Border Protection Amendment Act 2015–16 No 7	26 September 2016	1 August 2012
Maritime Zones Act 2018 No 1	23 February 2018	Sch: 24 February 2018
Customs Legislation Act 2020 No 9	4 May 2020	Part 1: 1 July 2020
Cook Islands Immigration Act 2021 No 16	6 December 2021	Sch 1: 19 April 2023

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An Act to reform and modernise the laws relating to Customs controls and enforcement, provide for revenue administration and border management, trade and travel facilitation, security, and for related matters.

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, by the authority of the same, as follows:

1 Short title

This Act is the Customs Revenue and Border Protection Act 2012.

2 Commencement

(1) Except as provided in subsection (2), this Act comes into force on 1 August 2012.

(2) The following provisions come into force on a date to be appointed by the Queen's Representative by Order in Executive Council:

(a) sections 15(7), 16(2), 17(4), 21(4), 66(4), 71(4), 83(7), 95(4), 97(8), 101(3), 118(6), 121(9), 122(5), 123(4), 124(3), 125(4), 136(6), 137(4), 143(4), 144(2), 145(4), 158, 160(13), 164(5), 167(3) and (4), 168(4), 198(7), 199(3), 276, 282(3), 294(6), 298, and 299, and Part 18, and section 349:

(b) Part 9 and Schedule 3.

(3) One or more Orders in Executive Council may be made appointing different dates for different provisions or different purposes.

Part 1
Preliminary provisions

3 Purpose

The purpose of this Act is to—

(a) reform and modernise the law relating to Customs controls and enforcement; and

(b) reform and modernise the law relating to border controls and border management; and

(c) provide for revenue administration; and

(d) provide flexible, enabling, and empowering legislation that takes an integrated agency approach to border management; and

(e) provide for trade and travel facilitation; and

(f) assist legitimate traders and travellers, and apply appropriate sanctions for those who transgress the law; and

(g) make Customs Law clear and more easily understood; and

(h) comply with international conventions, instruments, protocol, or obligations; and

(i) provide mechanisms to enhance Customs revenue collection; and

(j) provide and establish a security framework; and

(k) provide a framework of legislative provisions to be enacted in the near future which are at present beyond the current capability and capacity of both Customs and Cook Islands importing businesses.

4 Interpretation

(1) In this Act, unless the context requires another meaning,—

aircraft means a machine that can derive support in the atmosphere from the reaction of the air

Armed Forces means the New Zealand Defence Force as defined in section 11 of the New Zealand Defence Act 1990 used either in accordance with section 9 of the New Zealand Defence Act 1990 or section 5 of the New Zealand Cook Islands Constitution Act 1964

arrival—

(a) in relation to a craft, includes the arrival of the craft, whether lawfully or unlawfully, in the Cook Islands from a point outside the Cook Islands whether or not the craft lands at, hovers above, berths, moors, anchors, or stops at, or otherwise arrives at any place within the Cook Islands; and

(b) in relation to a person, means the entry of the person by any means, whether lawfully or unlawfully, into the Cook Islands from a point outside the Cook Islands; and **arriving** and **arrived** have corresponding meanings

authorised person means a person authorised under section 8

beer means the product of alcoholic fermentation by yeast of liquid derived from a mash of drinking water and malt grains with hops or their extract

boat means a vessel other than a ship

compounding means the manufacture of spirituous liquor (other than perfume, culinary essences, or medicinal or toilet preparations) by imparting a flavour to, or mixing a material or ingredient with, spirits by a method of which the process of distillation is part; and **to compound** and **compounder** have corresponding meanings

Comptroller, **Comptroller of Customs**, and **Collector of Customs** means the person holding office in accordance with section 7(3) or appointed in accordance with section 7(2) as Comptroller of the Cook Islands Customs Service

contractor means a person who does work for valuable consideration on or in respect of any goods at the request of any person (otherwise than as an employee of that other person) in circumstances where that other person supplies, but retains ownership of, some or all of the material used in the work

Cook Islands—

(a) means the land and the waters enclosed by the outer limits of the territorial sea of the Cook Islands (as provided for in the Maritime Zones Act 2018); and

(b) includes the contiguous zone of the Cook Islands (as described in the Maritime Zones Act 2018) in—

(i) section 26(1) and (4); and

(ii) sections 25(1)(c) and (d), 31(1), 172(1) and (2), 173(1), 176(1), and 187(a) and (b) in relation to a craft that is a ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by water or over or under water; and

(iii) sections 187(a) and (b) and 189(2), in relation to a person who has entered into or has arrived in or is about to depart from the Cook Islands in a craft that is a ship, boat, or other machine or vessel,

used or capable of being used for the carriage or transportation of persons or goods, or both, by water or over or under water; and

(iv) sections 209 and 287(2), in relation to goods found on a ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by water or over or under water

Cook Islands Customs Service means the division of the Ministry of Finance and Economic Management called the Revenue Management Division which contains the Cook Islands Customs Service established by section 7

craft includes any aircraft, ship, boat, or other machine or vessel, used or capable of being used for the carriage or transportation of persons or goods, or both, by air or water or over or under water

Crown means the Government of the Cook Islands

Customs means the Cook Islands Customs Service

Customs airport means an aerodrome designated as a Customs airport under section 12

Customs Appeal Authority or **Authority** means the authority established under section 312

Customs-approved secure exports scheme means, in relation to goods that are to be exported (whether under drawback or not), a scheme approved by the Comptroller under section 83—

(a) for the packing of the goods, in a Customs approved secure package, by approved persons, in approved conditions, and subject to approved requirements (including, without limitation, a requirement that a seal or markings in an approved form be applied to the package, as soon as it is secured—

(i) to show that, when it was secured, the package contained only the goods, and was secured in an approved way; and

(ii) to help to identity interference or tampering with the package after it is secured); and

(b) for the immediate conveyance (on the completion of the packing of the goods in that way) of Customs approved secure package, by approved persons and in an approved manner, to the place of shipment for shipping, or if it is not in that way immediately conveyed and shipped, to some approved place or places of security en route to the place of shipment; and

(c) for the goods from the time when they are first secured in a Customs approved secure package until the exportation of the goods to a point outside the Cook Islands, to be goods, subject to the control of Customs; and

(d) for the powers of detention and search in section 177 to be available in respect of a vehicle in the Cook Islands if there are suspected to be in or on the vehicle goods that are, or are suspected to be,—

(i) subject to the control of Customs; and

(ii) in a Customs-approved secure package; and

(e) for a Customs officer to be empowered, under section 180(2), to question 1 or more of the following persons about any cargo destined to be exported from the Cook Islands—

(i) a person who is the owner or operator of a vehicle that a Customs officer has reasonable cause to suspect has in or on it, or has within the previous 72 hours had in or on it, goods subject to the control of Customs and in a Customs approved secure package:

(ii) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, or have within the previous 72 hours had in or on them, goods subject to the control of Customs and in a Customs-approved secure package:

(iii) a person employed by a person described in subparagraph (i) or (ii); and

(f) for the powers in section 193 (which include powers of examination) to be available in respect of goods that are, or are suspected to be—

(i) subject to the control of Customs; and

(ii) in a Customs-approved secure package

Customs-approved secure package means a package of a kind that is approved by the Comptroller under section 83 for the purposes of a Customs-approved secure exports scheme

Customs controlled area means an area that is required, for one or more of the purposes described in section 13, to be licensed and that is so licensed

Customs direction means a lawful request, order, command, or instruction (whether in writing or verbal) given by a Customs officer (or an authorised person) to any person to do or to refrain from doing an act or to submit to a procedure for the purposes of this Act; and includes any notice, poster or sign publicly displayed in a Customs place or Customs controlled area; and includes a direction contained in a form prescribed under this Act

Customs officer or **officer** means a person appointed by the Comptroller as a Customs officer for the purpose of this Act, or a person authorised by the Comptroller under section 8, or any other person who is declared by the Comptroller to be a Customs officer for the purpose of this Act, whether at the time of appointment or otherwise

Customs place means a Customs port or Customs airport designated under section 12

Customs port means a port of entry designated as a Customs port under section 12

Customs revenue or **revenue of Customs** means revenue managed by Customs on behalf of the Crown

Customs seal, in relation to a package of goods to be exported, means a seal approved by the Comptroller for use in relation to the package, as soon as it is secured (and in accordance with a notice under section 81), to fulfill either or both of the following purposes:

(a) to show that, when it was secured, the package contained only the goods, and was secured in an approved way; and

(b) to help to identify interference or tampering with the package after it is secured

Customs value or **value**, in relation to goods, means Customs value of those goods determined in accordance with Schedule 2

dangerous item means—

(a) any firearm as defined in section 2 of the Cook Islands Arms Ordinance 1954; and

(b) any dangerous or offensive weapon or instrument of any kind whatever; or

(c) any ammunition; or

(d) any explosive substance or device or any other injurious substance or device of any kind whatever that could be used to endanger a person's safety

departure hall means a place licensed under section 15 for the processing of persons departing from the Cook Islands

document means—

(a) a document in any form, whether or not signed or initialled or otherwise authenticated by the maker; and

(b) includes—

(i) any form of writing on material:

(ii) information recorded, transmitted, or stored by means of a tape recorder, computer, or other device, and material subsequently derived from information so recorded, transmitted, or stored:

(iii) a label, marking, or other form of writing that identifies any thing of which it forms part or to which it is attached by any means:

(iv) a book, map, plan, graph, or drawing:

(v) a photograph, film, negative, tape, or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced

domestic cargo means goods that, having been brought within a Customs controlled area at one Customs place for carriage by air or sea to any other Customs place in the Cook Islands on either—

(a) a craft that—

(i) begins its journey outside the Cook Islands; and

(ii) in the course of that journey, enters the Cook Islands and travels between at least 2 Customs places in the Cook Islands; or

(b) a craft that—

(i) begins its journey at a Customs place in the Cook Islands; and

(ii) in the course of that journey, travels to at least one other Customs place in the Cook Islands before leaving the Cook Islands,—

are within that Customs controlled area or are being carried on such a craft from one Customs place to another Customs place or, having been so carried on such a craft, are awaiting removal from a Customs controlled area at a Customs place

domestic passenger means a passenger, not being an internationally ticketed passenger, who has an entitlement to air or sea travel for a domestic sector on either—

(a) a craft that—
  (i) begins its journey outside the Cook Islands; and
  (ii) in the course of that journey, enters the Cook Islands and travels between at least 2 Customs places in the Cook Islands; or

(b) a craft that—
  (i) begins its journey at a Customs place in the Cook Islands; and
  (ii) in the course of that journey, travels to at least one other Customs place in the Cook Islands before leaving the Cook Islands

domestic sector means a journey from one Customs place to another within the Cook Islands

dutiable goods means goods of a kind subject to duty within the meaning of this Act

duty means a duty, additional duty, tax, fee, charge, or levy imposed on goods by any of the provisions of this Act, and includes—

(a) excise duty and excise-equivalent duty imposed under Part 9:

(b) a duty imposed under the Tariff Act 2012:

(c) a duty or tax imposed under section 10 of the Value Added Tax Act 1997

electronic publication means a thing (including but not limited to a disc, or an electronic or computer file) on which is recorded or stored information that, by the use of a computer or other electronic device, is capable of being reproduced or shown as 1 or more (or a combination of 1 or more) images, representations, signs, statements, or words

excisable goods means goods on which excise duty is payable in accordance with this Act

Excise Order means the applicable Order in Council made under section 113

exportation,—

(a) except where otherwise expressly provided, means any shipment in any craft for transportation to a point outside the Cook Islands; and

(b) in relation to an electronic publication referred to in section 91 or regulations made under section 91, includes the sending of the electronic publication from the Cook Islands by any means (other than by broadcasting) to a point outside the Cook Islands; and

(c) **to export** and **exported** have corresponding meanings

exporter means a person by or for whom goods are exported; and includes a person who is or becomes the owner of or entitled to the possession of or is beneficially interested in goods on or at any time after entry for export and before they are exported

export warehouse means a place licensed under section 15 for the purpose described in section 13(b)

forfeited goods means goods that are forfeited to the Crown under section 286

goods means all kinds of movable personal property, including animals

goods subject to the control of Customs has the meaning given to that term by section 23

Government means the Executive Government of the Cook Islands established by Part 2 of the Constitution

Head of Department means the person appointed under section 14 of the Public Service Act 2009

High Court means the High Court of the Cook Islands

importation—

(a) in relation to any goods, means the arrival of the goods in the Cook Islands in any manner, whether lawfully or unlawfully, from a point outside the Cook Islands; and

(b) in relation to an electronic publication referred to in section 90 or regulations made under section 90, includes the arrival of the electronic publication in the Cook Islands by transmission by any means (other than by broadcasting) from a point outside the Cook Islands

importer means a person by or for whom goods are imported; and includes the consignee of goods and a person who is or becomes the owner of or entitled to the possession of or beneficially interested in any goods on or any time after their importation and before they have ceased to be subject to the control of Customs

international cargo means any cargo that has arrived from a point outside the Cook Islands or is destined to be exported from the Cook Islands

international crew means the crew or any member of the crew of a craft that is on a journey that—

(a) began outside the Cook Islands; or

(b) began in the Cook Islands and is to continue outside the Cook Islands

international passenger means a person who has entitlement to travel on a craft within the Cook Islands where that travel is part of an international journey that—

(a) began outside the Cook Islands; or

(b) began in the Cook Islands and is to continue outside the Cook Islands

internationally ticketed passenger means a person who has an entitlement to air or sea travel for a domestic sector, being a sector included in tickets for an international journey that—

(a) began outside the Cook Islands; or

(b) began in the Cook Islands and is to continue outside the Cook Islands

Judge means a Judge of the High Court of the Cook Islands

manufacture, in relation to goods specified in the Excise Order, means,—

(a) if the goods are tobacco, the process of cutting, pressing, grinding, crushing or rubbing raw or leaf tobacco, or otherwise preparing raw or leaf tobacco or manufactured or partially manufactured tobacco, and of making cigarettes whether from duty-paid or from non-duty paid tobacco, and of putting up for use or consumption scraps, waste, chippings, stems or deposits of tobacco resulting from processing tobacco:

(b) if the goods are a fuel, any operation or process, involved in the production of the goods:

(c) if the goods are neither tobacco, nor a fuel—

(i) any operation or process involved in the production of the goods; and

(ii) any ancillary process (as defined in subsection (2)) that takes place on premises that are not licensed, or required to be licensed under the Sale of Liquor Act 1991–92

manufactured tobacco means tobacco that has been manufactured or prepared for smoking or any other purpose

manufacturing area means a place licensed under section 15 for the purpose described in section 13(a)

Member of the Police means any person appointed under the Police Act 1981

Minister means the Minister responsible for the Cook Islands Customs Service

Ministry of Finance and Economic Management means the Ministry established by the Ministry of Finance and Economic Management Act 1995–96

objectionable in relation to publications means a publication that describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good and includes any publication that promotes or supports, or tends to promote or support,—

(a) the exploitation of children, or young persons, or both, for sexual purposes; or

(b) the use of violence or coercion to compel any person to participate in, or submit to, sexual conduct; or

(c) sexual conduct with or upon the body of a dead person; or

(d) the use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct; or

(e) bestiality; or

(f) acts of torture or the infliction of extreme violence or extreme cruelty

occupier, in relation to land, means the owner; and includes a lessee or tenant, a licensee, or a person who has the right to occupy land under other authority

operator in relation to a business, means the person actively engaged, whether alone or with others, in the carrying on of the business, and whether registered as such; and, in the case of a body corporate, includes every director, manager, secretary, or other similar officer engaged in the direct control or management of its business, and a person who purports to act in any of those capacities

overseas company means any company other than one incorporated in the Cook Islands

overseas register means the register of companies that are incorporated outside the Cook Islands, which is kept under the Companies Act 1970–71

owner—

(a) in relation to a craft, includes the owner or charterer of the craft, and a person acting as agent for the owner or charterer; and

(b) in relation to goods, includes the importer or a person having possession of or who is beneficially interested in the goods; and

(c) in relation to land, means the person entitled to receive rent for the land, or who would be so entitled if the land were let to a tenant for any rent

package includes any means used or capable of being used to pack, cover, enclose, contain or encase goods for carriage, a bulk cargo container, a pallet or a similar device

prescribed means,—

(a) in respect of the matters described in section 359, prescribed by the Comptroller; and

(b) in respect of all other matters, prescribed by regulations made under this Act

prohibited exports means goods or electronic publications the exportation of which is prohibited, whether conditionally or unconditionally, by or under section 91

prohibited goods means prohibited exports or prohibited imports

prohibited imports means goods or electronic publications the importation of which is prohibited, whether conditionally or unconditionally, by or under section 90

publication means—

(a) any film, book, sound recording, picture, newspaper, photograph, photographic negative, photographic plate, or photographic slide:

(b) any print or writing:

(c) a paper or other thing that has printed or impressed upon it, or otherwise shown upon it, 1 or more (or a combination of 1 or more) images, representations, signs, statements, or words:

(d) a thing (including, but not limited to, a disc, or an electronic or computer file) on which is recorded or stored information that, by the use of a computer or other electronic device, is capable of being reproduced or shown as 1 or more (or a combination of 1 or more) images, representations, signs, statements, or words

public notice means—

(a) a notice published in any form of media including radio, television, and newspaper; and

(b) if a notice is published on an Internet site to which the public have free access, includes that notice

Public Service has the meaning given to that term by section 23 of the Public Service Act 2009

rectifying in relation to spirits, meaning purifying by a process of redistillation

Response Executive means the Response Executive established by section 11 of the Disaster Risk Management Act 2007

securities means the security for the payment of duty that is payable under the provisions of this Act, including any additional costs incurred by Customs in administering such security

ship means a vessel used in navigation, not being a vessel propelled only by oars; and includes a hovercraft or submarine

shipment includes loading into a craft; and **to ship** and cognate expressions have corresponding meanings

spirits means ethyl alcohol, whether denatured or not, and includes spirituous beverages, including brandy, gin, rum, vodka, whisky, and every description of spirituous liquor derived from ethyl alcohol

tobacco includes cigars, cigarettes, and snuff

uncustomed goods means goods on which duty has become due and payable but is unpaid

unlawfully exported means exported in breach of this Act or any other enactment

unlawfully imported means imported in breach of this Act or any other enactment

vehicle means a conveyance for use on land, whether or not it is also capable of being used on or over water

working day means a day of the week other than Saturday, Sunday, and the days stipulated as public holidays under the Public Holidays Act 1999.

(2) For the purposes of paragraph (c)(ii) of the definition of manufacture in subsection (1), the term **ancillary process**, in relation to the manufacture of goods specified for the purpose of this subsection in the Excise Order that are neither a tobacco nor a fuel means any 1 or more of the following processes:

(a) filtering the goods, diluting the goods, or blending the goods with other goods (whether the other goods are the same as, similar to, or different from, the goods):

(b) putting the goods for the first time into a container (for example, a bag, barrel, bottle, can, cask, drum, or keg) in which they might be presented, or from which they might be dispensed, for sale to the public or any member of the public:

(c) labelling or marking, for the first time, containers filled with the goods.

[Section 4(1) Cook Islands paragraph (a): amended, on 24 February 2018, by Schedule of the Maritime Zones Act 2018 (2018 No 1).]
[Section 4(1) Cook Islands paragraph (b): amended, on 24 February 2018, by Schedule of the Maritime Zones Act 2018 (2018 No 1).]

5 Act binds the Crown

Except as provided in section 6, this Act binds the Crown, including every Government department, statutory authority and statutory corporation, and every person in the employment of the Government.

6 Application of Act in certain cases

(1) The circumstances in which and the conditions on which the powers conferred by Part 14 may be exercised in relation to—

(a) a member of the Armed Forces; or

(b) a craft under the control of the Armed Forces—

must be prescribed by regulations, and those powers may only be exercised in the circumstances and on the conditions so prescribed.

(2) For the purposes of subsection (1), the Queen's Representative, by Order in Executive Council, must make regulations prescribing the circumstances in which and the conditions on which the powers conferred by Part 14 may be exercised in relation to—

(a) a member of the Armed Forces; or

(b) a craft under the control of the Armed Forces.

(3) Subject to subsection (6), sections 33 to 43 do not apply to any member of the Armed Forces or any craft under the control of the Armed Forces during such time as that person or craft is required to respond to an emergency.

(4) For the purposes of this section, **emergency** means—

(a) an emergency due to an actual or imminent attack on the Cook Islands by an enemy, or to any actual or imminent warlike act whether directed against the Cook Islands or not, if loss of life or injury or distress to persons or danger to the safety of the public is caused or threatened to be caused in the Cook Islands or in any part of the Cook Islands; or

(b) an actual event, or a high probable risk, involving serious disruption to the functioning of a community causing widespread human, material, economic, or environmental loss and which it exceeds the ability of the affected community to cope using its own resources (as a "disaster" defined in section 3 of the Disaster Risk Management Act 2007); or

(c) an actual or imminent event that endangers or threatens life, property or the environment and which requires a significant coordinated response (as defined as an "emergency" in section 3 of the Disaster Risk Management Act 2007); or

(d) such other circumstances as are agreed by Cabinet.

(5) Subject to subsection (6), sections 24 to 32 do not apply to any member of the Armed Forces or any craft under the control of the Armed Forces during such time as that person or craft is involved in an emergency described in subsection (4).

(6) Where a craft under the control of the Armed Forces that is involved in, or is required to respond to, an emergency departs from or returns to the Cook Islands, the Armed Forces must, within a period of 48 hours or such longer period as the Comptroller may reasonably determine, notify the Customs that the craft has departed from or arrived in the Cook Islands, as the case may be, and provide to the Customs such details relating to goods and persons on the craft as the Comptroller specifies.

(7) The power of the Comptroller under subsection (6) to determine a time or specify details required may be exercised generally or in respect of any particular case.

(8) Nothing in this Act or in any regulations made under this Act may be interpreted as limiting the immunities of—

(a) any foreign warship or other foreign governmental ship operated for non-commercial purposes; or

(b) any foreign military aircraft; or

(c) members of the crew of any ship or aircraft to which paragraph (a) or (b) applies.

(9) Sections 24 to 35 do not apply to any craft under the direction of the Response Executive responding to a disaster or emergency as those terms are defined in the Disaster Management Act 2007.

[The next page is 905,501]

Part 2
Administration

7 Cook Islands Customs Service

(1) There is established a Division of the Ministry of Finance and Economic Management called the Revenue Management Division which must contain the Cook Islands Customs Service (formerly known as the Customs Department).

(2) The Minister may from time to time appoint a Comptroller of the Cook Islands Customs Service and this person must—

(a) be known as the Comptroller of Customs; and

(b) by virtue of his or her office, be a Customs officer for purposes of this Act.

(3) The person holding the position of Comptroller of the Customs Department immediately prior to the enactment of this Act is deemed to be the Comptroller of the Cook Islands Customs Service in accordance with the transitional provisions of this Act and holds that position in accordance with the employment provisions of the Public Service Act 2009.

(4) The Comptroller may from time to time appoint Customs officers for the purposes of this Act.

(5) All officers holding position of Custom officer immediately prior to the enactment of this Act are deemed to be Customs officers of the Cook Islands Customs Services in accordance with the transitional provisions of this Act.

8 Authorised persons

(1) The Comptroller may authorise any suitably qualified and trained person who is not a Customs officer to perform or exercise any function or power that may be performed or exercised by a Customs officer under this Act.

(2) The authorisation under subsection (1) must be in writing (including any writing in electronic form) and must specify—

(a) the function or power that may be performed or exercised by the authorised person; and

(b) the term of the authorisation, which must be such period, not exceeding 3 years, as the Comptroller thinks fits.

(3) The Comptroller may from time to time renew any authorisation given under this section for such further period, not exceeding 3 years, as the Comptroller thinks fit.

(4) A person who is authorised under this section must for the purposes of this Act be treated as a Customs officer when performing or exercising a function or power in accordance with that person's authorisation.

(5) The Comptroller may revoke an authorisation given under this section for incapacity, neglect of duty, or misconduct, or where the authorised person gives written notice to the Comptroller that he or she wishes the authorisation to be revoked, or in any other circumstance where, in the opinion of the Comptroller, the authorisation is no longer necessary.

(6) Where a person ceases to be an authorised person under this section, that person must surrender to the Comptroller all articles and documents received by him or her in relation to the authorisation.

9 Delegation by Comptroller

(1) The Comptroller may from time to time, either generally or particularly, delegate to any person 1 or more of the Comptroller's functions or powers under this Act or regulations made under this Act.

(2) Where the Comptroller has, under subsection (1), delegated any functions or powers to any person, that person may, with the prior approval in writing of the Comptroller, delegate such of those functions or powers as the Comptroller approves to any other person.

(3) Subject to any general or special directions given or conditions imposed by the Comptroller, the person to whom any functions or powers are delegated under this section may exercise those functions or powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by delegation.

(4) A delegation—

(a) must be in writing; and

(b) must be given for a specified period but in any event is revocable at will; and

(c) does not affect or prevent the exercise of any function or power by the Comptroller; and

(d) does not affect the responsibility of the Comptroller for the actions of any person acting under the delegation.

10 Identity cards

(1) The Comptroller must issue an identity card or other means of identification to each Customs officer and any authorised person other than a member of the Police.

(2) Whenever a Customs officer or authorised person exercises any power under this Act, he or she must, on request, produce the identity card or other means of identification for inspection.

(3) A person who ceases to be a Customs officer or authorised person must, as soon as possible, return the identity card or other means of identification to the Comptroller.

11 Customs flag

The Customs flag must be the Cook Islands (flag) with the addition in the fly of the words "Cook Islands Customs Service" in bold characters.

[The next page is 905,701]

Part 3
Customs places and Customs controlled areas

Customs places

12 Customs places

(1) For the purposes of this Act, the Comptroller may by public notice and subject to such conditions or restrictions as the Comptroller may determine, designate as a Customs port or as a Customs airport, any port or airport specified in the notice, and such Customs port and Customs airports must be known collectively as "Customs places".

(2) The Comptroller may in like manner vary or revoke a designation under this section or vary or revoke the conditions or restrictions to which it was subject or revoke those conditions or restrictions and impose new conditions or restrictions.

(3) The Comptroller must consult the Secretary of the Ministry of Transport, the Principal Immigration Officer, and the Secretary of the Ministry of Agriculture before exercising the powers conferred by this section.

Customs controlled areas

13 Customs controlled areas

Subject to such exemptions as may be prescribed and to section 15(4), no area may be used for—

(a) the manufacture of goods specified for the purpose of this paragraph in the Excise Order; or

(b) the deposit, keeping, or securing of imported or excisable goods without payment of duty on the goods, pending the export of those goods; or

(c) the temporary holding of imported goods for the purposes of the examination of those goods under section 193 (including the holding of the goods while they are awaiting examination); or

(d) the disembarkation, embarkation, or processing of persons arriving in or departing from the Cook Islands; or

(e) the processing of craft arriving in or departing from the Cook Islands or the loading or unloading of goods onto or from such craft; or

(f) any other prescribed purpose,—

unless that area is licensed as a Customs controlled area.

14 Application for licence

(1) An application for an area to be licensed as a Customs controlled area may be made by the owner or occupier of, or person operating in, the area and must be made in such form and must contain such particulars as may be prescribed.

(2) The Comptroller may, at any time, request further information from an applicant if the Comptroller considers that the information is relevant to the application.

(3) An applicant may, at any time before the Comptroller makes a decision on the application, advise the Comptroller of any variations that the applicant wishes to make to the application.

15 Grant or refusal of licence

(1) On receipt of—
(a) an application for a licence; and
(b) any information requested by the Comptroller under section 14(2); and
(c) any variations to the application made under section 14(3),—

the Comptroller may grant a licence for the area, or may refuse the application.

(2) A licence granted under subsection (1) may be granted subject to—
(a) such terms, conditions, or restrictions as the Comptroller thinks fit; and
(b) the payment by the licensee of the prescribed annual licence fee (if any).

(3) The licence must—
(a) specify the area in respect of which it is granted; and
(b) specify the applicant as the licensee; and
(c) specify the purpose or purposes described in section 13(a) to (f) for which the area is licensed.

(4) Where, on an application for an area to be licensed as a Customs controlled area, the Comptroller is of the opinion that—
(a) it is not in the public interest; and
(b) it is impracticable or unnecessary—

that the area should be licensed as a Customs controlled area, the Comptroller may, in his or her discretion, and under such conditions as the Comptroller thinks fit, direct that the area need not be licensed as a Customs controlled area.

(5) A direction given under subsection (4) may be given in respect of the whole or any specified part of the business carried on in the area, and must exempt the area from such provisions of this Act as may be specified in the direction.

(6) The applicant must be advised by notice in writing of any decision or direction of the Comptroller under this section.

(7) An applicant who is dissatisfied with a decision or direction of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.
[Section 15(7): Not commenced.]

16 Variation or revocation of conditions

(1) The Comptroller may, by notice in writing, vary or revoke the terms, conditions, or restrictions to which the licence is subject or revoke those terms, conditions, or restrictions and impose new terms, conditions, or restrictions.

(2) A licensee who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.
[Section 16(2): Not commenced.]

17 Revocation or suspension of licence

(1) A licence issued under section 15 may, at any time, be revoked or suspended by the Comptroller where—
(a) a term, condition, or restriction specified in the licence has been contravened; or
(b) the area in respect of which the licence was granted ceases to be used for any of the purposes described in section 13(a) to (f) for which the area is licensed; or

(c) the licensee ceases to be the owner or occupier of, or operator in, the area in respect of which the licence was granted; or

(d) the Comptroller considers that the licensee is no longer a fit and proper person to hold a licence; or

(e) the prescribed annual fee (if any) is due and has not been paid.

(2) Notice in writing of the Comptroller's intention to revoke or suspend a licence must be given to the licensee unless the Comptroller considers that there is good reason not to give such a notice.

(3) Where the Comptroller revokes or suspends a licence under subsection (1), the Comptroller must notify the licensee in writing of the revocation or suspension.

(4) A person who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision. [Section 17(4): Not commenced.]

18 Surrender of licence

A licence for a Customs controlled area may be surrendered at any time by the licensee by the giving of 1 month's notice in writing to the Comptroller.

19 Closing of Customs controlled area

Where any licence issued under section 15 is suspended, revoked, or surrendered, duty becomes due and payable on all goods within that area that are or were subject to the control of Customs, immediately prior to the suspension, revocation, or surrender, unless the Comptroller permits the goods to be removed to another Customs controlled area or to be exported.

20 Liabilities not affected by ceasing to act as licensee

The obligations and liabilities under this Act of a licensee in respect of anything done or omitted to be done by the licensee while licensed are not affected by the fact that the licensee ceases to act as such nor by the fact that the licence is surrendered or suspended or revoked.

21 Customs facilities in Customs controlled areas

(1) The licensee of any Customs controlled area licensed under this Act must, without any charge to Customs, provide and maintain such operating areas, accommodation, facilities, buildings, equipment, and storage as the Comptroller determines are reasonably necessary and suitable for the carrying out of the functions and responsibilities of Customs, including any operating area in a Customs controlled area where that operating area is used for—

(a) the processing of persons arriving in or departing from the Cook Islands; or

(b) the processing of craft arriving or departing from the Cook Islands; or

(c) the processing of postal articles arriving in or departing from the Cook Islands; or

(d) the processing of air cargo arriving in or departing from the Cook Islands; or

(e) accommodation, facilities, buildings, storage, and car parks used by Customs' employees for the above purposes.

(2) The licensee of every Customs controlled area must store goods subject to the control of Customs in such manner and in such location as the Comptroller may direct.

(3) The licensee must be advised by notice in writing of any determination of the Comptroller under subsection (1) or any direction of the Comptroller under subsection (2).

(4) A licensee who is dissatisfied with a determination by the Comptroller under subsection (1) or a direction by the Comptroller under subsection (2) may, within 20 working days after the date on which notice of the determination or direction is given, appeal to a Customs Appeal Authority against that determination or direction.

[Section 21(4): Not commenced.]

22 Storage charges

In such circumstances and for such period of time as may be prescribed, no charges may be made by a licensee of a Customs controlled area for the reception or storage in that area of any imported goods.

[The next page is 905,901]

Part 4
Arrival and departure of goods, persons, and craft

23 Goods subject to control of Customs

(1) Goods are subject to the control of Customs,—

(a) where the goods have been imported, from the time of importation until the time the goods are lawfully removed for home consumption or exportation from a Customs controlled area; or

(b) where the goods are lawfully removed from a Customs controlled area under a conditional permit granted under section 71(1)(c), until such time as the Comptroller is satisfied that the conditions of the permit have been met; or

(c) where the goods are to be exported (whether under drawback or not) and are in a package in relation to which a Customs seal has been used, from the time when the Customs seal is first used until the exportation of the goods to a point outside the Cook Islands; or

(d) where the goods are to be exported (whether under drawback or not) under a Customs-approved secure exports scheme, from the time when the goods are first secured in a Customs-approved secure package until the exportation of the goods to a point outside the Cook Islands; or

(e) where the goods are to be exported under drawback, from whichever is the earlier of the following times until the exportation of the goods to a point outside the Cook Islands:

(i) the time of the claim for the drawback; or

(ii) the time when the goods are brought to a Customs controlled area (whether or not the goods are later transported from that area to another area of any kind, and, if the goods are so transported, during the transportation); or

(f) where the goods are to be exported otherwise than under drawback, from the time when the goods are brought to a Customs controlled area for export, until their exportation to a point outside the Cook Islands; or

(g) where the goods are on board any craft described in section 172(1), at all times that the craft is within the Cook Islands; or

(h) where the goods are manufactured in a Customs controlled area, from the time of manufacture until the goods are lawfully removed for home consumption from a Customs controlled area, or the goods are exported to a point outside the Cook Islands, whichever happens first; or

(i) where the goods are owned by or in the possession of an internationally ticketed passenger, or an international crew member who is using air or sea travel for a domestic sector or a domestic passenger who is using air or sea travel for a domestic sector, the goods are—

(i) brought into a Customs controlled area licensed for the disembarkation, embarkation, or processing of persons arriving in or departing from the Cook Islands:

(ii) accepted by carriage by an airline or shipping company—

until the time when, at the end of the domestic sector, the goods are lawfully removed from a Customs controlled area licensed for the disembarkation, embarkation, or processing of persons arriving in or departing from the Cook Islands.

(j) in the case of domestic cargo (not being goods to which paragraph (i) of this subsection applies), from the time when the goods are brought within a Customs controlled area that is in a Customs place until the time when the goods are lawfully removed from that or any other Customs controlled area.

(2) For the purposes of subsection (1), goods that are removed from a Customs controlled area to another Customs controlled area are not removed for home consumption.

24 Advice of arrival, etc

(1) The person in charge of a craft that is en route to the Cook Islands from a point outside the Cook Islands must, unless otherwise approved by the Comptroller,—

(a) give to Customs, in such form and manner (for example, in an electronic form and manner) as may be approved in writing by the Comptroller (either generally or for particular case or class of case) such advance notice as may be prescribed of 1 or more of the following matters:

(i) the impending arrival of the craft:

(ii) its voyage:

(iii) its passengers:

(iv) its crew:

(v) its cargo for discharge within the Cook Islands(whether commercial or non-commercial):

(vi) its commercial cargo not intended for discharge within the Cook Islands:

(vii) the Customs place at which the craft will arrive; and

(b) on arriving within the Cook Islands, proceed directly to that Customs place, unless directed elsewhere by a Customs officer.

(2) The owner or operator of the craft referred to in subsection (1), or an agent of the owner or operator, may provide the information referred to in paragraph (a) of that subsection to Customs on behalf of the person in charge of the craft.

25 Requirement to answer questions

(1) This section applies to—

(a) a craft that has arrived in the Cook Islands from a point outside the Cook Islands:

(b) a craft departing from the Cook Islands for a point outside the Cook Islands:

(c) a craft that is within the Cook Islands and that is carrying international cargo or international crew or any international passenger, whether or not the craft is also carrying domestic cargo:

(d) any other craft that is within the Cook Islands and that a Customs officer has reasonable cause to suspect has been, or is about to be, involved in the commission of an offence against this Act or the importation or exportation of any dutiable, uncustomed, prohibited, or forfeited goods.

(2) The person in charge of, the owner of, any member of the crew of, and any passenger on a craft to which this section applies must—

(a) answer any question asked by a Customs officer relating to the craft and its voyage and any persons or goods that are or have been carried by the craft; and

(b) immediately, at the request of any Customs officer, produce any documents within that person's possession or control relating to any of those matters.

(3) A person referred to in section 179(1) must—
(a) answer any questions asked by a Customs officer under section 179; and
(b) produce any documents within his or her possession or control that a Customs officer demands under section 182.

26 Bringing-to of ship

(1) The master or the person in charge of a ship arriving within the Cook Islands must, on being directed by a Customs officer to do so,—
(a) stop and bring the ship to for boarding; and
(b) ensure that the ship remains stopped until a Customs officer directs that the ship may proceed.

(2) The craft carrying the Customs officer or officers must identify itself as being a craft in the service of the Crown.

(3) The master of the ship or the person in charge must by all reasonable means facilitate the boarding of the ship by Customs officers.

(4) The master of a ship within the Cook Islands must, if so directed by any Customs officer acting with the authority of the Comptroller, cause that ship to leave the Cook Islands immediately.

(5) A Customs officer who proposes to give a direction under subsection (4) must consult with the Comptroller or a person authorised by the Comptroller.

27 Craft to arrive at nominated Customs place

(1) Subject to sections 24 and 28, the person in charge of a craft—
(a) that arrives within the Cook Islands on a journey from a point outside the Cook Islands:
(b) that is carrying—
(i) persons brought in that craft or any other craft from a point outside the Cook Islands; or
(ii) goods subject to the control of Customs brought in that craft or any other craft from a point outside the Cook Islands—
must ensure that the craft lands, anchors, or otherwise arrives only at a Customs place, which, in the case of a craft to which section 24 applies, must be the Customs place nominated by that person in accordance with that section.

(2) On arrival at the nominated Customs place or Customs controlled area within that place, and until an inward report in accordance with section 29 has been made, no person may leave or board the craft unless authorised to do so by a Customs officer.

28 Craft arriving at place other than nominated Customs place

(1) Nothing in section 27 applies to a craft—
(a) that is required or compelled to berth, land, anchor, or otherwise arrive at a place other than a Customs place nominated in accordance with section 24(1)(a), if this arrival—
(i) is required by any statutory or other requirement relating to navigation; or

(ii) is compelled by accident, stress of weather, or other necessity; or

(b) that is authorised by the Comptroller to berth, land, anchor, or otherwise arrive at a place other than a Customs place.

(2) An authorisation given under subsection (1)(b) may be granted subject to any conditions the Comptroller considers appropriate, including conditions about the passengers and goods that may be carried on the craft.

(3) The Comptroller may not grant any authorisation under subsection (1)(b) without consulting the Head of Department of—

(a) the Ministry of Agriculture; and

(b) the Ministry of Foreign Affairs and Immigration; and

(c) the Ministry of Health; and

(d) the Cook Islands Police; and

(e) if the proposed authorisation relates to an aircraft, the Airport Authority; and

(f) if the proposed authorisation relates to a ship, the Ministry of Transport; and

(g) every other Department whose operations may, in the Comptroller's opinion, be affected by the granting of an authorisation under subsection (1)(b).

(4) If any craft berths, lands, anchors, or otherwise arrives at a place other than a Customs place by reason of an authorisation under subsection (1)(b),—

(a) the same powers may be exercised under this Act in relation to that craft as if it had arrived at a Customs Place in accordance with Part 4, and the same obligations apply; and

(b) the same powers may be exercised under this Act in relation to persons and goods on that craft as if those persons or goods were in a Customs controlled area, following arrival of the craft in accordance with Part 4, and the same obligations apply.

(5) The person in charge of the craft—

(a) must immediately report to a Customs officer or to a member of the police; and

(b) must not, without the consent of a Customs officer, permit any goods carried in the craft to be unloaded from it or any of the crew or passengers to depart from its vicinity; and

(c) must comply with any directions given by a Customs officer in respect of any goods, crew or passengers carried in the craft.

(6) Subject to section 67(a), no member of the crew and no passenger on the craft may without consent of a Customs officer—

(a) unload goods from the craft; or

(b) depart from the vicinity of the craft,—

(i) and all such persons must comply with any directions given by a Customs officer.

(7) Where a craft is directed by a Customs officer under section 24(1)(b) to arrive at a place other than the Customs place nominated in accordance with section 24(1)(a), no person may depart from or board the craft unless authorised to do so by a Customs officer.

29 Inward report

(1) Unless otherwise approved by the Comptroller, this section applies to a craft—

(a) that arrives within the Cook Islands on a journey from a point outside the Cook Islands; or

(b) that is carrying—

(i) persons; or

(ii) goods subject to the control of Customs—

brought in that craft or any other craft from a point outside the Cook Islands.

(2) On the arrival at a Customs place of craft to which this section applies, the person in charge or the owner of the craft, as the case may be, must—

(a) deliver to Customs within such time or times as may be prescribed an inward report in such form and manner and containing such particulars verified by declaration as may be prescribed and accompanied by such supporting documents as the Comptroller may require; and

(b) comply with any Customs direction as to the movement of the craft within the Customs place, and as to the unloading of goods or the disembarkation of crew or passengers from the craft.

(3) The particulars and supporting documents referred to in subsection (2)(a) need not include information that has already been supplied to Customs in any form and manner approved in writing by the Comptroller under section 24(1)(a) or otherwise.

Arrival of persons

30 Persons arriving in Cook Islands to report to Customs officer or Police station

(1) Unless otherwise required under any provision of this Act, every person arriving in the Cook Islands must, on his or her arrival, report to a Customs officer or to a Police station immediately.

(2) A person who reports to a Customs officer or to a Police station in accordance with subsection (1) must remain at the place where the person reported for such reasonable time as Customs may require for the purposes of enabling any Customs officer to exercise in relation to that person any power under this Act.

31 Disembarkation

(1) Subject to such exemptions as may be prescribed, a person who is on board a craft that has arrived in the Cook Islands from a point outside the Cook Islands must comply with any Customs direction concerning disembarkation.

(2) For the purposes of this section, a Customs direction includes a direction given by the person in charge of the craft or by a crew member at the direction of a Customs officer.

(3) Subject to such exemptions as may be prescribed, every person who has disembarked from a craft to which this section applies must, unless otherwise directed by Customs,—

(a) go to a Customs controlled area; and

(b) remain there for such reasonable time as Customs may require for the purposes of enabling any Customs officer to exercise in relation to that person any power under this Act.

32 Baggage to be presented

(1) Subject to such exemptions as may be prescribed, every person who disembarks

from a craft that has arrived in the Cook Islands from a point outside the Cook Islands or a craft that is at the end of a domestic sector must—

(a) make his or her accompanying baggage available for examination by a Customs officer; and

(b) comply with any Customs direction relating to the movement of the baggage within Customs place or Customs controlled area or from any craft to a Customs controlled area.

(2) Any person who is moving or handling the baggage referred to in subsection (1) must comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from any craft to a Customs controlled area.

Departure of persons

33 Persons departing from Cook Islands to depart from Customs place

Subject to section 43 and to such exemptions as may be prescribed or unless otherwise authorised by Customs, a person must not depart from the Cook Islands unless he or she departs from a Customs place.

34 Embarkation

A person preparing to board a craft for departure from the Cook Islands must comply with any Customs direction given to the person concerning embarkation.

35 Outgoing baggage to be presented

(1) Subject to such exemptions as may be prescribed, every person who arrives at a Customs place or a Customs controlled area for embarkation on to a craft that has, as its destination, a point outside the Cook Islands must—

(a) make his or her accompanying baggage available for examination by a Customs officer; and

(b) comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from a Customs controlled area to any craft.

(2) Any person who is moving or handling the baggage referred to in subsection (1) must comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from a Customs controlled area to any craft.

[The next page is 906,101]

Further requirements relating to persons arriving in or departing from Cook Islands

36 Use of electronic communication devices prohibited in certain place

(1) This section applies to any Customs place or Customs controlled area that is used by persons arriving in or departing from the Cook Islands.

(2) A Customs officer may erect a sign prohibiting in a place or area to which this section applies the use of any electronic communication device identified on the sign (by words, or images or both).

(3) If a sign has been erected in a place under subsection (2), a Customs officer may require a person in that place not to use, or to stop using, an electronic communication device identified on the sign.

(4) Every person must comply with a requirement by a Customs officer under subsection (3).

(5) In this section, **electronic communication device** includes an electronic communication device (except for a device that is being used to assist with a disability) that is capable of 1 or more of the following actions:

(a) transmitting sound:
(b) computing information:
(c) functioning as a telephone:
(d) communicating in any other way using any technology (including telecommunication, radio communication, and broadcasting technology).

37 Completion of processing under Cook Islands Immigration Act 2021 and Biosecurity Act 2008

(1) This section applies to a person in a designated place who has arrived in the Cook Islands or who departs, or attempts to depart, from the Cook Islands.

(2) The person must remain in the designated place until the processing, under the Cook Islands Immigration Act 2021 and, if applicable, the Biosecurity Act 2008, in respect of that person's arrival in, or departure from, the Cook Islands, is completed.

(3) A Customs officer may direct the person to comply with the person's obligation under subsection (2).

(4) For the purpose of subsection (2), the processing referred to in that subsection is completed when—

(a) the person has complied with all obligations imposed on the person, in respect of that person's arrival in, or departure from, the Cook Islands, under the Cook Islands Immigration Act 2021 and, if applicable, the Biosecurity Act 2008; and
(b) the powers and duties under those Acts that are, in relation to the person, required to be exercised or performed in the designated place have, so far as practicable, been exercised or performed in that place.

(5) In this section,—

authorised officer means an officer authorised under the Cook Islands Immigration Act 2021 or the Biosecurity Act 2008

designated place means—

(a) a Customs controlled area; or

(b) a customs place; or

(c) a place approved by the Comptroller for the purposes of—
  (i) the arrival of a craft in the Cook Islands; or
  (ii) the departure of a craft from the Cook Islands; or

(d) a Police station to which a person reports under section 30(1)

processing includes—

(a) consideration by any authorised officer as to the applicability of powers and duties under the Cook Islands Immigration Act 2021 or the Biosecurity Act 2008; and

(b) reconsideration by any authorised officer, in the light of any information, of a previous exercise or performance of a power or duty under the Cook Islands Immigration Act 2021 or the Biosecurity Act 2008; and

(c) any reasonable time after a request by a Customs officer that an authorised officer who is not present at the designated place exercise or perform a particular power or duty under the Cook Islands Immigration Act 2021 or the Biosecurity Act 2008 that—
  (i) may, in the opinion of the Customs officer, be applicable to the person; and
  (ii) may not be exercised or performed by an authorised officer present at the designated place at the time of the request; but
  (iii) may be exercised or performed by the authorised officer to whom that request is made.

[Section 37: replaced, on 19 April 2023, by Schedule 1 of the Cook Islands Immigration Act 2021 (2021 No 16).]

38 Cases requiring investigation for public health or law enforcement purposes

(1) The section applies to a person in a designated place who has arrived in the Cook Islands or who departs, or attempts to depart, from the Cook Islands, if a Customs officer has reasonable cause to suspect that the person—
(a) is, under an enactment, liable to be detained because of an infectious disease; or
(b) is liable to be arrested under a warrant issued by a court or by any registrar; or
(c) is, in attempting to depart from the Cook Islands or in attempting to remove another person from the Cook Islands, contravening, or about to contravene, an enactment or an order issued by a court; or
(d) is liable to be prosecuted for an offence punishable by imprisonment; or
(e) has contravened any of the following enactments:
  (i) Biosecurity Act 2008:
  (ii) Narcotics and Misuse of Drugs Act 2004:
  (iii) Terrorism Suppression Act 2004:
  (iv) regulations under the United Nations (Security Council Resolutions) Act 2003:
  (v) any enactments specified for the purposes of this section by Order in Executive Council, being an enactment that contains an offence involving the unlawful entry into the Cook Islands, or the unlawful removal from the Cook Islands of a person, matter, or thing; or

(f) is endangering, or threatening to endanger the life, health, or safety of a person or group of persons.

(2) The Customs officer may direct the person to remain in the designated place for the purposes of obtaining the attendance of, or making inquiries of, another officer who is authorised, in respect of a matter specified in subsection (1), to do 1 or more of the following:

(a) question the person:
(b) ascertain or determine the status of the person:
(c) detain the person:
(d) arrest the person.

(3) The person must comply with any directive given under this section.

(4) A direction under this section ceases to have effect 4 hours after it is given.

(5) In this section—

another officer means—

(a) a member of the police; or

(b) a bailiff; or

(c) an employee or agent of a Government department

designated place means—

(a) a Customs controlled area; or

(b) a Customs place; or

(c) a place approved by the Comptroller for the purposes of—
(i) the arrival of a craft in the Cook Islands; or
(ii) the departure of a craft from the Cook Islands.

Departure of craft

39 Clearance of craft

(1) Unless otherwise approved by the Comptroller, no person in charge of a craft that has, as its destination, a point outside the Cook Islands may cause that craft to depart from any Customs place unless that person has received a certificate of clearance in the prescribed form.

(2) Subject to such exemptions as may be prescribed, no person in charge of a craft that has arrived in the Cook Islands from a point outside the Cook Islands may cause that craft to depart from the place in the Cook Islands that it first arrived at, or from any subsequent place of call within the Cook Islands, without the permission of Customs and subject to the production to Customs of any documents that the Comptroller may require and to any conditions imposed by the Comptroller.

40 Certificate of clearance

Unless, otherwise approved by the Comptroller, before any certificate of clearance is granted to the person in charge of any craft to which section 39 applies, that person must—

(a) deliver to Customs, within any time or times prescribed, an outward report in the prescribed form and manner, that contains the prescribed particulars verified by declaration, and which is accompanied by any supporting documents as the Comptroller may require; and

(b) answer any question asked by a Customs officer relating to the craft and its passengers, crew, cargo, stores and its intended voyage or journey; and
(c) produce such other documents as may be required by a Customs officer relating to the craft and its passengers crew, cargo, stores and its intended voyage of journey; and
(d) comply with all requirements in this or any other Act concerning the craft and its passengers, crew, cargo, stores, and its intended voyage or journey.

41 Boarding of outward craft

The person in charge of a craft departing from a Customs place, whether or not the immediate destination of the craft is a point outside the Cook Islands, must, if required to do so by any Customs officer, by all reasonable means, facilitate boarding by Customs officers.

42 Production of certificate of clearance

The person in charge of a craft to whom a certificate of clearance has been granted must, on demand by a Customs officer, produce the certificate of clearance for examination by the officer and answer any question that the officer may put to him or her concerning the craft and its passengers, crew, cargo, stores, and its intended voyage or journey.

43 Departure to be from Customs place only

(1) Subject to such exemptions as may be prescribed and subject to subsection (2), except with the prior permission of the Comptroller, no person in charge of any craft may—
(a) cause that craft to depart for a point outside the Cook Islands from a place within the Cook Islands other than a Customs place; or
(b) having obtained a certificate of clearance from a Customs place in the Cook Islands to depart for any point outside the Cook Islands, cause that craft—
(i) to not depart immediately from that place;
(ii) to go to any other place in the Cook Islands.

(2) Subsection (1) does not apply to a craft—
(a) that is required to berth, land, anchor, or otherwise return to a place in the Cook Islands that is not a Customs place, if this return—
(i) is required by any statutory or other requirement relating to navigation; or
(ii) is compelled by accident, stress of weather, or other necessity; or
(b) that is authorised to depart for a point outside the Cook Islands from a place in the Cook Islands other than a Customs place, by the Comptroller.

(3) The provisions of sections 28(2) to (4) apply with any necessary modifications in respect of—
(a) any authorisation given by the Comptroller under subsection (2)(b); and
(b) any departure from a place in the Cook Islands (other than a Customs place) in reliance on such an authorisation.

44 Regulations relating to stores for craft

Without limiting the power to make regulations conferred by section 352, the Minister in consultation with the Comptroller may from time to time make regulations prescribing—

(a) the classes of goods that are, or are not, deemed to be stores for the use of passengers and crew or the service of craft about to depart from any Customs place; and

(b) the conditions under which any such stores may be shipped free of duty or under drawback of duty; and

(c) the conditions under which any such stores are subject to duty, and the form and manner in which those stores must be entered.

[The next page is 906,151]

Part 5
Customs access to and use of information about border-crossing goods, persons, and craft

45 Interpretation

In this Part, unless the context otherwise requires,—

border crossing goods means goods that are recorded by a person concerned in the movement of goods, persons, or craft—

(a) as having been imported into, or exported from, the Cook Islands; or

(b) as being imported into, or exported from, the Cook Islands; or

(c) as intended to be imported into, or exported from, the Cook Islands

border-crossing person or craft means a person (for example, a passenger, or a member of the crew of a craft) who or craft that, is recorded by a person concerned in the movement of goods, persons, or craft—

(a) as having arrived in or departed from the Cook Islands; or

(b) as arriving in, or departing from the Cook Islands; or

(c) as intending to arrive in, or depart from, the Cook Islands

person concerned in the movement of goods, persons, or craft means any of the following:

(a) an owner or an operator of a craft that carries or transports goods or persons, or both, from the Cook Islands to a point outside the Cook Islands, or from a point outside the Cook Islands to the Cook Islands, for commercial purposes, or the agent of an owner or an operator of that kind:

(b) a travel operator (being a person who organises the carriage, handling, or transportation of goods or persons, or both, from the Cook Islands to a point outside the Cook Islands or from a point outside the Cook Islands to the Cook Islands, for commercial purposes) or the agent of a travel operator:

(c) an owner, occupier, or operator of a Customs controlled area used for the purpose specified in section 13(d) or (e):

(d) an operator of a business that handles, packs, stores, or transports goods that are to be transported from the Cook Islands to a point outside the Cook Islands:

(e) any persons or classes of persons, involved in any other way in the carriage, handling, or transportation of goods, or persons, or both, from the Cook Islands to a point outside the Cook Islands or from a point outside the Cook Islands to the Cook Islands, for commercial purposes, being persons or classes of persons prescribed for the purposes of this paragraph.

46 Purpose of this Part

(1) The purpose of this Part is to facilitate—

(a) the exercise or performance of powers, functions, or duties under this Act:
(b) the prevention, detection, investigation, prosecution, and punishment of offences that are, or that if committed in the Cook Islands would be,—
  (i) Customs offences of any kind; or
  (ii) other offences punishable by imprisonment:
(c) the processing of international passengers at the border by public authorities:
(d) the protection of border security:
(e) the protection of the health and safety of members of the public.

(2) To that end, this Part—
(a) requires certain persons concerned in the movement of goods, persons, or craft to give to Customs access to certain information about border-crossing goods, persons, and craft; and
(b) controls the use of that information by Customs.

Who must give Customs access to information?

47 Persons to whom section 48 or 49 applies

Section 48 or 49 applies to a person only if the person—
(a) is a person concerned in the movement of goods, persons or craft; and
(b) has been required by the Comptroller by notice in writing to comply with that section on and after a date specified in the notice in writing.

Information to which access must be given

48 Information about border-crossing craft

(1) A person to whom this section applies must give Customs access, on and after the date specified in the notice referred to in section 47(b), to information—
(a) that is of the kind specified in subsection (2); and
(b) that the person holds (whether in the Cook Islands or overseas) or has access to about any border-crossing craft.

(2) The information referred to in subsection (1)(a) is information about the border-crossing craft, about what it is carrying or transporting, about its journey to or from the Cook Islands, and about its arrival at, or departure from, the Cook Islands, whether that journey or arrival or departure has occurred, is occurring or will occur.

(3) That information may include, but is not limited to, the following information about the border-crossing craft:
(a) if the craft is carrying or transporting goods—
  (i) loading and discharge details:
  (ii) goods storage details:
  (iii) goods records; and
(b) if the craft is carrying or transporting persons,—
  (i) the number of persons on the craft (whether passengers, or crew or other persons):
  (ii) the seating arrangements or on-board accommodation arrangements:
  (iii) baggage storage details; and

(c) if the craft is carrying or transporting goods and persons, the information in paragraphs (a) and (b).

49 Information about border-crossing persons

(1) A person to whom this section applies must give Customs access, on and after the date specified in the notice referred to in section 47(b), to information—
(a) that is of the kind specified in subsection (2); and
(b) that the person holds (whether in the Cook Islands or overseas) or has access to about any border-crossing person.

(2) The information referred to in subsection (1) is information held by the person, or to which the person has access, for the purpose of facilitating the border crossing person's travel to, or departure from, the Cook Islands, whether that travel or departure has occurred, is occurring, or will occur.

(3) That information may include, but is not limited to, the following information about the border-crossing person:
(a) the person's name, date of birth, place of birth, nationality, sex, and passport details:
(b) the person's contact details (including telephone number, address, and email address):
(c) information identifying the craft on which the person has travelled, is traveling, or intends to travel:
(d) any special conditions or arrangements the person has made regarding his or her travel:
(e) where the person booked his or her travel:
(f) on what date the person booked his or her travel:
(g) whether the person has checked baggage.

50 Further provisions about giving Customs access to information under section 48 or 49

(1) A person to whom section 48 or 49 applies must give Customs access to the information referred to in the section, in the form and manner prescribed (for example, in an electronic form and manner).

(2) The Comptroller may, by notice in writing, in all or any specified circumstances, exempt a person to whom section 48 or 49 applies—
(a) from complying with some or all of the person's obligations under that section; and
(b) from complying with some or all of the person's obligations under subsection (1).

(3) Nothing in section 48 or 49 requires a person to whom the section applies to give Customs access to information the person holds or has access to about an employee (for example, about a member of the crew of a craft) unless the information is information of a kind also generally held by the person, or to whom the person generally has access, in relation to passengers.

50A Access includes access to craft or passenger databases and systems

A person who is required to give Customs access to information under section 48 or 49 must also give Customs access to databases or systems where the information is stored, managed or processed.

[Section 50A: inserted, on 1 July 2020, by section 4 of the Customs Legislation Act 2020 (2020 No 9).]

50B Other arrival and departure information

Customs may, for the purposes of passenger and crew processing, monitoring the movement of craft and persons, and border security, collect any of the following information about craft and persons arriving in, or departing from, the Cook Islands:

(a) details of craft movements, including the craft name and registration number or identifier, estimated date and time of arrival or departure, and place of origin and destination:

(b) personal information, including the person's name, date of birth, sex, biometric information, passport number, nationality, and travel movements.

[Section 50B: inserted, on 1 July 2020, by section 4 of the Customs Legislation Act 2020 (2020 No 9).]

[The next page is 906,301]

Use of information to which access must be given

51 Controls on use by Customs of information

(1) Customs may without warrant view all information to which access is given under sections 48 and 49.

(2) *[Repealed]*

(3) Section 363 applies to the collection, use and disclosure by Customs of information viewed by Customs under this section or section 54.

[Section 51(1): amended, on 1 July 2020, by section 5(1) of the Customs Legislation Act 2020 (2020 No 9).]
[Section 51(2): repealed, on 1 July 2020, by section 5(2) of the Customs Legislation Act 2020 (2020 No 9).]
[Section 51(3): amended, on 1 July 2020, by section 5(3) of the Customs Legislation Act 2020 (2020 No 9).]

52 Information about travel within 28-day period

[Repealed]

[Section 52: repealed, on 1 July 2020, by section 6 of the Customs Legislation Act 2020 (2020 No 9).]

53 Information about other travel may be searched for information relating to travellers within 28-day period

[Repealed]

[Section 53: repealed, on 1 July 2020, by section 6 of the Customs Legislation Act 2020 (2020 No 9).]

54 Search and viewing warrants

(1) This section applies to the following situation:

(a) the Comptroller considers, in the light of information of any kind that is available to Customs, that there are reasonable grounds to suspect that—

(i) there exists a risk or threat relevant to the purpose stated in section 46(1); or

(ii) a relevant offence (as defined in subsection (6) has been, is being, or will be committed:

(b) Customs wishes—

(i) to search information to which access is given under section 49 to determine whether it includes information that is relevant to search criteria specified by Customs (being search criteria that are reasonably related to the information available to Customs that gives rise to the reasonable grounds to suspect required by paragraph (a)); and

(ii) to view any information that is relevant to the search criteria specified by Customs and is found as a result of the search:

(c) *[Repealed]*

(2) In that situation, the Comptroller may, by application in writing made on oath, apply to a Judge or a Justice of the Peace for a search and viewing warrant authorising—

(a) the carrying out of the search within 14 days after the day on which the warrant is granted (or within any extension of that period granted by a Judge or a Justice of the Peace on an application in writing for the purpose made within that period); and

(b) the viewing by Customs of any information that is relevant to the search criteria specified by Customs and that is included in information to which access is given under section 49, but of no other information.

(3) The application must give details of the reasonable grounds to suspect required by subsection (1), of the information available to Customs that gives rise to those reasonable grounds to suspect, and of the search criteria specified by Customs, and it must also indicate whether the search is to be of all, or of only a specified part or parts, of the information to which access is given under section 49.

(4) On an application under subsection (2), a Judge or a Justice of the Peace may grant a search and viewing warrant in the prescribed form, but only if he or she is satisfied that—

(a) the reasonable grounds to suspect required by subsection (1) exist; and

(b) the search criteria specified by Customs are reasonably related to the information available to Customs that gives rise to those reasonable grounds to suspect.

(5) The warrant is sufficient authority for the doing of the things specified in subsection (2)(a) and (b).

(6) In this section and section 55, **relevant offence** means an offence described in section 46(1)(b), or relevant to the purpose stated in section 46(1) (except paragraph (b)).

[Section 54(1)(c): repealed, on 1 July 2020, by section 7 of the Customs Legislation Act 2020 (2020 No 9).]

55 Search and viewing without warrant in emergencies

(1) This section applies to the following situation:

(a) the situation specified in section 54(1) applies:

(b) the Comptroller considers that, if he or she were to apply to a Judge for a search and viewing warrant under section 54, the Judge would grant the warrant:

(c) the Comptroller also considers that delaying a search and any resulting viewing until a search and viewing warrant can be obtained under section 54 would create a real risk that—

(i) the countering of the risk or threat referred to in section 54(1)(a)(i) would be frustrated; or (as the case requires)

(ii) the prevention, detection, investigation, prosecution, or punishment of the relevant offence would be frustrated.

(2) In that situation, the Comptroller may, with no further authority than this section, have the things specified in section 54(2)(a) and (b) done as if the doing of those things were authorised by a search and viewing warrant under section 54(4).

(3) However, if the Comptroller acts under subsection (2), he or she must within 5 working days apply under section 54(2) for a search and viewing warrant in relation to the matter.

56 Procedure if viewing of information not authorised

(1) This subsection applies to both of the following situations:

(a) the 5 working days period referred to in section 55(3) expires and the Comptroller has not made the application required by that subsection:

(b) the application required by section 55(3) is made but, in response to it, either no warrant is granted under section 54(4), or a warrant is granted under section 54(4) authorising the doing of some only of the things done in reliance on section 55(2).

(2) In a situation to which subsection (1) applies, things done in reliance on section 55(2) must, to the extent that the doing of those things is not authorised by a warrant granted under section 54(4), be treated for the purposes only of the countering of the risk or threat referred to in section 54(1)(a)(i) or (as the case requires) of the prevention, detection, investigation, prosecution, or punishment of the relevant offence, as if they were done without the authority of section 55 or of a warrant granted under section 54(4).

(3) In a situation to which subsection (1) applies,—

(a) the Customs must destroy immediately information viewed by it in reliance on section 55(2) and that is collected by it for a purpose specified in section 362 if the viewing of that information is not authorised by a warrant granted under section 54(4); and

(b) other persons or bodies must destroy immediately information viewed by the Customs in reliance on section 55(2) and disclosed by it to the other persons or bodies for a purpose specified in section 363(2) and collected by the other persons or bodies if the viewing of that information is not authorised by a warrant granted under section 54(4).

57 Security of applications for warrants

(1) As soon as an application under section 54(2) has been determined by the Judge, the Registrar must place all documents relating to the application (except the warrant itself) in a packet, seal the packet, and thereafter keep it in safe custody, except as provided in this section.

(2) Despite any enactment or rule of law or rules of court entitling a party to proceedings to demand the production of documents, no party of that kind is entitled to demand the production of documents held in safe custody under subsection (1), except in accordance with this section.

(3) Every party of that kind who requires the production of a document held in safe custody under subsection (1) must, except in a case to which subsection (9) or (10) applies, apply in writing to the Registrar, who must promptly notify the Comptroller.

(4) If, within 3 days after notice is given to the Comptroller under subsection (3), the Comptroller gives written notice to the Registrar that he or she intends to oppose the production of the documents, the Registrar must refer the matter to a Judge.

(5) If the Comptroller does not give the written notice referred to in subsection (4), the Registrar must produce the documents to the party applying for production.

(6) If a matter is referred to a Judge under subsection (4), both the person requesting production of the documents and the Comptroller opposing production must be given an opportunity to be heard.

(7) The Judge may order that all or a specified part of a document the production of which is in dispute not be produced if he or she is satisfied that—

(a) the document or part contains information of a kind referred to in section 58(1); and

(b) production of that information would involve disclosure of a kind referred to in section 58(2).

(8) Subject to subsection (7), the Judge must order the production of the documents to the party requesting it.

(9) If a request for the production of a document kept in safe custody under subsection (1) is made in the course of proceedings presided over by a Judge and the request is opposed, the Judge must adjudicate upon the matter as if it had been referred to him or her under subsection (4).

(10) If a request of that kind is made in the course of any other proceedings, the presiding judicial officer must promptly refer the matter to a Judge for adjudication of the kind referred to in subsection (9).

(11) Despite anything in this section, every Judge who is presiding over any proceedings in which the issue of a warrant under section 54 is in issue is entitled to inspect any relevant document held under subsection (1).

58 Information and disclosure in section 57(7)

(1) Information falls within section 57(7)(a) if it—

(a) might lead to the identification of, or provide details of, the source of the information, the nature, content, or scope of the information, or the nature or type of the assistance or operational methods available to the Customs; or

(b) is about particular operations that have been undertaken, or are being or are proposed to be undertaken, in pursuance of any of the functions of the Customs; or

(c) has been provided to the Customs by the government of another country or by an agency of a government of another country or by an international organisation, and is information that cannot be disclosed by the Customs because the government or agency or organisation by which the information has been provided will not consent to the disclosure.

(2) Disclosure of information falls within section 57(7)(b) if the disclosure would be likely—

(a) to prejudice the security or defence of the Cook Islands or the international relations of the Government of the Cook Islands; or

(b) to prejudice the entrusting of information to the Government of the Cook Islands on a basis of confidence by the government of another country or any agency of such a government, or by any international organisation; or

(c) to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or

(d) to endanger the safety of any person.

(3) In this section, **country** includes any State, territory, province, or other part of a country; and **international organisation** means any organisation of States or Governments of States, or any organ or agency of any organisation of that kind.

Miscellaneous provisions

59 Disposal of information collected by Customs

(1) This section applies to information—

(a) viewed under any of sections 51 to 55; and

(b) collected for a purpose specified in section 363(2).

(2) The Customs must, at least once every 6 months after this section comes into force, determine whether the retention of the information by the Customs continues to be necessary for that purpose and, if it is not, must dispose of the information promptly.

(3) This section does not limit section 56(3)(a).

60 Protection of persons acting under authority of this Part

Neither the Crown, nor the Comptroller or a Customs officer or an authorised person is liable for anything done or omitted to be done or purporting to have been done by a person in the exercise of a power conferred by this Part unless the person has not acted in good faith or has acted without reasonable care.

61 Part does not limit other access to or use of information

Nothing in this Part—

(a) prevents a person concerned in the movement of goods, persons, or craft from giving Customs access to information otherwise than as required by or under this Part:

(b) prevents Customs from using otherwise than as provided in this Part information to which Customs is given access otherwise than as required by or under this Part:

(c) affects any obligation a person may have to give Customs advance notice of matters under section 24:

(d) affects any obligation a person may have under this Act to make an entry in respect of goods that are imported or that are to be imported:

(e) affects any powers Customs has to collect and use information under section 347.

[The next page is 906,401]

Part 6
Entry and accounting for goods

Importation of goods

62 Entry of imported goods

(1) Subject to any regulations made under section 63, goods that are imported or that are to be imported must be entered by the importer—

(a) in such form and manner (including by electronic means into a computer or other device) as may be prescribed; and

(b) within such time as may be prescribed or such further time as the Comptroller may allow.

(2) Where any entry required by this section relates to goods that are dutiable in accordance with the volume of alcohol present in the goods, the person making the entry must specify the volume of alcohol in the prescribed manner.

(3) Every person entering goods under this section must—

(a) answer any question asked by a Customs officer with respect to the goods; and

(b) on the request of a Customs officer, present the goods to the officer, remove any covering from the goods, unload any conveyance or open any part of it, or open and unpack any package that the officer wishes to examine.

(4) If—

(a) default is made in the entry of goods under this section; or

(b) the goods are not claimed within such period as may be prescribed,—

duty becomes due and payable on the goods, and the goods may be sold or otherwise disposed of by the Comptroller.

63 Regulations relating to entry of imported goods

Without limiting the power to make regulations under section 352, the Minister in consultation with the Comptroller may from time to time, make regulations—

(a) prescribing when an entry is deemed to have been made for the purposes of this Act; and

(b) prescribing the conditions under which an entry is deemed to have been passed for the purposes of this Act; and

(c) exempting specified goods or goods of a specified class from the requirements of section 62(1), subject to such conditions as may be prescribed; and

(d) prescribing goods or classes of goods that are deemed to have been entered under section 62(1) and the circumstances in which and the conditions subject to which those goods are to be so deemed.

64 Fees and charges relating to importation of goods

(1) Without limiting the power to make regulations under section 358, the Minister in consultation with the Comptroller may make regulations under section 358(1)(a) prescribing fees or charges, or both, that are payable to Customs to meet or assist in meeting costs and expenses incurred by Customs in

exercising functions or powers, or performing duties, or providing services, under this Act that relate to the importation of goods.

(2) The provisions of Part 10 that relate to the collection and recovery of duty apply to fees and charges prescribed by regulations of the kind described in subsection (1), as if those fees and charges were a duty.

(3) Before making regulations, the Minister must be satisfied that the persons that the Minister considers are representative of interests likely to be substantially affected by the proposed regulations have been consulted about the proposed regulations to the extent that is reasonably practicable having regard to the circumstances of the case.

(4) For the purposes of subsection (3), the Minister may take into account any relevant consultation undertaken by or on behalf of the Minister before this section comes into force.

(5) A failure to comply with subsection (3) does not affect the validity of any regulations of the kind described in subsection (1).

65 Imported goods to be dealt with according to entry

Goods in respect of which entry has been made and passed must immediately be dealt with in accordance with the entry and with the provisions of this Act in respect of the goods so entered.

66 Cancellation and amendments of entries

(1) The Comptroller may cancel or amend an entry for the purpose of preventing duplication of entries or for the purpose of correcting any entry or any part of an entry, as the case may be.

(2) No cancellation or amendment of an entry by the Comptroller in accordance with subsection (1) affects any penalty, liability to seizure, or criminal liability already accrued or incurred in respect of that entry by the person making it.

(3) Subject to section 143, the Comptroller may make a refund of duty in accordance with any such cancellation or amendment of an entry.

(4) A person who is dissatisfied with a decision of the Comptroller under subsection (3) may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.
[Section 66(4): Not commenced.]

67 Unloading goods

No person may unload goods that are subject to the control of Customs from a craft except—

(a) under a permit or other authorisation granted by the Comptroller, which permit or other authorisation is subject to such conditions as the Comptroller may determine; or

(b) where the safety of the craft, or the goods or persons in the craft, is threatened by collision, fire, the stress of weather or similar circumstances, or such other circumstances as may be prescribed.

68 Craft imported otherwise than as cargo

(1) Despite anything in this Act, such entries must be made in respect of a craft imported into the Cook Islands otherwise than as cargo as the Comptroller may from time to time determine in relation to any craft or class of craft by public notice.

(2) For the purpose of making entries in respect of a craft imported into the Cook Islands otherwise than as cargo, the craft is deemed to have been imported as cargo and unloaded as such on its arrival.

69 Samples or illustrations

(1) The importer of goods must furnish free of charge, such samples, illustrations, drawings, documents, or plans relating to the goods as may be required by a Customs officer for the purposes of analysis, classification or record.

(2) Any sample required to be furnished in accordance with subsection (1) must be sufficient for the purpose for which it is taken.

Transportation within Cook Islands

70 Transportation of imported goods

Except as otherwise permitted by the Comptroller, no goods subject to the control of Customs may be placed in a craft, vehicle, or other conveyance for transportation within the Cook Islands until entry has been made in accordance with section 62(1).

71 Removal of goods from Customs controlled area

(1) Goods that are subject to the control of Customs must not be delivered to or removed from a Customs controlled area except—

(a) as provided by this Act; or

(b) subject to subsection (3), with the permission of a Customs officer after entry has been made and passed in the prescribed form and manner; or

(c) under a permit or other authorisation granted by the Comptroller in respect of those goods, subject to such conditions as the Comptroller may determine; or

(d) by a Customs officer in the performance of his or her duties under this Act.

(2) The Comptroller may, by notice in writing, vary or revoke any conditions to which a permit granted by the Comptroller under subsection (1)(c) is subject, or may revoke those conditions and impose new conditions or make revoke the permit completely.

(3) Despite subsection (1)(b), while goods remain subject to the control of Customs, the Comptroller may revoke any notice of delivery given in respect of those goods.

(4) A person who is dissatisfied with a decision of the Comptroller under subsection (1)(c) or (2) may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 71(4): Not commenced.]

72 Temporary removal of goods from Customs controlled area

(1) Subject to section 198 and to any other provisions of this Act, the Comptroller may permit goods to be temporarily removed from a Customs controlled area without payment of duty for such time and in such quantities as he or she may approve.

(2) Goods so removed remain subject to the control of Customs and are deemed to be within the Customs controlled area from which they were so removed, and the provisions of this Act continue to apply to them accordingly.

Exportation of goods

73 Entry of goods for export

(1) Subject to any regulations made under section 74, goods that are exported or that are to be exported must be entered by the exporter—

(a) in such form and manner (including by electronic means into a computer or other device) as may be prescribed; and

(b) within such time as may be prescribed or such further time as the Comptroller may allow.

(2) Every person who makes an entry under this section must—

(a) answer any question relevant to matters arising under this Act asked by a Customs officer with respect to the goods; and

(b) at the request of a Customs officer, present the goods to the officer, remove any covering from the goods, unload any conveyance or open any part of it, or open and unpack any package that the officer wishes to examine.

(3) In the case of goods to be exported under drawback, the making of any such entry is deemed to be the making of claim for drawback.

(4) Unless the Comptroller in any particular case otherwise determines, no right to drawback exists in the case of goods placed on a craft before entry has been made and passed.

(5) Except as otherwise permitted by the Comptroller, goods must not be loaded for export until entry has been made in the prescribed form and manner.

(6) Despite an entry being passed in accordance with subsection (5), the Comptroller may revoke the goods' permission to export if the Comptroller has reasonable cause to suspect the goods endanger, or threaten to endanger,—

(a) border security; or

(b) the Cook Island's trade interests or international obligations; or

(c) the life, health, or safety of a person or group of persons; or

(d) the safety of the craft that will carry the goods, or of other goods to be carried on that craft.

74 Regulations relating to entry of goods for export

Without limiting the power to make regulations under section 352, the Minister, in consultation with the Comptroller, may from to time make regulations—

(a) exempting specified goods or goods of a specified class from the requirements of section 73(1), subject to such conditions as may be prescribed; and

(b) prescribing goods or classes of goods that are to be deemed to have been entered under section 73(1) and the circumstances in which and the conditions subject to which those goods are to be so deemed.

74A Cook Islands certificates of origin

(1) The Comptroller or a certification body authorised by the Comptroller under section 76 (a **certification body**) may, upon written application, issue a Cook Islands certificate of origin in such form and manner as may be prescribed.

(2) An application for a Cook Islands certificate of origin must be made before or at the same time the goods are required to be entered for export under section 73.

(3) The Comptroller or certification body may require the person applying for a Cook Islands certificate of origin to produce documentary or other evidence to support the application.

[Section 74A: inserted, on 1 August 2012, by section 4 of the Customs Revenue and Border Protection Amendment Act 2015–16 (2015–16 No 7).]

75 Cook Islands certificates of origin for goods for export to party to free trade agreement

(1) The Comptroller or a certification body authorised by the Comptroller under section 76 (a **certification body**) in relation to a party to a free trade agreement may issue a Cook Islands certificate of origin in respect of goods for export to that party.

(2) A Cook Islands certificate of origin, in respect of goods for export to a party to a free trade agreement, is a document issued by the Comptroller or a certification body that—

(a) identifies the goods to which it relates; and

(b) certifies that those goods originate in the Cook Islands.

(3) Goods originate in the Cook islands if, for the purposes of the relevant free trade agreement, the goods satisfy the requirements of the rules of origin prescribed for that agreement.

(4) The Queen's Representative may, by Order in Executive Council, declare a country that is a party to a free trade agreement to be a specified party for the purposes of this Act.

(5) In this section, **free trade agreement** means an international trade agreement to which the Cook Islands is a party.

[Section 75(1): amended, on 1 August 2012, by section 5(1) of the Customs Revenue and Border Protection Amendment Act 2015–16 (2015–16 No 7).]
[Section 75(2): amended, on 1 August 2012, by section 5(2) of the Customs Revenue and Border Protection Amendment Act 2015–16 (2015–16 No 7).]
[Section 75(4): replaced, on 1 July 2020, by section 8 of the Customs Legislation Act 2020 (2020 No 9).]
[Section 75(5): replaced, on 1 July 2020, by section 8 of the Customs Legislation Act 2020 (2020 No 9).]

76 Bodies authorised to issue the Cook Islands certificates of origin

(1) The Comptroller may designate a body as a certification body if the Comptroller is satisfied that the body meets the prescribed criteria (if any).

(2) A designation may be subject to any prescribed terms and conditions and any additional terms and conditions the Comptroller thinks fit.

77 Regulations relating to the Cook Islands certificates of origin and certification bodies

Without limiting the power to make regulations conferred by section 352, the Cabinet may make regulations for any of the following purposes:

(a) prescribing forms for the purposes of sections 74A, 75, and 76; and

(b) prescribing the manner in which applications for designation as a certification body must be made; and

(c) prescribing criteria for certification bodies; and

(d) prescribing terms and conditions subject to which designations as a certification body may be made; and

(e) prescribing fees; and

(f) prescribing the manner in which applications for a Cook Islands certificate of origin may be made.

[Section 77(a): amended, on 1 August 2012, by section 6(1) of the Customs Revenue and Border Protection Amendment Act 2015–16 (2015–16 No 7).]
[Section 77(e): amended, on 1 August 2012, by section 6(2) of the Customs Revenue and Border Protection Amendment Act 2015–16 (2015–16 No 7).]
[Section 77(f): inserted, on 1 August 2012, by section 6(3) of the Customs Revenue and Border Protection Amendment Act 2015–16 (2015–16 No 7).]

78 Goods for export to be dealt with according to entry

(1) In the case of goods that have been entered for export, the person making the entry, or the owner of the goods, as the case may be, must immediately export the goods to a point outside the Cook Islands in accordance with the entry and with the provisions of this Act relating to the exportation of goods.

(2) If goods entered for export are not exported according to the entry, the person making the entry must immediately give notice to Customs of the failure to export and the reasons for it, in any such case, the Comptroller—

(a) must cancel or amend the entry; and

(b) may, where applicable, allow the goods to be released from the control of Customs.

(3) Despite subsection (1), where the licence conditions of a Customs controlled area allow, an export entry may be made in the case of goods removed from that area for sales made for delivery to persons on their arrival in the Cook Islands from a point outside the Cook Islands.

79 Goods for export not to be landed

No goods loaded for export may, without the permission of a Customs officer, be landed except at a point outside the Cook Islands.

80 Time of exportation

For the purposes of this Act, the time of exportation is the time when the exporting craft leaves the last Customs place at which that craft calls immediately before proceeding to a point outside the Cook Islands.

[The next page is 906,451]

Customs seals

81 Customs seal may be applied to goods for export

(1) The Comptroller may, by notice in writing specifying the date on and after which the appointment takes effect, appoint a Customs officer to apply Customs seals to packages of goods to be exported.

(2) The notice must specify the circumstances in which the officer or other person may apply a Customs seal to a package of goods, and must prohibit him or her from applying a Customs seal in all other circumstances.

(3) Without limiting the generality of subsection (2), the notice must specify that the officer or other person may apply a Customs seal to a package of goods to which no Customs seal has earlier been applied only if—

(a) the exporter concerned (or his or her agent or employee) consents to the seal being applied; or

(b) the seal is applied incidental to, and immediately after, the exercise by any person of a power under this Act to examine or search for goods of any kind.

(4) The notice must also specify the circumstances in which Customs officer or other person may alter, remove, damage, dispose of, or otherwise interfere with a Customs seal applied to a package of goods, and must prohibit him or her from interfering in any way with a Customs seal of that kind in all other circumstances.

(5) A notice of appointment under this section may be amended or revoked by the Comptroller by a further notice in writing given to Customs officer or other person concerned and specifying the date on or after which the amendment or revocation takes effect.

82 Warning notices for packages to which seal applied

A notice of appointment under section 81 must also require Customs officer or other person concerned, on applying a Customs seal to a package of goods that are not goods to be exported under a Customs-approved secure export scheme, to ensure that there is attached to the package a warning notice that explains in terms approved by the Comptroller—

(a) that the goods in the package are, from the time when a Customs seal is first applied to the package until the exportation of the goods to a point outside the Cook Islands, goods subject to the control of Customs:

(b) that the powers of detention and search in section 177 are available in respect of a vehicle in the Cook Islands if there are suspected to be in or on the vehicle goods that are, or suspected to be—

(i) subject to the control of Customs; and

(ii) in a package to which a Customs seal has been applied:

(c) that a Customs officer may, under section 180(2), question 1 or more of the following persons about any cargo destined to be exported from the Cook Islands—

(i) a person who is the owner or operator of a vehicle that a Customs officer has reasonable cause to suspect has in or on it or has within the previous 72 hours had in it or on it, goods subject to the control of Customs and in a package to which a Customs seal has been applied:

(ii) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, or have within the previous 72 hours had in or on them, goods subject to the control of Customs and in a package to which a Customs seal has been applied:

(iii) a person employed by a person described in subparagraph (i) or (ii):

(d) that the powers in section 193 (which include powers of examination) are available in respect of goods that are, or are suspected to be—

(i) subject to the control of Customs; and

(ii) in a package to which a Customs seal has been applied.

Customs approved secure exports schemes

83 Comptroller may approve secure exports scheme

(1) On an application for the purpose in writing by a person involved in the carriage, handling, transportation, or exportation of goods for export (in this section and sections 86 and 89 called an **exporter**), the Comptroller may approve a secure exports scheme, and so make it a Customs approved secure exports scheme.

(2) The Comptroller must ensure that the exporter concerned is notified promptly and in writing of any decision to give or to decline an approval under this section.

(3) An approval under this section must be in writing, may be given subject to any conditions the Comptroller specifies in the approval, and takes effect either on the day after the date on which it is given or on any later date specified in the approval.

(4) An approval under this section may be revoked by the Comptroller by notice in writing given to the exporter concerned and specifying both any conditions to which the revocation is subject and the date on or after which the revocation takes effect.

(5) Subsections (1) to (4) apply (with all necessary modifications) to any amendment to a secure exports scheme.

(6) On an application for the purpose by the exporter concerned, the Comptroller must revoke an approval under this section of all of a secure exports scheme. However, the revocation must be subject to the condition that goods remain subject to the scheme until exported if, at the time the revocation takes effect the goods have been secured in a Customs-approved secure package under the scheme but not yet exported.

(7) An applicant who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 83(7): Not commenced.]

84 Purpose of secure exports scheme

The purpose of a secure exports scheme is to help to ensure that goods to be exported under the scheme are—

(a) packaged securely and with no other goods; and

(b) conveyed securely and without interference to the place of shipment and shipped.

85 Matters to be specified in secure exports scheme

(1) A secure exports scheme must specify how the goods to be exported under the scheme are to be packed, including—

(a) the secure package to be used:

(b) the seal or markings to be applied to the package, as soon as it is secured—

(i) to show that, when it was secured, the package contained only the goods, and was secured in an approved way; and

(ii) to help to identify tampering or interference with the package after it is secured.

(2) A secure exports scheme must also specify any conditions required by the Comptroller as to—

(a) the persons who are to pack the goods, and the security checks to be applied to those persons:

(b) the conditions in which packing is to occur (for example, the area or areas in which parking is to occur, and the controls on the entry and exit of persons and goods to that area or those areas):

(c) any other requirements relating to how the goods are to be packed.

(3) A secure exports must also specify how, on the completion of the packing of the goods, the goods are to be conveyed to the place of shipment and shipped, including any conditions required by the Comptroller as to—

(a) the persons who are to convey the goods, and the security checks to be applied to those persons:

(b) the manner in which the goods to be conveyed:

(c) any place or places of security en route to the place of shipment in which the goods are to be stored in the course of being conveyed to the place of shipment and shipped.

86 Matters to be acknowledged in secure exports scheme

A secure exports scheme must include express acknowledgement by the exporter concerned—

(a) that the goods to be exported under the scheme are, from the time when they are first secured in a Customs-approved secure package until the exportation of the goods to a point outside the Cook Islands, goods subject to the control of Customs:

(b) that the powers of detention and search in section 177 are available in respect of vehicle in the Cook Islands if there are suspected to be in or on the vehicle goods that are, or are suspected to be—

(i) subject to the control of Customs; and

(ii) in a Customs-approved secure package:

(c) that a Customs officer may, under section 180(2), question 1 or more of the following persons about any cargo destined to be expected from the Cook Islands—

(i) a person who is the owner or operator of a vehicle that a Customs officer has reasonable cause to suspect has in or on it, has within the previous 72 hours had in or on it, goods subject to the control of Customs and in a Customs-approved secure package:

(ii) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, goods subject to the control of Customs and in a Customs-approved secure package:

(iii) a person employed by a person described in subparagraph (i) or (ii):

(d) that the powers in section 193 (which include powers of examination) are available in respect of goods that are, or are suspected to be—

(i) subject to the control of Customs; and

(ii) in a Customs-approved secure package.

87 Goods to be exported under Customs approved secure exports scheme may be exported under drawback

(1) Goods to be exported under a Customs-approved secure exports scheme may be exported under drawback.

(2) If goods to be exported under a Customs-approved secure exports scheme are exported under drawback, then all conditions (if any) as may be prescribed for allowing drawback of duty must be satisfied, even though satisfying those conditions may involve conveying or handling or storing the goods in a way not specified in the scheme.

88 Use of Customs seals in relation to goods to be exported under Customs-approved secure exports schemes

(1) Nothing in this Act prevents a Customs seal from being used in relation to a Customs-approved secure package after an approved seal or markings of the kind referred to in section 85(1)(b) have been applied to the package in accordance with the relevant Customs-approved secure exports scheme.

(2) Goods to be exported under a Customs-approved secure exports scheme must not be regarded as no longer to be exported under the scheme just because 1 or more Customs seals have been applied to Customs-approved secure package concerned.

89 Exporters may be involved in exportation of goods outside Customs approved secure exports scheme

(1) This section applies to an exporter involved in the carriage, handling, transportation or exportation of goods for export under 1 or more Customs-approved secure exports scheme.

(2) Nothing in this Act prevents the exporter from being involved in the carrying, handling, transportation, or exportation of goods for export otherwise than under that scheme or those schemes.

[The next page is 906,551]

Part 7
Prohibited imports and prohibited exports

90 Prohibited imports

(1) It is unlawful to import into the Cook Islands—

(a) any of the goods specified in Schedule 1; or

(b) all publications that are objectionable within the meaning of this Act in the hands of all persons and for all purposes; and all other indecent or obscene articles:

(c) goods or electronic publications the importation of which is prohibited by a regulation made under subsection (3) or any other written law of the Cook Islands where the importation of such goods is prohibited.

(2) Electronic publications the importation of which is prohibited by subsection (1) must be treated as if they were goods for the purposes of this Act.

(3) The Minister may from time to time make regulations to prohibit the importation into the Cook Islands of—

(a) any specified goods or electronic publications; or

(b) goods or electronic publications of a specified class or classes,—

if in the opinion of the Minister after consulting the Comptroller, the prohibition is necessary in the public interest.

(4) A prohibition imposed under this section—

(a) may be general; or

(b) may be limited to the importation of goods or electronic publications from a specified place or by or from a specified person or class of persons; or

(c) may, whether general or limited, be absolute or conditional.

(5) A conditional prohibition may allow the importation of goods or electronic publications—

(a) under the authority of a licence or a permit (whether granted before or after the importation of the goods), or a consent, to be granted by the Comptroller or by any other person named in the regulations, on or subject to such terms or conditions (if any) not inconsistent with the provisions of the prohibition, as may be imposed by the Comptroller or other person granting the licence, permit, or consent; or

(b) on or subject to any other prescribed conditions.

(6) No goods otherwise dutiable are exempt from duty because their importation is unlawful.

(7) All regulations made under the Customs Act 1913 and in force at the commencement of this section prohibiting the importation of goods into the Cook Islands are deemed to have been validly made under this section and continue in force until revoked or replaced under this Act.

91 Prohibited exports

(1) It is unlawful to export from the Cook Islands—

(a) all publications that are objectionable within the meaning of this Act in the hands of all persons and for all purposes; and

(b) goods or electronic publications the exportation of which is prohibited by a regulation made under subsection (2) or any other written law of the Cook Islands where the exportation of such goods is prohibited.

(2) Electronic publications the exportation of which is prohibited by subsection (1) must be treated as if they were goods for the purposes of this Act.

(3) The Minister may from time to time, make regulations to prohibit the exportation from the Cook Islands of—

(a) any specified goods or electronic publications; or

(b) goods or electronic publications of a specified class or classes,—

if in the opinion of the Minister after consulting the Comptroller, the prohibition is necessary in the public interest.

(4) A prohibition imposed under this section—

(a) may be general; or

(b) may be limited to the export of goods or electronic publications to a specified place or by or to a specified person or class of persons; or

(c) may, whether general or limited, be absolute or conditional.

(5) A conditional prohibition may allow the exportation of goods or electronic publications—

(a) under the authority of a licence, permit or consent, to be granted by the Comptroller or by any other person named in the regulations, on or subject to such terms or conditions (if any) not inconsistent with the provisions of the prohibition, as may be imposed by the Comptroller or other person granting the licence, permit or consent; or

(b) on or subject to any other prescribed conditions.

(6) No prohibition under this section applies to goods that are already loaded into the exporting craft at the time when the prohibition comes into force.

(7) Unless otherwise specified in the regulations, a regulation under this section prohibiting the exportation of goods extends to and applies to the shipment of the goods for use as stores by a craft.

92 Production of licence or permit for goods

Where, under this Act, or any other Act or under any regulations made under this Act, the importation or exportation of goods, or of goods of any class or kind, is prohibited except under the authority of a licence or permit, the Comptroller may, if he or she thinks fit, refuse to pass an entry for those goods, or for goods of that class or kind until he or she is satisfied that a licence has been issued.

[The next page is 906,701]

Part 8
Duties

93 Certain terms defined in Customs Tariff Act 2012

For the purposes of this Act, unless the context otherwise requires, the terms **Normal Tariff**, **Preferential Tariff**, **rate of duty**, **Standard Tariff**, **Tariff**, **Tariff heading** and **Tariff item** have the meanings given to them by the Customs Tariff Act 2012.

Valuation of goods

94 Importer to specify Customs value on entry

(1) Every person who makes entry of goods imported or to be imported must, on making entry, specify the Customs value of the goods, determined in accordance with Schedule 2 — Valuation of goods for the purposes of the Tariff.

(2) Every importer or agent of an importer who makes an assessment under subsection (1) must—

(a) keep the documents, records, and information in respect of that entry in such manner and for such period as is required by section 129 and any regulations made for the purposes of that section; and

(b) when required by Customs, produce those documents, records, and information for the purpose of establishing the accuracy of the assessment.

95 Amendment of valuation assessment

(1) If the Comptroller is satisfied, whether as the result of an investigation carried out under section 197, or as the result of an audit or examination carried out under section 201, or for any other reason, that an assessment made under section 94(1) in respect of goods is—

(a) inconsistent with Schedule 2 — Valuation of goods for the purposes of the Tariff; or

(b) for any other reason, incorrect,—

the Comptroller may amend that assessment, and that amended assessment is the Customs value for the purposes of this Act.

(2) Notice in writing must be given to the importer of—

(a) an amended assessment made under subsection (1); and

(b) the basis for the amended assessment, and where applicable, the relevant clauses of Schedule 2 relied upon for the valuation of goods for the purposes of the Customs Tariff Act 2012 that are relevant to the amended assessment.

(3) Subsection (1) applies whether or not the goods have been released from the control of Customs or whether or not any duty assessed has been paid.

(4) An importer who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against the decision.

[Section 95(4): Not commenced.]

96 Currency and exchange rate

(1) Customs value must be determined or declared in the currency of the Cook Islands where one Cook Islands dollar equals one New Zealand dollar.

(2) Where an amount that is required under a provision of this Act to be taken into account for the purpose of assessing duty or for any other purpose is not an amount in the currency of the Cook Islands, the amount to be so taken into account is the equivalent amount in the currency of the Cook Islands in accordance with a fair rate of exchange set regularly and determined by the Comptroller.

(3) The regular determinations from time to time of the fair rates of exchange of foreign currency made by the Comptroller must be publicly notified.

(4) Where an amount is required to be converted into the currency of the Cook Islands under subsection (1) of the section, the amount must be converted,—

(a) in the case of goods in respect of which an entry has been made, at the rate applying as at the date of the making of the first entry (not being an entry for removal) for those goods:

(b) in the case of other goods (at the rate applying as at the date of the first assessment of Customs duty on those goods).

97 Crown's right of compulsory acquisition

(1) For the protection of the revenue against the undervaluation of goods subject to *ad valorem* duty, goods in respect of which entry is made may, at any time while they remain subject to the control of Customs, be acquired by the Crown.

(2) The right of taking goods under subsection (1) may be exercised by the Comptroller, and the acquisition of the goods is effected as soon as a warrant in the prescribed form for their acquisition is signed by the Comptroller.

(3) Goods become the property of the Crown under this section on the signing of the warrant.

(4) Notice in writing that the Comptroller has signed a warrant under this section must be given to the importer immediately after the signing of the warrant.

(5) Goods acquired by the Crown under this section must, where no appeal is made under subsection (8), be sold by the Comptroller or by his or her agent and the proceeds of sale must be accounted for as Customs revenue.

(6) The price payable by the Crown for the goods acquired under this section must be—

(a) equal to their declared Customs value with the addition of—

(i) such charges for freight, insurance and other matters incidental to their importation as the Comptroller thinks reasonable; and

(ii) any duties already paid on the goods; and

(b) paid to the importer without further appropriation than this section within 20 working days of the acquisition of the goods.

(7) Nothing in this section limits or affects any other powers of Customs in respect of the goods or any liability of the importer or any other person in respect of any offence committed in respect of the goods.

(8) An importer who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 97(8): Not commenced.]

Origin and preferential tariff provisions

98 Origin of fish or other produce of sea

(1) In the case of fish or other produce of the sea, or goods produced or manufactured wholly or partly from such fish or produce at sea, anything done by or on board a ship belonging to a country (other than the Cook Islands) is deemed, for the purposes of this Act and any other written law to have been done in that country, and any such produce of the sea or goods so produced or manufactured at sea, if brought direct to the Cook Islands, are deemed to be imported into the Cook Islands from that country.

(2) If any question arises as to the country to which any ship belongs for the purposes of subsection (1), the question must be determined by the Comptroller, whose decision is final.

99 Regulations for determining country of produce or manufacture

Without limiting the power to make regulations conferred by section 352, the Minister may from time to time make regulations for all of the following purposes:

(a) prescribing the goods or any type or class of goods that are deemed to be the produce or manufacture of any company or any group of countries—
  (i) for the purposes of this Act; or
  (ii) for the purposes of the Customs Tariff Act 2012; and

(b) prescribing the conditions to be fulfilled before goods are deemed to be the produce or manufacture of any country or any group of countries; and

(c) authorising the Comptroller to determine (in relation to specific goods)—
  (i) that the percentage of the goods' factory or works cost is to be increased or decreased:
  (ii) the valuation or method of valuation (including a reduced or zero valuation) if any material, labour, or overhead used in the goods production has been supplied free of charge or at a reduced cost:
  (iii) the required percentage of qualified area content in case of unforeseen circumstances that are unlikely to continue:
  (iv) variations or conditions relating to the goods entering the commerce of another country.

100 Conditions precedent to entry of goods at preferential rates of duty

(1) Where it is claimed in respect of any goods that they are entitled under this Act or any other Act or authority to be entered free of duty or at any rate of duty lower than (that) set forth in the (Normal Tariff) in respect of such goods, the Comptroller may require the claim to be verified at any time of entry or any subsequent time (including any time after the goods have ceased to be subject to the control of Customs).

(2) Where the Comptroller requires such a claim to be verified at the time of entry of the goods and the claim is not verified to the satisfaction of the Comptroller at that time, the goods in respect of which the claim has been made must not be so entered.

101 Unsubstantiated preference claims

(1) If the Comptroller is satisfied, whether as the result of an investigation carried out under section 197, or as the result of an audit, or examination carried out

under section 201, or for any other reason, that the country of which goods are the produce or manufacture cannot be ascertained because no evidence can be found, the goods are deemed, for the purposes of this Act or any other Act or authority to be the produce or manufacture of a country subject to the rates of duty set out in the Normal Tariff.

(2) An importer must be advised by notice in writing of a decision of the Comptroller under this section.

(3) An importer who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

(4) This section applies whether or not the goods have been released from the control of Customs.

[Section 101(3): Not commenced.]

[The next page is 906,901]

Part 9
Excise and excise-equivalent duties

102 Manufacture of excisable goods

Subject to such exceptions as may be provided for under this Act, no person may manufacture goods specified for the purpose of this section in the Excise Order except in a manufacturing area that is licensed under this Act.

103 Exemption for tobacco manufactured for personal use

(1) Section 102 does not apply to the manufacture of tobacco in a private house or dwelling place, but only if and as long as the conditions specified in subsection (2) are met.

(2) The conditions are as follows:

(a) the tobacco must be manufactured by an individual (the individual) who is 18 years or older:

(b) the individual must manufacture the tobacco in the individual's private house or dwelling place, for the individual's personal use and not for sale or other disposition to any other person:

(c) the leaves or plants used in the manufacture of the tobacco must have been grown—

(i) on the land on which the individual's private house or dwelling place is located; and

(ii) for the individual's personal use and not for sale or other disposition to any other person:

(d) the amount of manufactured tobacco that is manufactured in the individual's private house or dwelling place, in any year must not exceed 8 kilograms.

104 Exemption for beer or wine manufactured for personal use

(1) Section 102 does not apply to the manufacture of beer, wine, or spirits in an individual's private house or dwelling place, but only if and as long as the beer, wine, or spirits are manufactured exclusively for the individual's personal use and not for sale or other disposition to any other person.

(2) For the purposes of this section, **personal use** means—

(a) use only by the person who manufactured the beer or wine; and

(b) the beer or wine was not for sale or other disposition to any other person including members of the individual's family; and

(c) that the beer, wine, or spirits manufactured or wine manufactured is not more than—

(i) 20 litres of beer per month; or

(ii) 10 litres of wine per month; or

(iii) 2 litres of spirits.

105 Goods deemed to have been manufactured

For the purposes of this Act—

(a) compressed natural gas is deemed to have been manufactured by a licensee of a manufacturing area when natural gas supplied by the licensee to a compressed natural gas fuelling facility is compressed for use as a motor vehicle fuel:

(b) goods on which work has been done by a contractor are deemed to have been manufactured by the contractor.

106 Entry of excisable goods

(1) Subject to any regulations made under section 107, all goods that are specified for the purpose of this subsection in the Excise Order must, on removal from a Customs controlled area, be entered by the licensee of that area—

(a) in such form and manner (including by electronic means into a computer or other device) as may be prescribed; and

(b) within such time as may be prescribed.

(2) Where any entry required by this section relates to goods that are dutiable in accordance with the volume of alcohol present in the goods, the person making the entry must specify the volume of alcohol in the prescribed manner.

(3) Goods in respect of which entry has been made and passed must immediately be dealt with in accordance with the entry and with the provisions of this Act in respect of the goods so entered.

107 Regulations relating to an entry of excisable goods

Without limiting the power to make regulations under section 352, the Minister, in consultation with the Comptroller, may from time to time, make regulations—

(a) prescribing when entries of excisable goods are deemed to have been made for the purposes of this Act; and

(b) prescribing the conditions under which entries of excisable goods are deemed to have been passed for the purposes of this Act; and

(c) exempting specified goods or goods of a specified class from the requirements of section 106, subject to such conditions as may be prescribed.

108 Removal for home consumption

For the purposes of this Part, goods are deemed to be removed for home consumption when the goods are physically removed from a Customs controlled area otherwise than when they are—

(a) moved to another Customs controlled area under an approval given by the Comptroller and for such purposes as may be approved by the Comptroller; or

(b) temporarily removed under an approval given by the Comptroller and for such purposes as may be approved by the Comptroller; or

(c) removed for export or to an export warehouse.

109 Excise duty on goods manufactured in manufacturing areas

(1) In respect of all goods that are manufactured in a manufacturing area and that are specified for the purpose of this subsection in the Excise Order there must be levied, collected and paid excise duties, if any, at the appropriate rates set out in the Excise Order.

(2) If the excise duty applicable to any goods pursuant to subsection (1) is an *ad valorem* excise duty, the value of the goods for the purposes of such excise duty must be determined in accordance with Schedule 3.

(3) Despite anything in this Part, if the excise duty is a combination of a specific rate and an *ad valorem* rate, the excise duty payable must be determined as the aggregate of—

(a) the amount of excise duty calculated by applying the specific rate; and
(b) the amount of excise duty calculated by applying the *ad valorem* rate to the value for duty.

110 Excise duty on goods manufactured otherwise than in manufacturing area

(1) Subject to subsection (2), where goods specified for the purpose of this subsection in the Excise Order are manufactured in an area that is not licensed under section 15, the provisions of this Part and Part 10 apply as if the area were licensed as a manufacturing area under this Act.

(2) Subsection (1) does not apply in respect of—
(a) goods that are manufactured in an area that under a direction of the Comptroller under section 15(4) is not required to be licensed; or
(b) goods that are covered by an exemption prescribed under this Act that applies to section 13; or
(c) tobacco manufactured for personal use that comes within the exemption set out in section 103; or
(d) beer or wine manufactured for personal use that comes within the exemption set out in section 104.

111 Excise-equivalent duty on imported goods

(1) Subject to this Act, and in addition to any other duties or levies payable on imported goods, excise-equivalent duty at the appropriate rate specified in the Excise Order must be levied, collected and paid on all goods specified for the purpose of this subsection in the Excise Order that are imported.

(2) Where goods on which excise-equivalent duty is payable under this section are dutiable in accordance with the volume of alcohol present in the goods, the person making the entry in respect of those goods must specify the volume of alcohol in the prescribed manner.

(3) Excise-equivalent duty becomes payable—
(a) when entry for home consumption is passed; or
(b) if, before entry for home consumption, the goods are dealt with in breach of a provision of this Act.

(4) If the excise-equivalent duty applicable to such goods is an *ad valorem* duty, the value of the goods for the purposes of that excise-equivalent duty must be determined in accordance with Schedule 3.

112 Excise duty a Crown debt

(1) The excise duty is a debt due to the Crown and is recoverable by action at the suit of the Comptroller on behalf of the Crown—
(a) in relation to goods specified for the purpose of this subsection in the Excise Order that are manufactured in a manufacturing area, immediately on removal of the goods for home consumption in accordance with section 108; or
(b) in relation to goods specified for the purpose of this subsection in the Excise Order that are, except as provided in section 110(2), manufactured outside a manufacturing area, immediately on manufacture.

(2) Excise duty paid under subsection (1) is owed by—
(a) the licensee or occupier of the manufacturing area; and
(b) every person who is or who becomes the owner of the goods before the excise duty has been fully paid.

(3) The liability of the persons referred to in subsection (2) is joint and several.

(4) For the purposes of this section, excise duty owed under subsection (1) must be paid to Customs within the time required by or prescribed under this Act.

113 Excise Orders

(1) The Queen's Representative, by Order in Executive Council, may from time to time—

(a) specify goods for the purposes of all or any of sections 13(a), 102, 106(1), 109(1), 110(1), 111(1), 112(1), 151(1)(b), and 154(1)(b), and for the purposes of any other provision of this Act that contemplates goods being specified under this section:

(b) specify rates of excise duty and excise-equivalent duty that are payable in respect of such goods under this Act:

(c) specify any other matters that are contemplated by this Act to be provided for in an order made under this section.

(2) An order made under this section may (without limitation)—

(a) refer to any heading, heading number, subheading, item, or item number or the title of any Part, section, chapter, or subchapter of the Tariff:

(b) include notes:

(c) refer to statistical units.

114 Power to amend Excise Order for certain purposes

(1) Subject to subsection (2), the Minister, by order, may from time to time suspend or amend the Excise Order in whole or in part, and by the same or a subsequent order, and in its place, impose on any goods specified in the Excise Order such excise duties and excise equivalent duties as the Minister thinks fit.

(2) Excise duties and excise equivalent duties imposed on goods under subsection (1) must not exceed the rate of excise duty or excise-equivalent duty on those goods set out in the Excise Order.

(3) The Minister may from time to time amend the Excise Order—

(a) by revoking, inserting, or amending any heading, heading number, subheading, item, or item number or the title of any Part, section, chapter, or subchapter of the Tariff referred to in the order in such manner as is necessary to ensure that the order conforms to the Tariff; or

(b) by revoking, suspending, or amending a provision of the notes forming part of the order, or by inserting a new provision in the notes, for the purpose of ensuring the proper operation of the order; or

(c) by revoking, suspending, inserting or amending a statistical unit in the order.

(4) Despite anything in subsection (3)(c), the Comptroller may, by public notice, revoke, suspend, insert or amend a statistical unit in the Excise Order.

(5) No amendment made under this section may alter the duties or exemptions from duty under this Act applicable to goods classified under an item or heading so amended.

115 Indexation of rates of excise duty and excise equivalent duty on alcoholic beverages and tobacco products

(1) Subject to subsections (2) to (4), the Minister, by order, may from time to time amend the Excise Order to impose such rates of excise duty and

excise-equivalent duty as the Minister thinks fit on all or any of the alcoholic beverages and tobacco products as defined in subsection (4).

(2) Any change in the rates of excise duty and excise-equivalent duty made by the Minister under subsection (1)—

(a) must be limited in accordance with this section having regard to movements in the Consumers Price Index All Groups excluding credit services; and

(b) in the case of a change in the rates of excise duty and excise-equivalent duty for alcoholic beverages, may come into force on 1 July in any calendar year; and

(c) in the case of a change in the rates of excise duty and excise-equivalent duty for tobacco products, may come into force only on 1 January in any calendar year.

(3) No new rate of excise duty or excise-equivalent duty imposed on any goods under subsection (1) may exceed a rate calculated in accordance with the following formula—

"a" divided by "b" multiplied by "c"

Where—

a. is the index number of the Consumers Price Index All Groups excluding credit services issued by the Government Statistician for—

(i) the quarter ending on 31 March in the calendar year in which the order is to come into force, in the case of an order relating to alcoholic beverages; or

(ii) the quarter ending on 30 September in the calendar year in which the order is to come into force, in the case of an order relating to tobacco products; and

b. is the index number of the quarterly Consumers Price Index All Groups excluding credit services issued by the Government Statistician for the quarter ending 12 months before, and expressed on the same basic quarter as, the relevant quarter specified in item a of this formula; and

c. is the existing rate of duty in respect of the goods to which the order relates.

(4) In this section,—

alcoholic beverages means goods that are—

(a) goods specified in headings 22.03, 22.04, 22.05, 22.06, 22.08, 99.10, 99.20, 99.25, 99.30, 99.45, and 99.50 of the Excise Order, not being goods that are exempt from excise duty and excise-equivalent duty; or

(b) undenatured ethyl alcohol and other goods specified in headings 21.05, 21.06, 22.07, 33.02, 99.05, 99.06, 99.35, 99.42, and 99.43 of the Excise Order (also not being goods exempt from excise duty and excise-equivalent duty)

tobacco products means goods specified in headings 24.02, 24.03, 99.60, and 99.65 of the Excise Order.

116 Power of Minister to suspend, remit, refund, or create exemptions from excise duties and excise-equivalent duties on goods supplied to certain organisations and their members

(1) The Minister may from time to time make regulations to suspend, order the

remission or refund of, or create exemptions from, excise duty and excise-equivalent duties in respect of goods or classes of goods manufactured in the Cook Islands or imported into the Cook Islands that are—

(a) supplied solely for the use of such organisations, expeditions, or other bodies as may be approved by the Minister and as may, from to time, be established or temporarily based in the Cook Islands under an agreement or arrangement entered into by or on behalf of the Government of the Cook Islands with the Government of any other country or with the United Nations; or

(b) supplied solely for the use of persons temporarily resident in the Cook Islands for the purpose of serving as a member of any such approved organisation, expedition, or other body.

(2) The Comptroller may at any time impose such conditions as he or she thinks fit in respect of goods or a class of goods to which a regulation made for the purposes of this section relates.

Miscellaneous duty provisions

117 Duty payable on goods consumed before removal from manufacturing area

(1) Duty is payable on goods consumed before removal from a manufacturing area in the same manner as if the goods had been removed on the date they had been consumed and the provisions of this Act apply, with all necessary modifications, accordingly.

(2) Despite subsection (1), no liability for duty arises where excisable products manufactured within a manufacturing area are used in the manufacturing process carried on in that manufacturing area.

(3) If, after making an allowance of not more than 2% on the quantity of spirits delivered to be rectified or compounded, it is found that the volume of alcohol rectified or compounded is less than the volume delivered, the full excise duty on the deficiency so found must immediately be paid by the rectifier or compounder to the Comptroller.

118 Excise duty on spirits and other alcohol beverages used in the manufacture of non-excisable products

(1) Where the Comptroller has reasonable cause to suspect that a person to whom the Comptroller has granted an approval to which this subsection applies has not complied with the conditions set down in the approval issued to that person, the Comptroller may make an assessment of duty.

(2) Where an assessment is made under subsection (1), the rate of duty to be applied must be the rate that would be applicable if the ethyl alcohol or alcoholic beverage were entered for home consumption.

(3) The duty assessed in accordance with this section must be paid in accordance with subsection (4) by the person to whom the approval has been granted.

(4) The due date for the payment of any duty assessed in accordance with this section is the date that is 20 working days after the date on which written notice of the assessment is given by the Comptroller.

(5) The Comptroller must, if satisfied that the non-compliance with the conditions was neither intentional nor negligent, remit or refund the duty on the goods.

(6) A person liable for the payment of the excise duty who is dissatisfied with a

decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 118(6): Not commenced.]

119 Assessment of excise duty on beer and wine otherwise exempt

(1) Where the Comptroller has reasonable cause to suspect that any quantity of beer or wine that has been entered as exempt from excise duty has subsequently been dealt with in any manner otherwise than in accordance with the provisions of this Act, the Comptroller may make an assessment of excise duty.

(2) The duty assessed in accordance with this section is owed by—

(a) the licensee of the manufacturing area in which the beer was manufactured; and

(b) the individual who manufactured the beer.

(3) The liability of the persons referred to in subsection (2) is joint and several.

(4) The due date for the payment of any duty assessed in accordance with this section is the date that is 20 working days after the date on which written notice of the assessment is given by the Comptroller.

120 Duty credits

(1) Where the licensee of a manufacturing area purchases materials or goods for use in manufacture, the licensee may, at the time of making an entry for home consumption as required by section 106, claim, as a credit, excise duty paid in respect of those materials or goods.

(2) The amount of the excise duty that may be claimed by the licensee of a manufacturing area as a credit relating to materials to which subsection (1) applies, is the amount of excise duty originally paid by the licensee of a Customs controlled area, importer or owner in respect of the materials but does not include any additional excise duty paid under section 122.

(3) Where the amount of the credit exceeds the amount of excise duty payable by the licensee in the home consumption entry in which the credit is claimed, the amount of the excess may, at the discretion of the Comptroller, be refunded to the licensee.

[The next page is 907,101]

Part 10
Assessment and recovery of duty

121 Duty on imported goods a Crown debt

(1) The duty on all goods imported constitutes, immediately on importation of the goods, a debt due to the Crown.

(2) Such duty is owed by the importer of the goods, and, if more than one (whether at or at any time after the time of importation) then jointly and severally by all of them.

(3) Subject to this Act, such debt becomes due and payable when—

(a) goods have been entered in accordance with section 62 and the entry has been passed for home consumption; or

(b) goods have been entered in accordance with section 62 for removal to a manufacturing area; or

(c) goods have been wrongfully landed or otherwise wrongfully dealt with without having been entered under section 62; or

(d) an offence has been committed against this Act in respect of the goods.

(4) Such debt is recoverable by action at the suit of the Comptroller on behalf of the Crown.

(5) The right to recover duty as a debt due to the Crown is not affected by the fact that—

(a) the goods have ceased to be subject to the control of Customs; or

(b) a bond or other security has been given for the payment of duty; or

(c) no proper assessment of duty has been made under this Act or that a deficient assessment of duty has been made.

(6) The Comptroller may, subject to such terms and conditions as he or she may impose, approve any person or class of persons as persons who may defer the payment of duty due under this section and, for that purpose, may determine a duty accounting period; and may suspend or withdraw that approval or vary any term or condition under which the approval is given or vary the duty accounting period.

(7) Where the Comptroller makes any decision under subsection (6), the persons or class of persons affected must be advised of the decision by notice in writing.

(8) All goods specified in the inward report of any craft are presumed to have been actually imported unless the contrary is proved.

(9) A person who is dissatisfied with a decision of the Comptroller under subsection (6) may, within 20 working days after the date on which notice of the decision is given, appeal to Customs Appeal Authority against that decision.

[Section 121(9): Not commenced.]

122 Additional duty imposed

(1) Where any duty the payment of which has been deferred in accordance with section 121(6), or which is due in accordance with section 112(4) remains unpaid by the due date for payment, there must be imposed—

(a) additional duty of 5% of the amount of duty unpaid by the due date; and

(b) additional duty of 2% of the amount of duty, including additional duty, unpaid at the end of the period of one month after the due date; and

(c) additional duty of 2% of the amount of duty, including additional duty, unpaid at the end of each succeeding period of one month.

(2) Despite subsection (1), the Comptroller may, in his or her discretion, remit, or refund the whole or any part of any additional duty imposed by that subsection.

(3) Where, for any reason the amount of duty in respect of which additional duty has been imposed under subsection (1) is amended, the additional duty must, where necessary, be adjusted accordingly.

(4) Any person who fails to pay duty or additional duty under subsection (1) on the due date may be suspended from a deferred duty payment scheme by the Comptroller.

(5) A person liable for the payment of the duty who is dissatisfied with a decision of the Comptroller under subsection (3) may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 122(5): Not commenced.]

123 Assessment of duty

(1) An entry for goods made under this Act is deemed to be an assessment by the importer or licensee, as the case may be, as to the duty payable in respect of those goods.

(2) If the Comptroller has reasonable cause to suspect that duty is payable on goods by a person who has not made an entry in respect of the goods, the Comptroller may assess the duty at such amount as the Comptroller thinks proper.

(3) The person liable for the payment of the duty must be advised of the assessment by notice in writing.

(4) A person liable for the payment of the duty who is dissatisfied with a decision of the Comptroller under subsection (2) may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 123(4): Not commenced.]

124 Amendment of assessment

(1) Subject to section 128, the Comptroller may from time to time make such amendments to an assessment of duty as he or she thinks necessary in order to ensure the correctness of the assessment even though the goods to which the duty relates are no longer subject to the control of Customs or that the duty originally assessed has been paid.

(2) If the amendment has the effect of imposing a fresh liability or alternating an existing liability, notice in writing must be given by the Comptroller to the person liable for the duty.

(3) A person liable for the payment of the duty who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 124(3): Not commenced.]

125 Due date for payment of duty

(1) Unless otherwise specified in this Act, the due date for the payment of duty assessed under section 123(2) or reassessed under section 124 or demanded under section 136 or section 137 is the date that is 20 working days after the date on which written notice of the assessment or amended assessment or demand, as the case may be, is given by the Comptroller.

(2) However, if the Comptroller has reasonable cause to believe that a person will be unable to pay the duty by the due date required by subsection (1), the Comptroller may, by notice in writing, require that person to pay the duty by an earlier date.

(3) A notice issued under subsection (2) is a demand for payment, and the duty becomes due and payable on the date fixed by the Comptroller.

(4) A person liable for the payment of the duty who is dissatisfied with the decision of the Comptroller under subsection (2) may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

(5) Where all or part of any duty remains unpaid by the due date, the amount outstanding is deemed to have been increased by an amount calculated in accordance with section 122(1).

[Section 125(4): Not commenced.]

126 Assessment presumed to be correct

(1) Every assessment made by the Comptroller under this Act, including an assessment made by way of amendment, is presumed to be correct and duty is payable accordingly unless on an appeal a different amount is determined to be the duty payable on the goods it is determined that no duty is payable.

(2) Despite anything in this Act, where an appeal has been lodged under Part 8, 9, 10, or 12, the Comptroller may, subject to receiving such security as he or she thinks sufficient to cover the full amount of duty, release the goods from the control of Customs.

127 Obligation to pay duty not suspended by appeal

(1) Subject to subsection (3), the obligation to pay and the right to receive and recover duty under this Act are not suspended by any appeal or legal proceedings.

(2) Subject to subsection (3), if the appellant is successful in the appeal or the proceedings, the amount (if any) of the duty or any security received by the Comptroller in excess of the amount that, in accordance with the decision on the appeal or the proceedings, was properly payable must immediately be refunded to the appellant by the Comptroller, or as the case may be, the appellant must be released from the conditions of the security imposed under section 198.

(3) Any obligation on the Comptroller under subsection (2) is suspended pending the outcome of any appeal filed by the Comptroller under this Act or any other Act against the decision requiring the duty to be refunded.

128 Limitation of time for amendment of assessment

(1) Where an assessment of duty has been made under this Act, the Comptroller is not entitled to alter that assessment so as to increase the amount of the assessment after the expiration of 4 years from the date on which the original assessment was made.

(2) Despite subsection (1), in any case where, in the opinion of the Comptroller, the entry or any declaration made in relation to the goods was fraudulent or wilfully misleading, the Comptroller may amend the assessment at any time so as to increase the amount of the assessment.

129 Keeping business records

(1) Every licensee, importer, exporter, and certification body authorised by the Comptroller under section 76 must keep or cause to be kept in the Cook Islands such records, for such period of time not exceeding 7 years, as may be prescribed.

(2) Every such person must, as and when required by a Customs officer—
- (a) make the records available to Customs; and
- (b) provide copies of the records as required; and
- (c) answer any questions relevant to matters arising under this Act asked by any officer in respect of them.

(3) Where, for the purposes of complying with subsection (2), information is recorded or stored by means of an electronic or other device, the licensee, importer, exporter, or agent thereof must, at the request of a Customs officer, operate the device, or cause it to be operated, to make the information available to the Customs officer.

130 Giving Customs access to business records

(1) This section applies to a person only if the person—
- (a) is a person to whom section 129(1) applies or a person otherwise involved in the carriage, handling, or transportation of goods that are being imported to, or exported from, the Cook Islands, including a person involved in the transportation of goods to a Customs place from which goods for export will proceed to a point outside the Cook Islands; and
- (b) has been required by the Comptroller by notice in writing to comply with this section on and after a date specified in the notice in writing.

(2) On and after the date specified in the notice in writing, a person to whom this section applies must,—
- (a) if the person is a person to whom section 129(1) applies, give Customs access to the records the person is required to keep under section 129; and
- (b) if the person is a person otherwise involved in the carriage, handling, or transportation of goods that are being imported to, or exported from, the Cook Islands, give Customs access to any records the person may currently keep of the kind required to be kept under section 129.

(3) A person to whom this section applies must give Customs that access in the form and manner prescribed, including in an electronic form and manner, and must ensure that Customs has that access at all reasonable times.

(4) The Comptroller may, by notice in writing, exempt a person to whom this section applies from complying with some or all of the person's obligations under this section in all or any specified circumstances.

(5) To avoid doubt, nothing in this section affects any obligation under section 129 to keep or cause to be kept, make available, provide copies of, or answer questions in respect of, records.

[The next page is 907,151]

131 Meaning of related

For the purposes of section 132, one person (**A**) is **related** to another person (**B**)—

(a) where A is connected to B by blood relationship, marriage, or adoption, or where A is a trustee of a trust in respect of which B is a beneficiary, and for the purposes of this paragraph—

(i) persons are connected by blood relationship if within the fourth degree of relationship traced through a common ancestor:

(ii) persons are connected by marriage if they are married to each other or have a relationship in the nature of marriage with the other (hereby called the partners), and includes a relationship between one partner and a person connected by blood relationship with the other partner:

(iii) persons are connected by adoption if one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other:

(b) if B is a company, where A is a director or officer of B, or is related (within the meaning of paragraph (a)) to a director or officer of B, or is directly or indirectly able to extend control over the affairs of B:

(c) if A is a company, where the B is a director or officer of A, or is related (within the meaning of paragraph (a)) to a director or officer of A, or is directly or indirectly able to exercise control over the affairs of A:

(d) if the both A and B are companies—

(i) where one company is a holding company or is a subsidiary company of the other company, as the case may be; or

(ii) where either company owns or controls shares that in aggregate carry the right to exercise or control the exercise of 20% or more of the voting power at meetings of the company; or

(iii) where both companies have the same holding company, or a third person owns or controls shares in each of them that carry the right to exercise or control the exercise of 20% or more of the voting power at meetings of each of them.

132 Duty a charge on goods

(1) Subject to subsection (3), the duty on any goods constitutes a charge on those goods, in priority over any other charges until fully paid.

(2) Subject to the provisions of this section, if any duty charged on any goods under this section is due and unpaid, the Comptroller may, whether or not the property in the goods has passed to a third party, take possession of the goods, and sell them or any part of them in satisfaction or part satisfaction of the charge.

(3) Subsection (1) does not apply as against a purchaser of the goods for valuable consideration and without knowledge that the duty was owing but had not been paid.

(4) For the purposes of this section, **purchaser** means—

(a) a person (other than a person liable to pay the duty) who acquired the goods; or

(b) a subsequent purchaser of the goods—

who in either case is not related to the person liable to pay the duty.

(5) In any case where a person claims, or before the taking of possession of the

goods by the Comptroller, that he or she is a purchaser to whom subsection (3) applies and there is a dispute as to whether that subsection applies the Comptroller may—

(a) where the goods are in the possession or control of the importer, take possession of the goods and subject to subsection (7), retain possession of them:

(b) where the goods are in the possession or control of the purchaser, by notice in writing, direct the purchaser, subject to subsection (7), to retain the possession or control of the goods,—

pending the resolution of the dispute, and subsections (7) to (9) apply.

(6) In any case where—

(a) possession of the goods have been taken by the Comptroller but the goods have not been sold; and

(b) a person notifies the Comptroller that he or she claims that he or she is a purchaser to whom subsection (3) applies; and

(c) there is a dispute as to whether that subsection applies,—

the Comptroller must, subject to subsection (7), retain possession of the goods pending the resolution of the dispute, and subsections (7) to (9) apply.

(7) Where any goods that the Comptroller has taken possession of or has directed a purchaser to retain under this section consist wholly or partly of any living creature or anything which, in the opinion of the Comptroller, is of a perishable nature or which may otherwise lose its value if not sold as soon as possible, the Comptroller may, or the purchaser in possession or control of the goods may with the prior consent of the Comptroller, sell the goods, and the net proceeds of sale are deemed to be substituted for the thing so sold.

(8) The Comptroller or the purchaser of the goods may apply to the court for a declaration as to whether the goods were acquired by the purchaser for valuable consideration and without knowledge that the duty was owing and unpaid.

(9) In any proceedings under subsection (8), where the purchaser and a person liable to pay the duty are related, the onus of proving that the goods were acquired by the purchaser for valuable consideration and without knowledge that the duty was owing but unpaid is on the purchaser.

133 Application of section 134

Section 134 applies to the recovery of unpaid duty—

(a) that is owing by—

(i) an individual who is bankrupt or insolvent; or

(ii) a company that is in liquidation; or

(iii) a company that is in receiver; or

(iv) an unincorporated body of persons (including a partnership or a joint venture or the trustees of a trust) that is put into liquidation; or

(v) an unincorporated body of persons (including a partnership or a joint venture or the trustees of a trust) in respect of the property of which a receiver is appointed; or

(vi) a company that is in voluntary administration; or

(vii) a company that is insolvent; or

(viii) a trust that is insolvent; and

(b) that does not constitute a charge on goods.

134 Ranking of duty

(1) Unpaid duty to which this section applies must be paid in accordance with the following provisions of this section.

(2) In the case of an individual, upon the person's bankruptcy or upon the person making an assignment for the benefit of the person's creditors, the amount of any duty to which this section applies must rank, in order of priority, immediately after the preferential claims for wages or other sums payable to any worker, and in priority to all other claims except value added tax paid in accordance with the Value Added Tax Act 1997.

(3) In the case of a company, upon the liquidation of the company or upon the appointment of a receiver on behalf of the holder of any debenture given by the company secured by a charge over the property of the company or upon possession being taken on behalf of that debenture holder of the property, the amount of any duty to which this section applies must rank immediately after preferential claims for wages or other sums payable to any worker, and in priority to all other claims.

(4) In the case of a body of persons other than a company, upon the appointment of a receiver on behalf of any person under any order by a court, the amount of any duty to which this section applies will rank, in order of priority, immediately after any preferential claims for wages or other sums payable to any worker, and in priority to any claims of holders of debentures under any floating charge, including a floating charge (which has since creation become a fixed or specific charge) created by the body and will be paid accordingly out of any priority comprised in or subject to that charge.

(5) This section applies despite anything in any other Act.

(6) Nothing in this section or in section 132 derogates from section 135.

135 Release of goods subject to duty

(1) Except as otherwise provided in this Act, or in such cases as may be approved by the Comptroller, and subject to such securities as the Comptroller may require, no person is entitled to obtain release of goods from the control of Customs until the sum payable by way of duty on the goods is paid in full.

(2) No action or other proceeding may be instituted against the Crown or the Comptroller or any Customs officer in respect of the detention of any such goods during any period before the payment of the full sum so payable.

(3) In any case where the Comptroller considers that undue hardship would result from the payment of duty as required by this section, the Comptroller may, subject to such conditions as he or she may think fit to impose, direct the release of the goods from the control of Customs and accept payment of duty by instalment over a specified period.

136 Liability for duty on goods wrongfully removed or missing

(1) The licensee of a Customs controlled area is liable for duty payable on goods that the Comptroller is satisfied have been wrongfully removed from or are missing from that Customs controlled area as if the goods had been imported or manufactured by the licensee and entered under section 62 or 106, as the case may be.

(2) The licensee is not released from liability under this section by virtue of any other provision of this Act or any other written law.

(3) If—

(a) dutiable goods are removed from a Customs controlled area without the authority of Customs; or

(b) dutiable goods are not produced by the licensee to Customs and are not accounted for as having been lawfully delivered from Customs controlled area,—

duty becomes due and payable as if the goods were removed for home consumption, or entry has been made and passed for home consumption.

(4) The Comptroller may, by notice in writing, demand from the owner or importer of the goods or the licensee of a Customs controlled area payment of any sum that the Comptroller has reasonable cause to suspect is owing under this section.

(5) Duty payable under this section constitutes a debt due to the Crown by the licensee and the importer of the goods and the owner of the goods whose liability is joint and several.

(6) A person liable for the payment of the duty who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 136(6): Not commenced.]

137 Liability of owners of craft for duty on goods unlawfully landed

(1) If cargo or stores or other goods are unlawfully landed in the Cook Islands in or from a craft that is within the Cook Islands, the owner and the person in charge of the craft (without prejudice to the liability of any other person) are jointly and severally liable for the payment of the duty on the cargo stores or other goods, as if that cargo or those stores or other goods had been imported by them and entry had been made and passed for home consumption under section 62.

(2) The Comptroller may, by notice in writing, demand from the owner or the person in charge of any craft payment of any sum that the Comptroller has reasonable cause to suspect is owing under this section.

(3) In any proceedings for the recovery of duty under this section, or for a refund of duty paid under this section, the sum so demanded by the Comptroller is presumed to be due and payable unless the contrary is proved.

(4) A person liable for the payment of the duty who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 137(4): Not commenced.]

138 Effect of payment of duty by one person on liability of other persons

The liability of a person under a provision of this Act for the payment of duty on goods is extinguished by the payment of that duty by any other person liable for the payment of it under any provision of this Act unless that duty is subsequently refunded or remitted.

139 Incidence of altered duties

(1) In the case of an alteration in the law relating to the liability of goods to duty or the rate of duty to which goods are liable, such liability or rate must, except where otherwise expressly provided, be determined—

(a) in the case of goods held in an export warehouse, or produced in a manufacturing area, by the law in force at the time the goods are removed from the export warehouse or manufacturing area:

(b) in the case of other goods, by the law in force at the time the goods are imported into the Cook Islands.

(2) In this section, the term **alteration in the law** includes variation that takes place at any time or periodically in the liability of goods to duty or in the rate of duty to which they are liable.

140 Assessment of duty in particular cases

(1) When duties are imposed according to a specified quantity, weight, size, or value, the duties must be charged proportionately on a greater or smaller quantity, weight, size, or value.

(2) For the purposes of assessing duty on alcoholic beverages where the duty is to be calculated relative to the alcohol content of the beverage,—

(a) the means of ascertaining the volume of alcohol present in an alcoholic beverage is to be determined from time to time by the Comptroller in consultation with a qualified analyst; and

(b) if, on entry under section 62 or 106, it is ascertained that the volume of alcohol has increased or diminished by natural process of change while subject to the control of Customs, duty is payable in accordance with the volume of alcohol as so increased or diminished.

141 Reimportation of goods exported

(1) Subject to subsection (2), goods exported from the Cook Islands may, in such cases and under such conditions as may from time to time be approved by the Comptroller be admitted free of duty, or at such rate of duty as may be determined by the Comptroller, not exceeding the duty that would be payable on the goods if imported for the first time.

(2) This section applies to goods which, when reimported, are in substantially the same condition as when exported.

(3) Despite subsection (1), where drawback of duty has been claimed or duty remitted on export, duty will be payable on reimportation.

142 Payment of duty by importer, exporter, or licensee leaving Cook Islands

(1) Upon the application of any person being an importer, exporter, or licensee under this Act about to leave the Cook Islands, if the Comptroller is satisfied—

(a) that the person is not liable to pay any duty; or

(b) that all duty payable by the person has been paid; or

(c) that satisfactory arrangements have been or will be made for the payment of all duty that is or may be payable by the person—

the Comptroller may issue a certificate to the effect that the person is not under any liability for duty requiring to be discharged before the person leaves the Cook Islands.

(2) Every certificate issued under this section must remain in force for such period or until such date as may be specified in that behalf in the certificate.

(3) If any person, being an importer, exporter, or licensee under this Act is about to leave the Cook Islands, and—

(a) that person is liable to pay any duty; or

(b) all duty payable by that person has not been paid; or
(c) satisfactory arrangements have not been made for the payment of all duty that is or may be payable by that person—

the Comptroller may issue a certificate to the effect that the person is under a liability for duty that is required to be discharged before the person leaves the Cook Islands.

(4) The Comptroller may serve such certificate on an international airline operating flights to and from the Cook Islands and that airline must not allow the person named in the certificate to be removed from the Cook Islands on its aircraft until the airline is provided with a certificate from the Comptroller issued under subsections (1) and (2).

(5) The Comptroller may serve such certificate on the person named in the certificate and such person must take no further steps to leave the Cook Islands by any means whatsoever until the Comptroller has issued a certificate under subsections (1) and (2) or a Judge of the High Court permits it under rule 284 of the Code of Civil Procedure of the High Court 1981.

(6) In addition to serving the certificate under subsection (4), the Comptroller may apply to a Judge of the High Court under rule 284 for a writ of arrest and the provisions of that rule will apply in full to such application.

[The next page is 907,201]

Refunds, remissions, and drawbacks of duty

143 Comptroller may refund duty paid in error

(1) If the Comptroller is satisfied that duty has been paid in error, either of law or of fact, the Comptroller must, unless there is good reason not to, refund the duty—

(a) at any time within 4 years after it has been paid; or

(b) at any time, on an application made within 4 years after it has been paid.

(2) This section extends and applies to duties paid in error before the commencement of this section.

(3) Where a calculation or a re-calculation of duty that apparently gives rise to an entitlement to a refund in accordance with subsection (1) is based on a manifest error in the legal instrument which establishes the duty that is payable, that is good reason under that subsection for the Comptroller not to refund the duty.

(4) A person who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 143(4): Not commenced.]

144 Refunds of duty on goods under Tariff Act

(1) Where duty has been paid on imported goods and the Minister subsequently approves, under section 12 of the Customs Tariff Act 2012, a lower rate of duty or exempts the goods from duty, the Comptroller must refund in whole or in part the duty paid so that the total duty paid on the goods is in accordance with the terms (including the effective date) of the approval.

(2) A person who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 144(2): Not commenced.]

145 Other refunds and remissions of duty

(1) Subject to any prescribed exceptions, restrictions, or conditions, the Comptroller may refund or remit any duty where the Comptroller is satisfied that imported goods, or goods manufactured in the Cook Islands, as the case may be,—

(a) have been damaged, destroyed, pillaged, or lost, or have diminished in value or deteriorated in condition, prior to their release from the control of Customs; or

(b) are of faulty manufacture; or

(c) have been abandoned to the Crown for destruction or other form of disposal prior to their release from the control of Customs.

(2) Sample goods of such nature or value as may be prescribed and samples of the bulk of goods subject to the control of Customs may, subject to such conditions as may be prescribed, be delivered free of duty.

(3) The Comptroller may refund or remit any excise-equivalent duty imposed under section 111—

(a) on goods of a class or kind that have been exempted from duty section 13 of the Customs Tariff Act 2012; or

(b) on alcoholic beverages (except ethyl alcohol of Tariff items 2207.10.19, 2207.10.29, 2207.20.01, or 2207.20.39) for use of either person, in the

places, and in the quantities that the Comptroller may approve, and subject to any conditions that the Comptroller thinks fit in the manufacture of any products approved in writing by the Comptroller.

(4) A person who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to Customs Appeal Authority against that decision.

[Section 145(4): Not commenced.]

146 Power to apply refunds towards payment of other duties

Where under any provision of this Act duty is or becomes refundable to any person, the Comptroller may, apply the whole or any part of the sum so refundable towards the payment of any other duty that is payable by that person, or may refund the whole sum to that person.

147 Recovery of duty refunded in error

Money refunded by Customs in error of fact or law is recoverable by action at the suit of the Comptroller on behalf of the Crown at any time within 4 years after the date of its payment or any time if the refund has been obtained by fraud.

148 Goods temporarily imported

(1) Subject to this section, where the Comptroller is satisfied that goods have been temporarily imported, a sum equal to the amount of the duty payable on the goods must be secured, under section 198, in such cases as may be approved by the Comptroller, and on receipt of such security the Comptroller may release the goods from the control of Customs without payment of duty.

(2) Subject to such conditions (if any) as may be prescribed, the person giving the security must be released from the conditions of the security or, as the case may be subject to subsection (3), a deposit of money made must be returned to the person by whom it was made if, within 12 months from the date of their importation, the Comptroller is satisfied that the goods have been—

(a) exported; or

(b) shipped for export; or

(c) packed for export into a bulk cargo container in a Customs controlled area and the container secured to the satisfaction of the Comptroller; or

(d) not deliberately destroyed unless with the permission of the Comptroller; or

(e) dealt with in such manner as the Comptroller may allow.

(3) Where in any case goods temporarily imported and used for industrial or commercial purposes or such other purposes as the Comptroller may consider applicable, duty is payable in respect of the goods on the amount by which their value for duty, as determined by the Comptroller at the time that he or she is satisfied under subsection (2) that the goods have been dealt with under any of paragraphs (a) to (e) of that subsection, is less than their value for duty, as ascertained in accordance with this Act, at the time of their importation.

(4) Where an amount of duty is payable in accordance with subsection (3), that duty may be deducted from any deposit of money given as a security under subsection (1).

(5) Despite subsection (3), but subject to such conditions as the Minister may impose, duty is not payable on goods temporarily imported in accordance with any treaty, agreement, or arrangement concluded by the Government of the Cook Islands.

(6) If, at the expiry of the period prescribed by subsection (2), the goods have not been dealt with in accordance with that subsection—

(a) any sum secured by way of deposit of money must be retained by the Crown; or

(b) any sum otherwise so secured must be paid to the Crown by the importer within 10 working day after the expiry of that period, and on such payment the security must be released.

149 Drawbacks of duty on certain goods

(1) Subject to this section, drawbacks of duty may be allowed, at such amounts and subject to such conditions as may be prescribed, on—

(a) goods imported into the Cook Islands that are later exported from the Cook Islands:

(b) goods that are produced in a manufacturing area and exported from the Cook Islands:

(c) imported parts, and materials used in, worked into, or attached to, goods manufactured or produced in the Cook Islands and exported from the Cook Islands:

(d) imported materials, except fuel or plant equipment consumed in the manufacture or production of goods produced in the Cook Islands and exported from the Cook Islands.

(2) Where the Comptroller is satisfied that goods have been entered and shipped for export, the Comptroller may, for the purposes of this section, refund drawback of duty.

(3) Where drawback has been allowed on any goods consumed in the manufacture of those goods, the goods must not, without the permission of the Comptroller, be unshipped or relanded or unpacked before export.

(4) Where drawback has been allowed on goods consumed in manufacture of those goods and drawback has been paid in respect of any goods that are unshipped or relanded or unpacked before export, the amount of drawback allowed in respect of those goods or on goods consumed in the manufacture of those goods, immediately on their unshipment or relanding or unpacking, constitutes a debt due to the Crown; and such debt is immediately be payable by the owner of the goods at the time of their unshipment or relanding or unpacking.

(5) Such debt is recoverable by action at the suit of the Comptroller on behalf of the Crown.

(6) The right to recover drawback as a debt due to the Crown under this section is not affected by the fact that a bond or other security has been given in respect of the unshipment or relanding or unpacking of the goods before export.

(7) Where under this section drawback is allowed to any person, the Comptroller may, apply the whole or any part of the sum allowed towards the payment of any duty that is payable by that person.

150 Regulations may prescribe minimum duty collectable or refundable and minimum drawback allowable

Without limiting the power to make regulations conferred by section 352, regulations made under that section may prescribe—

(a) an amount of duty below which that duty need not be collected, and the circumstances in which that duty need not be collected; and

(b) the minimum amount of duty refundable on goods, and the circumstances in which duty below the prescribed amount must not be refunded; and

(c) the minimum amount of drawback of duty allowable on goods, and the circumstances in which drawback below the prescribed amount will not be allowed.

[The next page is 907,301]

Part 11
Customs rulings

151 Application for Customs ruling

(1) A person may make an application, in respect of particular goods specified in the application, to the Comptroller for a Customs ruling in respect of any 1 or more of the following matters:

(a) the Tariff Classification of those goods under Part 1 of the Tariff:

(b) the excise classification of those goods under the Excise Order:

(c) whether or not those goods are, for the purposes of the Tariff and in accordance with any applicable regulations made under this Act, the produce or manufacture of a particular country or group of countries, referred to in the application:

(d) whether or not those goods are subject to a specified duty concession under Part 2 of the Tariff.

(2) An application under subsection (1) may be made—

(a) in respect of imported goods—

(i) at any time before the date of importation into the Cook Islands of the goods that are subject of the application; or

(ii) at any later time, if the Comptroller permits; or

(b) in respect of goods manufactured in a manufacturing area—

(i) at any time before the date of manufacture of the goods; or

(ii) at any later time, if the Comptroller permits.

(3) A person may make an application in relation to a particular matter specified in the application, to the Comptroller for a Customs ruling as to the correct application of any provision contained in regulations made under section 99.

(4) Every application under subsection (1) or (3) must be in the prescribed form, and must—

(a) state the name and address of the applicant; and

(b) in the case of an application under subsection (1)—

(i) specify the particular goods that are the subject of the application; and

(ii) specify in respect of those goods, the matter or matters listed under subsection (1) on which the applicant requests a Customs ruling and the applicant's opinion as to what Customs ruling should be; and

(iii) unless the Comptroller agrees otherwise, be accompanied by the goods or a sample of the goods; and

(c) contain, or have attached, all information that is relevant to a proper consideration of the application; and

(d) be accompanied by the prescribed fee.

(5) The Comptroller may, at any time, request further information from an applicant if the Comptroller considers that the information is relevant to the application.

152 Making of Customs ruling

(1) Subject to subsection (4), the Comptroller must—

(a) in the case of an application made under section 151(1), make a Customs ruling in respect of any particular goods specified in the application and in respect of the matter or matters on which the ruling is sought; or

(b) in the case of an application made under section 151(3), make a Customs ruling in respect of the particular matter specified in the application.

(2) The Comptroller must make a Customs ruling under subsection (1) within such time or times as may be prescribed after receipt of—

(a) in the case of an application under section 151(1)—

(i) a properly completed application in respect of particular goods; and

(ii) the goods or a sample of the goods unless the Comptroller has agreed not to require receipt of the goods; and

(b) all information that the Comptroller considers relevant to a proper consideration of the application; and

(c) all information that the Comptroller requests under 151(5); and

(d) payment of the prescribed fee.

(3) A Customs ruling may be made subject to such conditions as the Comptroller thinks fit.

(4) The Comptroller may decline to make a Customs ruling if, in the Comptroller's opinion, he or she has insufficient information to do so.

153 Notice of Customs ruling

The Comptroller must promptly give notice in writing to the applicant of—

(a) a Customs ruling, together with the reasons for the ruling, and the conditions (if any) to which it is subject; or

(b) a decision to decline to make a Customs ruling, together with the reasons for that decision.

154 Effect of Customs ruling

(1) A Customs ruling in respect of particular goods is conclusive evidence for the purposes of this Act that the goods—

(a) have a particular tariff classification under Part 1 of the Tariff; or

(b) have a particular excise classification under the Excise Order; or

(c) are or are not, as the case may be in accordance with applicable regulations made under this Act, the produce or manufacture of a particular country, a group of countries, for the purposes of the Tariff Act 2012; or

(d) are or are not, as the case may be, subject to a specified duty concession under Part 2 of the Tariff.

(2) Subject to section 157, a Customs ruling in respect of a particular matter in respect of which a ruling has been given under section 152(1)(b) is conclusive evidence for the purposes of this Act and, where applicable, the Tariff Act 2012, of the application of the regulation or regulations on which the ruling was made in relation to that matter.

155 Confirmation of basis of Customs ruling

At any time after a Customs ruling is made, the Comptroller may by notice in writing, require the applicant to satisfy the Comptroller in such manner and within 20 working days or such longer period as the Comptroller considers appropriate—

(a) that the facts or information on which Customs ruling was made remain correct; and
(b) that any conditions on which Customs ruling was made have been complied with.

156 Amendment of Customs ruling

(1) The Comptroller may from time to time amend a Customs ruling to correct any error contained in the ruling.

(2) The Comptroller must, promptly after making the amendment, give notice in writing to the applicant of the amended Customs ruling and, subject to subsection (3), the ruling as amended applies to the applicant as from the date on which notice of the amendment was given to the applicant.

(3) Despite subsection (2), if the amendment to the ruling has the effect of increasing any duty liability in respect of any goods—
(a) where the goods are imported within 3 months of the date notice of the amendment is given, under a binding contract entered into before that date; or
(b) where the goods have left the place of manufacture or warehouse in the country from which they are being exported for direct shipment to the Cook Islands at the date notice of the amendment of the ruling is given; or
(c) where the goods are imported on or before the date notice of the amendment is given but have not been entered for home consumption,—

then the ruling as given prior to amendment under this section must be applied to those goods.

(4) Despite subsection (2), if the amendment to the ruling has the effect of decreasing any duty liability in respect of any goods, then the provisions of section 143 apply as if the higher duty had been paid in error.

157 Cessation of Customs ruling

(1) A Customs ruling ceases to have effect on the earliest to occur of the following dates:
(a) the date on which any information on which Customs ruling was made ceases to be correct in all material respects; or
(b) the date of a material change in any of the information or facts on which Customs ruling was made; or
(c) the date of a material change in the Tariff Act 2012 or to the Excise Order, or to any applicable regulations made under this Act or the Tariff Act 2012, if that date occurs prior to importation or manufacture of the relevant goods, as the case may be; or
(d) the date on which any of the conditions to which Customs ruling was made subject cease to be met or complied with; or
(e) the date of a failure to satisfy the requirements of the Comptroller under section 155; or
(f) the date of expiry of 3 years from the date that notice of the Customs ruling, or any amendment to that Customs ruling under section 156, is given to the applicant.

(2) A Customs ruling does not come into effect if—
(a) information on which it was made was not correct in all material respects; or

(b) a material change has occurred in any information or facts which it was made.

158 Appeal from decision of Comptroller

An applicant who is dissatisfied with a Customs ruling, or a decision to decline to make a Customs ruling, or a decision to amend a Customs ruling, under this Part may, within 20 working days after the date on which notice of the ruling or decision is given, appeal to a Customs Appeal Authority against that ruling or decision.

[Section 158: Not commenced.]

159 No liability where Customs ruling relied on

(1) Where an applicant has relied on a Customs ruling in relation to specific goods or a specific matter, and, as a result—

(a) the applicant has not paid the amount of duty that, but for this section, is payable on the goods; or

(b) the applicant would, but for this section, be liable to the imposition of a penalty under section 160; or

(c) goods, but for this section, would be liable to seizure under this Act—

the amount of the duty otherwise payable is not recoverable as a debt due to the Crown and no penalty may be imposed under section 160 and the goods are not liable to seizure under this Act, as the case may be.

(2) Subsection (1) applies only in relation to a matter on which Customs ruling was given and where Customs ruling has not ceased under section 157, and in accordance with any amendment to a Customs ruling that the applicant has received notice of under section 156.

[The next page is 907,501]

Part 12
Administrative penalties

160 Imposition of penalty

(1) In this Part, **entry** means an entry required under this Act, including, without limitation,—

(a) every declaration, invoice, certificate, written statement, or other document required or authorised by or under this Act to be made or produced by a person making the entry; and

(b) every amendment of the entry; and

(c) in relation to any goods or class of goods deemed by regulations made under section 63(d) to have been entered under section 62(1), a document that, under those regulations, the Comptroller requires to be lodged with the Customs before the goods or class of goods will be deemed to be entered; and

(d) in relation to any goods or class of goods deemed by regulations made under section 74(b) to have been entered under section 73(1), a document that, under those regulations, the Comptroller requires to be lodged with the Customs before the goods or class of goods will be deemed to be entered.

(2) Subject to section 162, where the Comptroller is satisfied that an entry of goods contains an error or omission and that as a result—

(a) an amount of duty payable under this Act has not been paid or declared for payment or would not have been paid or declared for payment; or

(b) the entry is otherwise materially incorrect,—

the Comptroller may give notice in writing to the person who made the entry stating that unless, within 20 working days after the date on which notice is given, that person satisfies the Comptroller that the person is entitled to be exempted from the imposition of a penalty under section 162, the Comptroller will issue a penalty notice under subsection (2).

(3) Where a person to whom a notice is given under subsection (1) does not, within the period referred to in that subsection, satisfy the Comptroller that the person is entitled to be exempted under section 162 from the imposition of a penalty under this section, the Comptroller must issue a notice to that person requiring that person to pay to the Comptroller by way of penalty and in addition to the duty, if any, payable under this Act,—

(a) in any case where, as a result of the error or omission, an amount of duty payable under this Act (not consisting solely of goods and services tax) has not been paid or declared for payment,—

(i) $100; or

(ii) an amount equal to 20% of the duty unpaid or not declared, up to a maximum amount of $5,000,—

whichever is the greater:

(b) in any case (to which paragraph (a) does not apply) where the error or omission has resulted in the entry being materially incorrect or, as a result

of the error or omission, an amount of goods and services tax was not paid or declared for payment, as the case may be, $100 in respect of each such entry.

(4) The due date for the payment of any penalty imposed under this section is the date that is 20 working days after the date on which notice of the penalty is given by the Comptroller.

(5) The amount of the penalty constitutes a debt due to the Crown and is recoverable by action at the suit of the Comptroller.

(6) No person by or on whose behalf the amount of the penalty is paid is liable to prosecution for an offence in relation to the error or omission and the goods in relation to which the error or omission occurred are not liable to seizure under this Act.

(7) Nothing in subsection (6) applies to a prosecution or seizure in relation to goods that have been forfeited to the Crown by reason of the importation or exportation of the goods being prohibited or unlawful.

(8) For the purposes of this section, **materially incorrect**, in relation to an entry under section 62 means that the entry contains an error or omission in relation to any of the following matters:

(a) the identity of the overseas supplier:
(b) the identity of the importer:
(c) the identity of the person making the entry:
(d) the identification of the importing craft or its voyage number:
(e) the Bill of Lading, Air Waybill, or container identification details:
(f) the supplier's invoice number:
(g) any permit number or code:
(h) the Tariff item in which the goods are classified under the Customs Tariff Act 2012:
(i) the statistical quantity of the goods:
(j) the currency code for the currency in which the goods are traded:
(k) the value for duty expressed in the currency in which the goods are traded:
(l) the value for duty expressed in Cook Island currency:
(m) the country of origin of the goods:
(n) the country from which the goods have been exported:
(o) the amount paid or payable to transport the goods to the Cook Islands from the country of exportation, including any amount paid or payable for internal transportation of the goods in that country:
(p) the insurance costs associated with transporting the goods to the Cook Islands, inclusive of any insurance costs in the country of exportation.

(9) For the purposes of this section, materially incorrect, in relation to an entry that is not an entry under section 62, means that the entry contains a material error or omission in relation to a matter that the entry is required by or under this Act to address.

(10) Where any penalty imposed under this section remains unpaid by the due date for payment, there must be imposed—

(a) an additional penalty of 5% of the amount of the penalty unpaid by the due date; and

(b) an additional penalty of 2% of the amount of the penalty, including any additional penalty, unpaid at the end of the period of one month after the due date; and

(c) an additional penalty of 2% of the amount of the penalty, including additional penalty, unpaid at the end of each succeeding period of one month.

(11) Despite subsection (10), the Comptroller may, in his or her discretion, remit or refund the whole or any part of any additional penalty imposed by that subsection.

(12) Where the goods referred to in subsection (1) and entered under section 62 become free of duty or subject to a lower rate of duty under Part 1 or 2 of the Tariff after the entry is made, then the penalty must be calculated according to subsection (3)(a) as if the duty liability had not so changed.

(13) A person who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 160(13): Not commenced.]

161 Obligation to pay penalty not suspended by appeal

(1) The obligation to pay and the right to receive and recover any penalty imposed under section 160 are not suspended by any appeal or legal proceedings.

(2) Subject to the provision of subsection (3), if the appellant is successful in the appeal, the amount of the penalty imposed under this section must immediately be refunded to the appellant by the Comptroller.

(3) The provisions of section 127(3), with all necessary qualifications, apply to an administrative penalty required to be refunded under this section as if such penalty were duty.

162 No penalty in certain cases

A person is not liable to the imposition of a penalty under section 160, if—

(a) that person has voluntarily disclosed the error or omission to Customs before Customs has notified the person that—

(i) the goods to which the entry relates have been selected for examination by Customs:

(ii) documentation is required to be presented to Customs in relation to that entry:

(iii) Customs intends to conduct an audit or investigation in relation to a selection of entries that includes that entry, or in relation to entries made over a period of time that includes the time the entry was made; or

(b) that person satisfies the Comptroller that the person formed a view as to the relevant facts pertaining to the entry which, while incorrect, was reasonable having regard to the information available to that person when the entry was prepared; or

(c) that person satisfies the Comptroller that he or she acted in good faith on information provided by the importer, exporter, or supplier of the goods to which the entry relates, and reliance on the accuracy or completeness of the information so provided was reasonable in the circumstances; or

(d) the total correct value for duty of the goods to which the error on the entry relates is less than $1,000; or

(e) an information for an offence against this Act has been laid in relation to the error or omission; or

(f) the period between the date of lodgement of the entry of the goods and the date on which the error or omission was first identified exceeds 4 years; or

(g) the provisions of section 159 apply.

[The next page is 907,701]

Part 13
Customs automated systems

[Part 13 heading: replaced, on 1 July 2020, by section 9 of the Customs Legislation Act 2020 (2020 No 9).]

163 Access to Customs automated systems

No person may transmit to, or receive information from, a Customs automated system unless that person is an individual who is registered by the Comptroller as a user of that Customs automated system.

[Section 163 heading: amended, on 1 July 2020, by section 10(1) of the Customs Legislation Act 2020 (2020 No 9).]
[Section 163: amended, on 1 July 2020, by section 10(2) of the Customs Legislation Act 2020 (2020 No 9).]

164 Registered users

(1) An individual who wishes to be registered as a user of a Customs automated system may apply in writing to the Comptroller in the prescribed form and must provide such information in relation to the application as is prescribed.

(2) The Comptroller may require an applicant for registration to give such additional information as the Comptroller considers necessary for the purpose of the application.

(3) The Comptroller may—

(a) grant the application subject to such conditions as the Comptroller thinks fit; or

(b) refuse the application.

(4) The Comptroller must give notice in writing to the applicant of his or her decision.

(5) An applicant who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 164(1): amended, on 1 July 2020, by section 11 of the Customs Legislation Act 2020 (2020 No 9).]
[Section 164(5): Not commenced.]

165 Registered users to be allocated unique user identifier

(1) An individual who is registered as a user of a Customs automated system must be allocated a unique user identifier for use in relation to that Customs automated system by the Comptroller in such form or of such a nature as the Comptroller may determine.

(2) The unique user identifier allocated under subsection (1) must be used by the registered user for the purpose of transmitting information to or receiving information from that Customs automated system.

(3) The Comptroller may, by notice in writing, impose conditions on a particular registered user, or on registered users generally, relating to the use and security of unique user identifiers.

[Section 165(1): amended, on 1 July 2020, by section 12 of the Customs Legislation Act 2020 (2020 No 9).]
[Section 165(2): amended, on 1 July 2020, by section 12 of the Customs Legislation Act 2020 (2020 No 9).]

166 Use of unique user identifier

(1) Where information is transmitted to a Customs automated system using a unique user identifier issued to a registered user by the Comptroller for that purpose, the transmission of that information is, in the absence of proof to the contrary, sufficient evidence that the registered user to whom the unique user identifier has been issued has transmitted that information.

(2) Where a unique user identifier is used by an individual who is not entitled to use it, subsection (1) does not apply if the registered user to whom the unique user identifier was issued has, prior to the unauthorised use of that unique user identifier, notified Customs that the unique user identifier is no longer secure.

[Section 166(1): amended, on 1 July 2020, by section 13 of the Customs Legislation Act 2020 (2020 No 9).]

167 Conditions may be imposed on registered users

(1) The Comptroller may impose a condition on the existing registration on either or both of the following:
- (a) a specified registered user or class of registered users:
- (b) all registered users.

(2) A condition imposed under subsection (1) must be notified in writing to the 1 or more registered users concerned and must, unless the 1 or more registered users concerned appeals under subsection (3), be complied with on or before—
- (a) the 20th working day after the date of notification of the imposition of the condition on the registered user's registration; or
- (b) a later date specified by the Comptroller.

(3) A registered user who is dissatisfied with the imposition of such a condition on his or her user registration under subsection (1) may appeal in writing to the Customs Appeal Authority within 20 working days after the date of notification of the imposition of the condition on the registered user's registration.

(4) If the Customs Appeal Authority is of the view that the imposition of the conditions under subsection (1) was reasonable in the circumstances, the registered user must comply with the condition on or before—
- (a) the 10th working day after the date of notification of the Authority's decision; or
- (b) a later date specified by the Customs Appeal Authority.

[Section 167(3) and (4): Not commenced.]

168 Suspension or cancellation of registration of registered user

(1) The Comptroller may by written notice to a registered user (which must state grounds for the cancellation) cancel that user's registration if satisfied that the user—
- (a) has failed to comply with a condition imposed by the Comptroller under section 164(3) or 165(3); or
- (b) has failed to comply with a condition imposed by the Comptroller under section 167(1) within the time frame specified in that section; or
- (c) has been convicted of—
  - (i) an offence against this Act or the Narcotics and Misuse of Drugs Act 2004; or
  - (ii) a crime involving dishonesty (as defined in section 2 of the Crimes Act 1969); or

(d) is, on 1 or more prescribed grounds, unfit to continue to be a registered user.

(2) Despite subsection (1), the Comptroller may by written notice to a registered user (which must state grounds for the suspension) suspend that user's registration until a date or event specified in the notice if satisfied that the user's registration should not be cancelled, but should instead be suspended until that date or event, because the user—

(a) has failed to comply with a condition imposed by the Comptroller under section 164(3) or 165(3); or

(b) has failed to comply with a condition imposed by the Comptroller under section 167(1) within the time frame specified in that section.

(3) The date or event specified in the notice under subsection (2) may, but need not, be the user's compliance with a condition imposed by the Comptroller under section 164(3), 165(3), or 167(1).

(4) If the person whose registration is suspended or cancelled is dissatisfied with the decision of the Comptroller under this section, that person may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 168(4): Not commenced.]

169 Customs to keep records of transmission

(1) Customs must keep a record of every transmission sent to or received from a registered user using a Customs automated system.

(2) The record described in subsection (1) must be kept for a period of 7 years from the date of the sending of or the receipt of the transmission, or for such other period as may be prescribed.

[Section 16(1): amended, on 1 July 2020, by section 14 of the Customs Legislation Act 2020 (2020 No 9).]

[The next page is 907,901]

Part 14
Powers of Customs officers

170 Patrols and surveillance

Any Customs officer may, for the purposes of the detection of offences against this Act, at any time and in such manner as the officer considers appropriate—

(a) patrol on or over any part of the foreshore or the shore of any lake or lagoon or the banks of any river and any structure extending from it, or any part of the adjacent land, or any Customs place or Customs controlled area; and

(b) enter and inspect any aircraft landing strip and any building on it, and may remain in any such area for the purposes of carrying out investigations or surveillance.

171 Landing or mooring of Customs craft

A Customs officer or other person in charge of any craft employed in the service of Customs may anchor, moor, berth, or land the craft, or haul the craft ashore, at any place within the Cook Islands and, in such case, no charge may be levied against Customs.

172 Boarding craft

(1) Any Customs officer may at any time board a craft that is within the Cook Islands if—

(a) the craft has arrived in the Cook Islands from a point outside the Cook Islands; or

(b) the craft is departing from the Cook Islands to a point outside the Cook Islands, including while the craft is travelling within the Cook Islands en route to a point outside the Cook Islands; or

(c) the craft (not being a craft to which paragraph (a) or (b) applies) is carrying any domestic cargo or international cargo while the craft remains within the Cook Islands; or

(d) the Customs officer has reasonable cause to suspect that the craft (not being a craft to which paragraph (a), (b), or (c) applies)—

(i) is carrying any dutiable, uncustomed, prohibited, or forfeited goods; or

(ii) has been, is being or is about to be, involved in the commission of an offence against this Act.

(2) The Comptroller may station Customs officers on board any craft that has arrived in the Cook Islands from a point outside the Cook Islands for the purposes of performing any function or exercising any power that the officers may be required, authorised, or empowered to perform or exercise under this Act.

(3) Where a Customs officer is stationed on board a craft under subsection (2), the person in charge of the craft must ensure that the officer is provided with—

(a) suitable accommodation and board in accordance with the reasonable requirements of that officer; and

(b) safe access to any part of the craft; and

(c) safe means of leaving the craft.

(4) No charge may be levied against Customs for the carriage of a Customs officer who is stationed on board a craft or for his or her accommodation and board.

173 Searching of craft

(1) Any Customs officer may search—

(a) a craft that has arrived in the Cook Islands from a point outside the Cook Islands; or

(b) a craft that is departing from the Cook Islands to a point outside the Cook Islands and at all times while the craft is travelling within the Cook Islands en route to a point outside the Cook Islands; or

(c) a craft (not being a craft to which paragraph (a) or (b) applies) that is carrying any domestic cargo or international cargo while the craft remains within the Cook Islands; or

(d) a craft (not being a craft to which paragraph (a), (b), or (c) applies) that is within the Cook Islands and that a Customs officer has reasonable cause to suspect—

(i) is carrying any dutiable, uncustomed, prohibited, or forfeited goods; or

(ii) has been, is being, or is about to be involved in the commission of an offence against this Act—

for the purpose of performing any function or exercising any power that the officer may be required, authorised or empowered to perform or exercise under this Act.

(2) In the exercise of the power conferred by subsection (1), any Customs officer may, using such force as in the circumstances is reasonable, enter every part of the craft and open any package, locker, or other place, and may examine all goods found on the craft.

174 Securing goods on craft

For the purpose of performing any function or exercising any power that Customs is required, authorised, or empowered to perform or exercise under this Act, a Customs officer may at any time while boarding or searching any craft under section 172 or 173—

(a) secure, by appropriate means, goods on board that craft; or

(b) remove goods on board that craft to a secure place.

175 Firing on ship

The officer commanding or in charge of any craft in the Crown's service having hoisted and carrying or displaying the proper ensign or Customs flag must, at the request of the Comptroller, within the Cook Islands, chase any ship where—

(a) the ship does not immediately bring to when signalled or required to do so; or

(b) the master refuses to permit the ship to be boarded—

and may, as a last resort after having fired a warning, fire at or onto the ship to compel it to bring-to.

176 Detention of craft

(1) Subsection (2) applies to a Customs officer and a craft—

(a) if the officer has reasonable cause to believe that an offence against this Act has been, is being, or is about to be committed on or in respect of the craft while it was or is within the Cook Islands; or

(b) if the craft is within the Cook Islands, and the officer has reasonable cause to believe that—

(i) there is on the craft a person who was carried into the Cook Islands on it; and

(ii) the carriage of the person into the Cook Islands on the craft constituted an offence against section 109C(1) of the Crimes Act 1969.

(2) A Customs officer who has reasonable cause to believe that an offence against this Act has been, is being, or is about to be committed on or in respect of a craft while that craft was or is within the Cook Islands may—

(a) direct the craft to proceed to the nearest Customs place or such other place as the officer considers appropriate; or

(b) direct that the craft remain where it is and in either case, detain the craft for such time and for such purposes as are reasonable necessary to carry out an investigation into the commission of the offence.

(3) If the person in charge of a craft attempts or threatens to cause the craft to depart from a place to which the craft has been directed to proceed or in which the craft has been directed to remain under subsection (2) without a certificate of clearance, a Customs officer may (in addition to any power of seizure under Part 16 for any offence so committed) seize and detain the craft until a certificate of clearance has been obtained, and, in any such case, section 274 applies in the same manner as in the craft had been seized under Part 16.

177 Searching vehicles

(1) A Customs officer who has reasonable cause to suspect that—

(a) there are in or on any vehicle that is within a Customs place any dutiable, uncustomed, prohibited, or forfeited goods; or

(b) there is evidence relating to any such goods; or

(c) there is evidence relating to any offence against this Act—

may stop the vehicle and search it and may detain the vehicle for such period as may be reasonably necessary for this purpose.

(2) A Customs officer or member of the Police who has reasonable grounds to believe that—

(a) there are in, or on, any vehicle (not being a vehicle to which subsection (1) applies) any goods that have been unlawfully exported; or

(b) there is evidence relating to the unlawful importation of any goods or an attempt to unlawfully export any goods—

may stop the vehicle and search it and may detain the vehicle for such period as may be reasonably necessary for this purpose.

(3) A Customs officer who has reasonable cause to suspect that there are in or on a vehicle goods subject to the control of Customs and in a Customs-approved secure package or in a package in relation to which a Customs seal has been used—

(a) may stop the vehicle and search it; and

(b) may detain the vehicle for such period as may be reasonably necessary for that purpose and for exercising powers under section 193 in relation to any goods of that kind.

(4) Powers given by any other subsection of this section apply even if the vehicle need not be stopped because it is not moving, and whether or not it is attended,

and include the power to use reasonable force, if necessary, to stop, detain, enter in or on, and search the vehicle (or for any other purposes) as authorised by that other subsection.

178 Questioning persons about goods and debt

(1) This section applies to—

(a) any person who—

(i) has within the preceding 72 hours arrived in the Cook Islands; or

(ii) is departing from the Cook Islands; or

(b) any person, not being a person to whom paragraph (a) applies, who is within a Customs controlled area licensed for—

(i) the temporary holding of imported goods for the purposes of the examination of those goods under section 194 (including the holding of the goods while they are awaiting examination); or

(ii) the disembarkation, embarkation or processing of persons arriving in or departing from the Cook Islands; or

(iii) the processing of craft arriving in or departing from the Cook Islands or the loading or unloading of goods onto or from such craft; or

(c) any person, not being a person to whom paragraph (a) applies, who is on board or is in the process of embarking onto or disembarking form a craft that has arrived from, or is departing to, a point outside the Cook Islands, while the craft is within the Cook Islands.

(2) A Customs officer may question a person to whom this section applies as to any 1 or more of the following matters:

(a) whether or not that person has or has had in that person's possession any dutiable, prohibited, uncustomed, or forfeited goods:

(b) the nature, origin, value or intended destination of any goods described in paragraph (a):

(c) whether, under this Act, any debt (for example, in respect of any duty, duty refunded in error, recovery of the drawback of any duty, or penalty) is due to the Crown and payable by the person, or by a company, trust, partnership, or other enterprise of which that person is or was a director, manager, secretary, officer or agent:

(d) the nature and extent of the debt (if any) of that kind.

[The next page is 908,051]

179 Questioning persons about identity, address, travel movements, and entitlement and other matters

(1) This section and sections 182 and 184 apply to the following persons:
- (a) a person who—
  - (i) has, or is suspected of having, disembarked from a craft that has arrived in the Cook Islands; and
  - (ii) has not, or is suspected of having not, reported to a Customs officer or a police station on his or her arrival, contrary to section 30:
- (b) a person who is, or is suspected of, attempting to depart from the Cook Islands from a place other than from a Customs place, contrary to section 33.

(2) This section and sections 182 and 184 do not apply,—
- (a) in the case of a person referred to in subsection (1)(a), to a person whose actions are authorised by another section of this Act; and
- (b) in the case of a person referred to in subsection (1)(b), to a person who is complying with an exemption prescribed by regulations made under this Act or whose actions are authorised by Customs.

(3) A Customs officer may question a person to whom this section applies as to any 1 or more of the following matters:
- (a) the person's identity:
- (b) the person's residential address:
- (c) the person's travel movements:
- (d) the person's entitlement to travel:
- (e) any of the matters specified in section 178(2):
- (f) the craft—
  - (i) from which the person disembarked or is suspected of disembarking; or
  - (ii) on which the person attempted to depart, or is suspected of attempting to depart, from the Cook Islands:
- (g) any other person who is, or was, involved in the person's arrival, suspected arrival, departure, attempted departure or suspected departure, whether or not the other person was on the craft—
  - (i) from which the person disembarked or is suspected of disembarking; or
  - (ii) on which the person attempted to depart, or is suspected of attempting to depart from the Cook Islands.

(4) A question under subsection (3)(f) may, but need not, relate to the craft's voyage and any person or goods carried by the craft.

180 Questioning employees of airlines, shipping companies, etc

(1) A Customs officer may question 1 or more of the following about any international cargo or domestic cargo:
- (a) a person who, as an employee of an airline or shipping company, manages or carries out the receipt, handling, custody or dispatch of international cargo or domestic cargo by that airline or shipping company; or
- (b) a person employed by the licensee of a Customs controlled area licensed for—
  - (i) the temporary holding of imported goods for the purposes of the

examination of those goods under section 193 (including the holding of the goods while they awaiting examination); or

(ii) the processing of craft arriving in or departing from the Cook Islands or the loading or unloading of goods onto or from such craft; or

(c) a person (not being a person described in paragraph (a) or (b)) who is in a Customs controlled area licensed for a purpose described in paragraph (b)(i) or (ii).

(2) A Customs officer may question 1 or more of the following about any cargo destined to be exported from the Cook Islands:

(a) a person who is the owner or operator of a vehicle that a Customs officer has reasonable cause to suspect has in or on it, or has within previous 72 hours had in or on it, goods subject to the control of Customs and in a Customs-approved secure package or in a package to which a Customs seal has been used:

(b) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, or have within the previous 72 hours had in or on them, goods subject to the control of Customs and in a Customs-approved secure package or in a package to which a Customs seal has been used:

(c) a person employed by a person described in paragraph (a) or (b).

(3) A question under subsection (2) about cargo destined to be exported from the Cook Islands may relate to 1 or more of the following—

(a) whether, and if so how, goods that are or were some or all of the cargo are or were packed in a package to which a Customs seal was used or in a Customs-approved secure package to which a seal or marking of the kind referred to in section 85(1)(b) was used; or

(b) the transportation or storage of packages of the kind referred to in paragraph (a) at any time before they are or were exported; or

(c) tampering or interference with a package of the kind referred to in paragraph (a) or with a seal or marking of the kind referred to in that paragraph.

(4) Subsection (3) does not limit subsection (2).

(5) Nothing in this section limits sections 178 and 179.

181 Evidence of identity and entitlement to travel

(1) This section applies to a person who is—

(a) an internationally ticketed passenger using air or sea travel for a domestic sector; or

(b) a domestic passenger using air or sea travel for a domestic sector; or

(c) within a Customs controlled area, or processing of disembarkation, embarkation, or processing of persons arriving in or departing from the Cook Islands.

(2) A person to whom this section applies must, on demand by a Customs officer—

(a) the state that person's full name and residential address; and

(b) if required, produce for inspection such prescribed document, as the officer may specify; or

(c) if the person is unable to produce the prescribed document specified, complete a declaration in the prescribed form.

(3) A demand under subsection (2)(b) or (c) may be made of a person only for the purpose of enabling Customs officer to establish that person's identity or that person's travel movements or that person's entitlement to air or sea travel for a domestic sector, or all of those.

(4) A document produced by a person to a Customs officer under subsection (2)(b) must be either—

(a) inspected immediately and returned to the person as soon as the inspection has concluded; or

(b) retained by Customs officer for as long as necessary to ascertain whether or not the Comptroller wishes to exercise his or her power under section 206 to retain the document.

(5) This section is subject to section 227.

182 Evidence of answers to questions under section 179

(1) A person to whom this section applies in accordance with section 179 must, on demand by a Customs officer, produce documents that—

(a) are in the person's possession or control; and

(b) relate to the matters the person has been questioned about under section 179.

(2) When a person produces a document in response to a demand under subsection (1), a Customs officer may do 1 or more of the following things:

(a) inspect the document immediately and return it the person when the officer has finished inspecting it:

(b) inspect the document and retain it for the length of the person's detention under section 184:

(c) inspect the document and retain it for as long as necessary to ascertain whether or not the Comptroller wishes to exercise his or her power under section 206 to retain the document:

(d) inspect the document and remove it for the purpose of making a copy under section 207:

(e) inspect the document and retain it under section 208.

(3) This section is subject to section 227.

183 Detention of persons questioned about goods or debt

(1) Where a Customs officer—

(a) is not satisfied that the answer to a question put to the person under section 178 is correct; or

(b) has not been given an answer to a question put to the person under that section; or

(c) is not satisfied as to a reason or explanation given by the person in respect of goods that are or have been, or that the officer suspects are or have been, in that person's possession or under that person's control—

and the officer has reasonable cause to suspect that an offence has been, is being, or is about to be, committed against this Act by that person or any other person associated with that person, the officer may detain that person.

(2) A Customs officer may detain a person under subsection (1) only for the following purposes:

(a) to enable the officer to make such inquiries as are necessary to establish whether the answer to the question or the reason or explanation is correct:

(b) to obtain the attendance of, or make enquiries of, another Customs officer or of a person who is entitled to exercise any power to question, detain, or arrest a person under this Act.

(3) A person must not be detained under this section for a period exceeding 4 hours.

184 Detention of person questioned under section 179

(1) A Customs officer may detain a person to whom this section applies in accordance with section 179 for 1 or more of the following purposes:
(a) to question him or her under section 179:
(b) to enable the officer to make the inquiries that are necessary to establish whether an answer to a question asked under section 179 is correct:
(c) to obtain the attendance of, or make inquiries of, another Customs officer or an officer entitled to exercise a power to question, detain or arrest a person under this Act or the Crimes Act 1969 following the questioning of a person under section 179.

(2) A Customs officer may detain a person under subsection (1) for up to 12 hours.

(3) The questioning of a person under section 179 must take place as soon as practicable after the person is detained under subsection (1).

(4) A Customs officer must release a person detained under subsection (1) immediately after the person answers the question asked under section 179 if the officer—
(a) is satisfied that the person has correctly answered the questions; and
(b) has no reasonable cause to suspect that the person questioned under that section has—
(i) committed an offence under section 234(1) by not complying with section 30 or 33; or
(ii) committed an offence under section 109C(1) of the Crimes Act 1969.

(5) A Customs officer may continue to detain a person under subsection (1) after the person is questioned under section 179 if Customs officer—
(a) is not satisfied that the person has correctly answered a question under section 179; or
(b) is not satisfied that the person has given an answer to a question asked under section 179; or
(c) has reasonable cause to suspect that the person questioned under that section has—
(i) committed an offence under section 234(1) by not complying with section 30 or 33; or
(ii) committed an offence under section 109C(1) of the Crimes Act 1969.

(6) Despite subsection (2), a person may be detained for a further reasonable period if, and only if, accident, stress of weather, or some other difficulty of transport or special circumstance makes it impossible for a Customs officer to do what is specified in subsection (1) within the 12 hour period specified in subsection (2).

(7) Reasonable force may be used, if it is necessary, to detain a person under subsection (1).

(8) In this section, unless the context otherwise requires,—

detain in relation to a person, includes to move the person to a Customs place or police station where the person may be, or may continue to be, questioned

further reasonable period means a period no longer than is necessary in the circumstances for a Customs officer to do what is specified in subsection (1).

[The next page is 908,101]

185 Detention of persons committing or about to commit certain offences

(1) A Customs officer and, in the case of paragraph (b), a member of the police may detain a person who, the Customs officer or, if applicable, the member of the police believes on reasonable grounds is committing, or is about to commit, an offence under section 234 or 246(1)(e) by,—

(a) if a craft has arrived at a nominated Customs place or a Customs controlled area within that place under section 27, leaving or boarding the craft without the authority of a Customs officer before an inward report is made under section 29 (in contravention of section 27(2)); or

(b) if the person has arrived in the Cook Islands, not reporting immediately to a Customs officer or a police station (in contravention of section 30(1)); or

(c) if the person has arrived in the Cook Islands and reported to a Customs officer or a police station under section 30(1), leaving the Customs officer or police station to which he or she reported, despite a Customs officer or, if applicable, a member of the police requiring the person to remain for a reasonable time in order that Customs officer or, if applicable, the member of police might exercise a power under this Act in relation to that person (in contravention of section 30(2)); or

(d) if the person is on board a craft that has arrived in the Cook Islands not complying with any Customs direction concerning disembarkation (in contravention of section 31(1)); or

(e) having disembarked from a craft that has arrived in the Cook Islands, leaving a Customs controlled area when Customs requires the person to remain there for such reasonable time as is required to enable a Customs officer to exercise a power under this Act in relation to that person (in contravention of section 31(3)); or

(f) if the person is required to comply with a direction given under section 37(3), failing to comply with that direction.

(2) A Customs officer or if applicable, a member of the police may only detain a person under subsection (1) for the purpose of ensuring the person's compliance with 1 or more of the provisions referred to in subsection (1).

(3) A Customs officer, or, if applicable, a member of the police must release a person detained under subsection (1) immediately after the person has complied with the requirements of the provision in relation to which he or she was detained and any other applicable provision referred to in subsection (1).

(4) Reasonable force may be used, if necessary, to detain a person under subsection (1).

(5) A person must not be detained under subsection (1) if a Customs officer or, if applicable, a member of the police believes the reasonable grounds that a person has already committed in offence under section 234 by contravening a provision referred to in subsection (1).

(6) Nothing in this section prevents a person—

(a) being detained or further detained under another provision of this Act or under any other enactment if there are lawful grounds for that detention; or

(b) being arrested under section 224.

(7) In this section, unless the context otherwise requires, **detention** includes the delivery of a person to a police station or the custody of a member of the police.

186 Detention for public health or law enforcement purposes

(1) A Customs officer may detain a person who is required to comply with a direction given under section 38 and who fails to comply with that direction.

(2) If a Customs officer has reasonable cause to suspect that a person who is detained under section 183, 184, or 185 is a person to whom 1 or more of the provisions of section 38 apply, the Customs officer may—

(a) detain the person under this section as well as the other section; or

(b) if the detention under the other section has ended or is about to end, further detain the person under this section.

(3) A Customs officer may detain or further detain a person under this section only for the purposes of obtaining the attendance of, or making inquiries of, another officer who is authorised, in respect of a matter specified in section 38(1), to do 1 or more of the following:

(a) question the person:

(b) ascertain or determine a matter relating to the status of the person:

(c) detain the person:

(d) arrest the person.

(4) A person must not be detained or further detained under this section for a period exceeding the shorter of—

(a) 4 hours; or

(b) if the person's detention commenced under section 183 or 184, the maximum period for which the person could, at the time of his or her detention or further detention under subsection (2), have been detained under section 183 or, as the case requires, section 184.

(5) Reasonable force may be used, if necessary, to detain or further detain a person under this section.

(6) Nothing in this section prevents a person—

(a) being detained or further detained under another provision of this Act or under any other enactment if there are lawful grounds for that detention; or

(b) being arrested under section 224.

(7) In this section, **detention** includes the delivery of a person to a police station or into the custody of a member of the police.

187 Persons to whom sections 188, 189(1), and 190 apply

Sections 188, 189(1), and 190 apply to—

(a) a person on board a craft that has arrived in, or is departing from, the Cook Islands; or

(b) a person in the process of disembarking from, or embarking on to, a craft described in paragraph (a); or

(c) a person who, having entered into the Cook Islands at a Customs place, remains in that Customs place.

188 Preliminary search of persons by use of aids

(1) A Customs officer or a member of the Police may conduct a preliminary search of a person to whom this section applies, and may detain that person for the purposes of conducting that preliminary search.

(2) A **preliminary search** is a search that—

(a) involves little or no physical contact between the person conducting the search and the person being searched; and

(b) is conducted by using an aid or aids such as a dog, or chemical substance, or x-ray or imaging equipment, or some other mechanical, electrical, or electronic device, or other similar aid, but not by any more invasive means.

(3) If, after a preliminary search under subsection (1), a Customs officer or a member of the Police has reasonable cause to suspect that a person has hidden on or about his or her person any thing described in section 189(1)(a), (b), or (c), sections 189 to 191 apply.

189 Searching of persons if reasonable cause to suspect items hidden

(1) A Customs officer or a member of the Police who has reasonable cause to suspect that a person to whom this subsection applies has hidden or about his or her person—

(a) any dutiable, uncustomed, prohibited, or forfeited goods; or

(b) evidence relating to any such goods; or

(c) any thing that is or might be evidence of the contravention or possible contravention of this Act—

may cause that person to be detained and searched.

(2) Despite subsection (1), where a Customs officer or a member of the Police has reasonable grounds to believe that—

(a) a person has within the preceding 24 hours arrived in the Cook Islands at any place other than a Customs place; or

(b) a person is about to depart from the Cook Islands from any place other than a Customs place,—

and the Customs officer or member of the Police has reasonable cause to believe that the person has hidden on or about his or her person any thing described in subsection (1)(a), (b), or (c), the Customs officer or member of the Police may cause that person to be detained and searched.

(3) Despite anything in subsection (1) or (2), where a Customs officer or member of the Police has reasonable cause to believe that a person, other than a person described in subsection (2) or section 187, who is in a Customs place has hidden on or about his or her person anything described in subsection (1)(a), (b), or (c), the Customs officer or member of the Police may cause that person to be detained and searched.

(4) Reasonable force may be used if it is necessary to detain and search the person.

(5) Where a person is detained as set out in this section, and there is no suitable searcher available at the place where the search is to take place, the person detained may be taken to another place to be searched.

(6) Any Customs officer or member of the Police who searches a person under this section may require such persons as the officer or member of the Police thinks necessary to assist him or her.

(7) A search of a person may be conducted under this section whether or not that person has earlier been the subject of a preliminary search under.

190 Searching of persons for dangerous items

(1) A Customs officer or member of the Police may immediately detain and search a person to whom this section applies if, and only if, the Customs officer or member of the Police has reasonable grounds to believe that—

(a) the person has a dangerous item hidden or in clear view on or about his or her person; and
(b) the item poses a threat to the safety of the officer or member, or any other person; and
(c) there is a need to act immediately in order to address that threat; and
(d) a search under section 188 or 189(1) would expose Customs officer or member of the Police, or any other person, to greater risk from the threat.

(2) If necessary, reasonable force may be used for either or both of the following purposes:
(a) to detain the person:
(b) to search the person.

(3) To avoid doubt, a search may be conducted under this section whether or not the person has earlier been the subject of a search under section 188 or 189(1).

(4) A Customs officer or member of the police who undertakes a search under this section must, within 3 working days of the search, give a written report of the search, the circumstances in which it was conducted, and the matters that gave rise to the reasonable grounds to believe required by subsection (1) to—
(a) in the case of a Customs officer, the Comptroller; and
(b) in the case of a member of the police, the Commissioner of Police.

191 Seizure of items found

(1) A Customs officer or member of the Police may seize any thing found on or about a person when carrying out a search under section 189(1), (2), or (3) that the Customs officer or member of the Police has reasonable cause to suspect is—
(a) a thing described in section 189(1)(a), (b), or (c); or
(b) a dangerous item.

(2) A Customs officer or member of the Police may seize any thing found on or about a person when carrying out a search under section 190 that the Customs officer or member of the Police has reasonable cause to suspect is—
(a) a dangerous item; or
(b) a thing described in section 189(1)(a), (b), or (c).
(c) reasonable force may be used if it is necessary to seize—
(i) a thing described in section 189(1)(a)(b) or (c); or
(ii) a dangerous item.

192 Access of Customs officers to Customs controlled area

Subject to section 223 of this Act, Customs may, at any time of the day or night, enter any part of a Customs controlled area and examine goods in that area, and may, for that purpose, enter any other area that it is necessary to pass through.

[The next page is 908,151]

193 Examination of goods subject to control of Customs

(1) A Customs officer may examine, weigh, analyse or test, or cause to be examined, weighed, analysed, or tested goods subject to the control of Customs or goods that the officer has reasonable cause to suspect are subject to the control of Customs, and may, for that purpose, open or cause to be opened any packages in which the goods are contained or suspected to be contained.

(2) All reasonable expenses incurred by Customs under subsection (1), are a debt due to the Crown by the importer or exporter or the owner of the goods, as the case may be, and are recoverable in the same manner as duty under this Act.

(3) The powers conferred by subsection (1) extend to the examination, weighting, analyzing or testing of a suitcase, pallet, bulk cargo container, or other package.

(4) The examination—

(a) may include physical or chemical testing, or may be facilitated by any means whatever, including the drilling into, or the dismantling of, the goods; and

(b) may be facilitated by any means whatever (for example, by a dog, a chemical substance, x-ray or imaging equipment or some other mechanical, electrical or electronic device).

(5) Samples of goods subject to the control of Customs or suspected to be subject to the control of Customs may be taken and used by Customs for the purposes of this section and disposed of in the prescribed manner.

(6) Any sample taken in accordance with subsection (5) must be sufficient for the purpose for which it is taken.

(7) A Customs officer must, subject to section 223, be allowed free access to all lands, buildings, and places, and to all goods in or on any lands, buildings, or places, for the purpose of exercising powers under this section in respect of goods that are, or are suspected to be,—

(a) subject to the control of Customs; and

(b) in a Customs-approved secure package or in a package to which a Customs seal has been applied.

(8) Despite subsection (7), a Customs officer must not enter a private dwelling except with the consent of an occupier or owner of that dwelling or under a warrant issued under this Act.

194 Examination of goods no longer subject to control of Customs

(1) This section applies to goods that have ceased to be subject to the control of Customs but that the Comptroller has reasonable grounds to suspect are—

(a) goods in respect of which an offence against this Act has been committed; or

(b) goods that are forfeited to the Crown under section 286.

(2) The Comptroller may require a person who has, or who the Comptroller believes has, possession or control of the goods to produce them for inspection by a Customs officer.

(3) A Customs officer may exercise in respect of the goods all the powers conferred by section 193.

(4) A Customs officer may take and retain possession of goods produced under subsection (2) for the purposes of exercising the powers conferred by

subsection (3), and may retain possession of the goods until completion of the investigation into the grounds for suspecting that the goods—

(a) are goods in respect of which an offence against this Act has been committed; or

(b) are goods that are forfeited to the Crown under section 286.

195 Accounting for goods

The Comptroller may from time to time by notice in writing, require the licensee of a Customs controlled area to—

(a) account immediately for goods that the Comptroller believes have been entered into that Customs controlled area; and

(b) produce any documents relating to the movement of goods into or out of that Customs controlled area.

196 Production of goods

A Customs officer may require the licensee of a Customs controlled area to produce to that officer goods that are shown in any record as being within that area.

197 Verification of entries

(1) The Comptroller may require from a person making entry of goods proof by declaration or the production of documents (in addition to any declaration or documents otherwise required by this Act or by regulations made under this Act) of the correctness of the entry and may refuse to deliver the goods or to pass the entry before such proof is provided.

(2) This section extends and applies to entries made under section 106.

(3) Where the Comptroller is not satisfied with the correctness of any entry in relation to any goods, or with any other aspect of the importation or exportation of those goods, as the case may be, he or she may detain the goods for a period that is reasonably necessary to enable the goods to be examined and, if necessary, to cause an investigation to be made, whether in the Cook Islands or elsewhere, into the importation or exportation, as the case may be, of those goods.

198 Securities for payment of duty

(1) The Comptroller may require and take securities of such kinds as may be prescribed for payment of duty.

(2) The Comptroller may, pending the giving of the required security, refuse to pass an entry or to do any other act in relation to any matter in respect of which the security is required.

(3) A security may be required in relation to a particular transaction, or in relation to transactions generally or to a class of transactions, and for such period and amount, and on such conditions as to penalty or otherwise, as the Comptroller may direct.

(4) The security must be in such form as the Comptroller approves.

(5) If the Comptroller is satisfied that the obligations for which any security given in accordance with this section have been fulfilled, the person who gave the security must be released from the conditions of the security as soon as possible.

(6) Subsection (5) is subject to sections 127 and 148.

(7) A person who is dissatisfied with a decision of the Comptroller under this section may, within 20 working days after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 198(7): Not commenced.]

199 New securities may be required

(1) If at any time the Comptroller is dissatisfied with the sufficiency of any security, he or she may require a new security in place of or in addition to the existing security.

(2) If the new security is not given, the Comptroller may refuse to pass an entry or to do any other act in relation to any matter in respect of which the new security is required.

(3) A person who is dissatisfied with a decision of the Comptroller under this section may, within 20 working day after the date on which notice of the decision is given, appeal to a Customs Appeal Authority against that decision.

[Section 199(3): Not commenced.]

200 Written authority of agents

A Customs officer may require a person acting or holding himself or herself out as the agent of another person in any matter relating to this Act to produce a written authority from his or her principal, and such an authority is not produced the officer may refuse to recognise the agency.

201 Audit or examination of records

(1) A Customs officer may at all reasonable times enter any premises or places where records are kept under section 129 and audit or examine those records either in relation to specific transactions or to the adequacy and integrity of the manual or electronic system or systems by which records are created and stored.

(2) For the purposes of subsection (1), a Customs officer has, subject to section 223, full and free access to all lands, buildings and places and to all books, records, and documents, whether in the custody or under the control of the licensee, importer, or exporter, or any other person, for the purpose of inspecting any books, records, and documents and any property, process or matter that the officer considers—

(a) necessary or relevant for the purpose of collecting any duty under this Act or for the purpose of carrying out any other function lawfully conferred on the officer; or

(b) likely to provide any information otherwise required for the purposes of this Act or any of those functions.

(3) The Customs officer may, make extracts from or copies of any such books or documents, at no cost to Customs.

(4) Despite subsections (2) and (3), a Customs officer must not enter any private dwelling except with the consent of an occupier or owner or under a warrant issued under this Act.

202 Requisition to produce documents

(1) Where—

(a) a Customs officer has reasonable cause to suspect that goods have been unlawfully imported, exported, manufactured, undervalued, entered,

removed, or otherwise unlawfully dealt with by any person contrary to this Act or that any person intends to so import, export, manufacture, undervalue, enter, remove, or otherwise deal with any goods; or

(b) goods have been seized under this Act,—

the Comptroller may, by notice in writing, require that person or any person whom the officer suspects to be or to have been the owner or importer or exporter or manufacturer of those goods, or agent thereof, as the case may be, as and when required, to produce and deliver to that officer or any other specified Customs officer all books of account, invoice-books, or other books, records or documents of account in which any entry or memorandum appears or may be supposed to appear in respect of the purchase, importation, exportation, manufacture, cost or value of, or payment for, the goods and any other goods so imported or exported for, the goods and otherwise dealt within a period of 7 years preceding the date of the notice.

(2) In addition to the requirements of subsection (1), the Comptroller may require the owner or importer or exporter or manufacturer of those goods, or agent thereof, as the case may be, as and when required, to—

(a) produce for the inspection of the officer or any specified Customs officer, and allow the officer to make copies of or extracts from, any of the documents, books, or records referred to in that subsection; and

(b) answer any question concerning those documents, books, or records.

203 Further powers in relation to documents

(1) The Comptroller may, by notice in writing, require any person (including any officer employed in or in connection with any Government department, Corporation, or local authority, or any officer employed in or in connection with any bank), as and when required to,—

(a) produce for inspection by a specified Customs officer any documents or records that the Comptroller considers necessary or relevant to an investigation or audit under this Act:

(b) allow the specified Customs officer to make copies of or to take extracts from any such documents or records:

(c) appear before a specified Customs officer and answer all questions put to him or her concerning any goods or any transactions relating to those goods that are the subject of any such investigation, or concerning the documents or records that are relevant to any such investigation.

(2) Despite any provision in the Banking Act 2011 relating to secrecy, subsection (1) overrides any such provision.

[The next page is 908,201]

204 Privilege in respect of confidential communications between legal practitioners and between legal practitioners and their client

(1) Subject to subsection (2), any information or document is, for the purposes of legal professional privilege, privileged from disclosure if—

(a) it is a confidential communication, whether oral or written passing between—

(i) a legal practitioner in his or her professional capacity and another legal practitioner in the capacity; or

(ii) a legal practitioner in his or her professional capacity and his or her client—

whether made directly or indirectly through an agent of either; and

(b) it is made or brought into existence for the purpose of obtaining or giving legal advice or assistance; and

(c) it is not made or brought into existence for the purpose of committing or furthering the commission of an illegal or wrongful act.

(2) Where the information or document consists wholly of payments, income, expenditure, or financial transactions of a specified person (whether a legal practitioner, his or her client or any other person), it is not privileged disclosure if it is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared or kept by the legal practitioner in connection with a trust account of the legal practitioner within the meaning of Part 4 of the Law Practitioner Act 1993–94.

(3) Except as provided in subsection (1), no information or document is, for the purposes of legal professional privilege, privileged from disclosure on the ground that it is a communication passing between one legal practitioner and another legal practitioner or between a legal practitioner and his or her client.

(4) Where a person refuses to disclose any information or document on the ground that it is privileged under this section a Customs officer or that person may apply to the High Court for an order determining whether or not the claim of privilege is valid; and, for the purposes of determining any such application, the High Court judge may request the information or document to be produced to him or her.

(5) For the purposes of this section, the term **legal practitioner** has the meaning assigned to it under the meaning assigned to **practitioner** in section 2 of the Law Practitioners Act 1993–94.

205 Documents in foreign language

Where a document in a foreign language is presented to a Customs officer in relation to the carrying out of any duty or the exercise of any power of Customs under this Act or any other Act, the officer may require the person who presented the document to supply to the officer an English translation of the document prepared by such person as the officer may approve and at the expense of the person who presented it.

206 Comptroller may take possession of and retain documents and records

(1) The Comptroller may take possession of and retain any document or record presented in connection with any entry or required to be produced under this Act.

(2) Where the Comptroller takes possession of a document or record under subsection (1), the Comptroller must, at the request of the person in otherwise entitled to the document or record, provide that person with a copy of the document certified by or on behalf of the Comptroller under the seal of Customs as a true copy.

(3) Every copy so certified is admissible as evidence in all courts as if it were the original.

207 Copying of documents obtained during search

(1) Where a Customs officer carries out any lawful search, inspection, audit or examination under this Act and has reasonable cause to believe that documents coming into his or her possession during such search, inspection, audit, or examination are evidence of the commission of an offence against this Act, he or she may remove the documents for the purpose of making copies.

(2) Subject to section 208, the documents must, as soon as practicable after copies of the documents have been taken, be returned to the person otherwise entitled to them.

(3) A copy of any such documents certified by or on behalf of the Comptroller under the seal of Customs is admissible in evidence in all courts as if it were the original.

208 Retention of documents and goods

(1) Where a Customs officer carries out any lawful search, inspection, audit, or examination under this Act, and has reasonable cause to believe that any documents or goods coming into his or her possession during such search, inspection, audit, or examination are evidence of the commission of an offence against this Act, or are intended to be used for the purpose of committing an offence against this Act, the officer may, subject to subsection (4), take possession of and retain the documents or goods.

(2) Where a Customs officer takes possession of a document under subsection (1), he or she must, at the request of the person otherwise entitled to the document, provide that person with a copy of the document certified by or on behalf of the Comptroller under the seal of Customs as a true copy.

(3) Every copy so certified is admissible in evidence in all courts as if it were the original.

(4) Where a Customs officer takes possession of and retains documents or goods under this section, the following provisions apply:

(a) in any proceedings for an offence relating to the documents or goods, the court may order, either the hearing or on a subsequent application, that the documents or goods be delivered to the person appearing to the court to be entitled to them, or that they be otherwise disposed of in such manner and under such conditions as the court thinks fit:

(b) a Customs officer may at any time, unless an order has been made under paragraph (a), return the documents or goods to the person from whom they were taken or apply to a High Court judge for order to their disposal; and on any such application the High Court judge may make an order that a court may make under paragraph (a):

(c) if proceedings for an offence relating to the goods or documents are brought within a period of 3 months after the date on which possession of

the document or goods was taken, any person claiming to be entitled to the goods or documents may, after the expiration of that period, apply to a High Court judge for an order that they be delivered to that person; and on any such application, the High Court judge may adjourn the application, on such terms as he or she thinks fit, for proceedings to be brought, or may make any order that a court may make under paragraph (a).

(5) Where a person is convicted in proceedings for an offence relating to documents or goods to which this section applies, and an order is made under this section, the operation of the order is suspended—

(a) in any case until the expiration of the time prescribed by Part 2 of the Judicature Act 1980–81 or, as the case may require, the time prescribed by Part 4 of the Criminal Procedures Act 1980–81 for the filing of notice of appeal or of an application for leave to appeal; and

(b) where a notice of appeal is filed within time so prescribed, until the determination of the appeal; and

(c) where an application for leave to appeal is filed within the time so prescribed, until the application is determined and, where leave of appeal is granted, until the determination of the appeal.

(6) Where the operation of any such order is suspended until the determination of the appeal, the court determining the appeal may by order annul or vary the order made under this section; and that order, if annulled does not take effect, and, if varied, takes effect as so varied.

209 Detention of goods suspected to be tainted property

A Customs officer may, without warrant, seize and detain goods if—

(a) the goods are in the Cook Islands and he or she is satisfied that they either—

(i) are being, or are intended to be, exported from the Cook Islands; or

(ii) are being, or have been, imported into the Cook Islands; and

(b) the goods came to his or her attention, or into his or her possession, during a search, inspection, audit, or examination under—

(i) this Act; or

(ii) Part 6 of the Proceeds of Crime Act 2003 (which relates to reporting of imports and exports of cash); and

(c) he or she has good cause to suspect that the goods are tainted property (as defined in section 3(1) of the Proceeds of Crime Act 2003).

210 Return of cash necessary to satisfy essential human needs

(1) The power to detain goods under section 209 does not extend to, and the Customs must if practicable return immediately, cash seized under section 209 if the Customs is satisfied that the cash is (or that things for which it might be exchanged are) necessary to satisfy essential human needs—

(a) of (or of a dependant of) an individual from whom the cash has been seized; and

(b) arising on, or within 7 days after, the date on which detention would otherwise be effected.

(2) Nothing in subsection (1) requires the Customs to return any cash that the Customs is satisfied is not necessary for the purpose specified in that subsection.

(3) If the 7-day period referred to in section 212(1)(a) is extended under section 213, subsection (1) applies to the extension, and the reference in subsection (1)(b) to 7 days must be read as a reference to the number of days (not exceeding 21) of that 7-day period as extended.

211 Further provisions about detention under section 196

(1) Reasonable force may be used if it is necessary for any of the following purposes:
- (a) to seize goods under section 209:
- (b) to detain goods under section 209.

(2) If the person from whom goods have been seized and detained under section 209 is identified but is not present when the seizure and detention occurs (for example, because the goods concerned are in mail or cargo or in unaccompanied baggage), the Customs must make all reasonable efforts to notify that person of the detention and seizure as soon as practicable.

(3) Goods detained under section 209 must be taken to such place of security as a Customs officer directs, and there detained, unless section 214 applies.

(4) Nothing in section 209 limits or affects powers under the following enactments:
- (a) the rest of this Act (for example, Part 16):
- (b) Financial Transactions Reporting Act 2004:
- (c) Mutual Assistance in Criminal Matters Act 2003:
- (d) Proceeds of Crime Act 2003:
- (e) Terrorism Suppression Act 2004.

212 Return of goods detained under section 209

(1) In this section, **investigation period**, in relation to goods seized and detained under section 209,—
- (a) means the period of 7 days after the date on which the goods were seized and detained; and
- (b) includes any extension of that period granted by the High Court under section 213.

(2) Goods seized and detained under section 209 must be returned to the person from whom they were seized as soon as practicable after whichever of the following occurs first:
- (a) the completion of all relevant investigations, if they show that the goods are not tainted property:
- (b) the expiry of the investigation period.

(3) However, the Customs need not return the goods as provided in subsection (2), and may continue to detain them until the relevant proceedings or requests (including any resulting applications) are determined if, on or before the expiry of the investigation period,—
- (a) an information is laid in respect of the relevant serious offence (as defined in section 3(1) of the Proceeds of Crime Act 2003); or
- (b) a foreign country makes a request to the Attorney-General under any of the following sections of the Mutual Assistance in Criminal Matters Act 2003—
  - (i) section 75 (which relates to registration of foreign restraining orders):
  - (ii) section 63 (which relates to the issue of a restraining order).

213 Extension of 7-day period in section 212(1)(a)

(1) The 7-day period in section 212(1)(a) may be extended (once only) by order of the High Court for a reasonable period up to a further 14 days if, on an application for the purpose made before the expiry of that 7-day period, that court is satisfied—

(a) that the good cause to suspect required by section 209(c) exists; and

(b) that the extension to be granted is necessary to enable investigations in or outside the Cook Islands in relation to the goods to be completed.

(2) The application must be made in writing and served on the person from whom the goods were seized (if that person can be identified and located), and must include the following particulars:

(a) a description of the goods detained:

(b) the date on which the detention commenced:

(c) a statement of the facts supporting the good cause to suspect required by section 209(c):

(d) a statement of reasons why the extension sought is necessary to enable investigations in or outside the Cook Islands in relation to the goods to be completed.

(3) The person from whom the goods were seized is entitled to appear and be heard on the application.

(4) The Customs must make all reasonable efforts to notify the person from whom the goods were seized, at least 24 hours before the hearing of the application, of the time and place of that hearing.

214 Custody of certain goods detained under section 209

(1) If goods detained under section 209 are a craft, vehicle, or animal, a Customs officer may leave those goods in the custody of either—

(a) the person from whom the goods have been seized; or

(b) any other person authorised by the Customs officer and who consents to having such custody.

(2) Every person who has the custody of goods under subsection (1) must, until a final decision is made under section 212 as to whether or not they are to be returned, hold them in safe-keeping, without charge to the Crown and in accordance with any reasonable conditions that may be imposed by the Customs.

(3) A person to whom subsection (2) applies must also—

(a) make the goods available to a Customs officer on request; and

(b) not alter, or dispose of, the goods, or remove them from the Cook Islands, unless he or she is authorised to do so by a Customs officer; and

(c) return the goods on demand to the custody of the Customs.

215 Search warrants

(1) Any High Court Judge, Justice of the Peace, or Registrar may issue a search warrant in the prescribed form if he or she is satisfied, on an application by a Customs officer in writing made on oath, that there are reasonable grounds to believe that there is in or on any place or thing—

(a) any thing that there are reasonable grounds to believe may be evidence of the commission of an offence against this Act or any regulations made under this Act; or

(b) any thing that there are reasonable grounds to believe is intended to be used for the purpose of committing an offence against this Act or any regulations made under this Act; or

(c) any thing that is liable to seizure under this Act.

(2) The Customs officer, when applying for a warrant must, having made reasonable enquiries, disclose on the application details of any other applications that the Customs officer knows of the place or thing specified, the offence or offences alleged, and the result of such application or applications.

(3) Every search warrant must be—

(a) directed to and executed by a designated Customs officer; or

(b) directed to Customs officers generally and be executed by a Customs officer or Customs officers.

(4) Any warrant may be issued subject to such reasonable conditions as the issuer specifies in the warrant.

[The next page is 908,251]

216 Entry and search under warrant

(1) Every search warrant authorises the Customs officer executing the warrant—
- (a) to enter and search the place or thing on one occasion within 10 working days of the date of issue of the warrant at any time that is reasonable in the circumstances, but subject to any conditions imposed by the issuer under section 215(4); and
- (b) to use such assistance as is reasonable in the circumstances; and
- (c) to use such force for making entry (whether by breaking open doors or otherwise) and for breaking open any thing as is reasonable in the circumstances and for preventing the removal from the premises of any thing as is reasonable in the circumstances.

(2) Every search warrant authorises the officer executing the warrant to search for and seize any thing referred to in section 215(1) and, while on the premises under the warrant, to seize either or both of the following:
- (a) any other thing that the officer finds and has reasonable cause to suspect may be evidence of the commission of an offence in respect of which that officer could have obtained a warrant under section 215(1):
- (b) any dangerous item in the circumstances described in section 217(2).

(3) Every search warrant authorises the officer executing it—
- (a) to detain a person who is at the place referred to in the warrant when the officer arrives at that place, or who arrives at that place when the officer is executing the warrant, until the officer is satisfied that the person is not connected with the thing referred to in the warrant; and
- (b) to search a person who is at the place referred to in the warrant when the officer arrives at that place, or who arrives at that place while the officer is executing the warrant if, at any time while executing the warrant, the officer reasonably believes that the thing referred to in the warrant may be on the person's body.

(4) A person who is at the place referred to in the warrant when the officer executing the warrant arrives at that place, or who arrives at that place while the officer is executing the warrant, must remain at that place until the earlier of the following events:
- (a) the search of that place is completed; or
- (b) the officer, being satisfied that the person is not connected with the thing referred to in the warrant, permits the person to leave.

(5) A person who is being searched under subsection (3)(b) must remain at the place where he or she is being searched until the search is completed.

(6) A Customs officer or member of the Police who has reasonable cause to suspect that a person has by failing to comply with subsection (4) or (5) committed an offence against section 243 may under section 224(1) or (2) arrest that person without warrant while that cause to suspect continues and before the end of the seventh day after the date on which it arose.

(7) No person may be detained under subsection (3)(a) or (b) for a period of time that is unreasonable.

(8) Reasonable force may be used if it is necessary for either of both of the following purposes:
- (a) to detain a person under subsection (3)(a):
- (b) to search a person under subsection (3)(b).

(9) Where there is no suitable searcher available at the place where the search is to take place, the person to be searched may be taken to another place to be searched.

(10) A Customs officer or member of the Police may seize any thing found in carrying out the search of the person that the Customs officer or member of the Police has reasonable cause to believe is a thing referred to in the warrant, and reasonable force may be used to seize the thing.

(11) Every person called upon to assist the officer executing the warrant has, for that purpose, the powers referred to in subsections (1)(c) and (2).

217 Searching of persons for dangerous items when executing search warrant

(1) This section applies to any person who is at the place referred to in the search warrant when the Customs officer arrives at that place, or who arrives at that place when the officer is executing the warrant.

(2) A Customs officer may immediately detain and search a person to whom this section applies for dangerous items, and may seize such items under section 216(2) if, and only if, the officer has reasonable grounds to believe that—

(a) the person has a dangerous item hidden or in clear view on or about his or her person; and

(b) the item poses a threat to the safety of the officer or any other person; and

(c) there is a need to act immediately in order to address that threat.

(3) If necessary, reasonable force may be used for 1 or more of the following purposes:

(a) to detain the person:

(b) to search the person:

(c) to seize any dangerous item found in carrying out a search under subsection (2).

(4) To avoid doubt, a search may be conducted under this section whether or not the person has earlier been the subject of a search under section 216.

(5) A Customs officer who undertakes a search under this section must, within 3 working days of the search, give the Comptroller a written report of the search, the circumstances in which it was conducted, and the matters that gave rise to the reasonable grounds to believe required by subsection (2).

218 Detention of dangerous items

(1) A Customs officer may detain goods that he or she seizes in the course of exercising a power of search under section 216 or 217(2), if he or she believes on reasonable grounds that the goods are dangerous items as defined in section 4(1).

(2) If a Customs officer detains goods under subsection (1), he or she must—

(a) as soon as practicable, deliver those goods into the custody of the Police; or

(b) comply with section 220 and retain those goods if the goods may be required for a proceeding under this Act.

(3) Once goods have been delivered under subsection (2) responsibility for them passes from Customs to the Police.

(4) Section 97 of the Criminal Procedure Act 1980–81 applies with any necessary modification to goods detained under subsection (1).

219 Search warrant to be produced

(1) Every Customs officer executing a search warrant must produce it for inspection upon initial entry and in response to any reasonable request made subsequently and, when requested by or on behalf of the owner or occupier, must provide a copy of the warrant no later than 5 working days after the making of the request.

(2) Subject to subsection (3), if the owner or occupier of the place being searched or the owner of the thing being searched, as the case may be, is not present at the time of the search, the Customs officer executing the warrant must leave in a prominent position at the place being searched or attached to the thing searched, as the case may be, a written notice stating the date and time of the execution of the warrant and the name of the officer in charge of the search.

(3) Where the officer executing the warrant believes that a notice under subsection (2), would unduly prejudice subsequent investigations, that officer may refrain from leaving such notice and, in that event, must, within 5 working days apply to a Judge or a Justice of the Peace for confirmation of his or her decision.

(4) If the court refuses to confirm the decision, the officer who executed the warrant must immediately notify, or cause to be notified, the owner or occupier of the place searched or the owner of the thing searched, as the case may be, of the particulars referred to in subsection (2).

220 Duty to inform owner where things seized

(1) Except in any case to which section 219(3) applies and continues to apply following a ruling under section 219(3) or unless a Judge because of exceptional circumstances otherwise orders, the person executing the warrant must, within 5 working days after the seizure of any thing inform the owner or occupier of the place searched or the owner of the thing searched of the fact that anything has been seized and of the place from where it was seized.

(2) The Customs officer executing the warrant must inform the owner or occupier by—

(a) delivering to him or her a written notice containing such information; or

(b) leaving such a notice in a prominent position at the place searched or attached to the thing searched, as the case may be; or

(c) by sending such a notice to the owner or occupier by registered mail; or

(d) in such other manner as a Judge may direct in any particular case.

(3) A person affected by the execution of a search warrant may apply to a Judge for an order for the disclosure of the application for the warrant, and any documents submitted in support of the application, and the Judge may, if satisfied that the disclosure of the information will not prejudice the safety of any person, order the disclosure of the whole or any part of the application and supporting documents.

221 Emergency warrants

(1) In any case where a High Court judge, Justice of the Peace or a Registrar (not being a Police officer) is satisfied, on an application made by a Customs officer, that circumstances exist that would justify the grant of a search warrant under section 215, but the urgency of the situation requires that the search should begin before a warrant under that section could with all practicable diligence be obtained, the High Court judge, Justice of the Peace or any Registrar (not being

a Police officer) may, orally or in writing, grant an emergency warrant to Customs officer making the application to search for and seize the thing that is believed to be in or on a particular place, premises, or thing.

(2) Any application for an emergency warrant may be made orally, but otherwise every such application must comply with the requirements of section 215.

(3) The Customs officer making the application must, at the time of the making the application, make a note in writing of the particulars of the application.

(4) Where the High Court judge, Justice of the Peace or the Registrar grants the application for an emergency warrant, he or she must immediately make a note in writing of the particulars of the application. The note must be filed in the High Court Registry nearest to where the application is made, and is, for the purposes of section 215(1), deemed to be an application under that section.

(5) Every Customs officer executing an emergency warrant must produce the note made in accordance with subsection (3) for inspection upon initial entry and in response to any reasonable request thereafter and, when requested, must provide a copy of the note no later than 5 working days after the making of the request.

(6) The provisions of sections 216, 219(2) to (4), and 220, so far as they are applicable and with necessary modifications, apply to emergency warrants in the same manner as they apply to search warrants.

(7) Every emergency warrant remains valid for 12 hours from the time when the authorisation is given, and then expires:

(8) As soon as practicable after an emergency warrant has expired, the Customs officer who applied for it, or, if the officer is not able to do so, another Customs officer must provide a written report, in the prescribed form, to the High Court judge, Justice of the Peace or the Registrar who granted the emergency warrant setting the manner in which the emergency warrant has been executed and the results obtained by the execution of the warrant.

[The next page is 908,301]

222 Use of aids by Customs officer

(1) In exercising any power of boarding, entry, examination, or search conferred by this Act, a Customs officer or any member of the Police may have with him or her, and use for the purposes of searching, a dog, a chemical substance, x-ray or imaging equipment, or some other mechanical, electrical or electronic device.

(2) Nothing in this section applies to a search warrant carried out on residential premises except under a warrant issued under section 215 or 221.

223 Conditions applying to entry of buildings

Despite anything in this Act, every provision of this Act that confers on a Customs officer the power to enter any building, whether under the authority of a warrant or otherwise is subject to the following conditions:

(a) reasonable notice of the intention to enter must be given except where it would frustrate the purpose of the entry:

(b) entry must be made at a time that is reasonable in the particular circumstance except where it would frustrate the purpose of the entry:

(c) identification must be produced on initial entry and if requested at any subsequent time:

(d) the authority for the entry and the purpose of the entry must be clearly stated to the owner or occupier of the building if he or she is present.

224 Arrest of suspected offenders

(1) A Customs officer who has reasonable cause to suspect that a person has committed, is committing, or is attempting to commit, or is otherwise concerned in the commission of, an offence against this Act punishable by imprisonment, or an offence against section 268, may, while that cause to suspect continues and before the end of the seventh day after the date on which it arose, arrest that person without warrant.

(2) A Customs officer who has reasonable cause to suspect that a person has carried some other person into the Cook Islands on a craft, and that the carriage of the other person into the Cook Islands on the craft constituted an offence against section 109 of the Crimes Act 1969 (which makes it an offence to smuggle unauthorised migrants) of the Crimes Act 1969 may, while that cause to suspect continues and before the end of the seventh day after the date on which it arose, and on the craft or elsewhere, arrest the person without warrant.

(3) A constable who has reasonable cause to suspect that a person has committed, is committing, or is attempting to commit, or is otherwise concerned in the commission of, an offence against section 229, 243, 268, or 270 may, while that cause to suspect continues and before the end of the seventh day after the date on which it arose, arrest that person without warrant.

(4) Where a Customs officer arrests a person under a power conferred by this section, the officer must, unless the person is sooner released, as soon as practicable call a constable to his or her aid and deliver the arrested person into the custody of that constable.

225 Protection of persons acting under authority

Neither the Crown, its Ministers, the Comptroller, a Customs officer, a member of the Police, a member of the Armed Forces, nor an authorised person is liable for the loss of or damage to any document, goods, vehicle or craft occasioned by

anything done or omitted to be done, or purporting to have been done by a Customs officer, member of the Police, member of the Armed Forces, or authorised person in the exercise of any power conferred on him or her by this Act unless he or she has not acted in good faith or has acted without reasonable care.

226 Seizure and detention of dangerous goods

(1) A Customs officer may seize and detain goods that are presented or located in the course of exercising any power of inspection, search or examination under this Act, if he or she has cause to suspect on reasonable grounds that the goods—

(a) are dangerous goods that may not be lawfully carried on an aircraft; and

(b) are proposed to be carried by an operator.

(2) If a Customs officer detains goods under subsection (1), he or she must, as soon as practicable, deliver those goods into the custody of the Director of Civil Aviation.

(3) Once goods have been delivered under subsection (2), responsibility for them passes from Customs to the Director of Civil Aviation.

(4) In this section—

dangerous goods means articles or substances defined as dangerous goods in section 2 of the Aviation Security Act 2008

Director of Civil Aviation means the person appointed in accordance with section 8 of the Aviation Security Act 2008

operator has the same meaning as in section 3 of the Civil Aviation Act 2002.

227 Unlawful travel document

(1) In this section—

false, in relation to a travel document, means that the travel document contains information purporting to relate to the person to whom it was issued (being information supplied by or on behalf of the person as part of or in connection with the person's application for the document) that—

(a) is false; or

(b) relates in fact to some other person

forged, in relation to a travel document, means that the travel document—

(a) has not been issued by the government by which it purports to have been issued; or

(b) has been altered without authority

misused, in relation to a travel document, means that the travel document has been, is being, or is intended to be used for the purposes of identification by a person who is not the person in respect of whom the document was issued

travel document means any document that is or purports to be—

(a) a permit within the meaning of the Entry, Residence and Departure Act 1971–72; or

(b) a passport (within the meaning of that Act) that has been issued by the government of any country; or

(c) a certificate of identity that has been issued by the government of any country; or

(d) a refugee travel document that has been issued by the government of any country

unlawful travel document means—

(a) a travel document that is false, forged, or misused; and

(b) includes any item involved in the production of a document referred to in paragraph (a) or in the unauthorised alteration of a travel document.

(2) A Customs officer may retain or seize any document presented for inspection if a Customs officer has reasonable cause to suspect that the document is an unlawful travel document.

(3) A Customs officer may seize any documents found in the course of a search or examination under this Act if a Customs officer has reasonable cause to suspect that the documents are unlawful travel documents.

(4) Sections 25, 172, 173, 177, 178, 183, and 189 must each be read as if unlawful travel documents were prohibited goods.

(5) Any documents or goods retained or seized under this section must be dealt with in accordance with section 228.

(6) Section 228(2) to (5) apply with all necessary modifications to any documents or goods retained or seized under this section.

228 Seizure and detention of goods suspected to be certain risk goods or evidence of commission of certain offences

(1) A Customs officer may seize and detain goods or documents that are presented or located in the course of exercising any power of inspection, search, or examination under this Act, if he or she has cause to suspect on reasonable grounds that the goods—

(a) are regulated articles (within the meaning of the Biosecurity Act 2008) for which no biosecurity clearance has been given under that Act; or

(b) are evidence of the commission of 1 or more offences under 1 or more of the following enactments:

(i) section 109 of the Crimes Act 1969:

(ii) Part 3 of the Marine Resources Act 2005.

(2) A Customs officer who detains goods under subsection (1) must, as soon as practicable, deliver those goods into the custody of the appropriate person specified in subsection (4).

(3) Once goods have been delivered to a person under subsection (2), responsibility for those goods passes to that person.

(4) The appropriate person referred to in subsection (2) is—

(a) if the Customs officer believes that subsection (1)(b)(i), (ii), (iv), or (vi) applies to the goods, a member of Police; and

(b) if the Customs officer believes that another provision of subsection (1) applies to the goods, an appropriately authorised officer who holds office under the Act specified in that provision or is employed by the department of Crown that administers the Act.

(5) Section 97 of the Criminal Procedure Act 1980–81 applies with any necessary modification to goods detained under subsection (1).

[The next page is 908,401]

Part 15
Offences and penalties

Offences in relation to Customs

229 Threatening or resisting Customs officer

(1) Every person commits an offence who—

(a) threatens or assaults; or

(b) by force, resists or intentionally obstructs or intimidates—

any Customs officer in the execution of his or her duties or a person acting in the officer's aid.

(2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding $5,000.

230 Obstructing Customs officer or interfering with Customs property

(1) Every person commits an offence who—

(a) otherwise than by force intentionally obstructs any Customs officer or authorised person acting in execution of his or her duties; or

(b) intentionally interferes with any equipment, vehicle, craft, dog, communications system, or other aid, used or intended for use, by Customs; or

(c) does any act with the intention of impairing the effectiveness of any equipment, vehicle, craft, dog, communications system, or other aid used, or intended for use, by Customs.

(2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine not exceeding $20,000.

231 False allegation or report to Customs officer

(1) Every person commits an offence who,—

(a) contrary to the fact and without a belief in the truth of the statement, makes or causes to be made to a Customs officer a written or verbal statement alleging that an offence has been committed; or

(b) with the intention of causing wasteful deployment, or of diverting deployment, of the Customs personnel or resources, or being reckless as to that result,—

(i) makes a statement to any person that gives rise to serious apprehension for the person's own safety or the safety of any person or property, knowing that the statement is false; or

(ii) behaves in a manner that is likely to give rise to such apprehension, knowing that such apprehension would be groundless.

(2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $2,000.

232 Personation of Customs officer

(1) Every person commits an offence who—

(a) not being a Customs officer or authorised person for the purposes of this Act, by words, conduct, or demeanour pretends to be a Customs officer or an authorised person, or wears or uses the uniform, name, designation or description of a Customs officer or authorised person; or

(b) without authority represents any craft, vehicle, or other conveyance as being in the service of Customs.

(2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine not exceeding $20,000.

233 Counterfeit seals or marks

(1) Every person commits an offence who, without lawful authority or excuse, has in his or her possession, or makes, or uses any counterfeit, seal, stamp, marking, substance, or device in imitation of or closely resembling any seal, stamp, marking, substance, or device used by Customs for the purposes of this Act.

(2) Every person who commits an offence against this section is liable on conviction—

(a) in the case of an individual, to a fine not exceeding $30,000:

(b) in the case of a body corporate, to a fine not exceeding $50,000.

234 Obligations of persons arriving in or departing from Cook Islands

(1) Every person commits an offence who wilfully fails to comply with any requirement imposed on that person by or under any of sections 30 to 38 (other than section 36).

(2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding $10,000.

235 Unauthorised presence in certain Customs controlled areas

(1) Every person commits an offence who, without the permission of a Customs officer, enters into, or remains in when directed by a Customs officer to leave, a Customs controlled area licensed for—

(a) the temporary holding of imported goods for the purposes of the examination of those goods under section 193 (including the holding of the goods while they are awaiting examination); or

(b) the disembarkation, embarkation, or processing of persons arriving in or departing from the Cook Islands; or

(c) the processing of craft arriving in or departing from the Cook Islands or the loading or unloading of goods onto or from such craft—

when that area is being, or is about to be, used for any of the purposes for it is licensed.

(2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding $3,000.

236 Unauthorised access to or improper use of Customs automated system

(1) Every person commits an offence who—

(a) knowingly and without lawful authority by any means gains access to or attempts to gain access to any Customs automated system; or

(b) having lawful access to any Customs automated system, knowingly uses or discloses information obtained from such a computer system for a purpose that is not authorised; or

(c) knowing that he or she is not authorised to do so, receives information obtained from any Customs automated system and, uses discloses, publishes, or otherwise disseminates such information.

(2) Every person who commits an offence against this section is liable on conviction—

(a) in the case of an individual to imprisonment for a term not exceeding 2 years or to a fine not exceeding $30,000:

(b) in the case of a body corporate, to a fine not exceeding $80,000.

[Section 236 heading: amended, on 1 July 2020, by section 15(1) of the Customs Legislation Act 2020 (2020 No 9).]

[Section 236(1): amended, on 1 July 2020, by section 15(2) of the Customs Legislation Act 2020 (2020 No 9).]

237 Interference with Customs automated system

(1) Every person commits an offence who—

(a) by any means knowingly falsifies any record or information stored in any Customs automated system; or

(b) knowingly damages or impairs any Customs automated system; or

(c) knowingly damages or impairs any duplicate tape or disc or other medium on which any information obtained from a Customs automated system is held or stored otherwise than with the permission of the Comptroller.

(2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 3 years or to a fine not exceeding $30,000.

[Section 237 heading: amended, on 1 July 2020, by section 16(1) of the Customs Legislation Act 2020 (2020 No 9).]

[Section 237(1): amended, on 1 July 2020, by section 16(2) of the Customs Legislation Act 2020 (2020 No 9).]

238 Offences in relation to security of, or unauthorised use of, unique user identifiers

(1) A registered user of a Customs automated system who fails to comply with or acts in contravention of any condition imposed by the Comptroller relating to the security of that registered user's user identifier commits an offence.

(2) A person who—

(a) not being a registered user, uses a unique user identifier; or

(b) being a registered user, uses the unique user identifier of any other registered user—

to authenticate a transmission of information to Customs automated system commits an offence.

(3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding $10,000.

[Section 238(1): amended, on 1 July 2020, by section 17 of the Customs Legislation Act 2020 (2020 No 9).]
[Section 238(2): amended, on 1 July 2020, by section 17 of the Customs Legislation Act 2020 (2020 No 9).]

[The next page is 908,601]

Offences in relation to Customs officers' powers

239 Failure to answer questions

(1) Every person commits an offence who, when required under this Act to answer any question put to that person,—
(a) without reasonable excuse, fails or refuses to answer it; or
(b) gives an incorrect answer.

(2) It is a defence to a prosecution for an offence against this section if the person provides that he or she did not, when required to answer the question, have the information required to answer the question in his or her knowledge, possession, or control or honestly and reasonably believed that the answer he or she gave was, in all the circumstances, correct at that time.

(3) It is not a reasonable excuse for the purposes of subsection (1)(a), if a person fails or refuses to answer a question on the grounds that to answer the question would or might incriminate or tend to incriminate that person.

(4) Every person who commits an offence against this section is liable on conviction—
(a) in the case of an individual, to a fine not exceeding $3,000:
(b) in the case of a body corporate, to a fine not exceeding $5,000.

240 Failure to produce evidence of identity, entitlement to travel or other matters

(1) Every person commits an offence who fails without reasonable excuse to comply with a demand made under section 181 or 182.

(2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding $5,000.

241 Failure to produce or account for goods

(1) Every person commits an offence who fails or refuses to produce or account for any goods when required to do so under section 194, 195, or 196.

(2) It is a defence to a prosecution for an offence against this section if the person proves that he or she did not have possession or control of the goods or was otherwise unable, for good reason, to comply with the Comptroller's requirements.

(3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding $20,000.

242 Failure to comply with requisition

(1) Every person commits an offence who fails or refuses to comply with a requirement of the Comptroller under section 202 or 203.

(2) It is a defence to a prosecution for an offence against this section, if the defendant proves that he or she did not have possession or control of the documents or information or did not have knowledge of the relevant documents, books, or records.

(3) Every person who commits an offence against this section is liable on conviction—
(a) in the case of an individual, to a fine not exceeding $50,000:
(b) in the case of a body corporate, to a fine not exceeding $80,000.

243 Failure or refusal to remain at place

(1) A person commits an offence who—

(a) fails or refuses to remain at the place that is being searched under section 216(1)(a) until the earlier of the events specified in section 216(4)(a) and (b); or

(b) fails or refuses to remain at the place where that person is being searched under section 216(3)(b) until that search is completed.

(2) Every person who commits an offence against this section is liable on conviction to a term of imprisonment not exceeding 2 years, or to a fine not exceeding $50,000 or both.

244 Use of area without licence

(1) Every person who contravenes section 13 commits an offence.

(2) Every person who commits an offence against this section is liable on conviction—

(a) in the case of an individual to a fine not exceeding $50,000:

(b) in the case of a body corporate to a fine not exceeding $100,000.

245 Failure to comply with conditions of licence

(1) Every person commits an offence who fails to comply with or acts in contravention of, any term, condition, or restriction subject to which a licence has been granted under section 15.

(2) Every person who commits an offence against this section is liable on conviction—

(a) in the case of an individual to a fine not exceeding $50,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

Offences in relation to arrival and departure of craft and persons

246 Offences in relation to arrival of craft

(1) Every person commits an offence who—

(a) being the person in charge of any craft, fails to comply with any of the following requirements in section 24(1) (which relates to advice of arrival):

(i) to give advance notice of 1 or more of the matters prescribed; or

(ii) to give advance notice in the form and manner approved in writing by the Comptroller; or

(iii) to give advance notice within the time prescribed; or

(iv) to proceed to a Customs place; or

(v) to proceed as directed by a Customs officer; or

(b) being the person in charge of, or the owner of, or a member of the crew of, or a passenger on, any craft—

(i) refuses to answer any question put to that person by a Customs officer under section 25(2)(a) (which relates to a requirement to answer questions) or knowingly gives a false answer to the question; or

(ii) fails to comply with any request made under section 25(2)(b); or

(c) being the master of a ship fails to comply with any direction of a Customs officer under section 26(1) or (4) (which relates to the bringing to of a ship) or fails to comply with section 26(3); or

(d) being the person in charge of any craft, fails to comply with section 27(1) (which relates to the arrival of craft at a nominated Customs place only); or

(e) being a member of the crew of, or a passenger on, any craft, acts in contravention of section 27(2); or

(f) being a person in charge of any craft, fails to comply with, or acts in contravention of, section 28(5) (which relates to craft arriving at a place other than a nominated Customs place); or

(g) being a member of the crew of, or a passenger on, any craft, acts in contravention of section 28(6) or (7); or

(h) being the person in charge of or the owner of any craft—

(i) fails to comply with section 29(2)(a) (which relates to inward reports); or

(ii) fails to obey a Customs direction given under section 29(2)(b).

(2) Every person who commits an offence against subsection (1)(a), (c), or (d) is liable on conviction—

(a) in the case of an individual to imprisonment for a term not exceeding 2 years or to a fine not exceeding $50,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

(3) Every person who commits an offence against subsection (1)(b) is liable on conviction—

(a) in the case of an individual to a fine not exceeding $30,000:

(b) in the case of a body corporate to a fine not exceeding $50,000.

(4) Every person who commits an offence against subsection (1)(e), (f), (g), or (h) is liable on conviction to a fine not exceeding $50,000.

247 Offences in relation to inward report

(1) If—

(a) an inward report delivered under section 29 is erroneous, misleading or defective in any material particular; or

(b) a document delivered in support of the report is not genuine or is erroneous or misleading,—

the person in charge of the craft and the owner of the craft each commits an offence.

(2) Every person who commits an offence against this section is liable on conviction—

(a) in the case of an individual to a fine not exceeding $30,000:

(b) in the case of a body corporate to a fine not exceeding $50,000.

248 Offences in relation to departure of craft

(1) Every person commits an offence who—

(a) being the person in charge of any craft, contravenes section 39 (which relates to clearance of a craft); or

(b) being the person in charge of any craft,—

(i) fails to comply with section 40(a) (which relates to outward reports); or

(ii) refuses to answer any question put to that person by a Customs officer under section 40(b) or knowingly gives a false answer to the question; or

(iii) fails to produce any documents required by a Customs officer under section 40(c); or

(c) being a person in charge of or a member of the crew, of any craft fails to comply with section 41 (which relates to boarding of outward craft); or

(d) being a person in charge of any craft, fails to comply with a demand made by a Customs officer under section 42 (which relates to the production of a certificate of clearance) or refuses to answer any question put to that person under that section or knowingly gives a false answer to the question; or

(e) being a person in charge of any craft, acts in contravention of section 43 (which relates to the departure of craft only from a Customs place).

(2) Every person who commits an offence against subsection (1)(a), (c), or (e) is liable on conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding $30,000.

(3) Every person who commits an offence against subsection (1)(b) or (d) is liable on conviction to a fine not exceeding $20,000.

249 Offences in relation to outward report

(1) If—

(a) an outward report delivered under section 40 is erroneous, misleading, or defective in any material particular; or

(b) any document delivered in support of the report is not genuine or is erroneous or misleading—

the person in charge of the craft and the owner of the craft each commits an offence.

(2) Every person who commits an offence against this section is liable on conviction—

(a) in the case of an individual, to a fine not exceeding $30,000:

(b) in the case of a body corporate, to a fine not exceeding $50,000.

250 Failure to comply with requirement to cease using electronic communication device

(1) Every person commits an offence who fails to comply with any requirement imposed on that person by or under section 36(3).

(2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding $10,000.

251 Defences

It is a defence to any prosecution for an offence against sections 246 to 250 if the defendant proves—

(a) that, in any case where it is alleged that anything required to be done was not done, the defendant took all reasonable steps to ensure that it was done; or

(b) that, in any case where it is alleged that anything unlawful was done, the defendant took all reasonable steps to ensure that it was not done.

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Other offences

252 Adapting craft for smuggling

(1) If any craft comes to or is found within the Cook Islands having—

(a) any part or place adapted for the purpose of concealing goods or persons; or

(b) any hole, pipe, or device adapted for the purpose of concealing goods or persons—

the person in charge and the owner of the craft each commits an offence.

(2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding $100,000.

253 Interference with seals and fastenings

(1) Where any fastening, lock, mark, or seal that has been placed by a Customs officer on any goods or on a hatchway, opening or other place or device on any craft is, without the authority of a Customs officer, opened, altered, broken, or erased by any person while the craft is within the Cook Islands, the person so acting and the person in charge of the craft each commits an offence.

(2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding $50,000.

254 Offences in relation to Customs seals and Customs-approved secure exports schemes

(1) Every person commits an offence who, without lawful justification or reasonable excuse,—

(a) uses a Customs seal in relation to a package of goods otherwise than in accordance with the relevant notice of appointment under section 81; or

(b) alters, removes, damages, disposes of, or otherwise interferes with a Customs seal used in relation to a package of goods otherwise than in accordance with the relevant notice of appointment under section 81; or

(c) uses an approved seal or markings of the kind referred to in section 85(1)(b) in relation to a Customs-approved secure package otherwise than in accordance with the relevant Customs-approved secure exports scheme.

(2) This subsection applies to a package if the package is—

(a) a package in relation to which a Customs seal has been lawfully used; or

(b) a Customs-approved secure package in relation to which a seal or marking of the kind referred to in section 85(1)(b) has been lawfully used.

(3) Every person commits an offence who, without lawful justification or reasonable excuse, tampers or interferes with a package to which subsection (2) applies by adding other goods to the goods in it when it was secured.

(4) Every person who commits an offence against this section is liable on conviction to a fine not exceeding,—

(a) in the case of an individual, $15,000:

(b) in the case of a body corporate, $25,000.

255 Interference with cargo

(1) If at any time after any craft carrying goods from a point outside the Cook Islands arrives within the Cook Islands and before a report is made in accordance with section 29—

(a) any cargo is interfered with; or
(b) any alteration is made in the storage of goods carried, so as to facilitate the unloading of any of the goods before the report has been made; or
(c) any of the goods are starved, removed, destroyed, or thrown overboard, or any package is opened—

the person so acting and the person in charge of the craft each commits an offence.

(2) Subsection (1) does not apply if the act—
(a) was authorised by the Comptroller or a Customs officer; or
(b) was required by any statutory or other requirement relating to navigation; or
(c) was compelled by accident, stress of weather, or other necessity.

(3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding $50,000.

256 Unloading goods without authorisation

(1) Every person who acts in contravention of section 67 commits an offence.

(2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding $100,000.

257 Offences in relation to manufacture, movements, and storage of goods

(1) Every person commits an offence who—
(a) fails to comply with section 21(1) or (4) (which relates to Customs facilities); or
(b) acts in contravention of section 70 (which relates to transportation of imported goods); or
(c) acts in contravention of section 71 (which relates to the removal of goods from a Customs controlled area); or
(d) takes goods out of a Customs controlled area or does not any act in relation to goods taken out of a Customs controlled area that constitutes a contravention of the permission granted by the Comptroller under section 72 (which relates to the temporary removal of goods from a Customs controlled area); or
(e) manufactures any excisable goods in contravention of section 102 (which relates to manufacture of excisable goods).

(2) Every person who commits an offence against subsection (1)(a) to (d) is liable on conviction—
(a) in the case of an individual to a fine not exceeding $100,000:
(b) in the case of a body corporate, to a fine not exceeding $200,000.

(3) Every person who commits an offence against subsection (1)(e) is liable on conviction—
(a) in the case of an individual to a fine not exceeding $100,000:
(b) in the case of a body corporate, to a fine not exceeding $200,000:
(c) in either case, to a fine of an amount not exceeding 3 times, the value of the goods to which the offence relates.

258 Interference with goods

(1) Every person commits an offence who, except with the permission of a Customs officer—

(a) makes any alteration in the condition of goods subject to the control of Customs; or
(b) interferes with, including by way of addition to or taken away from such goods; or
(c) unpacks or repacks such goods; or
(d) removes such goods from any place in which a Customs officer has directed that the goods are to be stored.

(2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding—
(a) in the case of an individual, $80,000:
(b) in the case of a body corporate, $150,000.

259 Contravention of direction of Comptroller under section 132

(1) Any purchaser who, except with the consent of the Comptroller, takes any action in contravention of a direction given by the Comptroller under section 132(5), commits an offence and is liable on conviction—
(a) in the case of an individual, to a fine not exceeding $80,000:
(b) in the case of a body corporate, to a fine not exceeding $150,000.

(2) Any purchaser who, knowingly and without the consent of the Comptroller, takes any action in contravention of a direction given by the Comptroller under section 132(5), commits an offence and is liable on conviction—
(a) in the case of an individual, to a fine not exceeding $80,000:
(b) in the case of a body corporate, to a fine not exceeding $150,000:
(c) in either case, to an amount not exceeding 3 times the value of the goods to which the offence relates.

260 Offences in relation to entries

(1) Every person commits an offence who—
(a) fails to make an entry required under this Act; or
(b) makes an entry required under this Act that is erroneous or defective in a material particular.

(2) It is a defence to a prosecution for an offence against subsection (1) if the person proves—
(a) that in the case of a prosecution for an offence against subsection (1)(a), the person took all reasonable steps to ensure that an entry was made; or
(b) that, in the case of a prosecution for an offence against subsection (1)(b), the person took all reasonable steps to ensure that the entry was not erroneous or defective.

(3) Every person who commits an offence against subsection (1) is liable on conviction—
(a) in the case of an individual, to a fine not exceeding $1,000:
(b) in the case of a body corporate, to a fine not exceeding $5,000.

(4) Every person commits an offence who is concerned in the making of an entry that the person knows is erroneous or defective in a material particular.

(5) Every person who commits an offence against subsection (4) is liable on conviction—
(a) in the case of an individual, to imprisonment for a term not exceeding 6 months or a fine not exceeding $30,000:
(b) in the case of a body corporate, to a fine not exceeding $50,000:

(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

261 Offences in relation to declarations and documents

(1) Every person commits an offence who—
(a) makes a declaration or a written statement under this Act that is erroneous in a material particular; or
(b) produces or delivers to a Customs officer any document that is not genuine; or
(c) produces or delivers to a Customs officer any document that is erroneous in material particular.

(2) It is a defence to a prosecution for an offence against subsection (1) if the person proves that the person took all reasonable steps to ensure—
(a) that the declaration, statement or document, as the case may be, was not erroneous; or
(b) in the case of a prosecution for an offence against subsection (1)(b), that the document was genuine.

(3) Every person who commits an offence against subsection (1) is liable on conviction—
(a) in the case of an individual, to a fine not exceeding $3,000:
(b) in the case of a body corporate, to a fine not exceeding $5,000.

(4) Every person commits an offence who—
(a) makes a false declaration under this Act, knowing it to be false; or
(b) produces or delivers to a Customs officer any document that is not genuine, knowing that it is not genuine; or
(c) produces or delivers to a Customs officers any document that is erroneous in any material particular, knowing that it is erroneous.

(5) Every person who commits an offence against subsection (4) is liable on conviction—
(a) in the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding $30,000:
(b) in the case of a body corporate, to a fine not exceeding $50,000:
(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

262 Offences in relation to records

(1) Every person commits an offence who fails to keep records that are required to be kept by section 129.

(2) Every person who commits an offence against subsection (1) is liable on conviction—
(a) in the case of the first conviction of that person, to a fine not exceeding $2,000:
(b) in the case of the second conviction to a fine not exceeding $4,000:
(c) in the case of every subsequent conviction, to a fine not exceeding $6,000.

(3) Every person commits an offence who—
(a) fails without reasonable excuse to make available to Customs, on the request of a Customs officer, the records that are required to be kept by section 129; or

(b) fails, when requested by a Customs officer, to operate any mechanical, or electronic device on which any records are, or information is, stored for the purpose of enabling Customs officer to obtain those records or that information.

(4) Every person who commits an offence against subsection (3) is liable on conviction—

(a) in the case of the first conviction of that person, to a fine not exceeding $2,000:

(b) in the case of the second conviction of that person, to a fine not exceeding $4,000:

(c) in the case of any subsequent conviction, to a fine not exceeding $6,000.

(5) Every person commits an offence who, with intent to defeat the purposes of this Act, destroys, alters, or conceals any book, document, or record required to be kept under this Act, or sends or attempts to send out of the Cook Islands any such book, document, or record.

(6) Every person who commits an offence under subsection (5) is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding $50,000.

(7) If, in any prosecution for an offence alleged to have been committed against subsection (5), it is proved that the person charged with the offence has destroyed, altered, or concealed any book, document, or record, or has sent or attempted to send, out of the Cook Islands, any such book, document or record, it is presumed in any absence of evidence to the contrary that in so doing that person intended to defeat the purposes of this Act.

263 Offences relating to failure to give Customs access to information

(1) Every person commits an offence who fails, without reasonable excuse, to give the Customs access to information under any of sections 48, 49, and 130.

(2) Every person who commits an offence under subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $10,000:

(b) in the case of a body corporate, to a fine not exceeding $15,000.

(3) Every person commits an offence who fails, without reasonable excuse, to give the Customs access to information under any of sections 48, 49, and 130 in the form and manner prescribed.

(4) Every person who commits an offence under subsection (3) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $10,000:

(b) in the case of a body corporate, to a fine not exceeding $15,000.

264 Offence relating to disclosing whether required to give Customs access to information

(1) This section applies to a person if the person is a person concerned in the movement of goods, persons, or craft (as defined in section 45).

(2) The person must not disclose to another person who is not the Comptroller, a Customs officer, or an agent or employee of the person—

(a) whether the person is a person to whom section 48 or 49 applies; or

(b) whether the person has been exempted from complying with obligations under that section.

(3) If the person, without reasonable excuse, contravenes subsection (2), the person commits an offence and is liable on conviction to a fine not exceeding,—
(a) in the case of an individual, $15,000:
(b) in the case of a body corporate, $25,000.

265 Possession of incomplete documents

(1) Every person commits an offence who, without lawful authority or excuse, has in his or her possession or brings into the Cook Islands any uncompleted document or form capable of being used for any purpose under this Act if the document is signed or certified or bears any such mark or inscription to indicate that it is correct or authentic.

(2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding $5,000.

266 Offences in relation to use of goods

(1) Where under any provision of this Act or of the Customs Tariff Act 2012 goods are, if entered for a particular purpose or under any condition imposed by the Minister or other responsible Minister of the Crown, exempt from duty or liable to a lower rate of duty than if entered otherwise than for that purpose or under that condition, and any goods have been entered under that provision, every person commits an offence who knowingly,—
(a) uses or deals with those goods for a purpose other than that for which they have been so entered; or
(b) fails to comply with a condition imposed by the responsible Minister in respect of the goods so entered.

(2) Where beer and wine is entered as exempt from excise duty under section 104, that beer or wine is deemed, for the purposes of this section, to have been entered for the purpose of the personal use of the individual who manufactured the beer and not for sale to any other person.

(3) Every person who commits an offence against this section is liable on conviction to a fine not exceeding an amount equal to 3 times the amount of the duty that would have been payable if the goods had been entered otherwise than under the provision under which they were entered, or a fine not exceeding $5,000, whichever sum is the greater.

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267 Provisions relating to offences against sections 260 to 266

For the purposes of this Act—

(a) every declaration, invoice, certificate, written statement, or other document required or authorised by or under this Act to be made or produced by a person making an entry is deemed to form part of that entry:

(b) every amendment of an entry is deemed to form part of that entry, but an amendment to an entry does not relieve a person from liability to the imposition of a penalty or liability to seizure of goods or criminal liability incurred in respect of the entry before its amendment.

268 Offences in relation to importation or exportation of prohibited goods

(1) Every person commits an offence who—

(a) imports into the Cook Islands or unships or lands in the Cook Islands goods the importation of which is prohibited under section 90; or

(b) exports, or transports with intent to export, goods from the Cook Islands the exportation of which is prohibited under section 91; or

(c) is knowingly concerned in any importation, exportation, transportation, shipment, unshipment, or landing of goods to which paragraph (a) or (b) applies; or

(d) without lawful justification or excuse, removes from a Customs controlled area imported goods the importation of which is prohibited under section 90; or

(e) is knowingly concerned or conspires, in the removal from a Customs controlled area of goods, the importation of which is prohibited under section 90; or

(f) commits a breach of, or fails to comply with, a term or condition on or subject to which a licence, permit, or consent has been granted, under a regulation made under section 90(3) or 91(2); or

(g) is knowingly concerned in a breach or failure to comply to which paragraph (f) applies.

(2) Every person who commits an offence against subsection (1)(c), (e), or (g) is liable on conviction—

(a) in the case of a individual, to imprisonment for a term not exceeding 10 years or to a fine not exceeding $300,000:

(b) in the case of a body corporate, to a fine not exceeding $500,000:

(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

(3) Every person who commits an offence against subsection (1)(a), (b), (d), or (f) is liable on conviction—

(a) in the case of an individual to a fine not exceeding $300,000:

(b) in the case of a body corporate to a fine not exceeding $500,000.

(4) It is not a defence in a prosecution for an offence referred to in subsection (3) that the defendant had no knowledge or no reasonable cause to believe that the goods in respect of which the offence was committed were prohibited imports or prohibited exports, as the case may be.

269 Offences in relation to exportation of goods

(1) Every person commits an offence who—

(a) acts in contravention of section 73(1) or (5) (which relates to entries required); or
(b) fails to comply with a request made under section 73(2)(b); or
(c) fails or is knowingly concerned in any failure, to comply with section 78 (which requires goods for export to be dealt with according to entry); or
(d) acts in contravention of section 79 (which relates to the requirement for goods for export not to be landed); or
(e) is knowingly concerned in a contravention of section 149(3) (which relates to drawback on duty on certain goods).

(2) Every person who commits an offence against subsection (1)(a), (b), (c), or (d) is liable on conviction to a fine not exceeding $20,000.

(3) Every person who commits an offence against paragraph (e) of subsection (1) is liable on conviction—
(a) in the case of an individual, to imprisonment for a term not exceeding 2 years or to a fine not exceeding $30,000:
(b) in the case of a body corporate, to a fine not exceeding $50,000:
(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

270 Defrauding revenue of Customs

(1) Every person commits an offence who does any act or omits to do any act for the purpose of—
(a) evading, or enabling any other person to evade, payment of duty or full duty on goods; or
(b) obtaining or enabling any other person to obtain, money by way of drawback or a refund of duty on goods to which that person or that other person is not entitled under this Act; or
(c) conspiring with any other person (whether that other person is in the Cook Islands or not) to defraud the revenue of Customs in relation to goods; or
(d) defrauding in any other manner the revenue of Customs in relation to goods.

(2) Every person who commits an offence against this section is liable on conviction—
(a) in the case of an individual, to imprisonment for a term not exceeding 5 years or to a fine not exceeding $300,000:
(b) in the case of a body corporate, to a fine not exceeding $500,000:
(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

271 Possession or custody of uncustomed goods or prohibited goods

(1) Every person commits an offence who knowingly and without lawful justification has in his or her possession or custody goods that the person knows are uncustomed goods or prohibited imports.

(2) Every person who commits an offence against this section is liable on conviction—
(a) in the case of an individual, to imprisonment for a term not exceeding 2 years or to a fine not exceeding $300,000; or
(b) in the case of a body corporate, to a fine not exceeding $500,000; or

(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

272 Purchase, sale, exchange, etc of uncustomed goods or prohibited imports

(1) Every person commits an offence who knowingly and without lawful justification purchases, sells, exchanges, or otherwise acquires or disposes of, goods that the person knows are uncustomed goods or prohibited imports.

(2) Every person who commits an offence against this section is liable on conviction—

(a) in the case of an individual, to imprisonment for a term not exceeding 2 years or to a fine not exceeding $300,000:

(b) in the case of a body corporate to a fine not exceeding $500,000:

(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

273 Possession or control of concealed goods

(1) Every person commits an offence who knowingly conceals any goods that the person knows are dutiable or prohibited goods.

(2) Every person who commits an offence against this section is liable on conviction—

(a) in the case of an individual, to imprisonment for a term not exceeding 2 years or to a fine not exceeding $300,000:

(b) in the case of a body corporate, to a fine not exceeding $500,000:

(c) in either case, to a fine of an amount not exceeding 3 times the value of the goods to which the offence relates.

274 Offences in relation to seized goods

(1) Every person commits an offence who, having custody of goods under section 287, acts in breach of any requirement of or imposed under subsection (8) of that section.

(2) Every person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $10,000.

(3) Every person commits an offence who, without the permission of the Comptroller, takes or carries away or otherwise converts to his or her own use goods, including any vehicle or craft, that have been seized as forfeited.

(4) Every person who commits an offence against subsection (3) is liable on conviction to imprisonment for a term not exceeding 2 years, or to a fine not exceeding an amount equal to 3 times the value of the goods to which the offence relates.

275 Offences in relation to certain detained goods

(1) Every person commits an offence who, having custody of goods under section 214(1), acts in breach of any requirement of or imposed under section 214(2) or (3).

(2) Every person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $5,000.

(3) Every person commits an offence who, without the permission of the chief executive, takes or carries away or otherwise converts to his or her own use goods to which section 214(2) and (3) applies.

(4) Every person who commits an offence against subsection (3) is liable on conviction to imprisonment for a term not exceeding 12 months, or to a fine not exceeding an amount equal to 3 times the value of the goods to which the offence relates.

276 Offences in relation to Customs Appeal Authorities

(1) Every person commits an offence who, with intent to deceive, makes any false or misleading statement or any material omission in any information given to a Customs Appeal Authority for the purposes of this Act.

(2) Every person who commits an offence against subsection (1) is liable on conviction—
- (a) in the case of an individual, to a fine not exceeding $30,000:
- (b) in the case of a body corporate, to a fine not exceeding $50,000.

(3) Every person commits an offence who, after being summoned to attend to give evidence before an Authority or to produce to it any papers, documents, records or things, without sufficient cause—
- (a) fails to attend in accordance with the summons; or
- (b) refuses to be sworn or to give evidence or having been sworn refuses to answer any question that the person is lawfully required by the Authority to answer concerning the subject of the proceedings; or
- (c) fails to produce any paper, document, record, or thing.

(4) No person summoned to attend proceedings before an Authority may be convicted of an offence against subsection (3) unless at the time of the service of the summons, or at some other reasonable time before the date on which that person was required to attend, there was made to that person a payment or tender of the amount fixed under section 334(2).

(5) Every person commits an offence who—
- (a) wilfully obstructs or hinders an Authority or any person authorised by an Authority in any inspection or examination of papers, documents, records, or things under section 330(1)(a); or
- (b) without sufficient cause, fails to comply with any requirement of an Authority or any person authorised by an Authority made under section 330(1)(b); or
- (c) without sufficient cause, acts in contravention of or fails to comply with any order made by an Authority under section 330(3) or any term or condition of the order.

(6) Every person who commits an offence against subsection (3) or subsection (5) is liable on conviction to a fine not exceeding $10,000.

[Section 276: Not commenced.]

277 Unauthorised disclosure of information

(1) A person who is or was an employee of the Cook Islands Customs Service may not disclose or use any information gained by or conveyed to the person through the person's connection with the Cook Islands Customs Service except in the course of the person's official duties or as authorised by the Comptroller or the Minister.

(2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding $5,000.

Miscellaneous provisions relating to offences

278 Liability of officers of corporations

(1) For the purposes of this section, the term **corporation** includes a company, trust, partnership or other enterprise.

(2) If a corporation commits an offence against any provision of this Act, every director, manager, secretary, officer or agent of the corporation and every person purporting to act in any such capacity who participated in, directed, authorised acquiesced in, or assented to the act or omission constituting the offence also commits an offence against that provision.

(3) Every individual who commits an offence under this Act as provided in subsection (2) is liable on conviction to the penalty prescribed by the section creating the offence in respect of any individual who is convicted of the offence or, if no penalty is prescribed in respect of an individual, to the penalty prescribed for the offence.

(4) A person may be convicted of the offence, even though the corporation has not itself been charged with, or convicted of, the offence.

279 Liability of principal and agent

(1) Every declaration made or other act done by an agent, whether or not, the agent is in the Cook Islands, in the course of his or her agency in relation to the report, entry or clearance of any craft or goods or any other matter under this Act is deemed also to have been made or done by the agent's principal, and the principal is liable accordingly to the penalties imposed by this Act.

(2) For the purposes of this section, the knowledge or intent of the agent is imputed to the principal in addition to the principal's own knowledge or intent.

(3) For the purposes of this section,—
(a) an employee of the agent; or
(b) a person performing any function of or for the agent; or
(c) a person acting under the instruction of the agent—

is deemed also to be the agent of the principal.

(4) Where any person acts or purports to act as the agent of any other person in relation to the report, entry, or clearance of any craft, or goods or any other matter under this Act, that person is liable to the same penalties as if he or she were the principal for whom he or she so acts or purports to act.

280 Attempts

An attempt to commit an offence against this Act is an offence punishable in the same manner and gives rise to the same cause for seizure as if the offence attempted had been committed.

281 Offences punishable on summary conviction

Except where this Act otherwise provides, every offence against this Act, or against any regulations made under this Act, is punishable on summary conviction.

282 Laying of information

(1) Subject to subsection (3), in every information laid under the Criminal Procedures Act 1980–81 for an offence against this Act must be laid by—

(a) the Comptroller; or
(b) any Customs officer nominated by the Comptroller; or
(c) any person who is not a Customs officer but is an agent or employee of the Ministry of Finance and Economic Management nominated by the Comptroller.

(2) Any Customs officer or any agent or employee of the Ministry of Finance and Economic Management purporting to act under a nomination of the Comptroller under subsection (1) is, in the absence of proof to the contrary, presumed to have been so nominated.

(3) An information laid under Criminal Procedures Act 1980–81 for an offence against section 276 must be laid by the Registrar of the Customs Appeal Authority.

(4) Despite anything in the Criminal Procedures Act 1980–81, any information for an offence against this Act may be laid at any time within 7 years after the date of the offence.
[Section 282(3): Not commenced.]

283 Court may order payment of money in respect of duty

(1) Where any person is convicted of an offence against section 229, 230, 241, or 242 and the court is of the opinion that the offence has been committed for the purpose of enabling the destruction or concealment of any evidence that would support a claim for duty under this Act, the court may, in addition to any other penalty, order the defendant to pay to the Crown such further sum in respect of that claim as it thinks fit.

(2) Any order for payment under this section may be enforced in the same manner as a fine.

(3) The recovery of any amount under this section in respect of a claim does not extinguish the claim for duty, but must be taken into account in determining the amount (if any) to be awarded in any subsequent proceedings that may be taken in respect of that claim.

284 Power of Comptroller to deal with minor offences

(1) This section applies to the following offences:
(a) an offence against this Act that is committed—
(i) in relation to goods; and
(ii) in circumstances that the Comptroller is satisfied would not amount to more than minor offending:
(b) an offence against this Act that is not punishable by imprisonment.

(2) At any time before an information is laid against a person for an offence to which this section applies, the Comptroller may accept from the person—
(a) a written admission that he or she committed the offence; and
(b) a request that the offence be dealt with summarily by the Comptroller; and payment of an amount, not exceeding the limit specified in subsection (4) that the Comptroller thinks just in the circumstances of the case in full satisfaction of any fine or other penalty to which the person would otherwise by liable under this Act.

(3) For the purposes of subsection (2), the Comptroller may indicate to the person at the time of the commission of the alleged offence or as soon as practicable after that whether the Comptroller considers that the offence is an offence to which this section applies.

(4) The amount referred to in subsection (2)(b) must not exceed one-third of the maximum total monetary penalty to which the person would be liable if the person were convicted of the offence by a court.

(5) If the Comptroller accepts payment of an amount under subsection (2)(b), the offender is not liable to be prosecuted for the offence in respect of which the payment was made.

(6) If the Comptroller declines to exercise his or her power under subsection (2), the admission in writing made by the offender is not admissible as evidence in any prosecution for that offence.

[The next page is 908,851]

Part 16
Forfeiture and seizure

285 Application of this Part

This Part applies to all forfeitures that arise under this Act.

286 Goods forfeited

(1) The following goods are forfeited to the Crown—

(a) goods in respect of which an offence has been committed under—

(i) section 233 (which relates to counterfeit seals or marks):

(ii) section 260 (which relates to offences in relation to entries):

(iii) section 261 (which relates to offences in relation to declarations and documents):

(iv) section 265 (which relates to possession of incomplete documents):

(v) section 268 (which relates to offences in relation to importation or exportation of prohibited goods):

(vi) section 269 (which relates to offences in relation to exportation of goods):

(vii) section 270 (which relates to defrauding the revenue of Customs):

(viii) section 271 (which relates to possession or custody of uncustomed goods or prohibited imports):

(ix) section 272 (which relates to purchase, sale, exchange etc of uncustomed goods or prohibited imports):

(x) section 273 (which relates to possession or control of concealed goods):

(b) goods dealt with in contravention of section 65, 67, 70, or 71:

(c) dutiable or prohibited goods found in the possession of any person who, when questioned under section 178 or 179, denied or failed to disclose the possession of those goods:

(d) dutiable or prohibited goods found in the course of a search under section 177 or seized under section 191(1) or (2)(b):

(e) dangerous items seized under section 191(1)(b) or (2)(a):

(f) goods in respect of which an erroneous statement, declaration, certificate, or claim as to the country of which the goods are the produce or manufacture has been made or produced to any Customs officer:

(g) dutiable or prohibited goods found on or in any craft, bulk cargo container, or pallet or a similar device that is lawfully in any place:

(h) dutiable or prohibited goods found on or in any craft, bulk cargo container, or pallet or a similar device after arrival in any Customs place from a point outside the Cook Islands, not being goods specified or referred to in the inward report or baggage belonging to the crew or passengers and not being accounted for to the satisfaction of a Customs officer:

(i) dutiable or prohibited goods found concealed in or on any craft, vehicle, bulk cargo container, pallet, or a similar device, or any other thing:

(j) goods in any package where those goods are not fully accounted for in the entry or declaration relating to that package:

(k) dutiable goods or prohibited goods found so packed as to be likely to deceive Customs officers:

(l) uncustomed goods that are found in any place:

(m) goods imported into the Cook Islands that have been acquired in a country outside the Cook Islands, whether by the importer or some other person, by an act which, if done in the Cook Islands would have amounted to a crime involving dishonesty within the meaning of 2(1) of the Crimes Act 1969:

(n) goods exported, or in respect of which an attempt to export has been made, that have been acquired in the Cook Islands, whether by the exporter or some other person, by an act that amounts to a crime involving dishonesty within the meaning of section 2(1) of the Crimes Act 1969:

(o) all goods unlawfully exported or in respect of which an attempt to so export has been made:

(p) all goods that have been unlawfully imported into the Cook Islands:

(q) any goods, equipment or apparatus used or intended for use in contravention of section 102 and any goods manufactured wholly or partly using such goods, equipment, or apparatus.

(2) Despite section 80, for the purposes of subsection (1)(o), goods the exportation of which is prohibited under this Act are deemed to have been exported as soon as they are placed in or on any craft for exportation.

(3) The forfeiture of goods extends to the forfeiture of the case, covering, or other enclosure, not being a bulk cargo container, pallet or a similar device, in or on which the goods are contained at the time of seizure, importation, or exportation.

(4) Despite subsection (3), forfeiture of goods extends to the forfeiture of a bulk cargo container, pallet or a similar device where that bulk cargo container, pallet or other similar device has been adapted for the purpose of concealing goods.

(5) Every craft, vehicle, or any other thing, including any machinery or equipment on or in the craft or vehicle or thing, or any animal that is being or has been used for the carriage, handling, deposit or concealment of any goods referred to in subsection (1), whether at or after the time of any alleged offence in relation to those goods is also forfeited to the Crown.

(6) Without limiting subsection (5), a craft is also forfeited to the Crown if—

(a) the craft is one in respect of which an offence under section 246(1)(a) or (d) is committed; and

(b) that offence was committed to facilitate non-compliance with a requirement in any of sections 30 to 32 by a person or persons who arrived in the Cook Islands having been brought (in that craft or in any other craft) from a point outside the Cook Islands.

287 Procedure for seizure

(1) A Customs officer or member of the Police may seize any forfeited goods or any goods that he or she has reasonable cause to suspect are forfeited.

(2) Goods may be seized as forfeited wherever the goods are found within the Cook Islands.

(3) Forfeited goods, other than prohibited goods, may be seized at any time within 2 years after the forfeiture has arisen.

(4) Goods that are forfeited because they are prohibited goods may be seized at any time after the forfeiture has arisen.

(5) A Customs officer or member of the Police may use such force as is reasonably necessary for effecting the seizure and securing the goods.

(6) Except as provided in subsections (7) and (8), all goods seized must be taken to such place of security as a Customs officer directs and there detained.

(7) Where goods including any craft, vehicle or animal, have been seized under this section, any Customs officer may leave those goods in the custody of either—
(a) the person from whom the goods have been seized; or
(b) any other person authorised by a Customs officer and who consents to having such custody.

(8) Every person who has the custody of goods under subsection (7) must hold them in safekeeping, without charge to the Crown and in accordance with any reasonable conditions that may be imposed by Customs, until a final decision is made as to whether or not they are to remain forfeit, and must—
(a) make the goods available to a Customs officer on request; and
(b) not alter or dispose of, or remove the goods from the Cook Islands unless he or she is authorised to do so by a Customs officer; and
(c) return the goods on demand to the custody of Customs.

288 Notice of seizure

(1) When any goods have been seized under section 287, Customs must, as soon as thereafter as is reasonably practicable in the circumstances give notice in writing of the seizure and the reasons for the seizure, in the prescribed form, to any person known or believed to have an interest in the goods or where that person is overseas, to his or her agent in the Cook Islands.

(2) A seizure is not invalidated or illegal by reason of any failure to give such notice if reasonable steps were taken to give the notice.

289 Forfeiture to relate back

Where, under section 286, goods are forfeited and the goods are seized the forfeiture related back to the date of the act or event from which the forfeiture arose.

290 Delivery of goods seized on deposit of value

(1) Where any goods have been seized as forfeited, the Comptroller may, at any time before their condemnation, deliver the goods to the owner or the person from whom they were seized, on the deposit with Customs of a cash sum equal—
(a) in the case of imported goods, to the Customs value of the goods; or
(b) in the case of goods manufactured in a Customs controlled area, to the excise value of the goods determined in accordance with Schedule 3—

together with any duty to which the goods may be liable as determined by the Comptroller.

(2) The money deposited is deemed to be substituted for goods seized, and all the provisions of this Part so far as they are applicable extend and apply to the money accordingly.

291 Sale of certain seized goods

(1) Where—

(a) a living creature; or
(b) any thing that, in the opinion of the Comptroller, is of a perishable nature; or
(c) any thing that, in the opinion of the Comptroller, is likely to deteriorate or diminish in value by keeping; or
(d) any thing that, in the opinion of the Comptroller, it is desirable to sell, —

has been seized as forfeited, the Comptroller may sell the thing seized before its condemnation.

(2) The net proceeds of sale are deemed to be substituted for the thing sold, and all the provisions of this Part so far as they are applicable extend and apply to those proceeds accordingly.

[The next page is 909,101]

Appeals against seizure

292 Application for review of seizure

(1) Any person who has an interest in goods that have been seized under section 287 may, within the time specified in subsection (2), apply in writing to the Comptroller for a review of the seizure.

(2) The time is—

(a) 20 working days after the date on which the notice of seizure is given to the applicant; or

(b) any further time allowed by the Comptroller if satisfied that the applicant did not receive the notice of seizure or that a further period is otherwise required in the interests of justice.

(3) An application under this section may be made on either or both of the following grounds:

(a) that there was no legal basis for the seizure of the goods:

(b) that the applicant should, in all the circumstances, be granted relief.

(4) The application must—

(a) state the ground or grounds on which it is made; and

(b) give an address at which the applicant wishes to receive correspondence relating to the application; and

(c) be sent to the Comptroller.

293 Conduct of review

(1) On receipt of an application under section 292, the Comptroller must conduct the review on the papers unless the Comptroller otherwise directs.

(2) In undertaking the review, the Comptroller—

(a) must consider the application and any written submissions made by the applicant; and

(b) may consider any statement, document, information, or matter that in the Comptroller's opinion may assist the Comptroller to deal effectively with the subject of the review, whether or not it would be admissible in a court of law.

(3) The Comptroller may ask the applicant for supplementary information and have regard to that supplementary information.

(4) The applicant must establish, on the balance of probabilities, that the applicant has an interest in the seized goods and acquired that interest in good faith.

294 Decision on review

(1) The Comptroller must dispose of the application for review by making one of the following decisions:

(a) to dismiss the application for review:

(b) if satisfied that there was no legal basis for the seizure of all or any of the goods, to disallow the seizure (in whole or in part) and to direct that the goods be given (in whole or in part) to—

(i) the person from whom the goods were seized; or

(ii) if the goods were not seized from a particular person, the person who, in the opinion of the Comptroller, is entitled to possess the goods:

(c) to grant relief by making any of the determinations described in section 296 (either unconditionally or subject to any conditions described in that section), if satisfied that it is equitable to do so, having regard to the matters specified in section 295.

(2) The Comptroller must make his or her decision on the application within 20 working days after the day on which the Comptroller receives the application.

(3) If, in the opinion of the Comptroller, the circumstances of the case do not permit a decision to be made within the period specified in subsection (2), the Comptroller may extend that period by a further period that is reasonable in the circumstances.

(4) As soon as practicable after making a decision on the application, the Comptroller must give written notice of the decision to—

(a) the applicant; and

(b) any other person on whom the notice of seizure was given under section 288; and

(c) any person, other than a person referred to in paragraph (b), who claims an interest in the goods.

(5) If the application for review is dismissed, the written notice must contain the reasons for the decision.

(6) The written notice must state that a person who is dissatisfied with the decision of the Comptroller has a right to appeal to a Customs Appeal Authority against the decision.

[Section 294(6): Not commenced.]

295 Matters concerning grant of relief

The matters the Comptroller may take into account when deciding whether or not to grant relief include, without limitation,—

(a) the seriousness and nature of any act or omission giving rise to the seizure:

(b) whether or not the person who is alleged to have done any act or omitted to do any act giving rise to the seizure has previously engaged in any similar conduct:

(c) whether the seizure has arisen from, or is related to, a deliberate breach of the law:

(d) the nature, quality, quantity, and estimated value of the seized goods:

(e) the nature and extent of any loss or damage suffered by any person as a consequence of the seizure:

(f) whether or not granting relief would undermine the purpose or objective of any import or export prohibition or restriction imposed by this Act:

(g) the effect of any other action that has been taken or is proposed to be taken in respect of any offending related to the seizure.

296 Determinations where relief granted

(1) If the Comptroller decides, under section 294(1)(c), to grant relief, the Comptroller may do so' by making any of the following determinations:

(a) that the goods be given to the applicant or to another person who, but for the seizure, is entitled to their possession:

(b) that the goods be sold and that 1 or more of the following persons be paid the part or parts of the proceeds that the Comptroller specifies:
  (i) the applicant:
  (ii) any other person who has an interest in the goods:
  (iii) the Crown.

(2) The Comptroller may make a determination described in this section subject to any conditions that the Comptroller thinks just.

(3) Without limiting subsection (2), the Comptroller may impose any of the following conditions:
(a) that there be paid to the Customs in respect of the seized goods a sum equal to the whole or any part of 1 or more of the following:
  (i) any costs or expenses incurred by the Customs in transporting, storing, or disposing of the goods (including returning or giving the goods to any person), or any incidental costs or expenses relating to their detention:
  (ii) any duty not already paid:
  (iii) any duty already refunded:
  (iv) the value of the detained goods, as determined by the Comptroller:
(b) that the goods be modified, in a manner directed by the Comptroller, so as to render them inoperable for unlawful purposes:
(c) that the costs or expenses incurred by the Customs in modifying the goods in accordance with a direction under paragraph (b) be paid to the Customs.

(4) The Comptroller must not make a determination described in this section if he or she is of the opinion that all or any of the goods may be required to be produced in evidence in any criminal proceedings.

297 Condemnation of seized goods

(1) If the Comptroller dismisses an application for review, the dismissal is deemed to be an order for condemnation of the goods to the Crown.

(2) The order for condemnation of the goods takes effect on the close of the 20th working day after the Comptroller gives his or her decision on the application unless an appeal against the decision on the application is lodged before then.

(3) If no application for review is made within the time specified by section 292(2), or if such an application is discontinued, the seized goods are condemned to the Crown.

Appeal from review

298 Right of appeal to Customs Appeal Authority from decision on review

(1) A person who is dissatisfied with a decision of the Comptroller made under section 294 (including any determination or condition described in section 296) may appeal to a Customs Appeal Authority against the decision or any part of the decision.

(2) The appeal must be brought within 20 working days after the date on which notice of the decision under section 294 is given.

[Section 298: Not commenced.]

299 Condemnation of goods subject to appeal

The goods that are the subject of an appeal under section 298 are condemned to the Crown if—

(a) the appeal is discontinued; or

(b) the decision of the Customs Appeal Authority on the appeal neither—

(i) disallows the seizure of the goods under section 294(1)(b) (as applied by section 323(2)); nor

(ii) grants relief under section 294(1)(c) (as applied by section 323(2)).

[Section 299: Not commenced.]

General provisions as to forfeiture

300 Condemnation of seized goods on conviction

(1) Subject to subsection (2), where this Act provides that on the commission of any offence any goods are forfeited, the conviction of any person for that offence has effect as a condemnation, without suit or judgment, of any goods that have been seized in accordance with this Act and—

(a) in respect of which the offence was committed; or

(b) which were forfeited under section 286(3), (4), or (5).

(2) Where the court imposes a sentence on any person on the conviction of that person for an offence to which subsection (1) applies, the court may, if it thinks fit, order the restoration of the goods forfeited to the person from whom the goods were seized and, where such an order is made, the conviction does not have effect as a condemnation of those goods.

(3) In making an order under subsection (2), the court may impose such conditions as it thinks fit.

(4) Subsection (2) does not apply where the goods have, before the conviction, been sold, or restored to the person from whom they were seized, or otherwise disposed of by the Comptroller under any other provision of this Act.

301 Disposal of forfeited goods

(1) The Crown has the property in forfeited goods or in any deposit made under section 290 or in the proceeds of sale under section 291, as the case may be.

(2) In the case of goods, the goods may be sold, used, destroyed, or otherwise disposed of after their condemnation as the Comptroller may direct.

302 Application of forfeiture provisions

All the provisions of this Act with respect to forfeiture of goods extend and apply to any craft, vehicle, or other thing forfeited under this Act.

[The next page is 909,151]

Part 17
Evidence

303 Burden of proof

(1) In any proceedings under this Act instituted by or on behalf of or against the Crown (other than a prosecution for an indictable offence) every allegation made on behalf of the Crown in any statement of claim, statement of defence, plea or information, that relates to—

(a) the identify or nature of any goods; or
(b) the value of any goods for duty; or
(c) the country or time of exportation of any goods; or
(d) the fact or time of the importation of any goods; or
(e) the place of manufacture, production or origin of any goods; or
(f) the payment of any duty on goods—

is presumed to be true unless the contrary is proved.

(2) The presumption in subsection (1) is not excluded by the fact that evidence is produced on behalf of the Crown in support of any such allegation.

(3) The provisions of this section extend and apply to proceedings which the existence of an intent to defraud the revenue of the Crown is in issue.

(4) Despite the foregoing provisions of this section, in any proceedings for an offence against this Act where it is alleged that the defendant intended to commit the offence, the prosecution has the burden of proving that intent beyond reasonable doubt.

304 Documents made overseas

In any proceedings under this Act (other than a prosecution for an indictable offence) the court may admit in evidence as proof of any fact in issue a document made in a country outside the Cook Islands whether the document is legally admissible as evidence in other proceedings or not.

305 General admissibility of hearsay

(1) A hearsay statement is admissible in any proceeding if—

(a) the circumstances relating to the statement provide reasonable assurance that the statement is reliable; and
(b) either—
  (i) the maker of the statement is unavailable as a witness; or
  (ii) the Judge considers that undue expense or delay would be caused if the maker of the statement were required to be a witness.

(2) This section is subject to section 22 of the Evidence Act 1968.

306 Admissibility of hearsay statements contained in business records

(1) A hearsay statement contained in a business record is admissible if—

(a) the person who supplied the information used for the composition of the record is unavailable as a witness; or
(b) the Judge considers no useful purpose would be served by requiring that person to be a witness as that person cannot reasonably be expected (having regard to the time that has elapsed since he or she supplied the

information and to all the other circumstances of the case) to recollect the matters dealt with in the information he or she supplied; or

(c) the Judge considers that undue expense or delay would be caused if that person were required to be a witness.

(2) This section is subject to section 22 of the Evidence Act 1968.

307 Interpretation

(1) In this subpart,—

business—

(a) means any business, profession, trade, manufacture, occupation, or calling of any kind; and

(b) includes the activities of any department of the Crown, local authority, public body, body corporate, organisation, or society

business record means a document—

(a) that is made—

(i) to comply with a duty; or

(ii) in the course of a business, and as a record or part of a record of that business; and

(b) that is made from information supplied directly or indirectly by a person who had, or may reasonably be supposed by the court to have had, personal knowledge of the matters dealt with in the information he or she supplied

circumstances, in relation to a statement by a person who is not a witness, include—

(a) the nature of the statement; and

(b) the contents of the statement; and

(c) the circumstances that relate to the making of the statement; and

(d) any circumstances that relate to the veracity of the person; and

(e) any circumstances that relate to the accuracy of the observation of the person

duty includes any duty imposed by law or arising under any contract, and any duty recognised in carrying on any business practice.

(2) For the purposes of this subpart, a person is **unavailable as a witness** in a proceeding if the person—

(a) is dead; or

(b) is outside the Cook Islands and it is not reasonably practicable for him or her to be a witness; or

(c) is unfit to be a witness because of age or physical or mental condition; or

(d) cannot with reasonable diligence be identified or found; or

(e) is not compellable to give evidence.

(3) Subsection (2) does not apply to a person whose statement is sought to be offered in evidence by a party who has caused the person to be unavailable in order to prevent the person from attending or giving evidence.

308 Admissibility of expert opinion evidence

(1) An opinion by an expert that is part of expert evidence offered in a proceeding is admissible if the fact-finder is likely to obtain substantial help from the opinion in understanding other evidence in the proceeding or in ascertaining any fact that is of consequence to the determination of the proceeding.

(2) An opinion by an expert is not inadmissible simply because it is about—
(a) an ultimate issue to be determined in a proceeding; or
(b) a matter of common knowledge.

(3) If an opinion by an expert is based on a fact that is outside the general body of knowledge that makes up the expertise of the expert, the opinion may be relied on by the fact-finder only if that fact is or will be proved or judicially noticed in the proceeding.

(4) If expert evidence about the sanity of a person is based in whole or in part on a statement that the person made to the expert about the person's state of mind, then—
(a) the statement of the person is admissible to establish the facts on which the expert's opinion is based; and
(b) neither the hearsay rule nor the previous consistent statements rule applies to evidence of the statement made by the person.

(5) Subsection (3) is subject to subsection (4).

309 Proof of rules made under section 359

(1) The production of a copy of a public notice purporting to contain a copy of any rule made under section 359(1) that is required to be published in a public notice is, in all courts and in all proceedings, sufficient evidence, until the contrary is proved, of the existence, publication and provisions of the rule, and of the date of its coming into force.

(2) The production of—
(a) any document under the hand of a Customs officer purporting to be a rule or an extract from a rule that is required to be published under section 359, or a copy of any such rule or extract; and
(b) a copy of a public notice in which the rule was notified—

is, in all courts and in all proceedings, sufficient evidence, until the contrary is proved, of the existence, notification and provisions of the rule, and of the date of its coming into force.

310 Customs record of computer transmission admissible evidence

In any proceedings under this Act or any other Act, a computer printout of an extract of a record kept by Customs under section 169, certified by or on behalf of the Comptroller under the seal of Customs as a true copy, is in all courts admissible as evidence of the electronic message received by or sent to Customs set out in that printout, unless the contrary is proved.

311 Presumption of authenticity of documents

All documents purporting to be signed by or on behalf of the Comptroller or to

be sealed with the seal of Customs, are, in all courts and in all proceedings under this Act, and any other Act, deemed to have been signed or sealed with the due authority, unless the contrary is proved.

[The next page is 909,351]

Part 18
Customs Appeal Authorities [Not commenced]

312 Establishment of Customs Appeal Authority

(1) There is established a Customs Appeal Authority.

(2) The Authority consists of 1 person.

(3) A person is not qualified for appointment as a Customs Appeal Authority, unless—

(a) the person holds or has held office as a Cook Islands Judge; or

(b) the person holds or has held office as a Judge in any other part of the Commonwealth or in a designated country; or

(c) the person is a barrister or solicitor of the High Court of the Cook Islands with no less than 7 years practice as a barrister or solicitor; or

(d) the person has been in practice as a barrister or solicitor in the Cook Islands or in any other part of the Commonwealth or in a designated country, or partly in the Cook Islands and partly in any other part of the Commonwealth or in a designated country, for a period of, or periods amounting in the aggregate to, not less than 7 years.

(4) The Queen's Representative acting in his or her discretion, may declare to be a designated country for the purposes of this section any country which in his or her opinion has a legal system similar to the existing in the Cook Islands.

(5) An Authority must be appointed by the Queen's Representative on the joint recommendation of the Minister of Finance and Minister of Justice.

(6) A Customs Appeal Authority must be administered by the Ministry of Justice.

313 Term of Office of Authority

(1) Except as otherwise provided in this Act, every person appointed as an Authority must be appointed for such term, not exceeding 5 years, as the Queen's Representative thinks fit, and may from time to time be reappointed.

(2) Subject to subsection (3), any person appointed as an Authority may at any time be suspended or removed from office by the Cabinet for engaging in any occupation for reward outside the duties of his or her office, or for inability to perform the functions of the office, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Queen's Representative, or may at any time resign his or her office by writing to the Minister of Finance and the Minister of Justice.

(3) Where the terms of appointment of any person appointed as an Authority permits that person to engage in any occupation for reward outside the duties of his or her office, he or she is not liable to be suspended or removed from office under subsection (2) by reason of his or her so engaging in any occupation for reward so permitted.

(4) Despite that the term of office of a person appointed as an Authority has expired or that the person has resigned his or her office, he or she is deemed to continue to be an Authority for the purpose of deciding any appeal that was wholly heard before the expiration of his or her term of office or before his or her resignation took effect, as the case may be.

314 Oath to be taken by Authority

Before entering upon the exercise of the duties of his or her office, every person appointed as an Authority must take and subscribe an oath before a Judge of the High Court that he or she will faithfully and impartially perform the duties of his or her office.

315 Remuneration and travelling expenses

(1) There must be paid out of money appropriated by Parliament for the purpose to any person appointed as an Authority remuneration as may be fixed from time to time by the Queen's Representative, by Order in Executive Council.

(2) Remuneration may include sitting fees, salary, and allowances (including travelling allowances and expenses).

316 Sickness or incapacity

(1) In the event of the sickness or other incapacity of an Authority, the Minister of Finance and the Minister of Justice jointly, may appoint any person who is qualified to be appointed as an Authority to act in the place of that person during the incapacity.

(2) Any person so appointed has authority to act on behalf of the Authority, and while so acting, is deemed to be an Authority.

317 Validity of appointment not to be questioned in proceedings

No appointment of a person under section 316 and no act done by any person by virtue of such appointment may in any proceedings be questioned on the ground that the occasion of the appointment had not arisen or had ceased.

318 Authority not personally liable

No person appointed as an Authority and no person appointed under section 316 is personally liable for an act done or omitted to be done by him or her in good faith in pursuance or intended pursuance of his or her powers and authorities under this Act.

319 Registrars of Authority

(1) There must from time to time be appointed under the Public Service Act 2009 such Registrar of the Authority as may be required.

(2) The office of Registrar may be held either separately or in conjunction with any other office in the Public Service.

320 Seal

Every Authority must have a seal which must be judicially noted in all courts.

321 Functions of Authority

The functions of an Authority is to sit as a judicial authority for hearing and deciding such appeals as are authorised by this Act or any other Act against assessments, decisions, rulings, determinations and directions (applicable to matters that are pending or are currently being appealed) of the Comptroller.

Proceedings

322 Procedure

(1) The procedure of an Authority must be in accordance with this Act and any

regulations made under this Act and, subject to this Act and those regulations, may be such procedure as an Authority thinks fit.

(2) Proceedings before an Authority must be commenced by the lodging of an application in the prescribed form, together with the prescribed fee (if any) with the Authority.

(3) If an applicant is successful in his or her appeal under Part 18, then that applicant is entitled to the refund of the prescribed fee referred to in subsection (2).

323 Nature of appeal

(1) Appeals must be by way of a hearing *de novo*.

(2) For the purposes of hearing and deciding any appeal, an Authority has all the powers, duties, functions, and discretions of the Comptroller in making the assessment, decision, ruling, determination, or direction appealed from.

324 Authority may extend time for appeal

Where under this Act, a person is entitled to appeal to a Customs Appeal Authority within a specified time, an Authority may, on an application made within the specified time, extend the time within which the appeal may be brought.

325 Hearing

(1) Subject to section 326, as soon as an Authority considers that an appeal is ready to be heard, the Authority must fix a date, time and place for the hearing of the appeal and must notify the appellant and the Comptroller of the date, time and place fixed.

(2) A notice to the appellant under subsection (1)—

(a) must, in addition to the matters referred to in subsection (1), inform the appellant of the provisions of subsections (5) and (6); and

(b) must be served on the appellant by personal service or by post in accordance with section 350(4)(b).

(3) At the hearing of an appeal before an Authority the appellant and the Comptroller may call evidence and must be given an opportunity to be heard either in person or by a person authorised by the appellant or the Comptroller, as the case may be, in that behalf whether or not that person is a barrister or solicitor of the High Court.

(4) If the appellant or the Comptroller, or a representative for either party fails to appear before an Authority at the time and place appointed, the Authority may nevertheless, upon proof of service of the notice of the hearing, proceed to determine the appeal.

(5) Subject to subsection (6), the hearing of an appeal before an Authority must be in public.

(6) If the Authority is of the opinion that it is proper to do so, having regard to the interests of any party and to the public interest, it may hold a hearing or any part of a hearing in private.

(7) The Authority may order that any part of any evidence given or the name of any witness not be published, and any such order may be subject to such conditions as the Authority thinks fit.

326 Authority may decide appeal without oral hearing if both parties consent

(1) Despite section 325, an Authority may, if it thinks fit and if both parties consent, decide an appeal without holding an oral hearing.

(2) If an Authority at any time during its consideration of an appeal in accordance with subsection (1) considers that an oral hearing should be held, the Authority must fix a date, time and place for the hearing of the appeal in accordance with section 325.

327 Authority may hold hearing by way of telephone or video conferencing call

(1) For the purposes of section 325 the Authority may, if it thinks fit and if both parties consent, hold the hearing by way of telephone or video conferencing call.

(2) If the Authority at any time during the hearing or an appeal in accordance with subsection (1) considers that an oral hearing should be held in person, the Authority must fix a date, time and place for the hearing of the appeal in accordance with section 325.

328 Authority's powers

For the purposes of dealing with the matters before it, an Authority has the powers of a High Court Judge, in the exercise of its civil jurisdiction, in respect of citing parties and conducting and maintaining order at the hearings of the Authority.

329 Evidence

(1) An Authority may receive as evidence any statement, document, information or matter that, in the opinion of the Authority, may assist the Authority to deal effectually with the proceedings, whether or not it would be admissible in a court of law.

(2) An Authority may take evidence on oath.

(3) An Authority may permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the Authority thinks fit, verifying it by oath.

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330 Powers of investigation

(1) For the purposes of dealing with the matters before it, an Authority or any person authorised by the Authority in writing to do so may—

(a) inspect and examine any papers, documents, records or things:

(b) require any person to produce for examination any papers, documents, records or things in that person's possession or under that person's control and to allow copies of or extracts from any such papers, documents, or records to be made:

(c) require any person to furnish, in a form approved by or acceptable to the Authority, any information or particulars that may be required by it, and any copies of or extracts from any papers, documents or records in that person's possession or under that person's control.

(2) The Authority may, if it thinks fit, require that any written information or particulars or any copies or extracts furnished under this section must be verified by statutory declaration or otherwise as the Authority may require.

(3) For the purposes of dealing with the matters before it, an Authority may of its own motion, or on application, order that any information or particulars, or a copy of the whole or any part of any paper, document, or record, furnished or produced to it be supplied to any person appearing before the Authority, and in the order impose such terms and conditions as it thinks fit in respect of such supply and of the use that it is to be made of the information, particulars or copy.

(4) Every person has the same privileges in relation to the giving of information to the Authority, the answering of questions put by the Authority, and the production of papers, documents, records, and things of the Authority as witnesses have in courts of law.

331 Power to summon witnesses

For the purposes of dealing with matters before it, an Authority may of its own motion, or on application, issue in writing a summons requiring any person to attend at the time and place specified in the summons and to give evidence, and to produce any papers, documents, records or things in that person's possession or under that person's control that are relevant to the matters before the Authority.

332 Service of summons

(1) A summons to a witness may be served—

(a) by delivering it to the person's summoned; or

(b) by posting it by registered letter addressed to the person summoned at that person's usual place of residence or business.

(2) The summons must—

(a) where it is served under subsection (1)(a) be served within 72 hours before the attendance of the witness is required:

(b) where it is served under subsection (1)(b), be served at least 10 days before the date on which the attendance of the witness is required.

(3) If the summons is posted by registered letter it is deemed for the purposes of subsection (2)(b) to have been served at the time when the letter would be delivered in the ordinary course of post.

333 Protection of persons appearing

Every witness giving evidence, and every counsel or agent or other person appearing before the Authority, has the same privileges and immunities as witnesses and counsel in courts of law.

334 Witnesses allowances

(1) Every witness attending the hearing to give evidence under a summons is entitled to be paid witness's fees, allowances and travelling expenses according to the scales for the time being prescribed by regulations made under the Judicature Act 1980–81, and those regulations apply accordingly.

(2) On each occasion on which the Authority issues a summons under section 331, the Authority must fix an amount which, on the service of the summons, or at some other reasonable time before the date on which the witness is required to attend, must be paid or tendered to the witness.

(3) The amount fixed under subsection (2) must be the estimated amount of the allowances and travelling expenses to which, in the opinion of the Authority, the witness will be entitled according to the prescribed scales if the witness attends at the time and place specified in the summons.

(4) The whole or part of any amount fixed under subsection (2) may, with the consent of the witness, be paid or tendered in the form of vouchers or tickets.

(5) Where a party to the proceedings has requested the issue of a witness summons that party—

(a) is liable for payment the witness's fees, allowances, and expenses; and

(b) must, on making application for the issue of a witness summons, deposit with the Authority such sums as the Authority thinks sufficient.

(6) The amounts of a witness's fees, allowances, and expenses must be paid out of the sum deposited under subsection (5)(b).

(7) Where the Authority has of its own motion issued the witness summons, the Authority may direct that the amount of those fees, allowances, and travelling expenses must be paid by the Crown.

335 Grounds of appeal and burden of proof

(1) Subject to subsection (2), in an appeal the appellant is limited to the grounds stated in the appellant's notice of appeal, and the burden of proof is on the appellant.

(2) The Authority may, either on the application of the appellant or of its own motion, amend the grounds stated in the notice of appeal.

336 Sittings of Authority

(1) Sittings of an Authority must be held at such times and places as the Authority from time to time appoints.

(2) An Authority may adjourn a sitting from time to time or place to place before the time of the sitting or at the sitting.

(3) During the absence of the Authority or his or her inability from any cause to act, the Registrar of the Authority has the same powers as the Authority to adjourn a sitting.

337 Authority may dismiss frivolous or vexatious appeal

An Authority may at any time dismiss an appeal if it is satisfied that the appeal is frivolous or vexatious.

338 Decision of Authority

(1) Every decision of an Authority must be given in writing, with a statement of the Authority's reasons for the decision.

(2) A copy of the decision must be given to the appellant and to the Comptroller and must be accompanied by a written statement of the provisions of section 340(1).

339 Power to award costs

(1) An Authority may in any proceedings order a party to pay to the other party such costs and expenses (including witnesses' expenses) as it considers reasonable, and may apportion any such costs between the parties or any of them in such manner as it thinks fit.

(2) Where, through failure to prosecute any proceedings at the time fixed for a hearing or to give adequate notice of the abandonment of any proceedings, an Authority considers it proper to do so, the Authority may order the party in default to pay to the Crown such sum for costs as it considers reasonable.

340 Appeals to High Court

(1) Any party who is dissatisfied with a decision of an Authority under this Act as being erroneous in point of law or fact may appeal to the High Court.

(2) Every such appeal must be made by filing a notice of appeal in the High Court within 20 working days after the date of the decision appealed against or within such further time as the High Court may allow.

(3) Where a notice of appeal is filed in accordance with subsection (2), the appellant must also, within the time specified in that subsection, serve a copy of the notice of appeal on the Authority, and except in the case of an appeal by the Comptroller, must give security for the costs of the appeal of such amount and in such form as may be fixed by the Authority.

(4) The appellant must prepare a case setting forth the facts and the questions of law or fact arising for the determination of the High Court and must, within 2 months after the date of the giving by the Authority of his or her decision, submit the case to the Authority.

(5) An Authority may return to an appellant a case submitted to the Authority under subsection (4) or further submitted under this subsection for such amendment as the Authority may direct, and the appellant must further submit the case to the Authority within such time as the Authority may allow.

(6) Where an Authority accepts a case submitted to the Authority under subsection (4) or further submitted under subsection (5) for such amendment as the Authority may direct, and the appellant must further submit the case to the Authority within such time as the Authority may allow.

(7) The appellant must, within 14 days after the date of receipt of the case delivered by the Authority under subsection (6), transmit it to the Registrar of the High Court, and the Registrar must thereupon enter the appeal for hearing at the first practicable sitting of the court.

(8) On the hearing of the appeal the High Court may, if it thinks fit, cause the case so stated to be sent back to the Authority for amendment, and subsections (4), (6), and (7), within any necessary modifications, apply as if the case had been submitted to the Authority under subsection (4).

341 Appeal to Court of Appeal

Any party who is dissatisfied with a decision of the High Court on any case on appeal under section 340 as being erroneous in point of law may appeal to the Court of Appeal.

342 Stating case for High Court

(1) An Authority may at the time, on the application of the appellant or the Comptroller or of its own motion, state a case for the opinion of the High Court on any question of law arising in respect of any appeal before the Authority.

(2) The Authority must give notice to the Comptroller and the appellant of the Authority's intention to state a case under this section specifying the registry of the High Court in which the case is to be filed.

(3) Section 340(4), (5), (6), (7), and (8) apply to a case under this section as if the case were an appeal to the High Court on a question of law in which the party on whose application the Authority intends to state the case, or the Comptroller where the Authority intends to state the case, or the Comptroller where the Authority intends to state the case of its own motion, is the appellant, except that the time for submitting a case to the Authority is within 20 working days after the date of the giving by the Authority of notice under subsection (2), or such further time as the Authority may allow.

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Part 19
Miscellaneous provisions

343 Payments by Comptroller out of public money

Subject to any limitations imposed in regulations made under this Act, the Comptroller may incur expenses without further appropriation than this section to pay—

(a) all lawful refunds of duty:

(b) all lawful drawbacks of duty:

(c) all lawful refunds of administrative penalties under section 161(2).

344 Application of Act to postal articles

(1) Subject to any regulations made under subsection (3), the provisions of this Act apply to postal articles and to goods contained in postal articles in the same manner as those provisions apply to other goods.

(2) In this section—

(a) **postal article** means any letter, parcel, packet, or other article whatever received or transmitted by or through the company and includes any such articles imported by air courier companies:

(b) **company** means a company within the meaning of the Telecommunications Act 1989.

(3) Without limiting the power to make regulations conferred by section 352, the Minister may make regulations for all or any of the following purposes:

(a) providing that any separate postal articles and goods contained in them, whether addressed to the same or to different persons, may be treated for the purposes of this Act as a single postal article consigned to a single person:

(b) prescribing the persons who are to be deemed for the purposes of this Act to be the importers or exporters of such postal articles or goods.

345 Declarations under this Act

(1) Every declaration, including a declaration that is made and transmitted electronically, that is required or authorised by this Act must be made in the prescribed form.

(2) Where any form requires that a declaration must be made before any person, the declaration may be made before a Customs officer, or before a person authorised under the Cook Islands Act 1913.

346 Power of Comptroller to determine seals, stamps, and marks

The Comptroller may, from time to time, determine any seal, stamp or mark for the use of Customs.

347 Information about border crossing craft, persons, and goods

(1) Customs may collect and use the following information about craft, persons, and goods arriving in or departing from the Cook Islands including—

(a) details of craft movements including the craft name, registration number or identifier, estimated date and time of arrival or departure, place of origin and destination, and the details of any movement of goods; and

(b) personal information including the person's name, date of birth, gender, passport number, nationality, travel movements or any other relevant matter.

(2) Customs may collect and use the information in subsection (1) for the purposes of facilitating—

(a) the exercise or performance of powers, functions, or duties under the Act:

(b) the prevention, detection, investigation, prosecution, and punishment of offences that are, or that if committed in the Cook Islands would be, Customs offences of any kind:

(c) the monitoring and processing of border-crossing persons, goods, and craft:

(d) the protection of border security.

348 Supply of information about border-crossing craft, persons, and goods

(1) The Comptroller may supply any information specified in section 347 to an agency, body, or person, whether overseas or otherwise whose functions include—

(a) the prevention, detection, investigation, prosecution, or punishment of offences that are, of that if committed in the Cook Islands would be,—

(i) Customs offences of any kind; or

(ii) other offences punishable by imprisonment; or

(b) the processing of international passengers at the border by public authorities; or

(c) border security; or

(d) the enforcement of a law imposing a pecuniary penalty; or

(e) the protection of the health and safety of members of the public; or

(f) the protection of the public revenue; or

(g) any other purpose as may be prescribed.

(2) The disclosure of information under subsection (1) must be—

(a) in accordance with an agreement between the Comptroller and the agency, body or person concerned, or a person authorised by the agency, body or person concerned to make such agreement, that complies with subsections (3) and (4); or

(b) in accordance with subsection (6).

(3) The Comptroller must not enter into an agreement under subsection (2) unless satisfied that it is justified for 1 or more of the purposes set out in subsection (1).

(4) For the purposes of subsection (2), an agreement—

(a) must be in writing; and

(b) must state criteria for the supply of information under it; and

(c) must state, in respect of information to be disclosed,—

(i) the use that the person may make of it; and

(ii) either—

(A) that the person must not disclose it to any other agency, body, or person; or

(B) the other agencies, bodies, or persons to which the agency, body or person may disclose any

(d) may state—
  (i) the form in which the information may be disclosed; or
  (ii) the method by which the information may be disclosed; and
(e) may be varied from time to time.

(5) This section does not limit the general powers of the Comptroller to enter into agreements not related to the disclosure of information with any agency, body or person.

(6) The Comptroller may disclose information to an agency, body, or person, whether overseas or otherwise, without a written agreement specified in subsection (2)(a) if—
(a) the functions of the agency, body or person include the prevention, detection, investigation, prosecution or punishment of Customs offences of any kind or of other offences punishable by imprisonment; and
(b) the information is disclosed subject to conditions stating—
  (i) the use that the agency, body, or person may make of it; and
  (ii) either—
    (A) that the agency, body or person must not disclose it to any other agency, body, or person; or
    (B) the other agencies, bodies, or persons to which the agency, body, or person may disclose any of it, and the extent to which, and conditions subject to which, the agency, body, or person may do so; and
(c) the Comptroller makes and keeps a record of—
  (i) the information that was disclosed; and
  (ii) the agency, body, or person to which it was disclosed; and
  (iii) the conditions subject to which it was disclosed.

349 Comptroller to give written reasons for decisions open to appeal to Customs Appeal Authority

Without limiting any other obligation imposed on the Comptroller to give notice in writing or to give reasons, in any case where a decision of the Comptroller is open to an appeal to a Customs Appeal Authority, the notice of the decision of the Comptroller must be given without undue delay and must include or be accompanied by a written statement of the reasons for that decision.

[Section 349: Not commenced.]

350 Giving of notice

(1) A notice by the Comptroller or an officer of Customs to a company incorporated in the Cook Islands may be given,—
(a) in the case of a company within the meaning of section 5 of the Companies Act 1970–71, by delivery to a person named as a director in the most recent particulars sent to the Registrar of Companies under that Act; or
(b) in the case of a company within the meaning of section 2 of the Limited Liabilities Companies Act 2008, by delivery to a person named as a manager or a registered agent of the company on the Cook Islands Limited Liability Company register; or
(c) by delivery to an employee of the company at the company's head office or principal place of business; or
(d) by leaving it at the company's registered office; or

(e) by posting it to the company's registered office; or

(f) by sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the company's registered office or its head office or principal place of business; or

(g) where an individual who is a director, or an employee, or an agent of the company is a registered user of a Customs computerised entry processing system and uses the system for the purposes of the business of the company, by transmitting it by electronic means to the registered user at the company's registered office or at its head office or principal place of business or otherwise in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that registered user in respect of the business of the company.

(2) A notice by the Comptroller or an officer of Customs to an overseas company may be given,—

(a) by delivery to a person named in the overseas register as a director of the overseas company and who is resident in the Cook Islands; or

(b) by delivery to a person named in the overseas register as being authorised to accept service in the Cook Islands of documents on behalf of the overseas company; or

(c) by delivery to an employee of the overseas company at the overseas company's place of business in the Cook Islands or, if the overseas company has more than one place of business in the Cook Islands, at the overseas company's principal place of business in the Cook Islands; or

(d) by posting it to the address of the overseas company's principal place of business in the Cook Islands or delivering it to a box at a document exchange which the overseas company is using at the time; or

(e) by sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the principal place of business in the Cook Islands of the overseas company; or

(f) where an individual who is a director, or an employee, or an agent of the overseas company is a registered user of a Customs computerised entry processing system and uses the system for the purposes of the business of the overseas company, by transmitting it by electronic means to the registered user at the principal place of business in the Cook Islands of the overseas company or otherwise in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that registered user in respect of the business of the overseas company.

(3) A notice by the Comptroller or an officer of Customs to a body corporate, other than a company or an overseas company, may be given,—

(a) by delivery to a person who is a principal officer of the body corporate; or

(b) by delivery to an employee of the body corporate at the principal office or principal place of business of the body corporate; or

(c) by posting it to the address of the principal office of the body corporate or delivering it to a box at a document exchange which the body corporate is using at the time; or

(d) by sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the principal office or principal place of business of the body corporate; or

(e) where an individual who is an employee or an agent of the body corporate is a registered user of a Customs computerised entry processing system and uses the system for the purposes of the business of the body corporate, by transmitting it by electronic means to the registered user at the principal office or principal place of business of the body corporate or otherwise in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that registered user in respect of the business of the body corporate.

(4) A notice by the Comptroller or an officer of Customs to an individual including a trustee may be given,—

(a) by delivery to that person; or

(b) by posting it to that person's address or delivering it to a box at a document exchange which that person is using at the time; or

(c) by sending it by facsimile machine to a telephone number used by that person for the transmission of documents by facsimile; or

(d) where the individual is a registered user of a Customs computerised entry processing system, by transmitting it by electronic means to that individual in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that individual.

351 Additional provision relating to notices under this Act

(1) For the purposes of this Act, a notice is deemed to be given when it is deemed to be received in accordance with subsection (2).

(2) For the purposes of this Act,—

(a) a notice posted or delivered to a document exchange is deemed to be received—

(i) in the case of Rarotonga, 5 working days after it is posted; or

(ii) in the case of all other islands, 10 working days after it is posted:

(b) a notice sent by facsimile machine is deemed to have been received on the working day following the day on which it was sent:

(c) a notice transmitted by electronic means is deemed to have been received on the working day following the day on which it was transmitted:

(d) in proving the giving of notice by post, it is sufficient to prove that—

(i) the document was properly addressed; and

(ii) all postal or delivery charges were paid; and

(iii) the document was posted or was delivered to the document exchange:

(e) in proving the giving of notice by facsimile machine, it is sufficient to prove that the document was properly transmitted by facsimile machine to the person concerned:

(f) in proving the transmitting of notice by electronic means, it is sufficient to prove that the notice was properly transmitted by electronic means in accordance with the normal operating procedure of the relevant Customs computerised entry processing system.

(3) A notice is not to be deemed to have been given to a person if the person proves that, through no fault on the person's part, the notice was not received within the time specified or was not received at all.

[The next page is 909,751]

352 Regulations

(1) The Minister, in consultation with the Comptroller, may from time to time make regulations for 1 or more of the following purposes:

(a) prescribing purposes in respect of which areas used for those purposes are required to be licensed as Customs controlled areas; and prescribing areas that are exempted from the requirement in section 13 to be licensed as a Customs controlled area:

(b) prescribing the form and content of, and the procedure to be followed in making, an application for an area to be licensed as a Customs controlled area:

(c) prescribing the circumstances in which and the period or periods of time for which no charges may be made by the licensee of a Customs controlled area for the reception or storage of imported goods:

(d) prescribing the content of the notice required to be given to Customs by the person in charge of a craft under section 24, and prescribing the period of advance notice required to be given for the purposes of that section:

(e) prescribing the time within which inward reports must be delivered under this Act:

(f) prescribing the persons or classes of persons who are exempted from the requirements of sections 31, 32, 33, and 35:

(g) prescribing the craft or classes of craft that are exempt from the application of section 39 or 43:

(h) prescribing the form and content of outward reports required by section 40 and the manner in which, and time within which, those reports must be delivered to Customs:

(i) prescribing, for the purposes of paragraph (e) of the definition of person concerned in the movement of goods, persons, or craft in section 45, persons, or classes of persons, involved in the carriage, handling, or transportation of goods, or persons, or both, from the Cook Islands to a point outside the Cook Islands or from a point outside the Cook Islands to the Cook Islands, for commercial purposes:

(j) prescribing the form and manner in which Customs must be given access to information under section 48 or 49 or both:

(k) prescribing the time within which goods to which section 62 applies must be entered:

(l) prescribing the time within which goods must be claimed for the purposes of section 62(4)(b):

(m) prescribing the circumstances in which goods subject to the control of Customs may be unloaded:

(n) prescribing the time within which goods to which section 73(1) applies must be entered:

(o) prescribing the method by which the Comptroller must notify the rates of exchange, of foreign currency to the currency in use in the Cook Islands:

(p) prescribing the time within which goods to which section 106 applies must be entered, the time within which excise duty owing must be paid, and the manner in which the volume of alcohol is to be specified on entry:

(q) prescribing the manner in which volume of alcohol in an alcoholic beverage must be specified on entry:

(r) prescribing the records that are required to be kept for the purposes of section 129 by each category or subcategory of persons described in subsection (1) of that section, and the period of time, not exceeding 7 years, for which the records are required to be kept:

(s) prescribing the form and manner in which Customs must be given access to information under section 130:

(t) prescribing exceptions, restrictions, or conditions to which the Comptroller's power to refund or remit duty is subject:

(u) prescribing the nature or value of sample goods that may be delivered free of duty and the conditions subject to which sample goods may be delivered free of duty:

(v) prescribing the conditions subject to which a person may be released from a security given for the payment of duty on goods temporarily imported:

(w) prescribing the conditions subject to which drawbacks of duty may be allowed, and the amounts of drawback that may be allowed:

(x) prescribing the times within which Customs rulings must be made by the Comptroller, which time must, in the case of a ruling described in section 151(1)(c), not exceed 150 days after the requirements specified in section 152(2) have been met:

(y) providing the manner of taking, use, and disposal of samples of goods taken by Customs officers for the purpose of section 193:

(z) prescribing the kinds of securities that may be taken under section 198:

(aa) prescribing the form of application for registration as a user of a Customs computerised entry processing system, and the information to be provided by the applicant:

(bb) prescribing, for the purposes of section 168(1)(d), 1 or more other grounds on which a registered user may be considered unfit to continue to be a registered user:

(cc) prescribing the period for which records of transmissions to or from a Customs computerised entry processing system must be kept by Customs:

(dd) prescribing the documents that a Customs officer may require and the form of declaration to be completed under section 181(2):

(ee) prescribing the form and content of the written report required by section 221(8):

(ff) prescribing the procedure to be followed in the making of applications to Customs Appeal Authorities and in the conduct of appeals by Customs Appeal Authorities:

(gg) making any provision which may be necessary or desirable to enable Customs Appeal Authorities to publish their decisions:

(hh) prescribing the manner by which the Comptroller may exercise any power to sell goods under this Act, and the manner (including the order of priority) in which the proceeds of sale must be dispersed:

(ii) prescribing the working hours of Customs, and providing for the fixing by the Comptroller of particular working hours in respect of any particular place:

(jj) prescribing the form:

(kk) prescribing offences in respect of the contravention of, or non-compliance with, any regulations made under this Act; and prescribing the fines, not exceeding $1,000 that may be imposed in respect of any such offence:

(ll) conferring or providing for exemptions from any provision of any regulation made under this Act:

(mm) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(2) Without limiting subsection (1)(a), any regulations made under that provision prescribing areas used for the manufacture or processing of goods that are exempted from the requirement of section 13 to be licensed as a Customs controlled area may impose conditions—

(a) as to the manner of the goods being manufactured or processed:

(b) as to the source of the product being manufactured or processed:

(c) limiting the use that may be made of the goods (for example, permitting personal use only):

(d) limiting the age of any person involved in the manufacture or use of the goods:

(e) limiting the quantity of goods that may be produced by any measure or other form of description.

(3) Different dates for the payment of excise duty may be prescribed in accordance with subsection (1)(p) in respect of different classes of goods subject to excise duty, or different classes of persons, or on any other differential basis.

353 Incorporation of provisions by reference in regulations

(1) Regulations made under this Act (for example, regulations made under section 99) may incorporate by reference any provisions set out in,—

(a) an international trade agreement to which the Cook Islands is a party (for example, a free trade agreement); or

(b) another document made to give effect to such an agreement.

(2) The provisions may be incorporated in the regulations,—

(a) in whole or in part; and

(b) with modifications, additions, or variations specified in the regulations.

(3) The incorporated provisions,—

(a) are the provisions as they exist at the time that the regulations are made; and

(b) form part of the regulations for all purposes and have legal effect accordingly.

354 Effect of amendments to, or replacement of, provisions incorporated by reference

An amendment to, or replacement of, provisions incorporated under section 353 has legal effect as part of the regulations only if regulations are made that state that the particular amendment or replacement has that effect.

355 Proof of provisions incorporated by reference

(1) A copy of the provisions incorporated under section 353, including any amendment to, or replacement of, the provisions, must be,—

(a) certified as a correct copy of the provisions by the Comptroller; and

(b) retained by the Comptroller.

(2) The production in proceedings of a certified copy of the provisions is, in the absence of proof to the contrary, sufficient evidence of the incorporation in the regulations of the provisions.

356 Access to provisions incorporated by reference

(1) The Comptroller must—

(a) ensure that copies of any provisions incorporated under section 353 are available for inspection during working hours, free of charge, at places specified in a notice given under paragraph (d); and

(b) ensure that copies of the provisions are published on an Internet site that is, so far as practicable, publicly available free of charge; and

(c) ensure that copies of the provisions are available for purchase at a reasonable price at places specified in a notice given under paragraph (d); and

(d) give notice by public notice stating that—

(i) the provisions are incorporated in particular regulations and the date on which the regulations were made; and

(ii) copies of the provisions are available (at all reasonable times) for inspection during working hours, free of charge, at specified places; and

(iii) copies of the provisions are available on a specified Internet site; and

(iv) copies of the provisions can be purchased at specified places.

(2) A failure to comply with this section does not invalidate regulations that incorporate provisions under section 351.

357 Regulations Act 1970–71 not applicable to provisions incorporated by reference

The Regulations Act 1970–71 does not apply to provisions incorporated under section 353 or to an amendment to, or replacement of, those provisions.

358 Regulations for fees, charges, and expenses

(1) Without limiting the power to make regulations conferred by any other section of this Act, but subject to the provisions of this Act, the Minister, in consultation with the Comptroller, may from time to time make regulations—

(a) prescribing the amounts of fees and charges payable under this Act or the method by which they are to be assessed and the persons liable for payment of the fees and charges:

(b) prescribing a rate or rates of charges for the attendance of Customs officers for the purposes of this Act:

(c) providing for the liability of any person to pay any actual and reasonable expenses incurred by any Customs officer in respect of any attendance by that officer for the purposes of this Act:

(d) prescribing the person or persons or classes of persons by whom the charges or expenses referred to in paragraphs (b) and (c) must be paid, or authorising the Comptroller to determine the person by whom they must be paid.

(2) Different rates of fees or charges, or both, may be prescribed in accordance with subsection (1)(a) in respect of different classes of person, or different types of Customs controlled areas, or on any other differential basis.

(3) Different rates of charges may be prescribed in accordance with subsection (1)(b) in respect of attendances during the working hours of Customs or attendees outside the working hours of Customs, or on any other differential basis.

(4) Any regulation made under subsection (1) may—
- (a) prescribe the circumstances in which any fee, charge or expense may be refunded, remitted or waived, in whole or in part;
- (b) fix a date by which any fee or charge is to be paid.

359 Comptroller may make rules for certain purposes

(1) The Comptroller may from time to time make rules for 1 or more of the following purposes:
- (a) prescribing the form and content of, and the particulars to be verified by declaration in, inward reports required to be delivered under this Act and the manner in which those reports must be delivered to Customs:
- (b) prescribing the form, or forms, of certificates of clearance to be issued under this Act:
- (c) prescribing the form and manner in which goods to which section 62 applies must be entered, and the particulars to be provided in the entry, and the form of any declaration to be made in the entry:
- (d) prescribing the form and manner in which goods to which section 73 applies must be entered, and the particulars to be provided in the entry, and the form of any declaration to be made in the entry:
- (e) prescribing the form and manner in which goods to which section 106 applies must be entered, and the particulars to be provided in the entry, and the form of any declaration to be made in the entry:
- (f) prescribing the manner in which the volume of alcohol in an alcoholic beverage is to be ascertained for the purposes of this Act:
- (g) prescribing the form of application for a Customs ruling:
- (h) prescribing the form and manner in which, and the time within which, the following goods must be reported to Customs:
  - (i) goods exempted from the requirements of section 62 by regulations made under section 63(c):
  - (ii) goods deemed to be entered for the purposes of section 62 by regulations made under section 63(d):
  - (iii) goods exempted from the requirements of section 73 by regulations made under section 74(a):
  - (iv) goods deemed to be entered for the purposes of section 73 by regulations made under section 74(b).

(2) The power to prescribe forms under this section includes the power to prescribe electronic message formats to be used for the electronic transmission of data to or between computers.

(3) Every rule made under this section must be signed by the Comptroller.

(4) The power of the Comptroller to make rules under this section must not be delegated to any other person.

(5) The Comptroller must publish any rule or amendments to any rule made under subsection (1)(a), (b), (c), (d), (e), (f), (g), or (h) prior to effecting it.

(6) The Comptroller may, from time to time, amend or revoke any rules made under subsection (1), and the provisions of this section, with all necessary modifications, apply in respect of any such amendment or revocation.

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360 Use of reasonable force must be reported

A Customs officer must, within 5 working days of using reasonable force under any provision of this Act, give the Comptroller a written report on—

(a) the use of the force; and

(b) the circumstances in which it was used.

361 Disclosure of information overseas

(1) The Comptroller may disclose any information specified in section 362(1) to an overseas agency, body, or person, whose functions include—

(a) the prevention, detection, investigation, prosecution, or punishment of offences that are, or that if committed in the Cook Islands would be,—

(i) Customs offences of any kind; or

(ii) other offences punishable by imprisonment; or

(b) the processing of international passengers at the border by public authorities; or

(c) border security; or

(d) the enforcement of a law imposing a pecuniary penalty; or

(e) the protection of public revenue.

(2) The disclosure of information under subsection (1) must be—

(a) in accordance with an agreement between the Comptroller and the agency, body, or person concerned that complies with subsections (3) and (4); or

(b) in accordance with subsection (6).

(3) The Comptroller must not enter into an agreement for the purpose of subsection (2)(a) unless satisfied that it is justified to help prevent, identify, or respond to violations of Cook Islands law or,—

(a) in the case of an agreement with an international agency or body, to help prevent, identify, or respond to actions of a kind whose prevention or identification, or responding to which, is among the functions of the agency or body;

(b) in any other case, to help prevent, identify, or respond to violations of the law of the Crown concerned.

(4) For the purposes of subsection (2)(a), an agreement—

(a) must be in writing; and

(b) must state criteria for the disclosure of information under it; and

(c) must state, in respect of information to be disclosed,—

(i) the use that the agency, body, or person may make of it; and

(ii) either—

(A) that the agency, body, or person must not disclose it to any other agency, body, or person; or

(B) the other agencies, bodies, or persons to which the agency, body, or person may disclose any of it, and the extent to which, and conditions subject to which, the agency, body, or person may do so; and

(d) may state—

(i) the form in which the information may be disclosed; and

(ii) the method by which the information may be disclosed; and

(e) may be varied from time to time.

(5) This section does not limit the general powers of the Comptroller to enter into agreements not related to the disclosure of information with any overseas agency, body, or person.

(6) The Comptroller may disclose information to an overseas agency, body, or person without a written agreement specified in subsection (2)(a) if—

(a) the functions of the agency, body, or person include the prevention, detection, investigation, prosecution, or punishment of Customs offences of any kind or of other offences punishable by imprisonment; and

(b) the information is disclosed subject to conditions stating—

(i) the use that the agency, body, or person may make of it, and

(ii) either—

(A) that the agency, body, or person must not disclose it to any other agency, body, or person; or

(B) the other agencies, bodies, or persons to which the agency, body, or person may disclose any of it, and the extent to which, and conditions subject to which, the agency, body, or person may do so; and

(c) the Comptroller makes and keeps a record of—

(i) the information that was disclosed; and

(ii) the agency, body, or person to which it was disclosed; and

(iii) the conditions subject to which it was disclosed.

(7) If, before the commencement of this section, the Government of the Cook Islands or Comptroller has entered into any agreement or arrangement with any overseas agency, body, or person and that agreement or arrangement could have been made or entered into under this section, the agreement or arrangement continues and has effect as if it had been made or entered into under this section. This subsection prevails over subsection (4).

(8) The Comptroller must not disclose any information under subsection (6) unless satisfied that it relates to a suspected violation of Cook Islands law or,—

(a) in the case of disclosure to an international agency or body, to a suspected action of a kind whose prevention or identification, or responding to which, is among the functions of the agency or body:

(b) in any other case, to a suspected violation of the law of the State concerned.

362 Information that may be disclosed

(1) The information that may be disclosed under section 361 is—

(a) airline passenger and crew lists:

(b) craft movements (which may include passenger and crew lists):

(c) past travel movements of specified people:

(d) previous convictions of specified people:

(e) general history of specified people (which may include associates and networks):

(f) modus operandi of specified people:

(g) known currency and other financial transactions of relevant interest, including involvement in money laundering:

(h) intelligence analysis assessments and reports:

(i) details of mail interceptions:

(j) personal identification details (which may include photographs, distinguishing features, and details of identity or travel documents):

(k) names and details of Customs personnel, freight forwarding and transport personnel, and personnel in the trade and travel business:

(l) details of known or suspected involvement of persons in illicit activities.

(2) Section 361 does not prevent or limit any disclosure of information otherwise than under that section that may be required or authorised by or under law, or any treaty, agreement, or arrangement concluded by the Government of the Cook Islands.

363 Customs may for certain purposes collect, use, or disclose certain information

(1) This section applies to information viewed by the Customs under section 51 or 55, and to information to which the Customs is given access under section 130.

(2) The Customs may collect, use, or disclose the information for any of the following purposes—

(a) exercising or performing a power, function, or duty under this Act:

(b) the prevention, detection, investigation, prosecution, and punishment of offences that are, or that if committed in the Cook Islands would be,—

(i) Customs offences of any kind; or

(ii) other offences punishable by imprisonment:

(c) the processing of international passengers at the border by public authorities:

(d) the protection of border security:

(e) the protection of the health and safety of members of the public.

(3) To avoid doubt, if the information is personal information and is disclosed by the Customs to an agency, body, or person under subsection (2) and for a purpose specified in that subsection, then the agency, body, or person—

(a) is authorised by this section to obtain and collect that information for that purpose; but

(b) may keep, use, or disclose that information only (to another enforcement agency with the approval of Customs).

(4) Section 361 applies, with all necessary modifications, to the disclosure of the information to an overseas agency, body, or person whose functions include—

(a) the prevention, detection, investigation, prosecution, and punishment of offences that are, or that if committed in the Cook Islands would be,—

(i) Customs offences of any kind; or

(ii) other offences punishable by imprisonment; or

(b) the processing of international passengers at the border by public authorities; or

(c) border security; or

(d) the protection of the health and safety of members of the public.

(5) Nothing in this section limits section 56 or 59.

Validations and savings

364 Acts and regulations amended

(1) The Acts specified in Schedule 4 are amended in the manner indicated in that schedule.

(2) The regulations specified in Schedule 5 are amended in the manner indicated in that schedule.

365 Repeals and revocations

(1) The enactments specified in Schedule 6 are repealed.

(2) The regulations, orders, and notices specified in Schedule 7 are revoked.

366 Validation of Acts under Inter-Governmental Agreements relating to Customs duties suspensions

Any Act done under and in accordance with any Inter-Governmental Agreement relating to Customs duties suspensions before the commencement of this section is declared to be and to always have been validly done.

367 Savings for proceedings and other matters

(1) The repeal of the Customs Act 1913 by section 365(1) does not affect any—

(a) civil proceedings commenced in the High Court of the Cook Islands before the commencement of this section; or

(b) administrative decisions or tariff classification opinions given by the Collector of Customs or the Comptroller of Customs under the Customs Act 1913; or

(c) right or proceedings relating to a refund, remission or drawback of duty under the Customs Act 1913 existing before the commencement of this section; or

(d) application made under the provisions of the Customs Act 1913 for waiver of any forfeiture; or

(e) condemnation of goods in accordance with the provisions of the Customs Act 1913.

(2) For the purposes of subsection (1), the provisions of the Customs Act 1913 to which that provision relates continue in force as if that Act had not been repealed.

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Transitional provisions

368 Transitional provisions relating to terminology

(1) Subject to any other provisions of this Act, and unless the context otherwise requires, every reference in any enactment, regulation, rule, order, or in any document in force or existing immediately before the commencement of this section to the Customs Department must, on and after the commencement of this section, be read as a reference to the Cook Islands Customs Service established by this Act.

(2) Subject to any other provisions of this Act, and unless the context otherwise requires, every reference in any enactment, regulation, rule, order, or in any document in force or existing immediately before the commencement of this section to an officer of Customs must, on and after the commencement of this section, be read as a reference to a Customs officer appointed under this Act.

(3) Subject to any other provisions of this Act, and unless the context otherwise requires, every reference in any enactment, regulation, rule, order, or in any document in force or existing immediately before the commencement of this section to the Comptroller of Customs must, on and after the commencement of this section, also be read as a reference to the Comptroller of the Cook Islands Customs Service.

(4) On and after the commencement of this section,—

(a) all proceedings that were pending by or against the Customs Department immediately before the commencement of this section may be carried on, completed, or enforced by or against the Cook Islands Customs Service; and

(b) all rights and obligations of the Customs Department existing immediately before the commencement of this section become the rights and obligations of the Cook Islands Customs Service.

369 Transitional provision concerning assessment and payment of duty

The provisions of the Customs Act 1913 and all regulations, Orders in Council, warrants, and acts of authority under that Act continue in force and apply to—

(a) the payment of duty payable before the commencement of this section; and

(b) the assessment and payment of duty assessable before the commencement of this section—

as if this Act had not been passed.

370 Examination place deemed to be Customs controlled area

Any place that was, immediately before the commencement of this section, an examination place appointed by the Comptroller of Customs in accordance with section 20 of the Customs Act 1913 are deemed for the purposes of this Act to be a Customs controlled area licensed under section 15 for the purposes described in section 13(d) and (e).

371 Sufferance wharf and wharf deemed to be Customs controlled area

Any place that was, immediately before the commencement of this section, a sufferance wharf appointed by the Comptroller of Customs under the Customs Act 1913, is deemed for the purposes of this Act to be a Customs controlled area licensed under section 15 for the purposes described in section 13(d) and (e).

372 Staff accommodation, facilities, and transitional buildings deemed to be Customs controlled area

(1) Any place that was, immediately before the commencement of this section,—

(a) staff accommodation or facilities directed by the Minister of Customs to be for the exclusive use of officers of Customs under the Customs Act 1913; or

(b) a transit building declared by the Minister of Customs to be required under the Customs Act 1913 is deemed for the purposes of this Act to be a Customs controlled area licensed under section 15 of this Act for the purposes described in section 13(d) and (e).

(2) Where any area in any place referred to in subsection (1)(a) was, immediately before the commencement of this section, entitled to be exempt from charges under the Customs Act 1913, that area continues to be exempt from those charges until an application in respect of that area has been made in accordance with section 376 and dealt with in accordance with this Act.

373 Export warehouse deemed to be Customs controlled area

Any place that was, immediately before the commencement of this section, an export warehouse licensed under the Customs Act 1913 is deemed for the purposes of this Act to be a Customs controlled area licensed under section 15 for the purpose described in section 13(b).

374 Manufacturing area deemed to be Customs controlled area

Any place that was, immediately before the commencement of this section, a manufacturing area licensed under the Customs Act 1913 is deemed for the purposes of this Act to be a Customs controlled area licensed under section 15 for the purpose described in section 13(a).

375 Transitional provision relating to conditions of appointment or licence

Any specification, limitation, condition, or restriction that, immediately before the commencement of this section, applied under the Customs Act 1913 to any examination place, wharf, sufferance wharf, export warehouse, or manufacturing area continues to apply despite the passing of this Act until an application in respect of that area has been made in accordance with section 376 and dealt with in accordance with this Act.

376 Application for licence as Customs controlled area to be made within 40 working days

Not later than 40 working days after the commencement of this section the owner or occupier of or person operating in any area to which sections 370 to 374 apply must make an application in accordance with section 14 for the area to be licensed as a Customs controlled area and all the provisions of this Act apply to that application.

377 Transitional status to continue until application made and disposed of

(1) Subject to subsection (2), an area that is deemed to be a Customs controlled area under any of sections 370 to 374 continues to be a Customs controlled area until an application in respect of that area has been made in accordance with section 376 and dealt with in accordance with this Act.

(2) Where, at the expiry of the period specified in section 376, no application has been made in accordance with that section in respect of an area to which any of sections 370 to 374 apply, that area ceases to be a Customs controlled area.

378 Transitional provision relating to persons approved to defer payment of duty

(1) Subject to subsection (2), every person who, immediately before the commencement of this section, was approved under the Customs Act 1913 to defer the payment of duty is deemed to be an approved person for the purposes of section 121(6).

(2) As soon as practicable after the commencement of this section the Comptroller must issue to the person referred to in subsection (1) a notice under this Act specifying the terms and conditions applicable for the deferment of duty in place of the conditions imposed under the Customs Act 1913.

(3) Despite the provisions of subsection (2), the Comptroller may vary or cancel any approval to which subsection (1) applies, or may vary or cancel any term or condition affecting the approval.

379 Transitional provision relating to businesses not required to be licensed

(1) Where, immediately before the commencement of this section, a person carrying on business as a manufacturer of goods specified in the Excise Order was, under a direction given by the Minister of Customs under the Customs Act 1913, not required to be licensed, the area in which that person carries on the business is deemed to be an area in respect of which the Comptroller has given a direction under section 15(4).

(2) A direction of the Comptroller deemed to be given under subsection (1) is deemed to be given in respect of the part of the business and the areas specified in the direction given by the Minister under the Customs Act 1913.

(3) Not later than 40 working days after the commencement of this section, a person to whom this section applies must make an application under this Act for the area in which the person carries on business as described in subsection (1) to be licensed as a Customs controlled area, and all the provisions of this Act apply to that application.

(4) An area described in subsection (1) continues to be deemed to be an area in respect of which the Comptroller has given a direction under section 15(4) until an application in respect of that area has been made in accordance with subsection (3) and dealt with in accordance with this Act.

(5) Where, at the expiry of the period specified in subsection (3), no application has been made in accordance with that subsection, that area ceases to be an area in respect of which the Comptroller has given a direction under section 15(4).

380 Transitional provisions relating to any civil or criminal investigations under Customs Act 1913

(1) A person who may exercise a power under any of sections 180, 194, 202, 203, 207, 208, 215, and 221 for the purpose of investigating offences suspected of having been committed against this Act may also exercise that power in accordance with this Act for the purpose of investigating offences suspected of having been committed against the Customs Act 1913.

(2) For the purposes of subsection (1), a reference to this Act—

(a) in relation to any offence in sections 194(1), 207(1), 208(1), and 215(1):
(b) in relation to goods in section 202(1):
(c) in relation to a thing in section 215(1)(c),—

is taken to include a reference to the Customs Act 1913.

(3) After exercising, by virtue of subsection (1), any power under this Act in relation to a suspected offence against the Customs Act 1913, the Comptroller or a Customs officer, as the case may be, must not exercise any corresponding power under the Customs Act 1913 in relation to that suspected offence.

(4) Nothing in this section limits or affects the application of section 20(h) of the Acts Interpretation Act 1924 in relation to the prosecution of offences against the Customs Act 1913.

381 Transitional Orders in Council

(1) The Queen's Representative, by Order in Executive Council, may from time to time prescribe transitional and savings provisions concerning the coming into force of this Act, which may be in addition to or in place of transitional and savings provisions of this Part.

(2) This section expires 2 years after the commencement of this section.

382 References to Customs Act 1913

A reference in any enactment or document in force at the commencement of this Act to a provision of the Customs Act 1913 must, unless the context otherwise requires, be read and construed as a reference to the corresponding provision of the Customs Revenue and Border Protection Act 2012.

[The next page is 909,951]

Schedule 1

s 90(1)

Prohibited imports

False or counterfeit coin or banknotes; and any coin that is not of the established standard in weight or composition; and any coin or banknotes that are intended for circulation in the Cook Islands and are not legal tender in the Cook Islands.

Goods manufactured or produced wholly or in part by prison labour, or within or in connection with any prison, jail, or penitentiary, excluding a bona fide gift made by a prisoner for the personal use of a private individual, also goods similar in character to those manufactured or produced in such institutions when sold or offered for sale by any person, firm, or corporation having a contract for the manufacture or production of such articles in such institutions, or by an agent of such person, firm, or corporation, or when originally purchased from or transferred by any such contractor.

[The next page is 910,201]

Schedule 2

ss 94, 95

Valuation of goods for purposes of Tariff

1 Interpretation

(1) In this Schedule,—

computed value means the value determined in accordance with clause 7

country of export, or **the country from which any goods are exported**, means the country from which the goods are shipped directly to the Cook Islands, or, as the case may be, the country from which the goods are deemed to be shipped under this Act

deductive value means the value determined in accordance with clause 6

goods of the same class or kind, means imported goods that—

(a) are within a group or range of imported goods produced by a particular industry or industry sector that includes identical goods or similar goods in relation to the goods being valued; and

(b) for the purposes of—

(i) clause 6, were exported from any country; and

(ii) clause 7, were produced in and exported from the country in and from which the goods being valued were produced and exporte

identical goods means imported goods that—

(a) are the same in all respects, including physical characteristics, quality, and reputation, as the goods being valued, except for minor differences in appearance that do not affect the value of the goods; and

(b) were produced in the country in which the goods being valued were produced; and

(c) were produced by or on behalf of the person who produced the goods being valued,—

but does not include imported goods where engineering, development work, artwork, designwork, plans, or sketches undertaken in the Cook Islands were supplied, directly or indirectly, by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods

price paid or payable, in relation to any goods, means the aggregate of all amounts paid or payable by the buyer to or for the benefit of the seller in respect of the goods

to produce includes to grow, to manufacture, and to mine

similar goods means imported goods that—

(a) closely resemble the goods being valued in respect of component materials and parts and characteristics and are functionally and commercially interchangeable with the goods being valued having regard to the quality and reputation of the goods and the goods being valued; and

(b) were produced in the country in which the goods being valued were produced; and

(c) were produced by or on behalf of the person who produced the goods being valued,—

but does not include imported goods where engineering, development work, artwork, design work, plans, or sketches undertaken in the Cook Islands were supplied, directly or indirectly, by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods

sufficient information, in respect of the determination of any amount, difference, or adjustment, means objective and quantifiable information that clearly establishes the accuracy of the amount, difference, or adjustment

transaction value means the value determined in accordance with clauses 2 and 3.

(2) For the purposes of this Schedule, persons are deemed to be related only if—

(a) they are officers or directors of one another's business; or

(b) they are legally recognised partners in business; or

(c) they are employer and employee; or

(d) any person directly or indirectly owns, controls, or holds 5% or more of the outstanding voting stock or shares of both of them; or

(e) one of them directly or indirectly controls the other; or

(f) both of them are directly or indirectly controlled by a third person; or

(g) together they directly or indirectly control a third person; or

(h) they are members of the same family.

(3) For the purposes of this Schedule, persons are deemed to be members of the same family if—

(a) they are connected by blood relationship within the fourth degree of relationship; or

(b) they are married to, or in a civil union or a *de facto* relationship with, one another or if one is married to, or in a civil union or a *de facto* relationship with, a person who is within the fourth degree of relationship to the other; or

(c) one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other.

(4) For the purposes of this Schedule, where there are no goods that were produced by or on behalf of the person who produced the goods being valued and that are otherwise identical goods or similar goods, goods that were produced by or on behalf of a different person and that are otherwise identical goods or similar goods are deemed to be identical goods or similar goods, as the case may be.

(5) For the purposes of this Schedule, charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods must not be regarded as part of the Customs value in any case where—

(a) the charges are distinguished from the price actually paid or payable for the goods; and

(b) such goods are actually sold at the price declared as the price actually paid or payable; and

(c) the buyer, if required, can demonstrate that—

(i) the financing arrangement was made in writing; or

(ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided.

2 Transaction value as primary basis of valuation

(1) The Customs value of imported goods must be their transaction value, that is, the price paid or payable for the goods when sold for export to the Cook Islands, adjusted in accordance with clause 3, if—

(a) there are no restrictions respecting the disposition or use of the goods by the buyer, other than restrictions that—

(i) are imposed by law; or

(ii) limit the geographical area in which the goods may be resold; or

(iii) do not substantially affect the value of the goods; or

(b) the sale of the goods or the price paid or payable for the goods is not subject to some condition or consideration in respect of which a value cannot be determined; or

(c) where any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer is to accrue, directly or indirectly, to the seller, the price paid or payable for the goods includes the value of that part of the proceeds or can be adjusted in accordance with clause 3; or

(d) the buyer and seller of the goods are not related at the time the goods are sold for export or, where the buyer and seller are related at that time,—

(i) their relationship did not influence the price paid or payable for the goods; or

(ii) the importer demonstrates that the transaction value of the goods meets the requirements set out in subclause (2).

(2) In a sale between related persons, fur the purpose of showing that the relationship did not influence the transaction value, the importer must produce evidence that the transaction value of the goods being valued, taking into consideration any relevant factors including such factors and differences as may be prescribed, closely approximates the Customs value of other goods exported at the time or substantially at the same time as the goods being valued, being—

(a) the transaction value of identical goods or similar goods in respect of a sale of those goods for export to the Cook Islands between a seller and buyer who are not related at the time of the sale; or

(b) the deductive value of identical or similar goods determined in accordance with clause 6; or

(c) the computed value of identical or similar goods determined in accordance with clause 7.

(3) In any case where the Comptroller is of the opinion that the relationship between the buyer and seller of any goods influenced the price paid or payable for the goods, the Comptroller must inform the importer, in writing if so requested, of the grounds on which the Comptroller formed that opinion, and must give the importer a reasonable opportunity to satisfy the Comptroller that the relationship did not influence the price.

(4) Where subclause (2) applies, the importer must, without limiting the generality of subclause (2), provide the following information:

(a) the nature of the goods being valued:

(b) the nature of the industry that produces the goods being valued:

(c) the season in which the goods being valued are imported:

(d) whether a difference in values is commercially significant:
(e) the trade levels at which the sales take place:
(f) the quantity levels of the sales:
(g) any of the amounts referred to in clause 3:
(h) the costs, charges, or expenses incurred by a seller when the seller sells to a buyer to whom the seller is not related that are not incurred when the seller sells to a buyer to whom the seller is related.

(5) Where,—

(a) in the opinion of the Comptroller, the Customs value cannot be determined under this clause; or
(b) the Comptroller has reason to doubt the truth or accuracy of the declared Customs value and, after having sought further explanation or other evidence that the declared Customs value represents the total amount actually paid or payable for the imported goods, the Comptroller is still not satisfied that the Customs value can be determined under this clause—

the Comptroller may determine the Customs value of the goods by proceeding sequentially through clauses 4 to 8 to the first such clause of this Schedule under which the Customs value can, in the opinion of the Comptroller, be determined.

(6) Despite subclause (5), on the written request of the importer to the Comptroller, the order of consideration of the valuation basis provided for in clauses 6 and 7 must be reversed.

3 Adjustment of price paid or payable

(1) In determining the transaction value of goods under clause 2, the price paid or payable for the goods must be adjusted—

(a) by adding thereto amounts, to the extent that each such amount is not otherwise included in the price paid or payable for the goods and is determined on the basis of sufficient information, equal to—

(i) commissions and brokerage in respect of the goods incurred by the buyer, other than fees paid or payable by the buyer to the buyer's agent for the service of representing the buyer overseas in respect of the purchase of the goods; and
(ii) the packing costs and charges incurred by the buyer in respect of the goods, including the cost of cartons, cases, and other containers and coverings that are treated for Customs purposes as being part of the imported goods and all expenses of packing incidental to placing the goods in the condition in which they are shipped to the Cook Islands; and
(iii) the value of any of the following goods and services:

(A) materials, component parts, and other goods incorporated in the imported goods:
(B) tools, dies, moulds, and other goods utilized in the production of the imported goods:
(C) materials consumed in the production of the imported goods:
(D) engineering, development work, artwork, designwork, plans, and sketches undertaken elsewhere than in the Cook Islands and necessary for the production of the imported goods,—

determined in accordance with subclause (2), that are supplied, directly or indirectly, by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods, apportioned to the imported goods in a reasonable manner and in accordance with generally accepted accounting principles; and

(iv) royalties and licence fees, including payments for patents, trademarks, and copyrights in respect of the imported goods that the buyer must pay, directly or indirectly, as a condition of the sale of the goods for export to the Cook Islands, exclusive of charges for the right to reproduce the imported goods in the Cook Islands; and

(v) the value of any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer that accrues or is to accrue, directly or indirectly, to the seller; and

(vi) the value of any materials, component parts, and other goods incorporated in the imported goods for the purpose of repair to, or refurbishment of, those goods prior to export of the goods to the Cook Islands, and the price paid for the service of repair or refurbishment, as the case may be; and

(vii) the costs of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of, the imported goods until the goods have left the country of export if such costs, charges, and expenses are paid or payable by the buyer, directly or indirectly, to or for the benefit of the seller as a condition of the transaction:

(b) by deducting therefrom amounts, to the extent that each such amount is otherwise included in the price paid or payable for the goods, equal to—

(i) the costs of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of, the imported goods from the time the goods have left the country of export, other than any cost, charge, or expense referred to in subparagraph (ii)(B); and

(ii) any of the following costs, charges, or expenses:

(A) any reasonable cost, charge, or expense that is incurred for the construction, erection, assembly, or maintenance of, or technical assistance provided in respect of, the goods after the goods are imported:

(B) any reasonable cost, charge, or expense that is incurred in respect of the transportation or insurance of the goods within the Cook Islands and any reasonable cost, charge, or expense associated therewith:

(C) any Customs duties or other taxes payable in the Cook Islands by reason of the importation or sale of the goods,—

if the cost, charge, or expense is identified separately from the balance of the price paid or payable for the goods:

(c) in respect of carrier media bearing data or instructions, by deducting the value of the data or instructions from the price paid or payable for the goods if—

(i) the value of the data or instructions is distinguished from the cost or value of the carrier media; and

(ii) the data or instructions are not incorporated in data processing equipment.

(2) The value of the goods and services described in subclause (1)(a)(iii) must be determined—

(a) in the case of materials, components, parts and other goods incorporated in the goods being valued or any materials consumed in the production of the goods being valued—

(i) by ascertaining—

(A) their cost of acquisition where they were acquired by the buyer from a person who was not related to the buyer at the time of their acquisition; or

(B) their cost of acquisition incurred by the person related to the buyer, where the goods were acquired by the buyer from a person who was related to the buyer at the time of their acquisition but who did not produce them; or

(C) their cost of production where they were produced by the buyer or a person related to the buyer at the time of their production; and

(ii) by adding thereto—

(A) the cost of their transportation to the place of production of the goods being valued; and

(B) the value added to them by any repairs or modifications made to them after they were so acquired or produced:

(b) in the case of tools, dies, moulds, and other goods, utilised in the production of the goods being valued—

(i) by ascertaining—

(A) their cost of acquisition where they were acquired by the buyer from a person who was not related to the buyer at the time they were so acquired; or

(B) their cost of acquisition incurred by the person related to the buyer, where they were acquired by the buyer from a person related to the buyer at the time they were so acquired but who did not produce them; or

(C) their cost of production where they were produced by the buyer or a person related to the buyer at the time of their production; and

(ii) by adding thereto—

(A) the cost of their transportation to the place of production of the goods being valued; and

(B) the value added to them by any repairs or modifications made to them after they were so acquired or produced; and

(iii) by deducting therefrom an amount to account for any previous use of the goods made after the goods were so acquired or produced:

(c) in the case of engineering, development work, artwork, designwork, plans and sketches, undertaken elsewhere than in the Cook Islands and necessary for the production of the goods being valued by ascertaining—

(i) their cost of acquisition or of the lease thereof, where they were acquired or leased by the buyer from a person who was not related

to the buyer at the time they were so acquired or leased and are not generally available to the public; or

(ii) their cost of acquisition or of the lease thereof incurred by the person related to the buyer, where they were acquired or leased by the buyer from a person related to the buyer at the time they were so acquired or leased, but who did not produce them and are not generally available to the public; or

(iii) the cost to the public of obtaining them where they are available generally to the public; or

(iv) the cost of production thereof where they were produced by the buyer or a person related to the buyer at the time of their production.

(3) For the purposes of subclause (1)(c), the expression **carrier media** does not include integrated circuits, semi-conductors and similar devices, or articles incorporating such circuits or devices; and the expression **data or instructions** does not include sound, cinematic, or video recordings.

(4) Where any adjustment in terms of this clause cannot, in the opinion of the Comptroller, be made because of the lack of sufficient information, the transaction value of the goods being valued cannot be determined under clause 2.

4 Transaction value of identical goods as Customs value

(1) Subject to subclauses (2) to (4), where the Customs value of imported goods cannot, in the opinion of the Comptroller, be determined under clause 2, the Customs value of the goods must be the transaction value of identical goods in respect of a sale of those goods for export to the Cook Islands if that transaction value is the Customs value of the identical goods and the identical goods were exported at the same or substantially the same time as the goods being valued and were sold under the following conditions—

(a) to a buyer at the same or substantially the same trade level as the buyer of the goods being valued; and

(b) in the same or substantially the same quantities as the goods being valued.

(2) Where the Customs value of imported goods cannot be determined under subclause (1) because identical goods were not sold under the conditions described in subclause (1)(a) and (b), there must be substituted therefor identical goods sold under any of the following conditions—

(a) to a buyer at the same or substantially the same trade level as the buyer of the goods being valued but in quantities different from the quantities in which those goods were sold; or

(b) to a buyer at a trade level different from that of the buyer of the goods being valued but in the same or substantially the same quantities as the quantities in which those goods were sold; or

(c) to a buyer at a trade level different from that of the buyer of the goods being valued and in quantities different from the quantities in which those goods were sold.

(3) For the purposes of determining the Customs value of imported goods under subclause (1), the transaction value of identical goods must be adjusted by adding thereto or deducting therefrom, as the case may be, amounts to account for—

(a) commercially significant differences between the costs, charges, and

expenses referred to in clause 3(1)(a)(vii) in respect of the identical goods and those costs, charges, and expenses in respect of the goods being valued that are attributable to differences in distances and modes of transport:

(b) where the transaction value is in respect of identical goods sold under the conditions described in any of subclause (2)(a) to (c), differences in the trade levels of the buyers of the identical goods and the goods being valued or the quantities in which the identical goods and the goods being valued were sold or both, as the case may be,—

if each amount can, in the opinion of the Comptroller, be determined on the basis of sufficient information. Where any such amount cannot be so determined, the Customs value of the goods being valued must not be determined on the basis of the transaction value of those identical goods under this clause.

(4) Where, in relation to imported goods being valued, there are two or more transaction values of identical goods that meet all the requirements set out in subclauses (1) and (3) or where there is no such transaction value but there are two or more transaction values of identical goods sold under the conditions described in any of subclause (2)(a) to (c) that meet all the requirements set out in this clause that are applicable by virtue of subclause (2), the Customs value of the goods being valued must be determined on the basis of the lowest such transaction value.

5 Transaction value of similar goods as Customs value

(1) Subject to subclause (2) and clause 4(2) to (4), where the Customs value of imported goods cannot, in the opinion of the Comptroller, be determined under clause 4, the Customs value of the goods must be the transaction value of similar goods in respect of a sale of those goods for export to the Cook Islands if that transaction value is the Customs value of the similar goods and the similar goods were exported at the same or substantially the same time as the goods being valued and were sold under the following conditions—

(a) to a buyer at the same or substantially the same trade level as the buyer of the goods being valued; and

(b) in the same or substantially the same quantities as the goods being valued.

(2) Clause 4(2) to (4) apply to this clause in respect of similar goods as if every reference in those subclauses to identical goods were a reference to similar goods.

6 Deductive value as Customs value

(1) Subject to clause 2(5) and (6), where the Customs value cannot, in the opinion of the Comptroller, be determined under clause 5, the Customs value of the goods must be the deductive value in respect of the goods.

(2) Where the goods being valued or identical goods or similar goods are sold in the Cook Islands in the condition in which they were imported at the same or substantially the same time as the time of importation of the goods being valued, the deductive value of the goods being valued must be the price per unit in respect of sales described in subclause (5), determined in accordance with that subclause and adjusted in accordance with subclause (6), at which the greatest number of units of the goods being valued or identical goods or similar goods are so sold.

(3) Where the goods being valued or identical goods or similar goods are sold in the Cook Islands in the condition in which they were imported before the expiration of 90 days after the importation of the goods being valued but are not so sold at the same or substantially the same time as the time of that importation, the deductive value of the goods being valued must be the price per unit in respect of sales described in subclause (5), determined in accordance with that subclause and adjusted in accordance with subclause (6), at which the greatest number of units of the goods being valued or identical goods or similar goods are so sold at the earliest date after the importation of the goods being valued.

(4) Where the goods being valued or identical goods or similar goods are not sold in the Cook Islands in the circumstances described in subclause (2) or (3), but the goods being valued, after being assembled, packaged, or further processed in the Cook Islands, are sold in the Cook Islands before the expiration of 90 days after the importation thereof and the importer of the goods being valued requests that this subclause be applied in the determination of the Customs value of those goods, the deductive value of the goods being valued must be the price per unit, in respect of sales described in subclause (5), determined in accordance with that subclause and adjusted in accordance with subclause (6), at which the greatest number of units of the goods being valued are so sold.

(5) For the purposes of subclauses (2) to (4), the price per unit in respect of any goods being valued or identical goods or similar goods, must be determined by ascertaining the unit price in respect of sales of the goods at the first trade level after their importation to persons who—

(a) are not related to the persons from whom they buy the goods at the time the goods are sold to them; and

(b) have not supplied, directly or indirectly, free of charge or at a reduced cost for use in connection with the production and sale for export of the goods, any of the goods or services referred to in clause 3(1)(a)(iii),—

at which the greatest number of units of the goods is sold where, in the opinion of the Comptroller, a sufficient number of such sales have been made to permit a determination of the price per unit of the goods.

(6) For the purposes of subclauses (2) to (4), the price per unit in respect of any goods being valued or identical goods or similar goods, must be adjusted by deducting therefrom an amount equal to the aggregate of—

(a) an amount, determined in accordance with subclause (7), equal to—

(i) the amount of commission generally earned on a unit basis; or

(ii) the amount for profit and general expenses, including all costs of marketing the goods, considered together as a whole, that is generally reflected on a unit basis—

in connection with sales in the Cook Islands of goods of the same class or kind as those goods:

(b) reasonable costs, charges, and expenses that are incurred in respect of the transportation and insurance of the goods within the Cook Islands and reasonable costs, charges, and expenses associated therewith to the extent that an amount for such costs, charges, and expenses is not deducted in respect of general expenses under paragraph (a):

(c) the costs, charges, and expenses referred to in clause 3(1)(b)(i) incurred in respect of the goods, to the extent that an amount for such costs, charges, and expenses is not deducted in respect of general expenses under paragraph (a):

(d) any Customs duties or other taxes payable in the Cook Islands by reason of the importation or sale of the goods, to the extent that an amount for such duties and taxes is not deducted in respect of general expenses under paragraph (a):

(e) where subclause (4) applies, the amount of the value added to the goods that is attributable to the assembly, packaging, or further processing in the Cook Islands of the goods, if that amount is determined, in the opinion of the Comptroller, on the basis of sufficient information.

(7) The amount considered to be equal to the amount of commission or the amount for profit and general expenses referred to in subclause (6)(a) must be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with generally accepted accounting principles that is supplied—

(a) by or on behalf of the importer of the goods being valued; or

(b) where the information supplied by or on behalf of the importer of the goods being valued is not sufficient information, but an examination of sales in the Cook Islands of the narrowest group or range of goods of the same class or kind as the goods being valued from which sufficient information can, in the opinion of the Comptroller, be obtained.

(8) Where an amount referred to in subclause (6)(e) in respect of any goods being valued cannot, in the opinion of the Comptroller, be determined on the basis of sufficient information, the Customs value of the goods cannot be determined on the basis of the deductive value under subclause (4).

7 Computed value as Customs value

(1) Subject to clause 2(3) and (5), where the Customs value of imported goods cannot, in the opinion of the Comptroller, be determined under clause 6, the Customs value of the goods must be the computed value in respect of those goods.

(2) The computed value of the goods being valued is the aggregate of amounts equal to—

(a) the costs, charges, and expenses incurred in respect of, or the value of,—

(i) materials employed in producing the goods being valued; and

(ii) the production or other processing of the goods being valued,—

determined on the basis of—

(A) the commercial accounts of the producer of the goods being valued; or

(B) any other sufficient information relating to the production of the goods being valued—

that are supplied by or on behalf of the producer of the goods and prepared in a manner consistent with the generally accepted accounting principles of the country of production of the goods being valued, including, without limiting the generality of the foregoing,—

(iii) the costs, charges, and expenses referred to in clause 3(1)(a)(ii):

(iv) the value of any of the goods and services referred to in clause 3(1)(a)(iii) and (vi), determined and apportioned to the goods being valued as referred to in that clause, whether or not such goods and services have been supplied free of charge or at a reduced cost:

(v) the costs, charges, and expenses incurred by the producer in respect of engineering, development work, artwork, design work, plans, or sketches undertaken in the Cook Islands that were supplied, directly or indirectly, by the buyer of the goods being valued for use in connection with the production and sale for export of those goods to the extent that such elements are charged to the producer of the goods, apportioned to the goods being valued as referred to in clause 3(1)(a)(iii):

(b) the amount, determined in accordance with subclause (4), for profit and general expenses, considered together as a whole, generally reflected in sales for export to the Cook Islands of goods of the same class or kind as the goods being valued, made by the producers of the goods to buyers in the Cook Islands who are not related to the producers from whom they buy the goods at the time the goods are sold to them.

(3) For the purposes of this clause, the expression **general expenses** means the direct and indirect costs, charges, and expenses of producing and selling goods for export, other than the costs, charges, and expenses referred to in subclause (2)(a).

(4) The amount of profit and general expenses referred to in subclause (2)(b) must be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with generally acceptable accounting principles of the country of production of the goods being valued and that is supplied—

(a) by or on behalf of the producer of the goods being valued; or

(b) where the information supplied by or on behalf of the producer of the goods being valued is not sufficient information, by an examination of sales for export to the Cook Islands of the narrowest group or range of goods of the same class or kind from which sufficient information can, in the opinion of the Comptroller, be obtained.

8 Residual basis of valuation

(1) Where the Customs value of imported goods cannot, in the opinion of the Comptroller, be determined under clause 7, it must be determined on information available in the cook Islands on the basis of a value derived from the methods of valuation set out in clauses 2 to 7 interpreted in a flexible manner and reasonably adjusted to the extent necessary to arrive at a Customs value of the goods.

(2) A Customs value must not be determined on the basis of—

(a) the selling price in the Cook Islands of goods produced in the Cook Islands; or

(b) a basis which provides for the acceptance of the higher of 2 alternative values; or

(c) the price of goods on the domestic market of the country of exportation; or

(d) the cost of production, other than computed values that have been determined for identical or similar goods in accordance with clause 7; or

(e) the price of goods for export to a country other than the Cook Islands, unless the goods were imported into the Cook Islands; or

(f) minimum Customs values; or

(g) arbitrary or fictitious values.

[The next page is 910,401]

Schedule 3

s 109(2)

Valuation of goods for purposes of excise

1 Value of goods for excise duty

The value of any goods for the purposes of section 109(2) is the price at which the goods are sold exclusive of excise duty and goods and services tax by a person licensed under section 15 if—

(a) the sale is a sale in the open market as defined in clause 4(1)(c); and

(b) the sale is made on or prior to the date on which the goods are removed from the manufacturing area.

2 Value of goods manufactured by contractor

The value of any goods for the purposes of section 105 of this Act that are deemed to have been manufactured by a contractor is their fair market value as determined under clause 4.

3 Value of goods not sold in open market

Where the value of the goods cannot be determined under clause 1 for the reason that the goods were not sold under the conditions specified in paragraphs (a) and (b) of that clause, the value is the fair market value of those goods as determined under clause 4.

4 Fair market value

(1) For the purposes of this section,—

(a) the expression **identical goods** means goods that are the same in all respects, including physical characteristics, quality, and reputation, as the goods being valued, except for minor differences (if any) in appearance that do not affect the value of the goods:

(b) the expression **similar goods** means goods that closely resemble the goods being valued in respect of component materials and parts and characteristics and are functionally and commercially interchangeable with the goods being valued, having regard to the quality and reputation of the goods being valued:

(c) a sale in the open market means—

(i) that the price is the sole consideration; and

(ii) that the price is not influenced by any commercial, financial, or other ties, whether by contract or otherwise, between the seller, or any person associated in business with the seller, and the buyer, or any person associated in business with the buyer (other than the relationship created by the sale of the goods in question); and

(iii) that no part of the proceeds of any subsequent resale, use, or disposal of the goods will accrue, either directly or indirectly, to the seller, or to any person associated in business with the seller:

(d) two persons are deemed to be associated in business with each other if, whether directly or indirectly, either of them has any interest in the

business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them:

(e) in determining a fair market value in accordance with this section, the Comptroller must—

(i) use only those prices which represent a sale between buyers and sellers independent of each other; and

(ii) exclude from the price any excise duty and goods and services tax.

(2) For the purposes of this Schedule, the fair market value of any goods must be determined by proceeding sequentially through subclauses (3) to (8) to the first such subclause under which fair market value can be determined.

(3) The fair market value of any goods at the date of removal is the lowest price for which identical goods in the same or substantially the same quantities are generally sold at that date in the open market in the Cook Islands on sales freely offered and made on ordinary trade terms by the licensee of an area licensed under section 15 of this Act, other than a contractor.

(4) Where, in the opinion of the Comptroller, the fair market value cannot be determined under subclause (3), it is deemed to be the lowest price for which identical goods in quantities different from those being sold are generally sold at that date in the open market in the Cook Islands on sales freely offered and made on ordinary trade terms by the licensee of an area licensed under section 15 of this Act, other than a contractor.

(5) Where, in the opinion of the Comptroller, the fair market value cannot be determined under subclause (4), it is deemed to be the lowest price for which similar goods in the same or substantially the same quantities are generally sold at that date in the open market in the Cook Islands on sales freely offered and made on ordinary trade terms by the licensee of an area licensed under section 15 of this Act, other than a contractor.

(6) Where, in the opinion of the Comptroller, the fair market value cannot be determined under subclause (5), it is deemed to be the lowest price for which similar goods in quantities different from those being sold are generally sold at that date in the open market in the Cook Islands on sales freely offered and made on ordinary trade terms by the licensee of an area licensed under section 15 of this Act, other than a contractor.

(7) Where, in the opinion of the Comptroller, the fair market value cannot be determined under subclause (6), the Comptroller must ascertain the price which the goods would generally fetch at the retail level and deduct from that price such amount as would reasonably represent the profit margin and other costs beyond the manufacturing level on those goods.

(8) Where, in the opinion of the Comptroller, the fair market value cannot be determined under subclause (7), the Comptroller must compute the value of the goods by taking the costs of the production of the goods and adding such amount as reasonably represents the profit margin and other costs to the manufacturing level of those goods.

[The next page is 910,601]

Schedule 4

s 364

Acts amended

Antiquities and Artifacts Act 1994–95

Replace section 10(1) with:

> "(1) Subject to the provisions of this Act, any antiquity exported or attempted to be exported in breach of this Act is forfeited to the Crown and the provisions of the Customs Revenue and Border Protection Act 2012 relating to forfeited goods apply to any such article in the same manner as they apply to goods forfeited under that Act."

Cook Islands Amendment Act 1961

In section 7B(1)(e), replace "restricted goods within the meaning of the Customs Act 1913" with "prohibited goods within the meaning of the Customs Revenue and Border Protection Act 2012". Replace section 7C with:

> **7C Certain sections deemed to form part of Customs Revenue and Border ProtectionAct 2012**
>
> Sections 6, 7A, and 7B are deemed to form part of the Customs Revenue and Border Protection Act 2012."

Chemical Weapons (Prohibition) Act 2007

In section 9 replace "Application of the Customs Act 1913" with "Application of the Customs Revenue and Border Protection Act 2012".

In section 9 replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

Criminal Procedure Act 1980–81

In section 9(6), replace "Customs Act 1913 pursuant to section 243 of the Customs Act 1913" with "Customs Revenue and Border Protection Act 2012 under section 224 of that Act".

In section 11(2) replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

Fair Trading Act 2008

In section 34(2), replace "section 46 of the Customs Act 1913" with "section 90 of the Customs Revenue and Border Protection Act 2012".

In section 41 replace "section 46 of the Customs Act 1913'' with "section 90 of the Customs Revenue and Border Protection Act 2012".

Films and Censorship Act 1985

In section 33, replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

Judicature Act 1980–81

In section 87 replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

In section 88 replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

Pesticides Act 1987

Replace section 16 with:

16 Duty of Customs Officers

It shall be the duty of every Customs Officer to assist in the enforcement of section 10, and to prevent the importation into the Cook Islands of any pesticide where such importation is contrary to the provisions of this Act, and for such purposes shall exercise all the powers conferred on Customs Officers by the **Customs Revenue and Border Protection Act 2012** in the case of uncustomed or prohibited goods."

Value Added Tax Act 1997

In section 10(4) replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

In section 10(5)(b) replace "for the purpose of sections 147 to 157 of the Customs Act 1913," with "for the purposes of sections 143 to 149 of the Customs Revenue and Border Protection Act 2012"
In section 11(b)(ii) replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

In section 16(4)(c)(iv) replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

In section 29(3)(b) replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

In section 54, replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

In Schedule 2 paragraph (5)(e) and (f) replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

In Schedule 3 paragraph (1)(d) replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

[The next page is 910,801]

Schedule 5

s 364

Regulations amended

Customs Port of Entry Order 1972
In section 2 replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

Customs Ports of Entry Order 1982
In section 2 replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

Customs Port of Entry (Atiu) Order 1985
In section 2 replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

Customs Ports of Entry (Manihiki) Order 1993
In section 3 replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

Customs Port of Entry (Pukapuka) Order 1989
In section 2 replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

Customs Import Prohibition (Offensive Weapons) Order 1977
Replace "Customs Act 1913" with "Customs Revenue and Border Protection Act 2012".

[The next page is 911,001]

Schedule 6

s 365

Enactments repealed

Customs Act 1913	(1913/19)
Import Levy Act 1972	(1972/9)
Distillation Act 1978–79	(1978–79/25)

[The next page is 911,201]

Schedule 7

s 365

Regulations, orders, and notices revoked

Customs Amendment (Overtime) Regulations 2008 (2008/29)
Cook Islands Customs (Aircraft) Regulations 1949
Cook Islands Import Control Regulations 1944 (SR 1944/19)
Cook Islands Exchange Control Regulations 1948
Customs Export Prohibition (Empty Drums) Order 1980 (1980/6)
Customs Export Prohibition (The Cook Islands Money) Order 1980 (1980/9)
Customs (Duty Exception) Order 1987 (1987/9)
Customs Duty on Government Goods Order 1944 (SR 1944/101)
Customs Duty on Government Goods Order 1954 (SR 1954/252)
Customs Duty on Government Goods Order 1965 (SR 1965/64)
Customs Regulations 1959 (SR 1959/93 Act 1980/14)
Customs Regulations Amendment (SR 1962/96)
Customs Regulations Amendment (SR 1964/113)
Customs Regulations Amendment (SR 1965/11)
Customs Regulations Amendment (1980/1)
Customs Regulations Amendment (1982/10)
Customs Regulations Amendment (1983/6)
Customs Regulations Amendment (1984/2)
Customs Regulations Amendment (1984/12)
Customs Regulations Amendment (1985/5)
Customs Regulations Amendment (1986/13)
Customs Regulations Amendment (1987/20)
Customs Regulations Amendment (1988/2)
Customs Regulations Amendment (1988/15)
Customs Regulations Amendment (1989/19)
Prohibiting the Importation into the Cook Islands of Certain Goods 1924
The Customs Import Prohibition Order (No 2 1952) (Left Hand Drive Vehicles)
The Cook Islands Quarantine (Aircraft) Regulations 1946

This Act is administered by the Revenue Management Division of the Ministry of Finance and Economic Management.
Published under the authority of the Parliament of the Cook Islands.

[The next page is 915,001]

Customs Port of Entry Order 1972

TABLE OF AMENDMENTS

The Customs Port of Entry Order 1972 No 2 was signed and commenced on 24 July 1972, as amended by:

Amending Legislation	Signed	Date of Commencement
Customs Revenue and Border Protection Act 2012 No 5	20 June 2012	Sch 5: 1 August 2012

[The next page is 915,101]

Customs Port of Entry Order 1972

TABLE OF PROVISIONS

1 Title and commencement
2 Port of entry declared
Schedule

[The next page is 915,201]

Pursuant to the Customs Act 1913, His Excellency the High Commissioner, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

1 Title and commencement

(1) This order may be cited as the Customs Port of Entry Order 1972.

(2) This order comes into force on the day after its notification in the Gazette.

2 Port of entry declared

The port mentioned in the Schedule is declared to be a port of entry for the purposes of the Customs Revenue and Border Protection Act 2012, and the limits of the port are those specified in the Schedule.

[Clause 2: amended, on 1 August 2012, by Schedule 5 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]

[The next page is 916,201]

Schedule

Name	Limit
Arutanga (Island of Aitutaki)	All that portion of land and sea comprised within an area commencing from the Post Office at Arutanga thence in right lines north 40 chains thence west 80 chains south 60 chains thence east 80 chains and thence 20 chains to the point of commencement.

This order is administered by the Revenue Management Division.

Published under the authority of the Parliament of the Cook Islands.

[The next page is 919,201]

Customs Import Prohibition (Offensive Weapons) Order 1977

TABLE OF AMENDMENTS

The Customs Import Prohibition (Offensive Weapons) Order 1977 No 2 was signed and commenced on 2 May 1977, as amended by:

Amending Legislation	Signed	Date of Commencement
Customs Revenue and Border Protection Act 2012 No 5	20 June 2012	Sch 5: 1 August 2012

[The next page is 919,301]

Customs Import Prohibition (Offensive Weapons) Order 1977

TABLE OF PROVISIONS

1 Title
2 Importation of offensive weapons

Schedule
Prohibited imports

[The next page is 919,401]

Pursuant to Article 7(2) of the Constitution and section 46 of the Customs Act 1913, the Chief Justice of the Cook Islands, Acting by and with the advice and consent of the Executive Council, and being of the opinion that the prohibition herein after enacted is necessary in the public interest, hereby makes the following order:

1 Title

This order may be cited as the Customs Import Prohibition (Offensive Weapons) Order 1977.

2 Importation of offensive weapons

The importation of the goods specified in the Schedule is prohibited.

[The next page is 920,001]

Schedule
Prohibited imports

Any knife—

(a) Which has a blade which opens automatically by hand pressure applied to a button, spring, or other device in or attached to the handle of the knife, sometimes known as a "flick knife" or "flick gun"; or

(b) Which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever, or other device, sometimes known as a "gravity knife".

Any weapon disguised to give the appearance of another article.

Knuckle dusters and knives incorporating knuckle dusters.

Sword sticks.

This order is administered by the Customs Department.
Published under the authority of the Parliament of the Cook Islands.

[The next page is 923,001]

Customs Port of Entry Order 1982

TABLE OF AMENDMENTS

The Customs Port of Entry Order 1982 No 6 was signed and commenced on 26 February 1982, as amended by:

Amending Legislation	Signed	Date of Commencement
Customs Revenue and Border Protection Act 2012 No 5	20 June 2012	Sch 5: 1 August 2012

[The next page is 923,101]

Customs Port of Entry Order 1982

TABLE OF PROVISIONS

1 Title and commencement
2 Port of entry declared

Schedule
Port of entry

[The next page is 923,201]

Pursuant to the Customs Act 1913, the Chief Justice of the High Court of the Cook Islands, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

1 Title and commencement

(1) This order may be cited as the Customs Port of Entry Order 1982.

(2) This order comes into force on the day after its notification in the Gazette.

2 Port of entry declared

The port mentioned in the Schedule is declared to be a port of entry for the purposes of the Customs Revenue and Border Protection Act 2012, and the limits of the port are those specified in the Schedule.

[Clause 2: amended, on 1 August 2012, by Schedule 5 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]

[The next page is 924,001]

Schedule

Port of entry

Name	Limits
Omoka (Island of Penrhyn)	All that portion of sea and land comprised within a circle with a radius of one mile from the Initial Station concrete block peg situated near the Government Residency in the village of Omoka in the Island of Penrhyn which peg is situated at latitude 8 degrees 58 minutes 45 seconds south and longitude 158 degrees 3 minutes and 33 seconds west.

This order is administered by the Department of Customs.

Published under the authority of the Parliament of the Cook Islands.

[The next page is 927,001]

Customs Port of Entry (Atiu) Order 1985

TABLE OF AMENDMENTS

The Customs Port of Entry (Atiu) Order 1985 No 18 was signed and commenced on 16 October 1985, as amended by:

Amending Legislation	Signed	Date of Commencement
Customs Revenue and Border Protection Act 2012 No 5	20 June 2012	Sch 5: 1 August 2012

[The next page is 927,101]

Customs Port of Entry (Atiu) Order 1985

TABLE OF PROVISIONS

1 Title and commencement
2 Port of entry declared

Schedule
Port of entry

[The next page is 927,201]

Pursuant to the Customs Act 1913, His Excellency the Queen's Representative acting by and with the advice and consent of the Executive Council, hereby makes the following order.

1 Title and commencement

(1) This order may be cited as the Customs Port of Entry (Atiu) Order 1985.

(2) This order comes into force on the day after its notification in the Gazette.

2 Port of entry declared

The port mentioned in the Schedule is a port of entry for the purposes of the Customs Revenue and Border Protection Act 2012, and the limits of the port are those specified therein.

[Clause 2: amended, on 1 August 2012, by Schedule 5 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]

[The next page is 928,501]

Schedule

cl 2

Port of entry

Name	Limits
Taunganui (Island of Atiu)	All that portion of sea and land comprised within a circle having a radius of 1 mile from the harbour beacon light situated at latitude 19 degrees 58 minutes seconds 40 and longitude 158 degrees 8 minutes 2 seconds

This order is administered by the Customs Department.

Published under the authority of the Parliament of the Cook Islands.

[The next page is 931,001]

Customs Port of Entry (Pukapuka) Order 1989

TABLE OF AMENDMENTS

The Customs Port of Entry (Pukapuka) Order 1989 No 5 was signed and commenced on 8 May 1989, as amended by:

Amending Legislation	Signed	Date of Commencement
Customs Revenue and Border Protection Act 2012 No 5	20 June 2012	Sch 5: 1 August 2012

[The next page is 931,101]

Customs Port of Entry (Pukapuka) Order 1989

TABLE OF PROVISIONS

1 Title and commencement
2 Port of entry declared

Schedule
Port of entry

[The next page is 931,201]

Pursuant to the Customs Act 1913, His Excellency the Queen's Representative acting by and with the advice and consent of the Executive Council, hereby makes the following order.

1 Title and commencement

(1) This order may be cited as the Customs Port of Entry (Pukapuka) Order 1989.

(2) This order comes into force on the day after its notification in the Gazette.

2 Port of entry declared

The port mentioned in the Schedule is a port of entry for the purposes of the Customs Revenue and Border Protection Act 2012, and the limits of the port are those specified therein.

[Clause 2: amended, on 1 August 2012, by Schedule 5 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]

[The next page is 932,201]

Schedule
Port of entry

Name	
PUKAPUKA — LAT	10° 50'S LONG 165° 50'W
LIMITS	All that portion of sea and land comprised within a circle having a radius of 1 nautical mile from the position LAT 10° 50'S LONG 165° 50'W

This order is administered by the Customs Department.

Published under the authority of the Parliament of the Cook Islands.

[The next page is 935,201]

Customs Ports of Entry (Manihiki) Order 1993

TABLE OF AMENDMENTS

The Customs Ports of Entry (Manihiki) Order 1993 No 7 was signed and commenced on 12 October 1993, as amended by:

Amending Legislation	Signed	Date of Commencement
Customs Revenue and Border Protection Act 2012 No 5	20 June 2012	Sch 5: 1 August 2012

[The next page is 935,301]

Customs Ports of Entry (Manihiki) Order 1993

TABLE OF PROVISIONS

1 Short title
2 Interpretation
3 Ports of entry declared

Schedule
Ports of entry

[The next page is 935,401]

Pursuant to the Customs Act 1913, His Excellency the Queen's Representative, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

1 Short title

This order may be cited as the Customs Ports of Entry (Manihiki) Order 1993.

2 Interpretation

In this order **territorial sea** means the territorial sea of the Cook Islands as described in section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977.

3 Ports of entry declared

The ports mentioned in the Schedule are declared to be ports of entry for the purposes of the Customs Revenue and Border Protection Act 2012, and the limits of the ports are those specified in the Schedule.

[Clause 3: amended, on 1 August 2012, by Schedule 5 of the Customs Revenue and Border Protection Act 2012 (2012 No 5).]

[The next page is 936,501]

Schedule
Ports of entry

Name	Limits
Tauhunu (Island of Manihiki)	All that portion of the territorial sea within a circle having a radius of 1 nautical mile from the position LAT 10° 25.3 S. LONG 161° 03.0 W.
Tukao (Island of Manihiki)	All that portion of the territorial sea within a circle having a radius of 1 nautical mile from the position LAT 10° 22.4 S. LONG 161°01.5 W.

This order is administered by the Department of Customs.
Published under the authority of the Parliament of the Cook Islands.

[The next page is 940,001]

Customs Revenue and Border Protection Regulations 2012

TABLE OF AMENDMENTS

The Customs Revenue and Border Protection Regulations 2012 No 16 were signed on 13 September 2012 and commenced on 1 August 12, as amended by:

Amending Legislation	Signed	Date of Commencement
Customs Revenue and Border Protection Amendment Regulations 2013 No 4	25 June 2013	1 July 2013
Customs Revenue and Border Protection Amendment Regulations 2016 No 5	28 June 2016	29 June 2016
Customs Revenue and Border Protection Amendment Regulations 2020 No 26	17 November 2020	18 November 2020

[The next page is 940,101]

Customs Revenue and Border Protection Regulations 2012

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Form 7 — Warrant for compulsory acquisition of goods

Form 8 — Application for registration as a user of Customs computerised entry processing system

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Schedule 3
Provisions relating to PICTA

Schedule 4
Provisions relating to PACER Plus

[The next page is 940,201]

Pursuant to section 352 of the Customs Revenue and Border Protection Act 2012, His Excellency the Queen's Representative, acting on the advice and with the consent of the Executive Council, makes the following regulations—

1 Title

(1) These regulations are the Customs Revenue and Border Protection Regulations 2012.

2 Commencement

(1) These regulations come into force on 1 August 2012.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Customs Revenue and Border Protection Act 2012

Exclusive economic zone has the same meaning as in section 2(1) of the Territorial Sea and Exclusive Economic Zone Act 1977

PACER Plus means the Pacific Agreement on Closer Economic Relation Plus done at Nuku'alofa, Tonga on 14 June 2017

PICTA means the Pacific Island Countries Trade Agreement done at Nauru on 18 August 2001

(2) Expressions not defined in these regulations but defined in the Act have, in these regulations, the meanings so defined.

(3) A reference in these regulations to a numbered form is a reference to a form so numbered in Schedule 2.

[Regulation 3(1) PACER Plus: inserted, on 18 November 2020, by section 4 of the Customs Revenue and Border Protection Amendment Regulations 2020 (SN 2020/26).]

[Regulation 3(1) PICTA: inserted, on 18 November 2020, by section 4 of the Customs Revenue and Border Protection Amendment Regulations 2020 (SN 2020/26).]

Part 1
Administration

4 Working hours of Customs

For the purposes of regulation 5,—

(a) except as provided in paragraph (b), the working hours of the Customs are from 8 am to 4 pm on Monday to Friday (inclusive), excluding public holidays:

(b) the working hours of the Customs at a Customs airport are zero unless they are determined otherwise from time to time in respect of that airport by the Comptroller.

5 Charges for attendance of Customs officers outside working hours of Customs

(1) Whenever, for the purpose of carrying out any provision of the Act, any Customs officer is required to attend at any time outside the working hours of the Customs, the person in charge of or owner of any craft (or the agent of such a person), or the importer, or exporter, or licensee of a Customs controlled area, or other person concerned, in respect of whom or in respect of whose business

such attendance is, in the opinion of the Comptroller, necessary, must pay a charge calculated in accordance with the following rates in respect of that attendance—

(a) for attendance on any day that is—

(i) a working day (except the day after New Year's Day, or the day on which the gospel day of the island is observed in any particular place); or

(ii) a Saturday,—

$28.60 per hour or portion of an hour:

(b) for attendance on any other day (including the day after New Year's Day or the day on which the gospel day of the island is observed in any particular place), $38.25 per hour or portion of an hour.

(2) The Comptroller may exempt any person or class of persons from the requirement to pay a charge under subclause (1).

(3) A minimum charge of $114.75 is payable for the attendance of any officer on any day that is—

(a) the day after New Year's day or the day on which the gospel day of the island is observed; or

(b) not a working day; or

(c) not a Saturday.

(4) The charges prescribed by this regulation are inclusive of value added tax under the Value Added Tax Act 1997.

[Regulation 5: replaced, on 1 July 2013, by regulation 4 of the Customs Revenue and Border Protection Amendment Regulations 2013 (SN 2013/4).]

6 Expenses of officers

Where, in respect of any attendance for the purposes of the Act, any reasonable expenses are incurred or will be incurred by any Customs officer, the Comptroller may require those expenses to be met by—

(a) the person in charge of or owner of any craft, or an agent of such a person; or

(b) the importer; or

(c) the exporter; or

(d) the licensee of a Customs controlled area; or

(e) any other person concerned,—

in respect of whom or in respect of whose business such attendance is, in the opinion of the Comptroller, necessary.

[The next page is 940,401]

Part 2
Customs controlled areas

7 Areas required to be licensed as Customs controlled areas

Areas used for the following purposes are required pursuant to section 13(f) of the Act to be licensed as Customs controlled areas:

(a) the storage, by or for one of the following, of wine manufactured in the Cook Islands, where that wine cannot be physically accommodated within the manufacturing area in which it was manufactured:

(i) the manufacturer of the wine:

(ii) the first owner of the wine, if that person is not also the manufacturer of the wine:

(b) the storage of imported goods, or goods manufactured in a manufacturing area, of a kind that are subject to duty, and on which such duty has not been paid, pending the sale of those goods to—

(i) persons departing to or arriving from a country outside Cook Islands; or

(ii) persons exercising an entitlement to the supply of goods free of duty under the Act, or any other Act.

8 Application for Customs controlled area licence

(1) An application for an area to be licensed as a Customs controlled area must be in Form 1 and must contain the particulars specified in that form.

(2) The application must be made at the office of the Customs that is nearest to the area in respect of which the licence is sought.

9 Form of licence

Every Customs controlled area licence granted under the Act must be in Form 2.

10 Annual licence fees

(1) The annual licence fee payable in respect of a Customs controlled area specified in Schedule 1 is the amount specified in relation to that Customs controlled area in that schedule.

(2) Subject to subclause (3), the annual licence fee is payable on 1 July in any year.

(3) Where a licence is granted subject to the payment by the licensee of the prescribed annual licence fee, the prescribed annual licence fee, apportioned on a monthly basis for periods of less than 12 months, must be paid within 5 working days after the date on which notice is given of the decision to grant the licence.

(4) In any circumstance where a licence for a Customs controlled area is revoked or surrendered under the Act, the whole or part of the annual licence fee may be refunded, remitted, or waived by the Comptroller.

(5) Where alternative amounts are shown in Schedule 1 for a fee payable in respect of any Customs controlled area, the fee is the lower amount if the total gross revenues obtained by the licensee, in the most recently completed fiscal year, from the sale of dutiable goods held in the Customs controlled area or areas did not exceed $200,000; in all other cases the fee is the higher amount.

11 Storage charges

No charges may be made by the licensee of a Customs controlled area for the reception or storage of imported goods in a Customs controlled area during the period of 24 hours (exclusive of any day that is not a working day) from the time the goods are received into that area.

[The next page is 940,601]

Part 3

Arrival and departure of goods, persons, and craft

12 Content of advance notice of arrival varies depending on type of craft and what carried

(1) The notice required by section 24(1)(a) of the Act must contain the information in regulation 13 and—

(a) if the craft to which it relates is carrying cargo, the information in regulation 14(1); and

(b) if the craft to which it relates is a ship or boat carrying cargo, the information in regulation 14(2); and

(c) if the craft to which it relates is an aircraft, the information in regulation 14; and

(d) if the craft to which it relates is a ship or a boat, the information in regulation 16(1); and

(e) if the craft to which it relates is a ship primarily involved in the transportation of passengers, the information in regulation 16(2).

(2) In regulations 15 and 16, **status** means, in relation to a person, that person's status in relation to a craft, for example, whether the person is a passenger on, or a crew member of, a craft.

13 Content of advance notice of arrival

The advance notice required by section 24(1)(a) of the Act must contain the following information:

(a) the estimated date and time of arrival of the craft in the Cook Islands; and

(b) the Customs place or other place at which the craft will arrive; and

(c) the name of the person in charge of the craft; and

(d) the name and contact details of the person providing the information.

14 Content of advance notice of arrival: craft carrying cargo

(1) The advance notice required by section 24(1)(a) of the Act for all craft carrying cargo must contain the following information:

(a) a statement as to whether the cargo on the craft is arriving by air or by sea; and

(b) the name and voyage or flight number of the craft carrying the cargo; and

(c) the names of the parties involved in the transporting of the cargo; and

(d) details of the bill or airway bill issued in relation to the cargo; and

(e) a description of the cargo's attributes; and

(f) the place at which the cargo was first loaded for export, and if it was transhipped, the place or places at which it was transhipped; and

(g) the place at which the cargo is to be discharged, and if it is to be delivered elsewhere, the place of delivery; and

(h) the names and addresses of the consignors and consignees of the cargo, and any contact parties; and

(i) details of any packaging in which the cargo is packed; and

(j) the number of inward cargo reports intended to be given, and the names of the persons who will be giving them.

(2) The advance notice required by section 24(1)(a) of the Act for all ships and boats carrying cargo must contain the following information:
- (a) details of the shipping containers in which the cargo is packed; and
- (b) the place at which each container was packed and its point of final delivery.

15 Content of advance notice of arrival: aircraft

The advance notice required under section 24(1)(a) of the Act for all aircraft must contain the following information:
- (a) the type of aircraft; and
- (b) the aircraft's registration number; and
- (c) the aircraft's originating airport; and
- (d) the name of every airport at which the aircraft has landed between its originating airport and arrival at the Customs place or place of arrival; and
- (e) the name of every airport in the Cook Islands at which it intends to land; and
- (f) the status of each traveller, including passengers and crew members; and
- (g) the respective numbers of passengers and crew members on the aircraft; and
- (h) in respect of every passenger and crew member—
  - (i) the person's full name, date of birth, gender, and nationality; and
  - (ii) an indication of whether the person's travel document is a passport or certificate of identity, the number and expiry date of the passport or certificate of identity, the State or organisation that issued it, and the city in which it was issued; and
  - (iii) the airport at which the person embarked on the aircraft; and
  - (iv) whether the person is disembarking at the Customs place and, if not, the airport at which the person is expected to disembark; and
- (i) the crew ranking or rating of every crew member on the aircraft; and
- (j) the Customs place or other place at which the aircraft is intended to depart from the Cook Islands, the aircraft's expected time of departure, and its intended place of overseas destination.

16 Content of advance notice of arrival: ships and boats

(1) The advance notice required under section 24(1)(a) of the Act for all ships and boats must contain the following information:
- (a) the type of ship or boat and its gross tonnage; and
- (b) the name and identity of the ship or boat, including its voyage number, International Maritime Organisation number, the country of registration, registration number if applicable, and its radio call sign; and
- (c) the name of the ship or boat's owner or charterer; and
- (d) details of the ship or boat's voyage, including the name of every port in the Cook Islands at which the ship or boat intends to call and the estimated date of arrival at each of those ports; and
- (e) the ship or boat's originating port; and
- (f) the next overseas port for which the ship or boat is destined; and
- (g) the respective numbers of passengers and crew members on board the ship or boat; and
- (h) the date and port at which the ship or boat's crew members signed on; and

(i) in respect of every passenger and crew member—

(i) the person's full name, date of birth, gender, and nationality, and status; and

(ii) the number of the person's passport or certificate of identity, the State or organisation that issued it, and the city in which it was issued; and

(iii) the port at which the person embarked on the ship or boat; and

(iv) whether the person is disembarking at the Customs place and, if not, the port or place at which the person is expected to disembark; and

(j) the crew ranking or rating of every crew member on the ship or boat.

(2) The advance notice required under section 24(1)(a) of the Act for all ships primarily involved in the transportation of passengers (for example, a cruise ship) must contain information on the expected time and date of departure of the craft from the Customs place or other place of departure.

17 Period of advance notice of arrival

For the purposes of section 24(1)(a) of the Act, the period of advance notice required to be given is—

(a) in the case of a ship, not less than 48 hours before the estimated time of arrival of the ship in the Cook Islands; and

(b) in the case of an aircraft, not less than 3 hours before the estimated time of arrival of the aircraft in the Cook Islands.

18 Inward cargo transaction fee

(1) The following persons must pay an inward cargo transaction fee:

(a) every person who gives the Customs advance notice of the matters in section 24(1)(a)(v) and (vi) of the Act (which relate to cargo for discharge within the Cook Islands (whether commercial or non-commercial) and commercial cargo not intended for discharge within the Cook Islands):

(b) every person who lodges a document that the Comptroller requires under regulation 35(2) when—

(i) that document relates to goods on a craft being imported by 1 or more importers; and

(ii) in relation to any one importer's goods, no duty is payable or the total duty payable is less than $10.

(2) The inward cargo transaction fee is,—

(a) if the advance notice or document described in subclause (1) relates to cargo or goods carried on a ship or boat, $0; or

(b) if the advance notice or document described in subclause (1) relates to cargo or goods carried on an aircraft, $0.

(3) The inward cargo transaction fee is payable to the Customs to assist in meeting costs and expenses incurred by the Customs in undertaking the following functions and duties relating to the importation of goods:

(a) processing the information contained in an advance notice or document described in subclause (1):

(b) identifying and assessing the nature of any risk associated with, or arising from, the cargo or goods to which an advance notice or document described in subclause (1) relates:

(c) inspecting consignments identified under paragraph (b) as giving rise to risk.

(4) The inward cargo transaction fee is payable no later than the following date:

(a) if, on the last day of the month in which an advance notice or document described in subclause (1) is given to the Customs (**month A**) the person required by subclause (1) to pay an inward cargo transaction fee has incurred a total of $50 or more in inward cargo transaction fees, export entry transaction fees, and outward cargo transaction fees, the 20th day of the month following month A:

(b) if, on the last day of month A the person required by subclause (1) to pay an inward cargo transaction fee has incurred a total of less than $50 in inward cargo transaction fees, export entry transaction fees, and outward cargo transaction fees, the earlier of the 2 following dates:

(i) the 20th day of the month following the month in which the total of inward cargo transaction fees, export entry transaction fees, and outward cargo transaction fees incurred by the person becomes $50 or more:

(ii) the 20th day of the third month following month A.

(5) An inward cargo transaction fee is not payable, or if already paid must be refunded, if the advance notice or document to which it relates is cancelled with the permission of a Customs officer.

(6) The inward cargo transaction fee is inclusive of value added tax.

19 Inward report of craft

The time within which an inward report must be delivered under section 29(2)(a) of the Act is—

(a) in the case of a ship, within 24 hours of arriving at a Customs place; and

(b) in the case of an aircraft, within 1 hour of arriving at a Customs place.

20 Exemptions from requirements relating to disembarkation and presentation of baggage

A person who has arrived in the Cook Islands on a craft—

(a) that has returned to the Cook Islands after a journey that did not extend beyond the exclusive economic zone; and

(b) that did not meet during that journey with any other craft or persons entering the exclusive economic zone from a point outside the Cook Islands—

is exempted from the requirements of section 31(1) and (3) of the Act, and section 32(1) of the Act.

21 Exemption from requirements relating to clearance and departure of craft

Any craft that is to depart from the Cook Islands on a journey—

(a) that is not intended to extend beyond the exclusive economic zone; and

(b) that is not intended to include a meeting with any craft or persons entering the exclusive economic zone from a point outside the Cook Islands—

is exempt from the requirements of sections 39(2) and 43(1) of the Act.

22 Exemption from requirement to depart from Customs place and present outgoing baggage

Any person who is on, or about to embark onto, a craft described in regulation 21 is exempt from the requirements of sections 33 and 35(1) of the Act.

23 Delivery time of outward report of craft

An outward report must be delivered to the Customs under section 40(a) of the Act,—

(a) in the case of a ship or boat, not less than 4 hours before the intended time of departure of the craft to which it relates; and

(b) in the case of an aircraft, not less than 30 minutes before the intended time of departure of the craft to which it relates.

24 Stores for craft

All classes of goods for use or for consumption on board a craft, whether brought in that craft to the Cook Islands or shipped in the Cook Islands, are deemed to be stores for the use of passengers and crew or the service of craft about to depart from a Customs place.

25 Shipment of stores free of duty

The conditions under which stores may be shipped free of duty, or under drawback of duty, are as follows:

(a) the stores must be, in the opinion of the Comptroller, appropriate in amount for the service of the craft, or for the use or consumption of passengers and crew on that craft; and

(b) the permission of the Comptroller to ship such stores must first be obtained by the person in charge of or the owner of the craft, or the agent of the person in charge or the owner; and

(c) the stores must be entered for export; and

(d) a receipt for all stores for craft received on board a craft must be given by or on behalf of the person in charge of the craft, who must, on demand, satisfy the Customs that specified stores have actually been shipped, or fitted into the craft; and

(e) the stores must be shipped—

(i) on craft about to depart (directly or otherwise) for any country outside the Cook Islands; or

(ii) on the following craft, or classes of craft, departing from and returning to any port in the Cook Islands without going to any country outside the Cook Islands, namely—

(A) warships:

(B) seagoing vessels, not being warships, engaged solely under naval control in operations as may be approved by the Comptroller:

(C) fishing vessels, as may be approved by the Comptroller.

26 Stores subject to duty

(1) The conditions under which stores are subject to duty are as follows:

(a) where goods are entered as stores in accordance with regulation 25, but are not shipped on the designated craft or where no evidence of such shipment is produced to the satisfaction of the Comptroller; or

(b) where stores, whether imported or shipped in the Cook Islands, are used or consumed in excess of the quantity approved by the Comptroller for use on the craft while in the Cook Islands.

(2) Stores described in subclause (1) must be entered for home consumption and duty paid accordingly.

[The next page is 940,801]

Part 4

Customs access to information

27 Access to information on border-crossing craft and border-crossing persons

A person who is required to give the Customs access to information under section 48 or 49 of the Act must provide the Customs with electronic access to the required information in a way that—

(a) enables the Customs to access the information from within the Cook Islands without the need to make an international connection; and

(b) allows for a physical connection—

(i) with any Customs electronic system used for the purpose of viewing the required information; and

(ii) that enables the Customs to view the information directly from a location designated by the Customs for that purpose.

28 Access to business records

A person to whom section 130 of the Act applies must give the Customs electronic access to the records that he or she is required to keep under section 129 of the Act, in a way that—

(a) enables the Customs to access the information from within the Cook Islands without the need to make an international connection; and

(b) allows for a physical connection—

(i) with any Customs electronic system used for the purpose of viewing and using the required information; and

(ii) that enables the Customs to view and use the information directly from a location designated by the Customs for that purpose.

[The next page is 941,001]

Part 5

Entry and accounting for goods

29 When entry of imported goods to be made

The time within which entry of goods to which section 62(1) of the Act applies must be made is—

(a) in the case of goods imported by sea, not more than 5 days before the date on which the goods are to be imported but within 20 working days after the date of importation of the goods:

(b) in the case of goods imported by air, not more than 2 days before the date on which the goods are to be imported but within 20 working days after the date of importation of the goods:

(c) in the case of goods removed for home consumption from a Customs controlled area licensed for the purpose described in regulation 7(b), within 15 working days from the end of the month in which the goods were removed from the Customs controlled area:

(d) in the case of goods entered by way of an Import Entry for Transportation in the Cook Islands or for Removal for Export as prescribed by the Comptroller in rules made under section 359(1)(c) of the Act where a further entry is required by those rules, within 20 working days after the date on which the first entry was made in respect of those goods.

30 Period for claiming imported goods

The period within which imported goods must be claimed for the purposes of section 62(4)(b) of the Act is 3 months after the date of their importation.

31 When entry of imported goods deemed to be made

An entry of goods to which section 62(1) of the Act applies is deemed to have been made for the purposes of the Act,—

(a) in the case of an entry made by means of an electronic message, on the date and at the time that the Customs computerised entry processing system generates a lodgement number in respect of the receipt of that message; and

(b) in any other case, when the entry has been received by the Customs.

32 Passing of entry of imported goods

An entry of goods to which section 62(1) of the Act applies is deemed to have been passed in accordance with the Act,—

(a) in the case of an entry for home consumption, when the Customs computerised entry processing system debits the importer's deferred payment account, or raises a cash account in respect of the duty payable; and

(b) in the case of an entry of goods deemed to have been made in accordance with regulation 35, when entry is deemed to have been made according to that regulation; and

(c) in any other case, when a delivery order message is generated by the Customs.

33 Import entry transaction fee

(1) An import entry transaction fee, which fee is $10 for an entry made using a Customs computerised entry processing system and is $20 for an entry made using a Customs manual processing system, must be paid by every person who—

(a) makes (whether voluntarily or in compliance with the Act) an import entry under section 62(1) of the Act:

(b) lodges a document under regulation 34(i)(iii) in relation to goods on which the total duty payable is $5 or more:

(c) lodges a document required by the Comptroller under regulation 35(2) in relation to goods imported on the same craft by a single importer:

(d) gives security for goods that the Comptroller is satisfied have been temporarily imported in accordance with section 148(1) of the Act.

(2) The import entry transaction fee is payable to the Customs to assist in meeting costs and expenses incurred by the Customs in undertaking the following functions and duties relating to the importation of goods:

(a) processing the information contained in an import entry or document described in subclause (1):

(b) identifying and assessing the nature of any risk associated with, or arising from, the goods to which an import entry or document described in subclause (1) relates;

(c) inspecting consignments identified under paragraph (b) as giving rise to risk.

(3) The import entry transaction fee is payable with the duty payable on the goods in relation to which the import entry or the document described in subclause (1) is made or lodged.

(4) Despite subclause (1), an import entry transaction fee is not payable if the import entry, document, or transaction described in subclause (1) relates only to—

(a) goods conveyed, removed, or transhipped for export; or

(b) goods subject to the control of the Customs that are to be transported from one Customs controlled area to another Customs controlled area for future Customs clearance; or

(c) goods in relation to which an entry has already been made and the duty paid because an entry was made in respect of those goods when an earlier consignment was found to be short-packed, short-shipped, or short-landed; or

(d) goods in relation to which full details are not available in order to make a full or complete entry; or

(e) goods that—

(i) accompany a passenger on a craft; and

(ii) are for the person's own personal, non-commercial use and not for resale; or

(f) any recreational craft that has arrived under its own power from a point outside the Cook Islands and any goods (being goods of a class for use or consumption on board a craft) carried on that craft.

(5) An import entry transaction fee is not payable, or if already paid must be refunded, if—

(a) the import entry to which it relates is cancelled under section 66 of the Act; or

(b) the document described in subclause (1) to which it relates is withdrawn or cancelled with the permission of a Customs officer; or

(c) the import entry, document, or transaction described in subclause (1) is made using a Customs computerised entry processing system; or

(d) exempted by the Comptroller.

(6) The import entry transaction fee is exclusive of value added tax.

(7) In subclause (4)(f), recreational craft means any yacht or boat that is used primarily for recreational purposes (including use as the owner's residence) and is not offered or used for hire or reward (for example, as a passenger carrier).

[Regulation 33(1): amended, on 1 July 2016, by regulation 4 of the Customs Revenue and Border Protection Amendment Regulations 2016 (SN 2016/5).]

[Regulation 33(6): amended, on 1 July 2016, by regulation 4 of the Customs Revenue and Border Protection Amendment Regulations 2016 (SN 2016/5).]

34 Certain imported goods exempt from entry

The following goods or classes of goods are exempt from the requirements of section 62(1) of the Act:

(a) any goods not unloaded in the Cook Islands that are destined for a point outside the Cook Islands:

(b) any craft, not being owned or registered in the Cook Islands, that arrives in the Cook Islands from a foreign port or airport as part of an international voyage and—

(i) during that voyage travels to 1 or more Customs places within the Cook Islands for a period no longer than 6 months before departing for a foreign port or airport; and

(ii) is engaged in the movement of cargo between Customs places in the Cook Islands:

(c) any craft that arrives solely for repair during the course of an international voyage:

(d) a military craft forming part of the armed services of any foreign country:

(e) any Cook Islands owned or registered craft, not being imported as cargo that has previously been entered for home consumption:

(f) any craft built in the Cook Islands, not being imported as cargo that has not previously been entered for export:

(g) any stores to which regulation 24 applies on the condition that they are declared on a stores list and on a further condition that the stores are kept in a secure area to the satisfaction of the Comptroller:

(h) the following goods subject to the condition that the importer enters into and complies with such covenants as may be required by the Comptroller:

(i) any bulk cargo containers and accessories thereof, including clip-on refrigerator units:

(ii) any pallet that has a value of less than $100 and is imported laden; provided that the Comptroller is satisfied that the pallet has not been imported for sale or re-use in the Cook Islands:

(iii) any pallet that has a value of less than $100 and is imported unladen and any pallet (whether imported laden or unladen) that has a value of $100 or more being in either case a pallet that is imported temporarily and in respect of which a permit under section 71(1)(c) of the Act has been granted:

(iv) any wagons, trolleys, and wheeled pallets especially designed for the handling of bulk cargo containers:

(v) any lighters imported temporarily for the purpose of facilitating the loading and unloading of cargo:

(vi) any spools, bobbins, and similar articles that are used to convey or transport imported goods, and that are to be returned to the supplier of those goods:

(vii) any postal articles, on the condition that—

(A) the goods have been imported by a person other than in the course of a business activity carried on by that person; and

(B) the goods are not subject to a licence or permit under any Act; and

(C) the importer complies with any requirement of the Comptroller for the lodgement of any document (not being an entry) in respect of those goods.

35 Certain goods deemed to be entered

(1) The following goods or classes of goods are deemed to have been entered under section 62(1) of the Act:

(a) goods being the personal baggage or household or other effects belonging to and accompanying passengers, or crew, in any craft, and not being motor vehicles or craft of any kind and not being dutiable goods imported for the purpose of sale, exchange, or as trade samples but including any such goods that are not required to be declared on any of Forms 3, 4, 5, or 6, when—

(i) a declaration in either Form 3, 4, 5, or 6, as appropriate, is presented to a Customs officer; or

(ii) the goods are lawfully removed from a Customs controlled area.

(b) goods the total value of which is less than $100 where those goods are the only goods imported by the importer in any one craft or, in the case of postal articles, in any one mail when application is made by the importer for their delivery.

(2) Despite paragraph (b) of subclause (1), where the Comptroller requires any document to be lodged with the Customs in respect of any goods referred to in that paragraph, the goods will not be deemed to be entered until the document has been lodged and accepted by the Comptroller.

36 Manner of specifying volume of alcohol

Where, in respect of an entry required by section 62(1) of the Act, the volume of the alcohol in any beverage is required to be shown, the person making the entry must specify the volume of alcohol in accordance with the alcohol strength stated by the manufacturer in the invoice, or on the label of the product concerned.

37 Deadline prescribed for entry of goods for export

The deadline before which an entry of goods to which section 73(1) of the Act applies must be made (unless the Comptroller under section 73(1)(b) of the Act allows the entry to be made before a later deadline) is 24 hours before the goods are shipped for export.

38 Export entry transaction fee

(1) Every person who makes an export entry under section 73 of the Act must pay an export entry transaction fee of $10 unless the entry is made using a Customs computerised entry processing system.

(2) The export entry transaction fee is payable to the Customs to assist in meeting costs and expenses incurred by the Customs in undertaking the following functions and duties relating to the exportation of goods:

(a) processing the information contained in an export entry:

(b) identifying and assessing the nature of any risk associated with, or arising from, the goods to which an export entry relates:

(c) inspecting consignments identified under paragraph (b) as giving rise to risk.

(3) The export entry transaction fee is payable no later than the 20th day of the month following the month in which an export entry is made or is payable at the time the export entry is passed.

(4) An export entry transaction fee is not payable, or if already paid must be refunded, if—

(a) the export entry to which it relates is cancelled under section 66 of the Act; or

(b) exempted by the Comptroller.

(5) The export entry transaction fee is inclusive of value added tax.

39 Passing of entry of goods for export

An entry of goods for export under section 73(1) of the Act is deemed to have been passed for the purposes of the Act when a delivery order message is generated by the Customs in respect of that entry.

40 Goods for export exempt from entry

(1) The following goods or classes of goods are exempt from the requirements of section 73(1) of the Act:

(a) bona fide gifts to persons resident outside the Cook Islands:

(b) trade samples supplied without charge to persons resident outside the Cook Islands:

(c) passenger's baggage and effects except—

(i) goods sold from a Customs controlled area licensed for the purpose described in section 13(b) of the Act, or in regulation 7(b); or

(ii) goods subject to a claim for a drawback of duty.

(d) goods exported by diplomatic missions:

(e) film and video tape exported for use overseas and return to the Cook Islands:

(f) commercial documents and newspapers:

(g) ships and aircraft leaving the Cook Islands under their own power, other than those departing for sale overseas:

(h) goods sent by parcel post for repair and return:

(i) goods of a type normally used for commercial or business purposes, such as laptops (including palmtop and notebook) computers and peripheral equipment (e.g. portable printers), portable typewriters, cellular telephones, video and other photographic equipment carried by a passenger leaving the Cook Islands:

(j) any goods having an FOB value not exceeding $100 and not being—
  (i) goods sold from a Customs controlled area licensed for the purpose described in section 13(b) of the Act, or in regulation 7(b); or
  (ii) goods subject to a claim for a drawback of duty.

(2) Any goods to which subclause (1) applies are deemed to have been entered when the bill of lading or air consignment note or air waybill, as the case may be, is presented to a Customs officer, or accepted for posting by Cook Islands Post.

41 Outward cargo transaction fee

(1) Every person who delivers a document of the kind referred to in subclause (2) to the Customs must pay an outward cargo transaction fee specified in subclause (3).

(2) The document is—
(a) a document that—
  (i) the Comptroller requires to support an outward report under section 40(a) of the Act; and
  (ii) relates to cargo on the craft in respect of which the outward report is made; or
(b) a document of the kind referred to in regulation 40(2) that is presented to a Customs officer for the purpose of obtaining permission for the goods described in that document to be loaded for export.

(3) The outward cargo transaction fee is,—
(a) if a document described in subclause (2) relates to cargo carried on a ship or boat, $10; or
(b) if a document described in subclause (2) relates to cargo carried on an aircraft, $10.

(4) The outward cargo transaction fee is payable to the Customs to assist in meeting costs and expenses incurred by the Customs in undertaking the following functions and duties relating to the exportation of goods:
(a) processing the information contained in a document described in subclause (2):
(b) identifying and assessing the nature of any risk associated with, or arising from, the cargo to which a document described in subclause (2) relates:
(c) inspecting consignments identified under paragraph (b) as giving rise to risk.

(5) The outward cargo transaction fee is payable no later than the 20th day of the month following the month in which a document described in subclause (2) is delivered to the Customs

(6) An outward cargo transaction fee is not payable, or if already paid must be refunded, if the document to which it relates is cancelled with the permission of a Customs officer.

(7) The outward cargo transaction fee is inclusive of value added tax.

[The next page is 941,201]

Part 6
Duties

42 Warrant for compulsory acquisition of goods

The warrant for compulsory acquisition of goods under section 97(2) of the Act must be in form 7.

[The next page is 941,401]

Part 7

Determination of country of produce or manufacture

43 Provisions relating to countries party to Pacific Island Countries Trade Agreement (PICTA)

The provisions in Schedule 3 will apply to this section.

43A Provisions relating to countries that are parties to PACER Plus

The provisions in Schedule 4 have effect according to their terms.

[Section 43A: inserted, on 18 November 2020, by section 5 of the Customs Revenue and Border Protection Amendment Regulations 2020 (SN 2020/26).]

[The next page is 941,601]

Part 8

Excise and excise-equivalent duties

44 Time for lodgement of entry for excisable goods

The time within which goods to which section 106 of the Act applies must be entered is 15 working days from the end of the month in which the goods were removed from the Customs controlled area.

45 Circumstances in which entry to be made by owner

(1) This regulation applies if—

(a) wine is removed from a Customs controlled area that is required to be licensed solely because of regulation 7(a); and

(b) the wine was manufactured in the Cook Islands; and

(c) as permitted by regulation 49, no entry was made in respect of the wine when it was taken into that Customs controlled area; and

(d) at the time of its removal from that Customs controlled area, the wine is owned by a licensee of an area licensed for the purpose described in section 13(a) of the Act.

(2) If this regulation applies, any entry that is required to be made in respect of the removal of the wine—

(a) does not have to be made by the licensee of the Customs controlled area; and

(b) must, instead, be made by the owner of the wine.

46 Manner of specifying volume of alcohol

Where, in respect of an entry required by section 106 of the Act, the volume of alcohol in any alcoholic product is required to be shown, the person making the entry must specify the volume of alcohol in accordance with the alcohol strength calculated in accordance with rules prescribed by the Comptroller under section 359(1)(f) of the Act.

47 When entry of excisable goods deemed to be made

An entry of excisable goods is deemed to have been made on the date it is received by the Customs.

48 Passing of entry of excisable goods

An entry of excisable goods is deemed to have been passed on the date it is signed as passed by the Customs.

49 Certain goods removed from Customs controlled area exempt from entry

(1) Subject to subclause (2), goods subject to excise duty that are removed from a Customs controlled area in accordance with section 108(a) of the Act, may be removed without being entered.

(2) Subclause (1) does not apply where a term, condition, or restriction imposed under section 15 or 16 of the Act in the licence granted in respect of the Customs controlled area requires that an entry must be made.

50 Payment of excise duty

For the purposes of section 112(4) of the Act, the time within which excise duty must be paid is—

(a) in the case of alcoholic products specified in items 99.10 to 99.50 of the Excise Order under the Act, that are removed from a manufacturing area or any area licensed for a purpose specified in regulation 7, the last working day of the month following the month in which the goods were removed from the Customs controlled area:

(b) in the case of other goods subject to excise duty that are removed from a manufacturing area, 15 working days after the last day of the month in which the goods were removed:

(c) in the case of goods being personal effects accompanying a person arriving from a point outside the Cook Islands, immediately on the presentation of a declaration required by regulation 35:

(d) in the case of any other goods, immediately on removal from a Customs controlled area.

51 Duty credits

The circumstances in which the licensee of a manufacturing area may claim, as a credit in the home consumption entry of goods required by section 106 of the Act, excise duty or excise-equivalent duty paid in respect of the goods, under section 120 of the Act are—

(a) where the goods are returned to the manufacturing area from which they were sold; and

(b) where the goods are resold and re-entered for home consumption or export, or reworked into product that is re-entered for home consumption or export.

[The next page is 941,801]

Part 9

Assessment and recovery of duty

52 Business records

(1) The business records required to be kept under section 129 of the Act are those records that are generated by, or that otherwise come within the possession or control of, the licensee, importer, or exporter, as the case may be, that are necessary to verify—

(a) any entry required to be made under the Act; or

(b) the importation or exportation of any goods; or

(c) the custody or movement of any goods subject to the control of the Customs; or

(d) the manufacture of any goods subject to excise duty.

(2) Without limiting the generality of subclause (1) and subject to subclauses (3) to (5), the following records are required to be kept:

(a) shipping, importation, exportation, and transportation documentation including the following:

(i) all entries required to be made under the Act:

(ii) entry documentation (including any declaration, certificate, permit, licence etc):

(iii) vouchers:

(iv) bills of lading, waybills, air waybills, consolidator waybills:

(v) shipping instructions, freight forwarders instructions:

(vi) insurance papers concerning any goods:

(vii) consignment notes:

(viii) import charges accounting details (including agent's fees, customs charges, wharf charges, and other fees and charges):

(ix) packing lists:

(x) manifests:

(xi) outturn records:

(xii) goods tally records:

(b) ordering and purchase documentation including the following:

(i) orders, confirmations of orders:

(ii) purchase agreements:

(iii) products specifications:

(iv) contracts, conditions of purchase:

(v) royalty agreements, pricing agreements, negotiations on pricing agreements, warranty agreements:

(vi) invoices, proforma invoices:

(vii) commissions and brokerage agreements and details:

(viii) correspondence and any communication between the importer or exporter and any party related to the transaction:

(c) manufacturing, stock, and resale documentation including the following:

(i) inwards goods register:

(ii) stock register:

(iii) sales records:

(iv) receipts journal:
(v) costing records:
(vi) production records:

(d) banking and accounting information including the following:
(i) letters of credit, applications for letters of credit, bank drafts:
(ii) remittance advice:
(iii) receipts, cash books:
(iv) credit card transactions:
(v) telegraphic money transfers:
(vi) offshore monetary transactions:
(vii) cheque records:
(viii) evidence of payments by any other means, including information detailing non-cash compensation transactions:

(e) chart and codes of accounts, accounting instruction manuals, and system and programme documentation that describes the accounting system used by the licensee, importer, exporter, or agent:

(f) papers, books, registers, disks, films, tapes, sound tracks, and other devices or things in or on which information contained in the records described in paragraphs (a) to (e) are recorded or stored.

(3) Despite subclause (2) but subject to subclause (1), the licensee of a Customs controlled area licensed for either or both of the purposes described in section 13(c) and (e) of the Act, must keep or cause to be kept the records specified in subclause (2)(a) and (f), but is not required to keep any of the other records specified in that subclause.

(4) Despite subclause (2), but subject to subclause (1), the licensee of a Customs controlled area licensed for the purpose specified in regulation 7(a) must keep or cause to be kept the records specified in subclause (2)(a), (b), (c) and (f), but is not required to keep any of the other records specified in that subclause.

(5) Despite subclause (2), but subject to subclause (1), every exporter must keep or cause to be kept the records specified in subclause (2)(a), (b), (c), and (f), but is not required to keep any of the other records specified in that subclause.

(6) The records required to be kept by section 129 of the Act must be kept for a period of 7 years.

[Section 52(5): amended, on 18 November 2020, by section 6 of the Customs Revenue and Border Protection Amendment Regulations 2020 (SN 2020/26).]

53 Goods damaged or deteriorated in condition

The authority of the Comptroller under section 145(1)(a) of the Act to refund or remit duty on goods that are damaged or have deteriorated in condition prior to their release from the control of the Customs is subject to the following conditions:

(a) the Comptroller must be satisfied that the damage or deterioration was not caused by the wilful act or negligence of the importer, or licensee of any Customs controlled area where the goods had been stored, or of any of the employees, or persons acting on behalf of the importer or licensee:

(b) the amount of the refund or remission of duty on any goods must be in proportion to the extent to which the Comptroller is satisfied that the goods are damaged or deteriorated in condition:

(c) despite paragraph (b), duty must not be refunded or remitted in full unless

the goods have been destroyed under the supervision of the Customs in accordance with any directions issued by the Comptroller, or have been exported.

54 Goods destroyed, pillaged, or lost

(1) The authority of the Comptroller under section 145(1)(a) of the Act to refund or remit duty on goods destroyed, pillaged, or lost prior to their release from the control of the Customs must not be exercised unless the Comptroller is satisfied that the destruction, pillage, or loss was not caused by the wilful act or negligence of the importer, or licensee of any Customs controlled area where the goods had been stored, or of any of the employees, or persons acting on behalf of the importer or licensee.

(2) Despite subclause (1), the authority of the Comptroller under section 145(1)(a) of the Act to refund or remit duty on goods destroyed, pillaged, or lost prior to their release from the control of the Customs must not be exercised where the destruction, pillage, or loss has occurred while the goods were being transported between Customs controlled areas.

55 Goods diminished in value

The authority of the Comptroller under section 145(1)(a) of the Act to refund or remit any duty on goods that have diminished in value prior to their release from the control of the Customs is subject to the following conditions:

(a) the refund or remission of duty is restricted to goods that have diminished in value while stored in a Customs controlled area licensed for the purpose described in section 13(b) of the Act:

(b) in respect of imported goods, duty may be refunded or remitted only to the extent to which the duty that would be payable on the goods if exported from the country of exportation to the Cook Islands at the time at which the application for the refund or remission is made is less than the duty payable as determined in accordance with section 94 of the Act:

(c) despite paragraphs (a) and (b), duty must not in any case be refunded or remitted in full unless the goods have been destroyed under the supervision of the Customs in accordance with any directions issued by the Comptroller.

56 Goods of faulty manufacture

The authority of the Comptroller under section 145(1)(b) of the Act to refund or remit duty on any goods that are of faulty manufacture is subject to the following conditions:

(a) the amount of the refund or remission on any goods must be in proportion to the extent to which the Comptroller is satisfied that the goods have diminished in value by reason of the fault in manufacture:

(b) despite paragraph (a), duty must not be refunded or remitted in full unless the goods have been destroyed under the supervision of the Customs in accordance with any directions issued by the Comptroller, or have been exported.

57 Goods abandoned to the Crown

The authority of the Comptroller under section 145(1)(c) of the Act to refund or remit duty on goods abandoned to the Crown must be exercised subject to the condition that the goods be disposed of or destroyed under the supervision of the

Customs, in accordance with any directions issued by the Comptroller (including any direction that the disposal or destruction be undertaken at the expense of the importer or owner of the goods).

58 Samples allowed free of duty

(1) A sample of the bulk of goods that are subject to the control of the Customs may be delivered free of duty on the condition that, if required by the Comptroller, the goods are marked or put up in such a form as to render them unsuitable for sale.

(2) Samples of any goods that are a small importation of product intended for marketing purposes to indicate likely product demand, colour range, style, or similar purpose, may be delivered free of duty on the condition that, if required by the Comptroller, the goods are marked or put up in such a form as to render them unsuitable for sale.

59 Security for duty on goods temporarily imported

The condition under which a person giving security may be released from the provisions of that security for the purposes of section 148(2) of the Act is that, unless otherwise permitted by the Comptroller, written notice of an intention to export the goods must be given not less than 6 working hours before the time at which the goods are due to be shipped for export.

60 Amount of drawback allowed

Subject to regulations 61, 62, and 63, the amount of duty allowed on drawback must be the full amount of duty paid, or, in the case of goods used in the Cook Islands (other than goods referred to in section 149(1)(c) of the Act or goods used only for trial, inspection, or demonstration), such a lesser amount to be calculated in accordance with the following formula—

where—

a is the value that the Comptroller is satisfied fairly represents a depreciated value of the Customs value of the goods at the time drawback is claimed; and

b is the Customs value for duty of the goods when imported into the Cook Islands; and

c is the duty originally paid on the goods.

61 Conditions on which drawback allowed

(1) Except as provided in regulation 62, drawback of duty may be allowed subject to the following conditions:

(a) unless otherwise allowed by the Comptroller, written notice of not less than 6 working hours must be given of an intention to ship goods for export under drawback and the exporter must, when required by the Customs, make the goods available for examination:

(b) where imported or excisable goods are exported or are to be exported under drawback, the exporter must show on the drawback entry the kind, number, and date of the entry on which duty was paid, and must if so required by the Customs produce the invoice or invoices relating to that entry together with such other documents or particulars as may be required by the Customs to verify the claim for drawback:

(c) on completion of the packing of the goods, the packages must, if so required by the Comptroller, be secured and sealed by any officer, and be

immediately conveyed to the place of shipment and shipped; or, if not so immediately conveyed and shipped, the packages must be removed to some place of security approved by the Comptroller:

(2) The Comptroller may, in his or her discretion, dispense with all or any of the requirements of subclause (1)(b).

62 Minimum amount of drawback allowable

(1) Subject to subclause (2), the minimum amount of drawback of duty allowable on goods in respect of an entry is $50.

The circumstance in which drawback below $50 must not be allowed is where the goods in respect of which the drawback of duty is claimed were exported by a person in the course of a business activity carried on by that person.

63 Minimum amount of duty collectable

(1) The amount of duty below which duty need not be collected on any goods is $5.

(2) The circumstances in which duty below $5 need not be collected are—

(a) when goods are imported by a member of the crew of any craft that arrives in the Cook Islands, and are declared on the crew declaration:

(b) when an entry for home consumption in respect of the importation of goods is made, or deemed to be made, or when no entry is required.

(3) Despite subclause (2), this regulation does not apply to—

(a) any tobacco products, that is, any goods specified in headings 24.02, 24.03, 99.60, and 99.65 of the Excise Order of the Act; or

(b) any alcoholic beverages, that is any goods specified in headings 22.03, 22.04, 22.05, 22.06, 22.08, 99.10, 99.20, 99.25, 99.30, 99.45, and 99.50 of the Excise Order of the Act; or

(c) any goods in respect of which a cause of forfeiture has arisen under the Act; or

(d) goods on which a determination relating to Anti-Dumping Duty under section 7 of the Customs Tariff Act 2012 has been made, except with the permission of the Minister of Finance.

64 Minimum amount of duty refundable

(1) Subject to subclause (2), the minimum amount of duty refundable on goods in respect of an entry is $50.

(2) The circumstance in which duty below $50 must not be refunded is where the duty liability was incurred by a person in the course of a business activity carried on by that person.

[The next page is 942,001]

Part 10
Custom rulings

65 Fee for application for Customs ruling

(1) The fee for an application for a Customs ruling is $100 in respect of the particular goods or the particular matter (as the case may be) specified in the application.

(2) The fee prescribed in this regulation is inclusive of value added tax under the Value Added Tax Act 1997.

66 Time for making of Customs ruling

The time prescribed for the purposes of section 152(2) of the Act within which a Customs ruling must be made is—

(a) in the case of an application made under section 151(1)(c) of the Act, 150 days; and

(b) in all other cases, 40 days.

[The next page is 942,201]

Part 11

Customs computerised entry processing systems

67 Application for registration

(1) An application to become a registered user of a Customs computerised entry processing system must be in form 8, and must contain the particulars specified in that form.

(2) An applicant to become a registered user of a Customs computerised entry processing system must provide details of the hardware and software equipment to be used by him or her to transmit electronic messages.

(3) An applicant to become a registered user of a Customs computerised entry processing system must provide personal identification of the following kinds:

(a) his or her birth certificate; or

(b) a passport; or

(c) any other form of official identification that is acceptable to the Comptroller as a comparable form of official identification.

[The next page is 942,401]

Part 12

Powers of Customs officers

68 Evidence of identity and entitlement to travel

(1) The documents that a Customs officer may require to be produced for inspection under section 181(2) of the Act are as follows:

(a) passport or certificate of identity:

(b) tickets:

(c) boarding pass:

(d) driver's licence:

(e) any identity card or similar document that has been issued to a person by the person's employer or by a financial institution, an organisation providing goods or services, an industrial union, a professional organisation, or a recreational organisation, that bears that person's signature or photograph.

(2) A declaration required to be made under section 181(2)(c) of the Act must be in form 9.

69 Disposal of samples of goods

(1) This regulation applies to samples of goods that have been taken and used by the Customs for the purposes of section 193 of the Act.

(2) Within 1 month after notice is given to the importer or exporter or owner, as the case may be, of the goods of the results of the examination, weighing, analysis, or testing, the importer, exporter, or owner, as the case may be, of the goods may apply to the Customs to have the goods released.

(3) Subject to Parts 14 and 16 of the Act and subclause (4), where an application is made under subclause (2), the Customs must release the goods to the importer, exporter, or owner, as the case may be, of the goods, who made the application.

(4) The Customs may decline an application to release the goods made under this regulation if the goods have been consumed in the course of the examination, weighing, analysis, or testing of the goods.

(5) Where—

(a) no application for the release of the goods is made within the period specified in subclause (2); or

(b) an application is made, but the importer, exporter, or owner, as the case may be, of the goods who made the application fails to retrieve the goods within a period of 1 month after the date on which the application was received by the Customs,—

the goods may be sold or destroyed by the Comptroller as he or she thinks fit.

70 Securities for payment of duty

The Comptroller may require and take securities under section 198 of the Act of the following kinds:

(a) a bond (with or without sureties):

(b) a guarantee to the Crown:

(c) a written undertaking in such form as the Comptroller may require:

(d) a deposit of cash:

(e) a combination of any of the above.

71 Search warrant

Every search warrant issued pursuant to section 215 of the Act must be in form 10.

72 Search and viewing warrant

Every search and viewing warrant issued under section 54 of the Act must be in form 11.

73 Report on emergency warrant

A written report on the use of an emergency warrant under section 221(8) of the Act must be in form 12.

[The next page is 942,601]

Part 13
Seizure

74 Notice of seizure

The notice of seizure of goods under section 288(1) of the Act must be in form 13.

[The next page is 942,801]

Part 14
Customs Appeal Authorities

75 Application for appeal to be heard by Customs Appeal Authority

(1) An application for an appeal to be heard by a Customs Appeal Authority under the Act must—

(a) be in form 14 and contain the particulars specified in that form; and

(b) be filed in an office of the Tribunals Division of the Ministry of Justice; and

(c) be accompanied by a fee of $400.

(2) The fee prescribed by subclause (1)(c) is inclusive of value added tax under the Value Added Tax Act 1997.

76 Waiver of fee for appeal

(1) In this regulation, Registrar means a person appointed under section 319 of the Act.

(2) The fee required under regulation 75 may, on application to the Registrar by the person appealing, be waived if—

(a) the applicant has been granted legal aid in respect of the appeal; or

(b) the applicant has not been granted legal aid in respect of the appeal and the applicant—

(i) is dependent for the payment of his or her living expenses on a benefit of a kind specified in the Welfare Act 1989; or

(ii) is wholly dependent for the payment of his or her living expenses on the Cook Islands superannuation under the Cook Islands National Superannuation Act 2000; or

(iii) has a disposable income within the meaning of section 2 of the Legal Aid Act 2004, and that disposable income does not exceed the amount referred to in the Schedule of that Act.

(3) The application to the Registrar for a waiver of the fee must be in a form approved for the purpose by the Secretary of the Ministry of Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

(4) The Registrar may remit the payment of the fee pending determination of the application for waiver if—

(a) the application for waiver is made within the time that the application for appeal (to which the application for waiver relates) may be made to the Customs Appeal Authority; and

(b) the application for appeal is likely to be filed out of time as a result of any delay in the determination of the application for waiver.

(5) If the Registrar is not satisfied that the circumstances in which a waiver may be granted are met—

(a) the fee must be paid without delay; and

(b) the applicant may not take any steps in relation to the appeal until the fee is paid.

(6) The Registrar may refund a fee that has already been paid if satisfied that—

(a) no application for a waiver of the fee was made; and

(b) the fee would have been waived, in accordance with subclause (2), had that application been made; and

(c) the criteria that would have justified that waiver still apply at the date of the application for the refund.

77 Copy of application for appeal to be forwarded to Comptroller

Within 10 days after the date on which an application in accordance with regulation 75 is made, the Authority must forward to the Comptroller a copy of the application.

78 Publication of decisions

(1) Every Authority may from time to time compile and publish reports of matters brought before it and of its decisions on such matters, and any Authority may authorise any person to compile and publish such reports. No such report may contain the name of the appellant or other particulars that are likely to identify the appellant and which, in the opinion of the Authority, can be omitted from the report without affecting its usefulness or value.

(2) Every Authority may at any time prohibit the publication of any report of any matter brought before it or of any of its decisions if the Authority is satisfied that publication of any such report would enable the identity of any person who is the subject of the matter or decision to be ascertained. Any such order prohibiting publication may be imposed in whole or in part and subject to conditions at the discretion of the Authority. Any such order or conditions may be revoked or varied at any time by any Authority.

[The next page is 943,001]

Part 15

Miscellaneous provisions

79 Form of declaration

All declarations required or authorised by the Act must, where not otherwise prescribed in these regulations or in rules made under section 359 of the Act, be in form 15.

80 Postal articles

(1) Postal articles posted by any one exporter, whether addressed to the same or different persons, may, if the Comptroller so directs, be treated for the purposes of the Act as a single postal article consigned to a single person.

(2) For the purposes of the Act, where postal articles are posted by any one exporter to a number of different persons, any one of those persons may, or the exporter may, if the Comptroller so decides, be deemed to be the importer of the goods.

81 Sale of goods by Comptroller

(1) In any case where the Comptroller is empowered under the Act to sell any goods, the Comptroller may sell such goods—

(a) by tender; or

(b) by auction.

(2) No bid or tender must necessarily be accepted, and the goods may be re-offered until sold at a price satisfactory to the Comptroller.

(3) The Comptroller, or any Customs officer authorised by the Comptroller, may act as an auctioneer in the sale of the goods without being licensed in that behalf.

(4) Despite subclause (1), the Comptroller may, in the case of perishable goods, accept such offer for purchase as may be made if the Comptroller is satisfied with the amount offered.

82 Dispersal of proceeds of sale

(1) Except as may be provided in the Act, the proceeds of any sale made pursuant to regulation 81 are to be dispersed in the following manner and order of priority:

(a) in payment of any costs and expenses incurred by the Customs in the storage or sale of the goods:

(b) in payment of any duty that may be owing in respect of the goods:

(c) in payment of Customs controlled area or other charges:

(d) in payment of any freight costs due in respect of the goods if written notice claiming such freight costs has been given to the Comptroller:

(e) the residue of any proceeds must be paid to the person, appearing to the Comptroller, to be entitled thereto.

(2) Where no entry has been made in respect of the goods to which this regulation applies, the Comptroller may, when assessing the duty that may be owing for the purposes of subclause (1)(b), value the goods at the price for which they are sold and must not be required to assess the goods for duty in accordance with Schedule 2 of the Act.

83 Application of Act to member of Armed Forces, access to Defence area, or craft under control of Defence Force

(1) Except as provided in subclause (2), and subject to the succeeding subclauses of this regulation, the powers conferred by Part 14 of the Act may be exercised in relation to—

(a) a member of the Armed Forces; or

(b) access to a Defence area; or

(c) a craft under the control of the Defence Force,—

in any circumstances where a Customs officer has reasonable cause to believe that an offence has been, is being, or is about to be, committed against the Act.

(2) Despite subclause (1), a Customs officer may exercise any power under section 178, 193, 197 to 201, or 205 of the Act in relation to—

(a) a member of the Armed Forces; or

(b) access to a Defence area; or

(c) a craft under the control of the Defence Force,—

in the circumstances set out in, and in accordance with the provisions of, those sections despite that the Customs officer does not have reasonable cause to believe that an offence has been, is being, or is about to be, committed against the Act.

(3) Subject to subclause (4), where a Customs officer proposes to exercise any power conferred by Part 14 of the Act (except any of the powers referred to in subclause (2)) in relation to a member of the Armed Forces, the Customs officer must advise the commanding officer of that member of the Armed Forces of the Customs officer's intention to exercise that power.

(4) Subclause (3) does not apply in any case where, in the opinion of the Customs officer, the delay that would be caused by the giving of the advice would unduly prejudice the exercise of the power.

(5) Subject to subclauses (6) and (7), no Customs officer may exercise any power of entry under the Act within a Defence area unless the Customs officer has first obtained the permission of the officer in charge of that Defence area to exercise the power of entry.

(6) An officer in charge of a Defence area in respect of which a Customs officer proposes to exercise a power of entry under the Act may only withhold permission under subclause (5) where, in the opinion of that officer in charge, the exercise of the power of entry will prejudice the safety or security of the Defence area or any person within that area.

(7) Despite subclause (5), a Customs officer may exercise any power of entry under the Act within a Defence area if that Defence area is also a Customs controlled area.

(8) Subject to subclause (9), no Customs officer may exercise any power of search on or in any craft under the control of the Defence Force unless the Customs officer has first obtained the permission of the commanding officer of that craft to exercise the power of search.

(9) The commanding officer of a craft under the control of the Defence Force may only withhold permission under subclause (8) where, in the opinion of that commanding officer, the exercise of the power of search will prejudice the safety or security of the craft or any person on or in that craft.

[The next page is 943,201]

Schedule 1

reg 10

Annual licence fees for Customs controlled areas

Customs controlled area	Annual licence fee
Customs controlled area licensed for the purpose specified in section 13(a) of the Act	
(a) Where a new licence is granted to the applicant in respect of that area:	$200
(b) Where a licence is already held:	$100
Customs controlled area licensed for the purpose specified in section 13(c) of the Act	
(a) Where a new licence is granted to the applicant in respect of that area:	$500
(b) Where a licence is already held:	$400
Customs controlled area licensed for the purpose specified in section 13 (b) of the Act	
(a) Where a new licence is granted to the applicant in respect of that area:	$500
(b) Where a licence is already held:	$400
Customs controlled area licensed for the purpose specified in section 13(b) of the Act and for the purpose specified in regulation 6(b)	
(a) Where a new licence is granted to the applicant in respect of that area:	$500
(b) Where a licence is already held:	$400

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Schedule 2

reg 3(3)

Forms

Contents

1. Application for Customs controlled area licence
2. Customs controlled area licence
3. Cook Islands passenger arrival card
4. Customs declared goods
5. Aircrew declaration (Non-Cook Islands domiciled crew)
6. Customs Individual crew declaration (sea) (Non-Cook Islands domiciled crew)
7. Warrant for compulsory acquisition of goods
8. Application for registration as a user of Customs computerised entry processing system
9. Customs declaration regarding identity and entitlement to travel
10. Search warrant
11. Search and viewing warrant
12. Emergency warrant report
13. Notice of seizure of goods under Customs Revenue and Border Protection Act 2012
14. Notice of appeal to Customs Appeal Authority
15. Declaration under the Customs Revenue and Border Protection Act 2012

Form 1

Application for Customs controlled area licence

Section 14, Customs Revenue and Border Protection Act 2012

To the Cook Islands Customs Service at: [Place]

1. Name of applicant:

   Trading as [where applicable]:

   Note: (a) Registered company: full registered name to be shown

   (b) Partnership/Sole trader: full names of all persons involved and trading name if applicable

   The Articles of Association are to be included with the application.

2. Application is hereby made for a Customs controlled area licence for the purposes of:

   (a) The manufacture of goods specified in the Excise Order of the Customs Revenue and Border Protection Act 2012.

   (b) The deposit, keeping, or securing of imported or excisable goods, without payment of duty on the goods, pending the export of those goods.

   (c) The temporary holding of imported goods for the purposes of the examination of those goods under section 193 of the Customs Revenue and Border Protection Act 2012 (including the holding of the goods while they are awaiting examination).

   (d) The disembarkation, embarkation, or processing of persons arriving in or departing from the Cook Island.

   (e) The processing of craft arriving in or departing from the Cook Islands or the loading or unloading of goods onto or from such craft.

   (f) The storage, by or for one of the following, of wine manufactured in the Cook Islands, where that wine cannot be physically accommodated within the manufacturing area in which it was manufactured:

      i. Persons departing to or arriving from a country outside the Cook Islands; or

      ii. Persons exercising an entitlement to the supply of goods free of duty under the Customs Revenue and Border Protection Act 2012, or any other Act.

   (g) The storage of imported goods, or goods manufactured in a manufacturing area, of a kind that are subject to duty, and on which such duty has not been paid, pending the sale of those goods to—

      i. Persons departing to or arriving from a country outside the Cook Islands; or

      ii. Persons exercising an entitlement to the supply of goods free of duty under the Customs Revenue and Border Protection Act 2012, or any other Act.

Note: Delete the categories in (a) to (g) above that are not appropriate. Customs should be consulted if you are unsure which purpose is appropriate.

3. Address of principal place of business of applicant:

4. Address of other places at which the applicant carries on, or proposes to carry on business:

   Note: (a) State full address, postal address, telephone number in each place of business.

   (b) Indicate the nature of the business (or proposed business) at each place.

5. Legal description of the area to be licensed:

Note: A detailed plan of the area should accompany this application. The plan should contain specific reference to any place where Customs Controlled goods will be manufactured, stored or examined. Full details should be provided of any buildings, including dimensions, windows, doors and the nature of construction.

6. Specific activity to be undertaken in the area to be licensed and the hours of operation:

7. Any particular security measures that will be applied to the area to be licensed.

8. [Where applicable] details of procedures and records used to account for the manufacture, movement, and storage of goods subject to the control of the Customs

   - If the application is for a Customs controlled area licence for any of the purposes specified in paragraph 2(a), (b), (f) and (g) above, complete paragraphs 9, 10, and 14 below.
   - If the application is for a Customs controlled area licence for the purpose specified in paragraph 2(c) above, complete paragraphs 11, 12, and 14 below.
   - If the application is for a Customs controlled area licence for the purpose specified in paragraph 2(d) above, complete paragraphs 13 and 14 below.

9. Details of the type of excisable goods to be manufactured or stored in the area to be licensed:

Note: Description of the goods to be in the same form as in the Excise Order of the Customs Revenue and Border Protection Act 2012 in the case of goods manufactured in the Cook Islands, and in the case of imported goods.

10. Details of any licence currently held or previously held by the applicant to manufacture or store excisable goods in the Cook Islands

11. Estimate of cargo volumes for the next 3 years in respect of the area to be licensed

12. Nature of the cargo to be handled and equipment used for handling the cargo in respect of the area to be licensed

13. Estimate of passenger volumes over the next 3 years in respect of the area to be licensed

14. Contact person nominated by the applicant for the purpose of discussing this application

General Information

i. In the case of an area licensed for any of the purposes specified in paragraph 2(b), (c), and (g) above, an annual licence fee is payable in accordance with the scale set out in Schedule 1 of the Customs Revenue and Border Protection Regulations 2012.

ii. A form of security of a kind set out in regulation 72 of the Customs Revenue and Border Protection Regulations 2012 may be required.

I hereby declare that the particulars contained in this application are true and correct.

Signature of applicant:

Date:

Form 2

Customs controlled area licence

Section 15, Customs Revenue and Border Protection Act 2012

Pursuant to section 15 of the Customs Revenue and Border Protection Act 2012, I hereby grant to: [name of licensee]

a Customs Controlled Area Licence for the purposes of [specify purpose or purposes specified in section 13 of the Customs Revenue and Border Protection Act 2012 or regulation 6 of the Customs Revenue and Border Protection Regulations 2012 for which licence is granted]

For the area located at [specify area in respect of which licence granted].

This licence is granted subject to the terms, conditions, and restrictions set out in the Procedure Statement issued with this licence.

Date:

Signature:

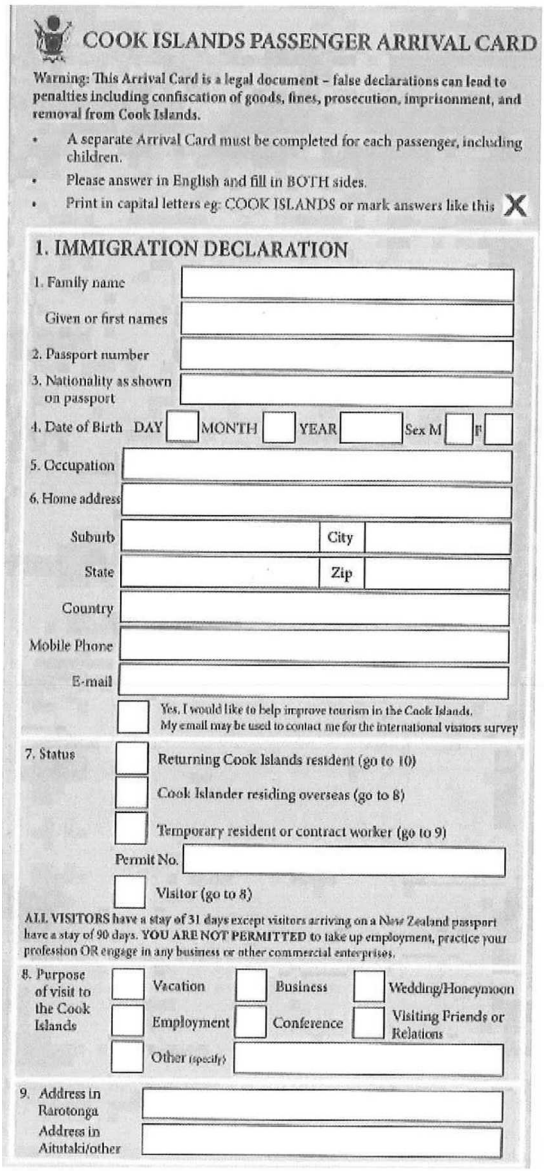
Comptroller of the Cook Islands Customs Service

Note:
Section 16 of the Customs Revenue and Border Protection Act 2012 provides that the Comptroller of the Cook Islands Customs Service may, by notice in writing, vary, or revoke the terms, conditions, or restrictions to which this licence is subject.

Form 3

Cook Islands Passenger Arrival Card

[Schedule 2 Form 3: replaced, on 29 June 2016, by section 5 of the Customs Revenue and Border Protection Amendment Regulations 2016 (SN 2016/5).]



COOK ISLANDS PASSENGER ARRIVAL CARD

Warning: This Arrival Card is a legal document – false declarations can lead to penalties including confiscation of goods, fines, prosecution, imprisonment, and removal from Cook Islands.

- A separate Arrival Card must be completed for each passenger, including children.
- Please answer in English and fill in BOTH sides.
- Print in capital letters eg: COOK ISLANDS or mark answers like this X

1. IMMIGRATION DECLARATION

1. Family name
Given or first names
2. Passport number
3. Nationality as shown on passport
4. Date of Birth DAY MONTH YEAR Sex M F
5. Occupation
6. Home address
Suburb City
State Zip
Country
Mobile Phone
E-mail

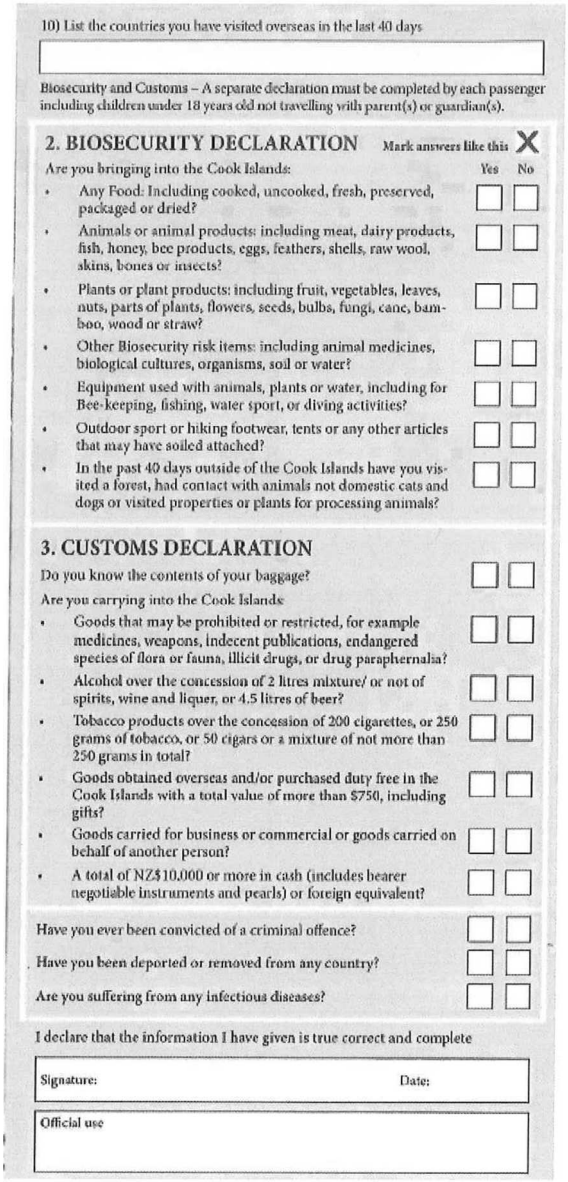
Yes, I would like to help improve tourism in the Cook Islands. My email may be used to contact me for the international visitors survey

7. Status
Returning Cook Islands resident (go to 10)
Cook Islander residing overseas (go to 8)
Temporary resident or contract worker (go to 9)
Permit No.
Visitor (go to 8)

ALL VISITORS have a stay of 31 days except visitors arriving on a New Zealand passport have a stay of 90 days. **YOU ARE NOT PERMITTED** to take up employment, practice your profession OR engage in any business or other commercial enterprises.

8. Purpose of visit to the Cook Islands
Vacation Business Wedding/Honeymoon
Employment Conference Visiting Friends or Relations
Other (specify)

9. Address in Rarotonga
Address in Aitutaki/other



10) List the countries you have visited overseas in the last 40 days

Biosecurity and Customs – A separate declaration must be completed by each passenger including children under 18 years old not travelling with parent(s) or guardian(s).

2. BIOSECURITY DECLARATION

Mark answers like this X

Are you bringing into the Cook Islands:	Yes	No
• Any Food: Including cooked, uncooked, fresh, preserved, packaged or dried?	☐	☐
• Animals or animal products: including meat, dairy products, fish, honey, bee products, eggs, feathers, shells, raw wool, skins, bones or insects?	☐	☐
• Plants or plant products: including fruit, vegetables, leaves, nuts, parts of plants, flowers, seeds, bulbs, fungi, cane, bamboo, wood or straw?	☐	☐
• Other Biosecurity risk items: including animal medicines, biological cultures, organisms, soil or water?	☐	☐
• Equipment used with animals, plants or water, including for Bee-keeping, fishing, water sport, or diving activities?	☐	☐
• Outdoor sport or hiking footwear, tents or any other articles that may have soiled attached?	☐	☐
• In the past 40 days outside of the Cook Islands have you visited a forest, had contact with animals not domestic cats and dogs or visited properties or plants for processing animals?	☐	☐

3. CUSTOMS DECLARATION

Do you know the contents of your baggage?	☐	☐
Are you carrying into the Cook Islands:		
• Goods that may be prohibited or restricted, for example medicines, weapons, indecent publications, endangered species of flora or fauna, illicit drugs, or drug paraphernalia?	☐	☐
• Alcohol over the concession of 2 litres mixture/ or not of spirits, wine and liquer, or 4.5 litres of beer?	☐	☐
• Tobacco products over the concession of 200 cigarettes, or 250 grams of tobacco, or 50 cigars or a mixture of not more than 250 grams in total?	☐	☐
• Goods obtained overseas and/or purchased duty free in the Cook Islands with a total value of more than $750, including gifts?	☐	☐
• Goods carried for business or commercial or goods carried on behalf of another person?	☐	☐
• A total of NZ$10,000 or more in cash (includes bearer negotiable instruments and pearls) or foreign equivalent?	☐	☐
Have you ever been convicted of a criminal offence?	☐	☐
Have you been deported or removed from any country?	☐	☐
Are you suffering from any infectious diseases?	☐	☐

I declare that the information I have given is true correct and complete

Signature: Date:

Official use

Form 4

Customs Declared Goods

When you must make this declaration

You must make this declaration if—

• You answered "yes" to any of the questions, about goods, in part 2 of your Cook Islands Arrival Declaration Card; or

• You are asked by a Customs officer to make this declaration.

What you must declare

Please fill in the columns below for all goods that may be prohibited or restricted.

Please fill in the columns below for all goods that you acquired overseas or from a duty free source in the Cook Islands and that—

• are alcohol and tobacco products; or

• are for business or commercial use; or

• are carried on behalf of other persons; or

• are of any other kind (except clothing, toiletries, or jewellery intended for your own personal use and not for gift, sale, or exchange).

Description of Goods Price Paid Currency Official Use Only

Declaration

I .....
(full name) declare that the information I have given is true, correct, and complete.
This declaration is also made in respect of ..... persons aged under 17 travelling with me.

Signature: Date:

Payment of Customs charges

Payment of Customs charges may be made by cash.

Form 5

Aircrew Declaration
Customs Revenue and Border Protection Regulations 2012

Aircrew Declaration List

Aircraft From Which arrived at Date

We, the undersigned Captain, Officers and Crew of the above mentioned aircraft declare that we have in our possession our custody, the packages, articles or goods entered opposite our signature and we severally undertake that neither such packages, articles or goods, nor portion thereof will be landed without the authority of an officer of Customs.

Name (Printed) Signature Rank Cigarettes

No. Cigars

No. Tobacco

Wt. Liquor

Qts Perfume

Ozs Other Articles FOR OFFICIAL USE

I declare that the foregoing list contains the signature of all the officers and members of my crew, and that they have been notified that all articles in their possession, other than bona fide personal effects, must be entered thereon.

Declared before me Date Captain of Aircraft

Form 6

Crews Effects Declaration

Shipping line, agent Port: No of Pages

Date:

WRONG DECLARATION MAY LEAD TO PROSECUTION

For official use

1. Vessel's name:

2. Effects which are dutiable or subject to prohibitions or restrictions

Other articles

3. Flag Spirits Wine Cigarettes Cigar Tobacco

4. No.

5. Name

6. Rank/ratingBtls Btls Pcs Pcs Grms

Form 7

Warrant for compulsory acquisition of goods

Section 97, Customs Revenue and Border Protection Act 2012

I, [full name],

Comptroller of the Cook Islands Customs Service, hereby exercise the Crown's right under section 97(1) of the Customs Revenue and Border Protection Act 2012 to acquire the goods described in the attached schedule from [state name of person from whom goods are being acquired]

of [address]

Signature:

Date:

[The next page is 943,451]

Form 8

Application for registration as a user of Customs computerised entry processing system

Section 164, Customs Revenue and Border Protection Act 2012

Section 1: Application identification details

Surname:

First name:

Other names by which you are known:

Date of birth:

Form of identification

Birth certificate No:

Official photo identification:

Passport No:

Cook Islands driver's licence No:

Other form of identification that is acceptable to the Comptroller as a comparable form of official identification and No:

Section 2: Applicant contact details

Work contact details

Company name:

Mailing address:

Physical address:

Phone No:

Email address:

Home contact details

Mailing address:

Physical address:

Phone No:

Email address

Section 3: Reasons for registration

Indicate which of the following reasons apply:

Importing goods for your own use Yes/No

Exporting goods for your own use Yes/No

Employed by or conducting business as a—

Customs broker dealing in imports Yes/No

Company/entity that imports goods Yes/No

Customs broker dealing in exports Yes/No

Company/entity that exports goods Yes/No

Section 4: Revenue Management Division Number details

If you are importing goods for your own use or exporting goods in your own name, state your Revenue Management Division (RMD) number:

If you are employed by or conducting business as a company/entity that imports or exports goods, state the name(s) and Revenue Management Division (RMD) number(s) of the company (or companies) or entity (or entities) in whose name you wish to lodge entries:

If you are employed by or conducting business as a Customs broker, state the name(s) of the Revenue Management Division (RMD) number(s) of the broker company (or companies) in whose name you wish to lodge entries:

Section 5: Transmission details

How do you, or will you, transmit entries to the Customs?

Section 6: Declaration

I, [name], declare that the information I have provided is true, correct, and complete.

I am aware of the provisions of section 163 to 169 of the Customs Revenue and Border Protection Act 2012

Signature of applicant:

Date:

You are advised that the information requested on this form is collected to enable you to enter goods by electronic messages in the prescribed form and for the Customs to verify the correctness of the entries for Customs purposes.

The Customs Revenue and Border Protection Act 2012 provides that every entry of goods must be made in such form and within such time and in such manner as may be prescribed. If you do not supply the information you will not be able to enter goods by means of an electronic message through the Customs computerised entry systems.

Form 9

Customs declaration regarding identity and entitlement to travel

Section 181, Customs Revenue and Border Protection Act 2012

I, [Full name], of [address], having been required by a Customs officer to produce for inspection 1 or more of the documents specified in Regulation 67 of the Customs Revenue and Border Protection Act 2012, and being unable to do so, declare that the particulars of my name and address specified above are true and correct.

Signature:

Date:

Notes:

1. This Declaration must be completed on demand made by a Customs officer.

2. The documents specified in Regulation 67 of the Customs Revenue and Border Protection Regulations are:

    a) passport of certificate of identity
    b) tickets
    c) boarding pass
    d) drivers licence
    e) any identity card or similar document that has been issued to a person by the person's employer or by a financial institution, an organisation providing goods or services, an industrial union, a professional organisation, or a recreational organisation, that bears that persons signature or photograph.

For official use only

Flight/Ship's Voyage No:

Signature of Customs officer:

Date:

Form 10

Search warrant

Section 215, Customs Revenue and Border Protection Act 2012

To every Customs officer (or [full name], Customs officer)

I am satisfied on an application, in writing made on oath, that there are reasonable grounds to believe that there is in or on [specify place or thing] the following thing, namely:

*(a) anything that there are reasonable ground to believe may be evidence of—
(i) the commission of an offence against [specify offence]; or
(ii) the unlawful exportation or importation of [specify goods]; or

*(b) any thing that there are reasonable grounds to believe is intended to be used for the purpose of—
(i) committing an offence against [specify offence]; or
(ii) unlawfully exporting or importing [specify goods]; or

*(c) any thing that is liable to seizure under the Customs Revenue and Border Protection Act 2012.

*Delete if inapplicable

This is to authorise you—

(a) To enter and search the place or thing specified above on 1 occasion within 10 working days of the date of issue of this warrant at any time that is reasonable in the circumstances, subject to the following conditions (if any) [specify conditions]; and

(b) To use any assistance that is reasonable in the circumstances; and

(c) To use any force that is reasonable in the circumstances for making entry (whether by breaking open doors or otherwise) and for breaking open any thing and for preventing the removal from the premises of any thing; and

(d) To search for and seize any thing referred to in this warrant, and to seize any other thing that you have reasonable cause to suspect may be evidence of the commission of an offence in respect of which you could have obtained a warrant; and

(e) To detain a person who is at the specified place, or who arrives at that place while you are executing this warrant, if, while you are executing this warrant, you reasonably believe that the thing referred to in this warrant may be on the person's body.

When executing this warrant, you are required to comply with sections 216(7) to (9), 219, and 223 of the Customs Revenue and Border Protection Act 2012.

If you seize any thing under this warrant, you are required to comply with section 220 of the Customs Revenue and Border Protection Act 2012.

Date:

[signature]

(High Court Judge, or Justice of the Peace, or Registrar of a High Court)

Form 11

Search and viewing warrant

Section 54, Customs Revenue and Border Protection Act 2012

To every Customs officer (or [full name], Customs officer)

This warrant relates to application [specify application number], made to me in writing on oath, under section 54(2) of the Customs Revenue and Border Protection Act 2012 (the Act)

I am satisfied that the requirements of section 54(4) of the Act have been fulfilled, namely—

a) That there are reasonable grounds to suspect that—

*(i) there is a risk or threat relevant to the purpose stated in section 46(1) of the Act; or

*(ii) a relevant offence, as defined in section 54(6) of the Act has been (or is being) (or will be) committed; and

*Delete if inapplicable

(b) That the search criteria specified in the application to which this warrant relates are reasonably related to the information available to the Customs that gives rise to those reasonable grounds to suspect.

This is to authorise you within 14 days after the day on which this warrant is granted to—

(a) Search for information to which access is given under section 49 of the Act to determine whether it includes information that is relevant to the search criteria specified in the application to which this warrant relates; and

(b) View any information that is relevant to the search criteria specified in the application to which this warrant relates and that is included in information to which access is given under section 49 of the Act.

Date:

Place:

Signature of High Court Judge or Justice of the Peace:

Form 12

Emergency warrant report form

Section 221, Customs Revenue and Border Protection Act 2012

To [High Court Judge, Justice of the Peace, or Registrar of a High Court who granted emergency warrant]

Report on executing and results of emergency warrant

1) Emergency warrant granted on:

2) Customs officer to whom warrant issued:

3) Date and time of entry:

4) Type of premises, place, or thing:

5) Time spent on premises:

6) Number, type, and purpose of assistants to person specified in warrant:

7) Force was (or was not) required to effect entry:

8) Owner/occupier was (or was not) present:

9) Results of warrant execution:

Reporting officer: [signature]

Report number:

Customs officer: [signature]

Date:

Form 13

Notice of seizure of goods under Customs Revenue and Border Protection Act 2012

Section 288, Customs Revenue and Border Protection Act 2012

Customs office [place] Cook Islands

(1) Insert name of importer or other person known or believed to have an interest in the goods

To (1)

(2) Insert particulars of the goods seized

Take notice that (2)

(3) State the provision of section 286 of the Act that applies

has/have been seized on [date] as forfeited to the Crown under (3)

(4) Insert particulars as

On the grounds that (4)

No:

Date:

Place:

Signature of Customs officer:

Form 14

Notice of Appeal to Customs Appeal Authority

Section 322, Customs Revenue and Border Protection Act 2012

Part 1—Appellant details

Appellant's full name:

of [address]:

Name of legal advisor or agent:

Address for service of documents:

Daytime phone number: [area code] [telephone number]

Fax number: [area code] [fax number]

Part 2—Decision appealed against

Name of person who made the decision appealed against [if known]:

If applicable, the entry number relating to the goods in respect of which the decision appealed against was made:

The Appellant hereby appeals against the decision of the Cook Islands Comptroller of Customs dated [date] that:

Part 3—The facts of the case

The Appellant relies on the following facts in support of the appeal:

Part 4—Grounds of appeal

The following are the grounds on which the Appellant bases this appeal:

Part 5—List of documents

The Appellant relies on the following documents:

Signature of Appellant or agent:
Date:
This form once completed is to be sent to:

XXXX

Form 15

Declaration under the Customs Revenue and Border Protection Act 2012

I, [full name], of [address] hereby declare that:

Date:

Signature:

[The next page is 943,551]

Schedule 3

r 42

Provisions relating to PICTA

[Schedule 3 heading: replaced, on 18 November 2020, by section 7(1) of the Customs Revenue and Border Protection Amendment Regulations 2020 (SN 2020/26).]

1 In this Schedule, unless the contrary intention appears:

Factory means the place in the territory of a Party where a process of manufacture occurs

Factory cost means the total cost of the goods in their finished state following a process of manufacture, excluding any profit, marketing costs, taxes, and other duties

Inner containers includes any container or containers into which, or on which, any goods are packed for sale, but excludes any shipping container, pallet, or similar article used for the purposes of carriage on any ship or aircraft

Labour costs means:

(a) salaries, wages, bonuses, productivity payments, and other employment related benefits incurred in connection with a process of manufacture in the territory of a Party; and

(b) other labour costs incurred at a Factory in connection with the manufacturing process in the territory of a Party, including:

(i) management of the process of manufacture:
(ii) receipt of Materials:
(iii) storage of Materials:
(iv) supervision of the process:
(v) training in relation to the manufacture of goods:
(vi) quality control:
(vii) packing into inner containers; and
(viii) handling the storage of goods in the Factory

Material means all inputs, other than labour and overheads, into a process of manufacture in the form they are received at a Factory, including:

(a) an input that is itself a result of an earlier process of manufacture; (b) natural elements that are used in that process of manufacture; and (c) inner containers

Originating Material costs in relation to any process of manufacture means:

(a) the total cost of Wholly produced or obtained goods used in that process of manufacture; or

(b) the cost of Material used in that process of manufacture that is wholly produced or obtained in the territory of a Party, excluding Labour costs and Overhead costs from an earlier process of manufacture if:

(i) that earlier process of manufacture has taken place outside the territory of a Party; or
(ii) the total expenditure on Material that is wholly produced or

obtained, and on labour and overhead that is incurred, in the territory of that Party, is less than 40% of the factory cost of that process of manufacture

Other duties includes goods and services taxes, sales taxes, value added taxes, excise taxes, anti-dumping duties, and countervailing duties

Overhead costs includes any of the following costs where incurred in connection with the final process of manufacture in the territory of a Party:

(a) inspecting and testing Materials and goods:

(b) insuring real property, plant, equipment and Materials used in the production of the goods, work in progress and finished goods:

(c) liability insurance, accident compensation, and insurance against consequential loss from accident to plant and equipment:

(d) dies, moulds, and tooling, whether or not these items originate within the territory of a Party:

(e) depreciation, maintenance and repair of plant and equipment:

(f) interest payments for plant and equipment:

(g) research, development, design, engineering and creative work:

(h) rent, leasing, mortgage interest, depreciation on buildings, maintenance, repair, rates and taxes for real property used in the production of the goods:

(i) leasing of plant and equipment, whether or not these items originated within a territory of a Party:

(j) materials and supplies utilised in the manufacturing process, but not directly incorporated into the manufactured goods, including energy, fuel, water, lighting, lubricants and rags, whether or not these items originated within the Party:

(k) storage of Material and goods at the Factory:

(l) royalties, licences or fees in respect of patented machines or processes used in the manufacture of the goods, or in respect of the right to manufacture the goods, or intellectual property rights:

(m) subscriptions to standards institutions and industry and research associations:

(n) factory security, provision of medical care, including first aid kits and medical supplies, cleaning services, cleaning materials and equipment, training materials, disposal of waste, safety and protective clothing and equipment, and the subsidisation of a Factory cafeteria to the extent not recovered by returns:

(o) computer facilities allocated to the process of manufacture of the goods:

(p) contracting out part of the manufacturing process within the territory of a Party:

(q) employee transport and Factory vehicle expenses; and

(r) any tax in the nature of a fringe benefit tax payable on a cost in respect of labour or overheads

Overhead costs does not include:

(a) costs for telephone, mail, and other means of communication:

(b) the cost of shipping and airfreight containers:

(c) the cost of conveying, insuring, or shipping the goods after their manufacture is completed:

(d) royalty payments relating to a licensing agreement to distribute or market the goods:

(e) rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, repair, taxes and rates for real property used by personnel charged with administrative functions:

(f) international travel expenses, including fares and accommodation:

(g) manufacturer's profits, or the profit or remuneration of any trader, agent, broker or other person dealing in the goods after their manufacture:

(h) costs relating to the general expense of doing business, such as the cost of providing executive, financial, sales, advertising, marketing, accounting and legal services, and insurance:

(i) any other costs and expenses incurred after the completion of the manufacture of the goods

Party means a State, Territory of Self-Governing Entity that has signed and ratified or acceded to PICTA pursuant to Article 26 of that agreement or that has acceded to PICTA pursuant to Article 27 of that agreement

Territory means a Party's land territory, internal waters, territorial waters, continental shelf, archipelagic waters and exclusive economic or resource management zones established in accordance with international law

Wholly produced or obtained goods means:

(a) live animals born and raised in the territory of a Party:

(b) animals obtained by hunting, trapping, fishing, gathering or capturing in the territory of a Party:

(c) products obtained from live animals born and raised in the territory of a Party:

(d) plants and plant products harvested, picked or gathered in the territory of a Party:

(e) products of sea fishing and other products taken from the sea outside the territory of a Party, where the Party is the country of registration of the vessel that carries out those operations:

(f) minerals and other naturally occurring substances extracted from soil, the waters, the seabed, or beneath the seabed of the territory of a Party:

(g) scrap and waste derived from manufacturing operations in the territory of a Party which are only fit for disposal or for the recovery of raw Materials:

(h) scrap and waste derived from articles collected or consumed in the territory of a Party which are only fit for the recovery of raw Materials:

(i) products taken from the area of the seabed outside the territory of that Party, pursuant to rights held by that Party and recognised under international law; or

(j) goods produced in the territory of a Party exclusively from products referred to in subparagraph (a) to (i).

[Schedule 3 clause 1 Party: replaced, on 18 November 2020, by section 7(2) of the Customs Revenue and Border Protection Amendment Regulations 2020 (SN 2020/26).]

2 For the purposes of paragraph 3 of this Annex, goods are indirectly exported if the goods do not enter the commerce of a State, Territory, or Self Governing entity which is not a Party Goods do not enter the commerce of a non-Party if:

(a) a transit entry is justified for geographical reasons or transport requirements; and

(b) the goods have only undergone an operation required for unloading or reloading, or any operation required to keep them in good condition.

3 Goods exported from one Party to any other Party, whether directly or indirectly, shall be treated as goods originating in the territory of the first Party if these goods are:

(a) wholly produced or obtained in the territory of that Party; or

(b) the result of the final process of manufacture performed in the territory of that Party, and the total expenditure on Originating Material costs, Labour costs and Overhead costs is not less than 40% of the total expenditure on Material, labour and overheads, whether or not incurred in the territory of that Party.

4 If difficulties arise, from unforeseen circumstances of a short term nature, resulting in an individual shipment of goods failing to qualify for origin under paragraph (3)(b), then the exporting and importing Parties may agree to apply a margin of tolerance of up to 2% of the qualifying expenditure. These Parties must apply this tolerance for a limited period of time only.

5 Minimal operations or processes that are only performed to:

(a) ensure the preservation of goods in good condition for the purposes of transport or storage:

(b) facilitate shipment or transportation; or

(c) package or present the goods for sale;

do not, alone or in combination with each other, confer origin on goods under any other rule.

[The next page is 943,751]

Schedule 4

r 43A

Provisions relating to PACER Plus

[Schedule 4: inserted, on 18 November 2020, by section 8 of the Customs Revenue and Border Protection Amendment Regulations 2020 (SN 2020/26).]

1 Interpretation

In this Schedule, unless the context otherwise requires—

acquaculture means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from seedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators

CIF value means the value of the good imported and includes the cost of insurance and freight up to the port or place of entry into the country of importation

declaration of origin means a declaration made in accordance with clause 15

declaration of origin requirements are the requirements set out in Annex 3-A of Chapter 3 of the PACER Plus

FOB the free-on-board value of the good, including the cost of transport to the port or site of final shipment abroad

generally accepted accounting principles —

(a) means the recognised consensus or substantial authoritative support in a Party, with respect to—

(i) the recording of revenues, expenses, costs, assets and liabilities; and

(ii) the disclosure of information; and

(iii) the preparation of financial statements; and

(b) includes broad guidelines of general application as well as detailed standards, practices and procedures

identical and interchangeable goods or materials means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical

indirect material means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:

(a) fuel and energy:

(b) tools, dies and moulds:

(c) spare parts and materials used in the maintenance of equipment and buildings:

(d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings:

(e) gloves, glasses, footwear, clothing, safety equipment, and supplies:

(f) equipment, devices, and supplies used for testing or inspecting goods:

(g) catalysts and solvents:

(h) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production

material means any matter or substance that is used in the production of a good

non-originating good or non-originating material means a good or material that does not qualify as originating in a party under this Schedule

originating good or originating material means a good or material that qualifies as originating in a party under this Schedule

packing materials and containers for shipment means goods used to protect a good during its transportation, other than containers and packaging material used for retail sale

party means a State, separate customs territory, or self-governing entity for which the PACER Plus is in force

preferential tariff treatment means the rate of customs duty that applies to an originating good in the territory of a party

producer means a person who engages in the production of goods or materials

production means methods of obtaining goods including but not limited to growing, mining, harvesting, farming, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, manufacturing, aquaculture, processing or assembling a good

product specific rules are the rules set out in Annex 3-B of Chapter 3 of the PACER Plus

regional value content has the meaning given to it in clause 4 of this Schedule.

2 Originating goods

A good is treated for the purpose of the Act and the Customs Tariff Act 2012 to originate in a party if—

(a) the good—

(i) is wholly produced or obtained in a party as provided in clause 3; or

(ii) is produced entirely in 1 or more parties, by 1 or more producers, exclusively from originating materials in accordance with this Schedule; or

(iii) satisfies the applicable product specific rule as a result of processes performed entirely in the territory of 1 or more of the parties by 1 or more producers; or

(iv) otherwise qualifies as an originating good under this Schedule; and

(b) the good meets all other applicable requirements of this Schedule.

3 Good wholly obtained or produced

For the purposes of clause 2, the following goods are wholly obtained or produced in a party:

(a) plants and plant goods including fruit, flowers, vegetables, trees, seaweed, fungi and live plants, grown, harvested, picked, or gathered in a party:
(b) live animals born and raised in 1 or more parties:
(c) goods obtained from live animals in a party:
(d) goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering, or capturing in a party:
(e) minerals and other naturally occurring substances extracted or taken from soil, the waters, the seabed, or beneath the seabed in a party:
(f) goods of sea-fishing and other marine goods taken from the high seas, in accordance with international law, by any vessel registered or recorded with a party and entitled to fly the flag of that party:
(g) goods produced from goods referred to in paragraph (f) on board any factory ship registered or recorded with a party and entitled to fly the flag of that party:
(h) goods taken by a party, or a person of a party, from the seabed or beneath the seabed beyond the exclusive economic zone and adjacent continental shelf of that party and beyond areas over which non-parties exercise jurisdiction under exploitation rights granted in accordance with international law:
(i) goods which are—
  (i) waste and scrap derived from production and consumption in a party, if the goods are fit only for the recovery of raw materials; or
  (ii) used goods collected in a party, if the goods are fit only for the recovery of raw materials; and
(j) goods produced or obtained in a party solely from products referred to in paragraphs (a) to (i) or from their derivatives.

4 Regional value content

(1) For the purposes of clause 2, if a product specific rule requires a good to meet a regional value requirement, the formula for calculating the regional value content is—

$$RVC = \frac{V\text{-}VNM}{V} \times 100$$

RVC is the regional value content of a good, expressed as a percentage; and
V is the value of the good, as provided in subclause (2); and
VNM is the value of non-originating materials, including materials of undetermined origin.

(2) The value of the good referred to in subclause (1) is, for exported goods, the FOB value of the good.

(3) The value of non-originating material or materials of undetermined origin is—
(a) for imported materials, the CIF value at the time of importation of the materials; or
(b) for materials acquired within the territory of the party in which the good is produced, the earliest ascertainable price paid or payable for the materials in the territory of the party.

(4) The value of goods must be determined according to the valuation rules under the Act.

(5) For non-originating material or materials of undetermined origin included under subclause (1), the following expenses may be deducted from the value of the material:

(a) the cost of freight, insurance, packing and all other costs incurred in transporting the material within or between parties' territories to the location of the producer:

(b) duties, taxes and customs brokerage fees on the material paid in the territories of 1 or more of the parties other than duties and taxes that are waived, refunded or refundable or otherwise recoverable, including credit against duty or tax paid or payable:

(c) the cost of waste and spoilage resulting from the use of the material in the production of the good less the value of renewable scrap or by product:

(d) costs of processing incurred in the territory of 1 or more of the parties in producing the non-originating material:

(e) the cost of originating materials used or consumed in producing the non-originating material in the territory of 1 or more of the parties.

(6) No deduction is allowed for an expense under subclause (5) if the amount of the expense is unknown or evidence of the amount is unavailable.

(7) Costs must be recorded and maintained in accordance with generally accepted accounting principles applicable in the territory of the party in which the good is produced or manufactured.

5 Cumulative rules of origin

(1) A good is originating if it is produced in 1 or more of the parties by 1 or more producers, provided that the good satisfies the requirements in clause 2 and the other requirements in this Schedule.

(2) Originating goods or materials of a party used in the production of a good of another party must be considered to originate in the latter party.

(3) Production that occurs in the territory of 1 or more of the parties by 1 or more producer may count as originating content in the origin determination of a good regardless of whether that production was sufficient to confer originating status to the materials themselves.

6 Minimal operations and processes

If a claim of origin is based solely on regional value content, the following operations or processes (whether undertaken by themselves or in combination with each other) are considered to be minimal and may not be taken into account in determining whether goods are originating:

(a) operations to ensure goods are preserved in good condition for the purposes of transport or storage:

(b) facilitating shipment or transportation:

(c) packaging or presenting goods for sale:

(d) affixing of marks, labels or other similar distinguishing signs on products or their packaging:

(e) disassembly.

7 *De minimis*

(1) A good that does not satisfy the change in tariff classification requirements in a product specific rule is nonetheless an originating good if—

(a) the value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10% of the FOB value of the good; or

(b) for a textiles or apparel good provided for in Chapters 50 to 63 of the Harmonised System, the weight of all non-originating materials used in its production that did not undergo the required change in tariff classification does not exceed 10% of the total weight of the good.

(2) A good referred to in subclause (1) must meet all other applicable requirements of this Schedule.

(3) The value of any non-originating materials must, however, be included in the value of non-originating materials for any applicable regional value content requirement for the good.

8 Accessories, spare parts, tools, and instructional or other information materials

(1) For the purposes of determining origin, accessories, spare parts, tools or instructional or other information, materials provided with the good—

(a) must be considered originating goods; and

(b) must be disregarded in determining whether all the non-originating materials used in the production of the originating goods undergo the applicable change in tariff classification or production process requirements.

(2) If the good is subject to a regional value content requirement, the value of the accessories, spare parts, tools or instructional or other information materials provided with the good must be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

(3) Subclauses (1) and (2) only apply if—

(a) the accessories, spare parts, tools, or instructional or other information materials are not invoiced separately from the good; and

(b) the quantities and the value of those accessories, spare parts, tools or instructional or other information materials provided with the good are customary for that good.

(4) Where accessories, spare parts, tools and instructional or other information materials presented with the good are not customary for the good or are invoiced separately from the good, they must be treated as separate goods for the purpose of determining the origin.

9 Identical and interchangeable goods or materials

The determination of whether identical and interchangeable goods or materials are originating goods must be made either:

(a) by physical segregation of each of the goods or materials; or

(b) by the use of an inventory management method used throughout the fiscal year of the person that selected the method and—

(i) recognised by the generally accepted accounting principles of the party in which the production is performed; or

(ii) accepted by that party in which production is performed.

10 Treatment of packing materials and containers

(1) Packing materials and containers in which a good is placed exclusively for transportation and shipment must not be taken into account in determining the origin of a good.

(2) Packing materials and containers in which a good is packaged for retail sale, when classified together with that good, must not be taken into account in

determining whether all of the non-originating materials used in the production of the good have met the applicable change in tariff classification or process of production requirements as set out in a product specific rule.

(3) If a good is subject to a regional value content requirement, the value of the packing materials and containers in which the good is packaged for retail sale must be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.

(4) If the packaging material and container is not customary for the good, its value must not be included as originating in a regional value content calculation for the good.

11 Indirect materials

An indirect material must be treated as an originating material without regard to where it is produced and its value must be the cost registered in the accounting records of the producer of the good.

12 Records

(1) A producer, exporter, or authorised representative of the producer or exporter must keep, for 5 years from the date of export,—

(a) a record of all transactions relating to the origin of a good for which preferential tariff treatment is claimed in an importing party; and

(b) the declaration of origin relevant to the good, or a copy of the declaration.

(2) An importer claiming preferential tariff treatment must keep, for 5 years after the date of import,—

(a) all records relating to the importation of good; and

(b) the declaration of origin of the relevant good, or a copy of the declaration.

(3) The records that must be kept under the Act and this Schedule include electronic records.

13 Consignment

(1) A good that is transported only among parties retains it originating status as determined under clause 2.

(2) A good that has transited through a non-party retains its originating status as determined under clause 2 if the goods have not undergone subsequent production or any other operation in the territory of a non-party other than—

(a) unloading, reloading, storing, any other operation necessary to preserve the goods in good condition, repacking, relabelling, or any other operation necessary to transport the good to the territory of the importing party; or

(b) the good has been shown in or utilised at an exhibition in a non-party.

14 Goods in storage

(1) Customs must grant preferential tariff treatment for an originating good of an exporting party which on the date of entry into force of the PACER Plus is—

(a) in the process of being transported from the exporting party; or

(b) has not been released from Customs control; or

(c) is in storage in a warehouse regulated by Customs.

(2) However, subclause (1) only applies if the originating good is destined for home consumption in the Cook Islands and satisfies all the requirements in this Schedule.

15 Declaration of origin

(1) A declaration of origin must be provided to support a claim for eligible preferential tariff treatment.

(2) The declaration of origin must comply with the following requirements:

(a) it must be completed by the exporter or producer or an authorised representative of the exporter or producer:

(b) it must include the information required in the declaration of origin requirements:

(c) it must be made in respect of 1 or more goods and may include a variety of goods:

(d) it must be completed in English:

(e) it must be in written format, including electronic format:

(f) it must be an original, except copies may be made for subsequent transactions.

(3) The declaration of origin may be made on the invoice for the goods or on a separate document, including on a company's letterhead.

(4) A declaration of origin remains valid for 2 years after the date on which it is signed.

16 Verification of origin

(1) When there is reasonable doubt as to the origin of a good, Customs may verify the eligibility of the good for preferential tariff treatment by—

(a) requesting, in writing, relevant information from the importer; or

(b) requesting, in writing, relevant information from the exporter, producer, or an authorised representative of the exporter or producer; or

(c) undertaking a verification visit to the premises of the exporter or producer in the territory of another party in accordance with clause 16; or undertaking a verification visit to the premises of the exporter or producer in the territory of another party in accordance with clause 16; or

(d) undertaking any other procedure that Customs and the customs administration of the exporter agree on.

(2) A request provided under subclause (1)(a) or (b) must include:

(a) the reason for the request, including the specific issue Customs seeks to resolve in the verification; and

(b) sufficient information to identify the goods that are being verified; and

(c) a copy of relevant information submitted with the good including the declaration of origin.

(3) Customs must specify a period of 60 days from the date the written request is sent to the importer, exporter, or producer in which to respond.

(4) Customs may extend the 60-day period specified under subclause (3) by a maximum of 30 days.

17 Verification visits

Verification of imported goods claiming preferential tariff treatment

(1) If all verification actions under clause 16(1)(a), (b) and (d) have been exhausted and have failed to resolve the concerns of Customs, a verification visit may be conducted.

(2) Before conducting a verification visit Customs must—

(a) make a written request to the exporter or producer to conduct a verification visit of their premises and the request must include details about—

(i) the proposed date of the visit; and

(ii) the objective and scope of the proposed visit, including specific reference to the goods that are the subject of the verification referred to in the declaration of origin; and

(iii) the names and titles of the Customs officers who will participate in the visit; and

(b) obtain the written consent of the exporter or producer whose premises are to be visited.

(3) Customs must also notify the Customs administration of the other party of its intention to conduct a verification visit.

Verification of exported goods claiming preferential tariff treatment in importing Party

(4) An exporter or producer that has consented to a Customs administration of an importing Party conducting a verification visit to its premises in the Cook Islands must also notify Customs of the visit before it takes place.

(5) During the verification visit the exporter or producer must allow Customs—

(a) to participate as an observer:

(b) to undertake similar compliance verifications in respect of the exporter's or producer's activities to ensure compliance with Customs laws.

(6) Nothing in this regulation affects the rights of Customs to undertake verification or compliance activities within its territory in accordance with its laws and regulations.

18 Decision of origin

(1) Customs must permit preferential tariff treatment for goods if it is satisfied under clause 2 that the goods originate in a party.

(2) Customs may deny preferential tariff treatment if—

(a) the goods do not meet the requirements of this Schedule; or

(b) the importer, exporter, or producer fails to comply with any of the relevant requirements under this Schedule; or

(c) verification action conducted under clause 17 has failed to determine the good is originating.

(3) Customs must, on request by the importer or producer, provide written reasons for a decision to deny preferential treatment.

(4) Customs must not reject a claim of preferential tariff treatment only by reason of the invoice being issued in a non-party or by a third party.

These regulations are administered by the Ministry of Finance and Economic Management.
Published under the authority of the Parliament of the Cook Islands.

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Excise Order 2018

TABLE OF AMENDMENTS

The Excise Order 2018 No 5 was signed on 23 February 2018 and commenced on 24 February 2018.

Amending Legislation	Signed	Date of Commencement
This order has not been amended.		

[The next page is 946,751]

Excise Order 2018

TABLE OF PROVISIONS

1 Title
2 Commencement
3 Specified goods and rates of excise in Schedule
4 Revocation

Schedule
Excise Duties Table

[The next page is 946,851]

Pursuant to section 13 of the Customs Revenue and Border Protection Act 2012, His Excellency the Queen's Representative, acting on the advice and with the consent of the Executive Council, makes the following order—

1 Title

This order is the Excise Order 2018.

2 Commencement

This order comes into force on 1 June 2018.

3 Specified goods and rates of excise in Schedule

For the purpose of sections 13(a), 102, 106(1), 109(1), 110(1), and 112(1) of the Customs Revenue and Border Protection Act 2012,—

(a) the goods specified in the Excise Duties Table set out in the Schedule are specified goods; and

(b) the rates of excise or excise-equivalent duty applying to those goods are as set out in that Excise Duties Table.

4 Revocation

The Customs Excise Order 2014 is revoked.

[The next page is 947,851]

Schedule

cl 3

Excise Duties Table

NOTES:

1. Subject to these Notes, interpretation of this table is governed by the same General Rules of Interpretation applicable to the tariff.
2. For the purpose of the description of goods in this Table, the terms **Tariff item** and **Tariff heading** have the same meaning as in section 2 of the Customs Tariff Act 2012. The term **Excise heading** means a heading printed in bold type and identified by four digits.
3. The term **Excise item number** means excise items identified by eight digits and includes the heading thereto so identified.

Goods Manufactured in the Cook Islands

Excise Number	Statistical Unit	Goods Description		Excise Rates
22.02		**Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09, if imported would be classified within Tariff item 2202.10.11, 2202.10.19, 2202.10.21, 2202.10.29, 2202.10.31, 2202.10.39, 2202.10.91, 2202.10.99, 2202.91.11, 2202.91.19, 2202.91.21, 2202.91.29, 2202.91.31, 2202.91.39, 2202.91.91, 2202.91.99, 2202.99.11, 2202.99.19, 2202.99.21, 2202.99.29, 2202.99.31, 2202.99.39, 2202.99.91, or 2202.99.99.**		
		— Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured:		
		— — — In aluminum containers		
22.02.11F	kg	. . . . Flavoured	*per kg of sugar*	$9.37
22.02.12A	kg	. . . . Other	*per kg of sugar*	$9.37
		— — — In glass containers		
22.02.13F	kg	. . . . Flavoured	*per kg of sugar*	$9.37
22.02.14A	kg	. . . . Other	*per kg of sugar*	$9.37
		— — — In plastic containers		
22.02.15F	kg	. . . . Flavoured	*per kg of sugar*	$9.37

22.02.16A	kg	.... Other	*per kg of sugar* $9.37
		— — — In other containers	
22.02.17F	kg	.... Flavoured	*per kg of sugar* $9.37
22.02.18A	kg	.... Other	*per kg of sugar* $9.37
		— Other:	
		— — Non-alcoholic beer:	
		— — — In aluminum containers	
22.02.2IF	kg	.... Flavoured	*per kg of sugar* $9.37
22.02.22A	kg	.... Other	*per kg of sugar* $9.37
		— — — In glass containers	
22.02.23F	kg	.... Flavoured	*per kg of sugar* $9.37
22.02.24A	kg	.... Other	*per kg of sugar* $9.37
		— — — In plastic containers	
22.02.25F	kg	.... Flavoured	*per kg of sugar* $9.37
22.02.26A	kg	.... Other	*per kg of sugar* $9.37
		— — — In other containers	
22.02.27F	kg	.... Flavoured	*per kg of sugar* $9.37
22.02.28A	kg	.... Other	*per kg of sugar* $9.37
		.... Other	
		— — — In aluminum containers	
22.02.3IF	kg	.... Flavoured	*per kg of sugar* $9.37
22.02.32A	kg	.... Other	*per kg of sugar* $9.37
		— — — In glass containers	
22.02.33F	kg	.... Flavoured	*per kg of sugar* $9.37
22.02.34A	kg	.... Other	*per kg of sugar* $9.37
		— — — In plastic containers	
22.02.35F	kg	.... Flavoured	*per kg of sugar* $9.37
22.02.36A	kg	.... Other	*per kg of sugar* $9.37
		— — — In other containers	
22.02.37F	kg	.... Flavoured	*per kg of sugar* $9.37

22.02.38A	kg	. . . . Other	*per kg of sugar*	$9.37
22.03		**Beer made from malt which if imported, would be classified within tariff item 2203.00.11, 2203.00.19, 2203.00.21, 2203.00.29, 2203.00.31, 2203.00.39, 2203.00.41, 2203.00.49, 2203.00.51, or 2203.00.59.**		
		— — — Containing not more than 1.15 % vol		
22.03.11A	1 al	. . . . Cans	*per 1 al*	$29
22.03.19B	1 al	. . . . Other	*per 1 al*	$29
		— — — Containing more than 1.15 % vol, but not more than 2.5 % vol		
22.03.21A	1 al	. . . . Cans	*per 1 al*	$29
22.03.29B	1 al	. . . . Other	*per 1 al*	$29
		— — — Containing more than 2.5 % vol, but not more than 4.35 % vol		
22.03.31A	1 al	. . . . Cans	*per 1 al*	$29
22.03.39B	1 al	. . . . Other	*per 1 al*	$29
		— — — Containing more than 4.35 % vol, but not more than 5 % vol		
22.03.41A	1 al	. . . . Cans	*per 1 al*	$29
22.03.49B	1 al	. . . . Other	*per 1 al*	$29
		— — — Containing more than 5 % vol		
22.03.51A	1 al	. . . . Cans	*per 1 al*	$29
22.03.59B	1 al	. . . . Other	*per 1 al*	$29
22.04		**Wine of fresh grapes, including fortified wines; grape must other than that of heading 20.09 which if imported, would be classified within tariff item 2204.10.11, 2204.10.12, 2204.10.91, 2204.10.92, 2204.10.94, or 99.04.10.95.**		
		— Sparkling wine:		
		— — — Champagne		
22.04.01A	1 al	. . . . Containing not more than 14% vol	*per 1 al*	$29
22.04.02B	1 al	. . . . Containing more than 14% vol	*per 1 al*	$29
		— — — Other:		
		. . . . Red		
22.04.03C	1 al	. . . . Containing not more than 14% vol	*per 1 al*	$29
22.04.04D	1 al	. . . . Containing more than 14% vol	*per 1 al*	$29
		— — — White		
22.04.05E	1 al	. . . . ontaining not more than 14% vol	*per 1 al*	$29
22.04.06F	1 al	. . . . Containing more than 14% vol	*per 1 al*	$29

		— Other wine; grape must with fermentation prevented or arrested by the addition of alcohol which if imported, would be classified within tariff item 2204.21.11' 2204.21.12, 2204.21.13, 2204.21.21' 2204.21.22, 2204.21.23, 2204.21.31, 2204.21.32, 2204.21.33, 2204.21.41' 2204.21.42, 2204.21.43, 2204.21.51' 2204.21.52, 2204.21.53, 2204.21.54, 2204.21.61, 2204.21.62, 2204.21.63, 2204.21.64, 2204.21.71, 2204.21.72, 2204.21.73, 2204.21.81, 2204.21.82, 2204.21.83, 2204.22.11, 2204.22.12, 2204.22.19, 2204.22.21' 2204.22.21, 2204.22.22, 2204.22.29, 2204.22.31, 2204.22.32, 2204.22.39, 2204.22.41, 2204.22.42, 2204.22.51, 2204.22.52, 2204.29.11, 2204.29.12, 2204.29.19, 2204.29.21, 2204.29.22, 2204.29.29, 2204.29.31, 2204.29.32, 2204.29.39, 2204.29.41, 2204.29.42, 2204.29.51, 2204.29.52, 2204.30.10, 2204.30.20 or 2204.30.30.		
		— — In containers holding 2 liters or less		
		— — — Sherry, in containers of a capacity of not more than 750 ml		
22.04.11A	1 al	. . . . Containing not more than 14% vol	*per 1 al*	$29
22.04.12B	1 al	. . . . Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
22.04.13C	1 al	. . . . Containing more than 23% vol	*per 1 al*	$42.65
		— — — Sherry, in other containers		
22.04.14D	1 al	. . . . Containing not more than 14%vol	*per 1 al*	$29
22.04.15E	1 al	. . . . Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
22.04.16F	1 al	. . . . Containing more than 23% vol	*per 1 al*	$42.65
		— — — Port, in containers of a capacity of not more than 750 ml		
22.04.17G	1 al	. . . .Containing not more than l4%vol	*per 1 al*	$29
22.04.18A	1 al	. . . . ontaining more than 14% vol, but not more than 23% vol	*per 1 al*	$29
22.04.19B	1 al	. . . . Containing more than 23% vol	*per 1 al*	$42.65
		— — — Port, in other containers		
22.04.21C	1 al	. . . . Containing not more than 14% vol	*per 1 al*	$29
22.04.22D	1 al	. . . . Containing more than 14% vol, but not more than 23% vo1	*per 1 al*	$29
22.04.23E	1 al	. . . . Containing more than 23% vol	*per 1 al*	$42.65
		— — — Wine in containers of a capacity of not more than 750 m1		
22.04.24F	1 al	. . . . White, containing not more than 14% vol	*per 1 al*	$29
22.04.25G	1 al	. . . . White, containing more than 14% vol	*per 1 al*	$29

22.04.26A	1 al	. . . . Red, containing not more than 14% vol	*per 1 al*	$29
22.04.27B	1 al	. . . . Red, containing more than 14% vol	*per 1 al*	$29
		— — — Wine, in other containers		
22.04.28C	1 al	. . . .White, containing not more than l4%vol	*per 1 al*	$29
22.04.29D	1 al	. . . . White, containing more than 14% vol	*per 1 al*	$29
22.04.30E	1 al	. . . . Red, containing not more than 14%vol	*per 1 al*	$29
22.04.31F	1 al	. . . . Red, containing more than 14% vol	*per 1 al*	$29
		— — — Other, in containers of a capacity of not more than 750 ml		
22.04.32G	1 al	. . . . Containing not more than 14%vol	*per 1 al*	$29
22.04.33A	1 al	. . . . Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
22.04.34B	1 al	. . . . Containing more than 23% vol	*per 1 al*	$42.65
		— — — Other, in other containers		
22.04.35C	1 al	. . . . Containing not more than 14%vol	*per 1 al*	$29
22.04.36D	1 al	. . . . Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
22.04.37E	1 al	. . . . Containing more than 23% vol	*per 1 al*	$42.65
		— — In containers holding more than 2 litres but not more than 10 litres.		
		— — — Containing not more than 14 % vol, fortified by the addition of spirits or any substance containing spirit or any substance containing spirit.		
22.04.41F	1 al	. . . . Sherry	*per 1 al*	$29
22.04.42G	1 al	. . . . Port	*per 1 al*	$29
22.04.43A	1 al	. . . . Other Kinds	*per 1 al*	$29
		— — — Containing more than 14 % vol, but not more than 23% fortified by the addition of spirits or any substance containing spirit		
22.04.44B	1 al	. . . . Sherry	*per 1 al*	$29
22.04.45C	1 al	. . . . Port	*per 1 al*	$29
22.04.46D	1 al	. . . . Other Kinds	*per 1 al*	$29
		— — — Containing more than 23% fortified by the addition of spirits or any substance containing spirit		
22.04.47E	1 al	. . . . Sherry	*per 1 al*	$42.65
22.04.48F	1 al	. . . . Port	*per 1 al*	$42.65
22.04.49G	1 al	. . . . Other Kinds	*per 1 al*	$42.65
		— — — Other wine, containing not more than 14 % vol		
22.04.50A	1 al	. . . . White:	*per 1 al*	$29
22.04.51B	1 al	. . . . Red	*per 1 al*	$29
		— — — Other wine, containing more than 14 % vol		
22.04.52C	1 al	. . . . White:	*per 1 al*	$29
22.04.53D	1 al	. . . . Red	*per 1 al*	$29

22.04.54E	1 al	— — Other:	*per 1 al*	
		— — — Fortified by the addition of spirits or any substance containing spirit, containing not more than 14% vol		
22.04.61A	1 al	. . . . Sherry	*per 1 al*	$29
22.04.62B	1 al	. . . . Port	*per 1 al*	$29
22.04.63C	1 al	. . . . Other Kinds	*per 1 al*	$29
		— — — Fortified by the addition of spirits or any substance containing spirit, containing more than 14% vol, but not more than 23% vol		
22.04.64D	1 al	. . . . Sherry	*per 1 al*	$29
22.04.65E	1 al	. . . . Port	*per 1 al*	$29
22.04.66F	1 al	. . . . Other Kinds	*per 1 al*	$29
		— — — Fortified by the addition of spirits or any substance containing spirit, containing more than 23% vol		
22.04.67G	1 al	. . . . Sherry	*per 1 al*	$42.65
22.04.68A	1 al	. . . . Port	*per 1 al*	$42.65
22.04.69B	1 al	. . . . Other Kinds	*per 1 al*	$42.65
		— — — Other, containing not more than 14% vol		
22.04.70C	1 al	. . . . White:	*per 1 al*	$29
22.04.71D	1 al	. . . . Red	*per 1 al*	$29
		Other, containing more than 14% vol		
22.04.72E	1 al	. . . . White:	*per 1 al*	$29
22.04.73F	1 al	. . . . Red	*per 1 al*	$29
		— Other grape must		
22.04.74E	1 al	— — — Containing not more than 14% vol	*per 1 al*	$29
22.04.75G	1 al	— — — Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
22.04.76A	1 al	— — — Containing more than 23% vol	*per 1 al*	$42.65
22.05		**Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances which if imported, would be classified within tariff item 2205.10.11, 2205.10.12, 2205.10.13, 2205.10.21, 2205.10.22, 2205.10.23, 2205.10.31, 2205.10.32, 2205.10.33, 2205.10.41, 2205.10.42, 2205.10.43, 2205.90.11, 2205.90.12, 2205.90.13, 2205.90.21, 2205.90.22, 2205.90.23, 2205.90.31, 2205.90.32, 2205.90.33, 2205.90.41, 2205.90.42, or 2205.90.43.**		
		— In containers holding 2 litres or less:		
		— — Vermouth		

		— — — Containing fortified by the addition of spirits or any substance containing spirit		
22.05.11A	1 a1	. . . . Containing not more than 14% vol	*per 1 al*	$29
22.05.12B	1 a1	. . . . Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
22.05.13C	1 a1	. . . . Containing more than 23% vol	*per 1 al*	$42.65
		— — — Other		
22.05.14D	1 a1	. . . . Containing not more than l4%vol	*per 1 al*	$29
22.05.15E	1 a1	. . . . Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
22.05.16F	1 a1	. . . . Containing more than 23%vol	*per 1 al*	$42.65
		— — Other		
		— — — Other, containing fortified by the addition of spirits or any substance containing spirit		
22.05.21A	1 a1	. . . . Containing not more than 14%vol	*per 1 al*	$29
22.05.22B	1 a1	. . . . Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
22.05.23C	1 a1	. . . . Containing more than 23%vol	*per 1 al*	$42.65
		— — — Other		
22.05.24D	1 a1	. . . . Containing not more than 14%vol	*per 1 al*	$29
22.05.25E	1 a1	. . . . Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
22.05.26F	1 a1	. . . . Containing more than 23%vol	*per 1 al*	$42.65
		— Other:		
		— — Vermouth		
		— — — Containing fortified by the addition of spirits or any substance containing spirit		
22.05.31A	1 a1	. . . . Containing not more than 14%vol	*per 1 al*	
22.05.32B	1 a1	. . . . Containing more than 14% vol, but not more than 23% vol	*per 1 al*	
22.05.33C	1 a1	. . . . Containing more than 23%vol	*per 1 al*	
		— — — Other		
22.05.34D	1 a1	. . . . Containing not more than l4%vol	*per 1 al*	
22.05.35E	1 a1	. . . . Containing more than 14% vol, but not more than 23% vol	*per 1 al*	
22.05.36F	1 a1	. . . . Containing more than 23%vol	*per 1 al*	
		— — Other		
		— — — Containing fortified by the addition of spirits or any substance containing spirit		
	1 a1	. . . . Containing not more than 14%vol	*per 1 al*	$29

	1 a1	.... Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
	1 a1	.... Containing more than 23%vol	*per 1 al*	$42.65
		— — — Other		
	1 a1	.... Containing not more than l4%vol	*per 1 al*	$29
	1 a1	.... Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
	1 a1	.... Containing more than 23%vol	*per 1 al*	$42.65
22.06		**Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non- alcoholic beverages, not elsewhere specified or included which if imported, would be classified within tariff item 2206.00.11, 2206.00.12, 2206.00.19, 2206.00.21, 2206.00.22, 2206.00.29, 2206.00.31, 2206.00.32, 2206.00.39, 2206.00.91, 2206.00.92, or 2206.00.99.**		
		— — — Ginger beer and herb beer		
22.06.11A	1 a1	.... Containing not more than 14% vol:	*per 1 al*	$29
22.06.12B	1 a1	.... Containing more than 14 % vol, but not more than 23 % vol	*per 1 al*	$29
22.06.13C	1 a1	.... Other	*per 1 al*	$42.65
		— — — Other fermented beverages, sparkling		
22.06.14D	1 a1	.... Containing not more than 14 % vol:	*per 1 al*	$29
22.06.15E	1 a1	.... Containing more than 14% vol, but not more than 23 % vol	*per 1 al*	$29
22.06.16F	1 a1	.... Other	*per 1 al*	$42.65
		— — — Other fermented beverages, still		
22.06.17G	1 a1	.... Containing not more than 14% vol:	*per 1 al*	$29
22.06.18A	1 a1	.... Containing more than 14% vol, but not more than 23% vol	*per 1 al*	$29
22.06.19B	1 a1	.... Other	*per 1 al*	$42.65
		— — — Other		
22.06.20C	1 a1	.... Containing not more than 14% vol:	*per 1 al*	$29
22.06.21D	1 a1	.... Containing more than 14 % vol, but not more than 23 % vol	*per 1 al*	$29
22.06.22E	1 a1	.... Other	*per 1 al*	$42.65
22.07		**Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher; ethyl alcohol and other spirits, denatured, of any strength which if imported, would be classified within tariff item 2207.10.00 or 2207.20.00.**		
22.07.10A	1 a1	- Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher:	*per 1 al*	$51.23

22.07.208	1 a1	— Ethyl alcohol and other spirits, denatured, of any strength:	*per 1 al*	$51.23
22.08		**Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages which if imported, would be classified within tariff item 2208.20.13, 2208.20.14, 2208.20.15, 2208.20.21, 2208.20.22, 2208.20.29, 2208.20.31, 2208.20.32, 2208.20.39, 2208.20.41, 2208.20.42, 2208.20.49, 2208.30.12, 2208.30.13, 2208.30.19, 2208.30.92, 2208.30.93, 2208.30.99, 2208.40.12, 2208.40.13, 2208.40.19, 2208.40.92, 2208.40.93, 2208.40.99, 2208.50.12, 2208.50.13, 2208.50.19, 2208.50.92, 2208.50.93, 2208.50.99, 2208.60.12, 2208.60.13, 2208.60.19, 2208.60.92, 2208.60.93, 2208.60.99, 2208.70.10, 2208.70.20, 2208.70.30, 2208.70.40, 2208.70.50, 2208.70.60, 2208.70.91, 2208.70.99, 2208.90.12, 2208.90.13, 2208.90.19, 2208.90.92, 2208.90.93, or 2208.90.99.**		
		— Spirits obtained by distilling grape wine or grape marc:		
		— — — Brandy		
		— — — — Not exceeding 57% vol:		
		— — — — — In containers of a capacity less than 180 litres:		
22.08.01A	1 a1	. . . . In bottles	*per 1 al*	$42.65
22.08.02B	1 a1	. . . . Otherwise packed	*per 1 al*	$42.65
22.08.03C	1 a1	— — — — — In other containers	*per 1 al*	$42.65
		— — — Brandy		
		— — — — Exceeding 57% vol:		
		— — — — — In containers of a capacity Jess than 180 litres:		
22.08.04D		. . . .. In bottles	*per 1 al*	$51.23
22.08.05E		. . . .. Otherwise packed	*per 1 al*	$51.23
22.08.06F		— — — — — In other containers	*per 1 al*	$51.23
		— — — Other		
		— — — — Not exceeding 57% vol:		
		— — — — — In containers of a capacity less than 180 litres:		
22.08.07G	1 a1	. . . .. In bottles	*per 1 al*	$42.65
22.08.08A	1 a1	. . . .. Otherwise packed	*per 1 al*	$42.65
22.08.09B	1 a1	— — — — — In other containers	*per 1 al*	$42.65
		— — — — Exceeding 57% vol:		

		— — — — — In containers of a capacity less than 180 litres:		
22.08.10C	1 a1	. . . ... In bottles	*per 1 al*	$51.23
22.08.11D	1 a1	. . . ... Otherwise packed	*per 1 al*	$51.23
22.08.12E	1 a1	— — — — — In other containers	*per 1 al*	$51.23
		— Whiskies:		
		— — — Not exceeding 57% vol:		
		— — — — In containers of a capacity of less than 180 litres:		
22.08.21F	1 a1	. . . ... In bottles	*per 1 al*	$42.65
22.08.22G	1 a1	. . . ... Otherwise packed	*per 1 al*	$42.65
22.08.23A	1 a1	— — — — In other containers	*per 1 al*	$42.65
		— — — Other		
		— — — — In containers of a capacity of less than 180 litres:		
22.08.24B	1 a1	In bottles	*per 1 al*	$51.23
22.08.25C	1 a1	. . . .. Otherwise packed	*per 1 al*	$51.23
22.08.26D	1 a1	— — — — In other containers	*per 1 al*	$51.23
		— Rum and other spirits obtained by distilling fermented sugar cane products:		
22.08.31E	1 a1	— — — Not exceeding 57% vol:	*per 1 al*	$42.65
22.08.32F	1 a1	— — — — In containers of a capacity of less than 180 litres:	*per 1 al*	$42.65
		. . . .. In bottles		
		. . . .. Otherwise packed		
22.08.33G	1 a1	— — — — In other containers	*per 1 al*	$42.65
		— — — Other		
		— — — — In containers of a capacity ofless than 180 litres:		
22.08.34A	1 a1	. . . .. In bottles	*per 1 al*	$51.23
22.08.35B	1 a1	. . . .. Otherwise packed	*per 1 al*	$51.23
22.08.36C	1 a1	— — — — In other containers	*per 1 al*	$51.23
		— Gin and Geneva:		
		— — — Not exceeding 57% vol:		
		— — — — In containers of a capacity of less than 180 litres:		
	1 a1	. . . .. In bottles	*per 1 al*	$42.65
22.08.41D	1 a1	. . . .. Otherwise packed	*per 1 al*	$42.65
22.08.42E	1 a1	— — — — In other containers	*per 1 al*	$42.65
		— — — Other		
		— — — — In containers of a capacity of less than 180 litres:		
22.08.43F	1 a1	. . . .. In bottles	*per 1 al*	$51.23
22.08.44G	1 a1	. . . .. Otherwise packed	*per 1 al*	$51.23
22.08.45A	1 a1	— — — — In other containers	*per 1 al*	$51.23

		-Vodka		
		— — — Not exceeding 57% vol:		
		— — — — In containers of a capacity of less than 180 litres:		
22.08.51B	1 a1	. . . .. In bottles	*per 1 al*	$42.65
22.08.52C	1 a1	. . . .. Otherwise packed	*per 1 al*	$42.65
22.08.53D	1 a1	— — — — In other containers	*per 1 al*	$42.65
		— — — Other		
		— — — — In containers of a capacity of less than 180 litres:		
22.08.54E	1 a1	. . . .. In bottles	*per 1 al*	$51.23
22.08.55F	1 a1	. . . .. Otherwise packed	*per 1 al*	$51.23
22.08.56G	1 a1	— — — — In other containers	*per 1 al*	$51.23
		— Liqueurs and cordials:		
22.02.57A	1 a1	— — — Containing not more than 1.15% vol	*per 1 al*	
22.08.58B	1 a1	— — — Containing more than l. I 5 % vol, but not more than 2.5 % vol	*per 1 al*	
22.08.59C	1 a1	— — — Containing more than 2.5 % vol, but not more than 6 % vol	*per 1 al*	
22.08.60D	1 a1	— — — Containing more than 6% vol, but not more than 9% vol	*per 1 al*	
22.08.61E	1 a1	— — — Containing more than 9 % vol, but not more than 14% vol	*per 1 al*	
22.08.62F	1 a1	— — — Containing more than 14% vol, but not more than 23% vol	*per 1 al*	
		— — — Other		
22.08.63G	1 a1	— — — — Containing more than 23% vol, but not more than 57% vol	*per 1 al*	
22.08.64A	1 a1	— — — — Other	*per 1 al*	
		— Other:		
		— — — Bitters:		
22.08.71B	1 a1	— — — — Containing not more than 23 % vol	*per 1 al*	
22.08.72C	1 a1	— — — — Containing more than 23% vol, but not more than 57% vol	*per 1 al*	
22.08.73D	1 a1	— — — — Other	*per 1 al*	
		— — — — Other:		
22.08.74E	1 a1	— — — — Containing not more than 23 % vol	*per 1 al*	$29
22.08.75F	1 a1	— — — — Containing more than 23% vol, but not more than 57% vol	*per 1 al*	$42.65
22.08.76G	1 a1	— — — — Other	*per 1 al*	$51.23
24.10		**Unmanufactured tobacco; tobacco refuse which if imported, would be classified within tariff item 2401.10.00, 2401.20.00, or 2401.30.00.**		

24.10.10A	kg	— Tobacco, not stemmed/stripped:	$724.71
24.10.20B	kg	— Tobacco, partly or wholly stemmed/stripped:	$724.71
24.10.30C	kg	— Tobacco refuse:	$724.71
24.11		**Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes, which if imported, would be classified within tariff 2402.10.00, 2402.20.00, 2402.90.10, 2402.90.20 or 2402.90.90.**	
24.10.10A	kg	— Cigars, cheroots and cigarillos, containing tobacco	$724.71
24.11.20B	‘000	— Cigarettes containing tobacco:	$724.71
		— Other:	
24.11.30C	‘000	— — — Cigars, cheroots and cigarillos, of tobacco substitutes	$724.71
24.11.40D	‘000	— — — Cigarettes containing tobacco:	$724.71
24.11.50E	‘000	— — — Other	$724.71
24.12		**Other manufactured tobacco and manufactured tobacco substitutes; homogenised or reconstituted tobacco; tobacco extracts and essences, which if imported, would be classified within tariff item 2403.11.00, 2403.19.10, 2403.19.20, 2403.19.30, 2403.19.40, 2403.19.90, 2403.91.00, 2403.99.10, 2403.99.20, 2403.99.30 or 2403.99.90.**	
		— Smoking tobacco, whether or not containing tobacco substitutes in any proportion:	
24.12.11A	kg	— — Water pipe tobacco specified in Subheading Note 1 to this Chapter:	$724.71
24.12.12B	kg	— — Other:	
24.12.13C	kg	— — — Chewing tobacco	$724.71
24.12.14D	kg	— — —Twist tobacco	$724.71
24.12.15E	kg	— — — Stick tobacco	$724.71
24.12.16F	kg	— — — Coarse shredded tobacco for roll your own cigarettes	$724.71
24.12.17G	kg	— — — Other	$724.71
		— Other:	
24.12.18A	kg	— — Homogenised or reconstituted tobacco:	$724.71
		— — Other:	
24.12.19B	kg	— — — Tobacco extracts and essences	$724.71
24.12.20C	kg	— — — Snuff	$724.71
24.12.21D	kg	— — — Smoking mixtures, of tobacco substitutes	$724.71
24.12.22E	kg	— — — Other	$724.71

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