

Customs — 11 of 1986

## PART XVI - DUTIES

## SECTION

- 92. Liability to duty
- 93. Rates of duty applicable
- 94. Disputes concerning duty payable
- 95. Recovery of duties
- 96. Refunds
- 97. Remission of duty on goods lost, destroyed, or damaged, etc.
- 98. Drawback allowed on re-export
- 99. Declaration by claimant for drawback
- 100. When no drawback allowed
- 101. Power to allow drawback on locally manufactured goods

## PART XVII - POWERS OF OFFICERS

- 102. Power of Comptroller with regard to invoices
- 103. Power to require ships, etc., to bring to
- 104. Power to board ship, etc., and search
- 105. Access to transit sheds
- 106. Power to patrol freely
- 107. Power to stop vehicle, boat, etc. suspected of conveying uncustomed goods, etc.
- 108. Power to question persons arriving or leaving
- 109. Power to detain and search persons
- 110. Power to arrest
- 111. Powers of search
- 112. Power of entry, detention and seizure without search warrant
- 113. Penalty for interfering with Customs ships, etc.
- 114. Examination, sampling, etc., of goods subject to customs control
- 115. Customs officers not liable for acts done in good faith
- 116. Power to require declaration
- 117. Impounding of documents
- 118. Comptroller may require further proof of proper entry
- 119. Translation of foreign documents
- 120. Value of goods seized
- 121. Power to inspect aerodromes, records, etc.
- 122. Power to prevent flight of aircraft

## PART XVIII - PENAL PROVISION

- 123. Obstruction of officers, etc.
- 124. Offences with violence
- 125. Protection of witnesses
- 126. Penalty for assembling to contravene provisions of the customs laws
- 127. Unlawful assumption of character of an officer
- 128. Conduct of officers

Customs — 11 of 1986

SECTION

- 129. Provisions as to detention, seizure and forfeiture
- 130. Forfeiture of ships, etc., used in connection with goods liable to forfeiture
- 131. Ships, etc., constructed for concealing goods
- 132. Ships jettisoning cargo
- 133. Special provision as to forfeiture of larger ships and of aircraft
- 134. Various penalties associated with owners of aircraft and ships
- 135. Collusive seizure, etc., penalty
- 136. Removal or destruction of dutiable goods
- 137. Customs offences
- 138. Counterfeiting documents, etc.
- 139. Penalty for fraudulent evasion of duty
- 140. False scales, etc.
- 141. Aiders and abettors
- 142. Attempts
- 143. General penalty

PART XIX - AGENTS

- 144. Licensing of agents
- 145. Licence
- 146. Security
- 147. Revocation of licence
- 148. Agents for principals
- 149. Appointment of clerks
- 150. Clerk or agent may be authorised to sign documents
- 151. Entry of goods by unauthorised persons not permitted
- 152. Authority of agent may be required
- 153. Liability of duly licensed agent
- 154. Liability of owner for acts of duly licensed agent or his own employee

PART XX - SETTLEMENT OF CASES BY THE  
COMPTROLLER

- 155. Power of Comptroller to compound offence by agreement

PART XXI - LEGAL PROCEEDINGS

- 156. Notice of seizure to be given
- 157. Notice of claim
- 158. Procedure after notice of claim
- 159. Custody of seized goods
- 160. Serving of notice of seizure
- 161. Bail may be given for goods seized
- 162. Security to abide by decree of competent court
- 163. Protection of officers, etc., in relation to seizure and detention of goods, etc.

Customs — 11 of 1986

SECTION

- 164. Averment of prosecutor sufficient
- 165. Evidence of officers
- 166. Action by or against the Comptroller
- 167. Limitation of proceedings
- 168. Special application of Evidence Act
- 169. Proof of certain documents, etc.

PART XXII - GENERAL PROVISIONS AS TO LEGAL  
PROCEEDINGS

- 170. Place of offence
- 171. Comptroller may levy on goods in his possession
- 172. Jurisdiction of resident magistrates
- 173. Incidental provisions as to legal proceedings

PART XXIII - APPEALS

- 174. Establishment of Court of Review
- 175. Rules of court
- 176. Court sittings
- 177. Court of Review to decide
- 178. Proceedings ex parte
- 179. Costs
- 180. Appeal to Supreme Court

PART XXIV - MISCELLANEOUS

- 181. Commissioned aircraft or ships to be reported
- 182. Commissioned aircraft or ships may be boarded and searched
- 183. Commanding officer responsible for due observance of customs laws
- 184. Comptroller may pay rewards
- 185. Application of penalties
- 186. Sales under customs laws
- 187. Value of goods sold
- 188. Service of notices
- 189. Presentation and passing of entries
- 190. Abandoned goods and sweepings
- 191. Regulations
- 192. Repeal, savings and transitional provisions

SCHEDULE  
(Section 174).

Matters in respect of which appeals may be heard  
by the Court of Review

FIJI

COAT OF ARMS

ACT NO. 11 OF 1986

I assent

[L.S]

P. K. GANILAU

Governor General

19th June 1986

AN ACT  
RELATING TO THE CUSTOMS  
THE CUSTOMS ACT, 1985

ENACTED by the Parliament of Fiji -

[ ]

PART I - PRELIMINARY

*Short title and commencement*

1.- (1) This Act may be cited as the Customs Act, 1986.

(2) This Act shall come into force on a date to be notified by the Minister in the Gazette, and different dates may be so notified for the purpose of different provisions of this Act.

*Interpretation*

2.- (1) In this Act, unless the context otherwise requires—

"agent" in relation to the master or owner of an aircraft or ship, includes any person who notifies the Comptroller in writing that he is entitled to act as the agent, and who, or on whose behalf any person authorised by him, signs any document required or permitted by the customs laws to be signed by an agent:

Provided that the owner of an aircraft or ship, if resident or represented in Fiji, shall, if no other agent is appointed, be deemed to be the agent of the master of that aircraft or ship, for all the purposes of the customs laws;

"aerodrome" means an area of land or water designed, equipped, set apart, or commonly used for affording facilities for the landing and departure of aircraft;

"aircraft" includes balloons, gliders, airships, hovercraft, helicopters, flying machines and any other means of aerial locomotion;

## Customs — 11 of 1986

- "airport" means an airport appointed by the Minister under Section 4 as an airport for the purpose of the customs laws;
- "approved place of loading" and "approved place of unloading" means a quay, jetty, wharf, part of an airport, or other place, appointed by the Comptroller to be a place where goods may be loaded or unloaded;
- "boarding station" means a place appointed by the Comptroller to be a place for aircraft or ships arriving at or departing from any port or place to bring to or for boarding by, or the disembarkation of, officers;
- "bonded warehouse" means a building or storage tank licensed by the Comptroller, in which goods entered to be warehoused may be lodged, kept or secured pending payment of duty or exportation; and includes a customs warehouse and export warehouse;
- "cargo" includes all goods imported or exported in any aircraft or ship other than such goods as are required as stores for consumption or use by or for that aircraft or ship, its crew and passengers; and also includes the bona fide personal accompanied baggage of such passengers;
- "cleared" in relation to goods, means removed, after release by the proper officer, in pursuance of the purpose for which the goods were entered;
- "coastwise" means the trade by air, land or sea from one port to another port in Fiji;
- "Comptroller" means the Comptroller of Customs and Excise or any officer or other person authorised in writing by the Comptroller to act on his behalf;
- "container" includes a bundle, package, box, cask or other receptacle of whatsoever kind;
- "crew" includes every person (except the master) employed or engaged in any capacity on board an aircraft or ship;
- "the Customs" means the Customs and Excise Department;
- "customs agent" means a person licensed as such under the provisions of this Act;
- "customs area" means a place appointed by the Comptroller under Section 4 for the deposit of goods subject to customs control;
- "customs laws" includes this Act and any other Act or subsidiary legislation relating to the customs;
- "customs revenue" means any amount collectible by the Customs in accordance with the provisions of the customs laws;
- "customs warehouse" means a place appointed by the Comptroller for the deposit of uncleared goods or other goods, pending the payment of the import duty payable thereon;
- "days" does not include Saturdays, Sundays or public holidays;

Customs — 11 of 1986

- "drawback" means a refund of all or part of any import duty paid in respect of goods exported or used in a manner or for a purpose prescribed as a condition for granting drawback;
- "dutyable goods" includes all goods in respect of which any duty is payable;
- "duty" means any duty leviable under any customs law and includes Value Added Tax leviable under section 14 of the Value Added Tax Decree 1991;
- "export" means to take or cause to be taken out of Fiji;
- "export warehouse" means a place appointed by the Comptroller for the deposit, keeping and securing of imported and Fiji manufactured goods for sale to a relevant traveller leaving Fiji from an approved airport or seaport. Export warehouses may be called duty free shops;
- "Fiji" includes the internal waters of Fiji, the Archipelagic waters of Fiji and the territorial seas of Fiji, as defined in the Marine Spaces Act;
- "foreign parcels" means parcels either posted in Fiji and sent to a place outside Fiji, or posted in a place outside Fiji and sent to a place in Fiji, or in transit through Fiji to a place outside Fiji;
- "foreign port" means a place in a country other than Fiji to which aircraft or ships as the case may be, may have access;
- "goods" includes all kinds of articles, wares, merchandise, living creatures and movable property of any kind whatsoever;
- "goods under drawback" means any goods in relation to which a claim for drawback has been or is to be made;
- "import" with its grammatical variations and cognate expressions means to bring or cause to be brought within Fiji;
- "importer" includes an owner or his agent, or any other person for the time being possessed of or beneficially interested in, any goods at the time of the importation thereof;
- "master" in relation to an aircraft or ship, means the person in charge or in command of that aircraft or ship, but does not include a person appointed for conduct of ships into or out of a port;
- "member of crew" means :
- (a) in relation to an aircraft - the pilot, crew and attendants of the aircraft; and
  - (b) in relation to a ship - the master, mate, engineer or any other members of the crew of the ship;
- "minister" means the Minister responsible for Finance;
- "name" includes the registration mark of an aircraft or ship;
- "officer" includes a person duly appointed and employed, or a person or class of person authorised by the Comptroller, to carry out or assist to carry out any of the provisions of the customs laws;
- "owner" in respect of goods, includes a person being or holding himself out to be the owner, importer, exporter, consignee, or person possessed of, or beneficially interested in, or having control of, or power of disposition over, the goods;
- "owner" in respect of an aircraft or ship, includes the master or other responsible officer of that aircraft or ship and also any person acting as an agent for the owner, and any charterer, operator or hirer;
- "package" includes every means by which goods for carriage may be cased, covered, carried, enclosed, contained or packed;
- "parcel" means a postal parcel or postal packet which is posted in Fiji and accepted by the Post Office as a packet or a parcel in accordance with the Post Office Act, or which is received in Fiji from abroad by parcel post;

Customs — 11 of 1986

"port" means a place, whether on the coast or elsewhere, appointed by the Minister under section 4 as a port for the purposes of the customs laws;

"proper officer" means the officer authorised by the Comptroller to carry out any provision of the customs laws;

"prohibited goods" and "restricted goods" mean respectively goods the importation or exportation of which is prohibited or restricted by or under the provisions of this or any other Act;

"relevant traveller" means a person who intends to make an international flight or voyage whether, as a passenger on, or as the pilot or a member of the crew of, an aircraft or ship;

"ship" includes a ship, hovercraft, vessel or boat of any kind what-soever, whether propelled by engine or otherwise, or towed;

"smuggle" means to import, introduce, export or to attempt to import, introduce or export goods with intent to defraud the customs revenue;

"sufferance wharf" means a place, other than an approved place of loading or unloading, at which the Comptroller may, subject to such conditions as he may either generally or in any particular case impose, allow any goods to be loaded or unloaded;

"time of importation" means the time at which an aircraft or ship importing goods actually lands in Fiji or enters a port, as the case may be;

"time of exportation" means the time at which goods are placed on board an aircraft or ship for the purpose of exportation;

"tons register" means the net tonnage of any ship as set forth in the certificate of registry of such ship;

"tranship" means to transfer, either directly or indirectly, any goods from an aircraft or ship arriving at a port in Fiji from outside Fiji to an aircraft or ship departing from Fiji;

"transit shed" means a building appointed by the Comptroller under section 4 for the deposit of goods subject to customs control;

"uncustomed goods" includes dutiable goods on which the full duties have not been paid, and any goods, whether dutiable or not, which are imported, or exported or in any way dealt with contrary to the provisions of the customs laws;

"vehicle" includes every description of conveyance for the transport by land of human beings or goods.

(2) In the construction of this Act, when any thing or act has been or is required to be done within a specific number of hours, in reckoning such hours Saturdays, Sundays and public holidays shall be excluded, and the expression "24 hours" or "48 hours" means respectively 24 or 48 consecutive hours of the day.

Customs — 11 of 1986

PART II - ADMINISTRATION

*Customs authorities*

3. — (1) The Public Service Commission shall, by notice in the Gazette, appoint a Comptroller of Customs and Excise.

(2) The Comptroller shall be responsible for the administration and efficient working of the Customs and Excise Department.

(3) The Minister may give to the Comptroller general or special directions which are not inconsistent with the provisions of the customs laws.

(4) The Comptroller may, subject to the approval of the Minister, authorise any officer to exercise any of the powers conferred, or to perform any of the duties imposed, by this Act upon the Comptroller, but no delegation by the Comptroller shall prevent the exercise of any power by the Comptroller.

(5) Every person employed on any duty or service relating to the Customs by the orders or with the concurrence of the Comptroller is deemed to be the proper officer for that duty or service; and every act required by law at any time to be done by, or with, any particular officer nominated for such purpose, if done by or with any person appointed by the Comptroller to act for such particular officer, is deemed to be done by or with such particular officer.

(6) Every officer, when acting against any person under this Act, shall, if not in uniform, on demand declare his office and produce to the person against whom he is acting such document establishing his identity as the Comptroller may direct to be carried by such officer.

(7) Every officer shall be liable to serve in any place in Fiji and shall perform such duties as may be required of him by the Comptroller.

(8) Every officer concerned with the administration of the customs laws shall perform such duties and follow such procedures as the Comptroller may direct.

PART III - APPOINTMENT OF PORTS AND PLACES

*Appointment of ports, etc.*

4. — (1) The Minister may, subject to such conditions as he thinks fit, by notice in the Gazette, appoint and specify, for the purposes of the customs laws, ports, airports and the limits of ports and airports.

(2) The Comptroller may, subject to such conditions as he thinks fit, by notice in the Gazette, appoint and specify such of the following as he may consider necessary for the purposes of the customs laws in relation to areas within the limits of ports and airports appointed under subsection (1)—

- (a) places of loading and unloading;
- (b) boarding stations;



## Customs — 11 of 1986

- (c) transit sheds;
- (d) places for the landing and embarkation of persons;
- (e) places for the examination of goods, including baggage;
- (f) entrances and exits whether general or specific, to and from a port or airport.

(3) The Comptroller may, subject to such conditions in any particular case as he may deem necessary, permit any place to be used temporarily as a place for loading or unloading and examination of goods, a boarding station, a sufferance wharf, a road or route over which goods under customs control may be conveyed, an entrance or an exit.

(4) The Comptroller may, with the approval of the Minister, appoint and specify areas or places outside the limits of ports and airports to be used for the purpose of storing, examination and clearance of goods, including baggage, subject to such conditions as may be notified at the time when such areas or places are appointed and to the payment of such sum as may be authorised by the Minister.

*Restrictions on entry, etc. to customs areas*

5. — (1) A person shall not enter a customs area when forbidden to do so by an officer, nor remain therein when requested to leave by an officer, when such area is temporarily restricted for the purpose of the administration of the customs laws.

(2) A person or vehicle entering or leaving, and all goods being brought into or out of a customs area, may be detained by a proper officer for search or for examination.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable to a fine not exceeding \$1,000.

*Accommodation on wharves and airports*

6. — (1) Every wharf and airport owner shall at his own expense provide

- (a) suitable furnished office accommodation on his wharf or sufferance wharf or at his airport for the exclusive use of the officer employed at the wharf and airport; and
- (b) such shed accommodation for the protection of goods as the Comptroller may in writing require.

(2) Where a wharf or airport owner contravenes any of the provisions of this section then -

- (a) the appointment of a place of loading or unloading or a sufferance wharf may be withheld until the required accommodation is provided; or
- (b) any existing appointment may be revoked

*Working days and hours and overtime charges*

7. — (1) The working days and hours of the Customs shall be such as may be prescribed and, except with the permission of the Comptroller, no work connected with embarkation or disembarkation of passengers, the discharge, landing, loading or receipt of any cargo or other goods shall be performed outside the prescribed working days and hours.

(2) When work is permitted by the Comptroller to be performed outside the prescribed working days and hours, the services of the officers involved shall be charged for at the prescribed rates.