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Aircraft or ship to bring to at boarding station

76. — (1) The master of every aircraft or ship departing from Fiji shall bring to at the boarding station for the purpose of disembarking any officer on board the aircraft or ship, or for any other purpose of the customs laws, or when required to do so by the proper officer.

(2) A master of an aircraft or ship who fails to comply with subsection (1) is guilty of an offence.

PART XII - AIRCRAFT AND SHIP'S STORES

Stores on board

77. — (1) The proper officer may, on boarding an aircraft or ship, place under seal any dutiable goods on board such aircraft or ship, being either unconsumed stores of the aircraft or ship, or personal property in the possession of any member of the crew in transit or of any passenger in transit for any other place outside Fiji.

(2) Except with the consent of the Comptroller, no seal referred to in subsection (1) may be broken or interfered with while the aircraft or ship remains at an airport or in a port, and any person who breaks or interferes with such seal is guilty of an offence.

(3) If, when required by an officer, the master fails to make full disclosure of any unconsumed stores of the aircraft or ship, or if the master or any member of the crew of any aircraft or ship knowingly or negligently fails to disclose any dutiable goods the property of or in the possession of the master or such member of the crew, as the case may be, such master or member of the crew is guilty of an offence and the goods in respect of which the offence is committed are liable to forfeiture.

Disposal of aircraft stores and ship's stores

78. Subject to the customs laws, aircraft stores or ship's stores, whether taken on outside Fiji or in Fiji, shall, unless entered for home consumption, only to be used by the passengers and crew for the service of the aircraft or ship, and no such stores shall be unshipped except with the consent of the Comptroller.

Surplus goods

79. Surplus aircraft stores or ship's stores may, with the authorisation of and at the direction of the Comptroller, be entered in like manner as goods, or warehoused for future use as aircraft stores or ship's stores.

Shipment of stores

80. — (1) Upon an application made in that behalf in the prescribed form by the master of an aircraft or a ship departing from Fiji, the Comptroller may permit, for the use on board the aircraft or ship, the loading of such stores as may be necessary according to the voyage upon which the aircraft or ship is about to depart:

Provided that no goods taken on an aircraft or ship shall be deemed to be stores, unless duly shipped as such and specified on the prescribed form.

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(2) If the amount of goods applied for by the master or agent of any aircraft or ship in pursuance of the provisions of subsection (1) is, in the opinion of the Comptroller, in excess of the amount which should normally be required, the Comptroller may restrict the amount of stores to such an amount as he considers fair and reasonable in the circumstances.

(3) Goods shipped otherwise than in accordance with the provisions of subsection (1) are deemed to be goods not entered and are liable to forfeiture.

(4) Goods required as stores for the master, crew or passengers of any aircraft or ship leaving Fiji and taken from any bonded or customs warehouse, shall be allowed to be exported free of duty.

Stores under seal

81. All stores taken on board an aircraft or ship free of customs duty in accordance with the provisions of this Act shall be placed under seal by an officer and shall remain under seal until the aircraft or ship has departed from Fiji on an outward voyage.

PART XIII - GOODS FOR TRANSHIPMENT

Transshipment under bond

82. — (1) Upon the entry inwards of an aircraft or ship, the Comptroller may, on the application of the owner or his agent, permit the transshipment of goods without payment of the import or export duty, if any, leviable thereon, if such goods are specifically entered for transshipment at the time of importation.

(2) Transshipment under the provisions of subsection (1) shall take place under the supervision of an officer at the expense of the applicant after the due entries inwards and outwards have been passed for the goods and a bond has been entered into for the exportation of the goods in like manner as if they had been actually landed and deposited in a warehouse.

(3) A person who, without the previous authorisation of the Comptroller, transships any goods or attempts to remove any goods from an aircraft or ship to another aircraft or ship, is guilty of an offence.

Power to sell after six months, goods entered for transshipment

83. Where any goods entered for transshipment are deposited in a customs warehouse, bonded warehouse, transit shed or customs area and are not transhipped, within a period of 6 months from the date when such goods arrived in Fiji, the Comptroller may in his discretion cause such goods to be sold in the prescribed manner and the proceeds of the sale shall be applied as specified in subsections (3) and (4) of section 63.

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PART XIV - CARRIAGE OF GOODS WITHIN FIJI

Transfer of unentered goods for carriage within Fiji

84. — (1) The Comptroller may, subject to such conditions and restrictions as he sees fit to impose, permit goods brought by an importing aircraft or ship to a port in Fiji but consigned to and intended to be delivered at some other port in Fiji, to be transferred before due entry of the goods has been made to another aircraft, vehicle or ship for carriage by air, land or sea to that other port, and any goods so transferred and carried shall for the purposes of this Act be deemed to be carried coastwise.

(2) Imported goods which have been carried coastwise by virtue of the provisions of this section shall not be unloaded before due entry thereof has been made except if the goods are unloaded for deposit in a customs area and duly deposited therein. If any goods are unloaded in contravention of this subsection or are dealt with contrary to any condition or restriction imposed under the provisions of subsection (1), such goods are liable to forfeiture and the master of the aircraft or ship or the agent is guilty of an offence.

Failure to produce goods transferred

85. — (1) If the owner, operator or agent of an aircraft, vehicle or ship to which imported goods have been permitted to be transferred under the provisions of section 84, fails to produce such goods to the proper officer at the airport or port to which they have been consigned, such goods shall be deemed to have been removed for use in Fiji and, without prejudice to any other remedy in respect of any contravention of this or any other Act in respect of such goods, the owner, operator or agent shall, if so required by the proper officer within one year from the date of arrival of the aircraft, vehicle or ship at such airport or port, pay on demand any duty chargeable on the importation of the goods.

(2) The provisions of subsection (3) of section 28 shall apply for the purpose of determining any duty payable under subsection (1).

Goods landed at another port

86. Goods intended to be landed at one port in Fiji but landed at another shall be treated in respect of storage charges as goods entered for transhipment.

Licence to carry coastwise

87. Licences to enable foreign-going ships, arriving at a port from any place beyond Fiji, to carry coastwise within Fiji goods or passengers not arriving therein from abroad or not to be carried therein beyond Fiji (hereafter called "licences to carry coastwise") may be issued by and at the discretion of the proper officer of Customs at any port of entry and shall be subject to such conditions as the Comptroller may impose:

Provided that this section shall not apply to yachts, pleasure launches and other similar ships carrying solely passengers for pleasure without hire or reward.

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PART XV - IMPORTATION AND EXPORTATION BY POST

Entry of postal articles

88. — (1) Postal parcels and postal packets may be entered at such place and in such manner as the Comptroller may direct.

(2) Any officer in the service of the Post Office performing any duty in relation to the importation or exportation of any postal article shall perform such duty in accordance with this Act.

Production of postal articles

89. All imported postal parcels and postal packets and all postal parcels and postal packets intended for exportation shall, if the Comptroller so requires, be produced by an officer of the Post Office to the proper officer either at the port of arrival in or departure from Fiji, as the case may be, or at such other place in Fiji as the Comptroller may direct, and, for that purpose, the officer of the Post Office shall be deemed to be the agent of the importer or exporter.

Customs declaration forms may be accepted in lieu of entries

90. — (1) When goods are imported in postal parcels or postal packets, the Comptroller, in his discretion, may accept for the purpose of assessing the duty on the goods the customs declaration on the form provided by the Postal Administration in the country of origin, in lieu of the entry required under the customs laws.

(2) Where goods are exported by post, the Comptroller may, in his discretion, deem any form or label affixed to the parcel and bearing a description of the contents and a declaration of their value to be the entry required under the customs laws.

Entry of postal parcels and packets

91. Where a postal parcel or postal packet or any part of its contents is on examination found-

- (a) not to agree with any declaration which accompanies or is affixed to such postal article, or with any entry, invoice, or other document purporting to relate to its contents and which may be either transmitted therewith or produced by the addressee;
- (b) to consist of goods prohibited from being imported or exported, as the case may be; or
- (c) to consist of goods regulated by or under the customs laws and imported or exported contrary to any conditions regulating such importation or exportation,

such postal article and all its contents shall be deemed to be goods imported or exported contrary to the customs laws and shall be dealt with in accordance with the customs laws.

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PART XVI - DUTIES

Liability to Duty

92. — (1) Subject to the customs laws, import duty is payable on all goods imported into Fiji at the rates and in the circumstances specified in the Customs Tariff Act, 1986, and in any other law relating to import duties.

(2) Subject to the customs laws, export duty is payable on the goods and at the rates and in the circumstances specified in the Customs Tariff Act, 1986, and in any other law relating to export duties.

(3) The duty on all goods imported or entered for home consumption or exported shall, immediately on their importation or entry of home consumption or, as the case may be, on the delivery to the Comptroller or other proper officer of the entry for the export of the goods, constitute a debt due to the Government.

(4) Such debt shall be owing by the importer, or, as the case may be, the exporter of the goods, and, if there are several importers or exporters (whether at or at any time after the time of importation or, as the case may be, exportation) then jointly and severally by all of them.

(5) Subject to any special provisions made by this Act in that behalf, such debt shall become due and payable as soon as entry of the goods for home consumption has been made, or the goods have been entered for delivery to a manufacturing area, or the delivery of the entry for the export of the goods has been made to the Comptroller or other proper officer, export of the goods have been wrongfully landed or shipped or otherwise wrongfully dealt with without having been entered for home consumption or for delivery to a manufacturing area, or for export, as the case may be or any other offence against this Act has been committed in respect of the goods.

(6) The Comptroller may, subject to such conditions as he may impose to ensure compliance with this Act and for the protection of the revenue, approve any company or person licenced under Section 7 of the Tax Free Zones Decree 1991, to defer payment of Value Added Tax on imports. This subsection shall not apply to any such company or person who has not registered for Value Added Tax under the Value Added Tax Decree.

(7) Where a company or person has received approval under subsection (6) of this section, the due date for payment for any debt due shall be 90 consecutive days after the end of the duty accounting period during which it would otherwise have become payable.

(8) For the purposes of subsection (7), the expression "duty accounting period", in relation to any company or person, means a calendar month in which goods may be imported or entered for Customs purposes, whichever is the latter.

(9) Where any such debt is not paid by the approved company or person by the due date pursuant to subsection (7) of this section, the Comptroller may, in his discretion, suspend or withdraw his approval, or may vary the conditions under which the approval was given.

Rates of duty applicable

93. — (1) Subject to sections 27 and 51, import duties shall be paid at the rate in force at the time of importation, irrespective of the date when the goods liable to such duty are entered for home consumption.

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(2) If in accordance with subsection (2) of section 30, goods are entered before the arrival at the port of discharge of the aircraft or ship in which they are imported, the import duty upon them shall be paid at the rate in force at the time of importation.

(3) Export duty shall be paid at the rate in force at the time of exportation, irrespective of the date when the goods liable to such duty are entered for export:

Provided that, in the case of goods exported by post, the rate of duty payable shall be the rate applicable when such goods are received by the Post Office.

Disputes concerning duty payable

94. — (1) If any dispute arises as to the amount or rate of duty payable in respect of any goods, or as to the liability of any goods to duty under any customs laws, the owner of the goods may pay under protest the sum demanded by the Comptroller as the duty payable in respect of the goods, and thereupon the sum so paid shall, as against the owner of the goods, be deemed to be the proper duty payable in respect of the goods unless the contrary is determined in an action brought in pursuance of this section.

(2) The owner may—

- (a) if the dispute relates to the decision by the Comptroller upon any of the matters specified in the Schedule to this Act, within 3 months after the date of payment, enter an appeal to the Court of Review established under the provisions of section 174;
- (b) in any other case, within 3 months after the date of payment, bring an action against the Comptroller in any Court of competent jurisdiction for the recovery of the whole or any part of the sum so paid.

(3) No action shall lie for the recovery of any sum paid under the provisions of subsection (1) unless, before payment is made, the words "paid under protest" are written on every copy of the entry of the goods presented to the Customs and signed by the owner of the goods or his agent.

(4) If the sum demanded by the Comptroller as the duty payable on any goods is not paid, the Comptroller may refuse to pass an entry or to release such goods unless otherwise directed by an order of a court in an action brought by the owner.

(5) If the court determines that a lesser or no amount was properly payable in respect of duty on the goods, the amount overpaid shall be repaid by the Comptroller.

(6) A payment made pursuant to subsection (1) shall not affect the right of the Comptroller to bring or maintain a prosecution for an offence against the customs laws, and notwithstanding any such payment, the Comptroller may retain any goods which he considers may be required for production in court as evidence in any prosecution.

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(2) The Comptroller, at the request of the owner of the goods and subject to compliance with such conditions as the Comptroller sees fit to impose, may allow the value originally declared for the goods specified in paragraph (a) or (b) to be reduced or permit the destruction of such goods, and may remit or repay the whole or part of any duty chargeable or paid on—

- (a) any imported goods not yet cleared for any purpose for which they might be entered on importation; or
- (b) any warehoused goods which have by reason of their state or condition ceased to be worth the original value declared.

Drawback allowed on re-export

98. — (1) Where goods have been imported from a foreign port and are thereafter exported to a foreign port or as ship's stores without having been subjected to any process in Fiji, an amount not exceeding the duty paid in respect of the importation of the goods may be repaid as drawback if the following conditions are complied with, namely—

- (a) the goods must be identified to the satisfaction of the Comptroller with the original import invoice and with the entry for the payment of duty in Fiji;
- (b) the re-exportation must be made within 6 months from the time of importation or the date of clearance from bonded warehouse or within such further period as the Comptroller may, in special circumstances, approve;
- (c) the claim for drawback is of not less than \$20 in respect of any one commodity entered as a separate item on the original entry; and
- (d) the claim for drawback is established at the time of the re-export, and payment is demanded within one month from the date of the entry for shipment or within such further period as the Comptroller may, in special circumstances, approve:

Provided that no drawback is payable on any damaged goods or on any goods that are not in all respects in as good and sound condition as when imported or removed from bonded warehouse.

(2) No payment of drawback shall be made until the aircraft or ship carrying the goods has left Fiji.

Declaration by claimant for drawback

99. A person or his duly authorised agent demanding payment of drawback on any goods duly exported shall make and subscribe a declaration that such goods have been duly exported, and have not been re-landed at any place within Fiji, and that such person was, at the time of entry outwards and shipment, and continues to be, entitled to drawback thereon.

When no drawback allowed

100. — (1) If goods upon which drawback is claimed or allowed are shipped or brought to any wharf, quay or other place, to be shipped for exportation or are found on board an aircraft or ship and are, upon examination by the proper officer found not to be of the description, quality or quantity stated on the export entry or shipping bill or other document for the allowance of drawback on shipment, all such goods and the packages containing them with all other contents therein are liable to forfeiture and the person entering such goods and claiming the drawback thereon shall in every case be guilty of an offence and shall be liable to a fine not exceeding \$2,000 or treble the amount of the drawback claim, whichever is the greater.