

## **FIJI**

### **THE CUSTOMS ACT 1986**

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**CUSTOMS ACT 1986**

**NO 11 OF 1986**

I assent.

[L.S]

P. K. GANILAU  
Governor-General

19th June 1986

**AN ACT  
RELATING TO THE CUSTOMS**

**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 authorized 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;

"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 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; and includes a customs 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 Sundays or public holidays;

"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;

"dutiabale goods" includes all goods in respect of which any duty is payable;

"duty" means any duty leviable under any customs law;

"export" means to take or cause to be taken out of Fiji;

"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 made 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 the aircraft or ship, but does not include a person appointed for conduct of ships into or out of a port,

"name" includes the registration mark of an aircraft;



"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 goods, includes a person being or holding himself out to be the owner, importer, exporter, consignee, or person possessed of beneficially interested in, or having control of, or power of dispossession 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 chatterer, 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;

"post" 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;

"ship" includes a ship, hovercraft, vessel or boat of any kind whatsoever, 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 on 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.

## **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 custom laws shall perform such duties and follow such procedures as the Comptroller may direct.

## **PART III- APPOINTMENT OF PORTS AND PLACES**

### *Appointment of ports*

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;
- (c) transit sheds;
- (d) places for the landing and embarkation of goods and 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 examining 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*

**6.**-(1) Every wharf owner shall at his own expense provide-

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

(2) Where a wharf 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.

**PART IV- CUSTOMS CONTROL OF GOODS**

*Customs liability, goods subject to customs control*

8.-(1) The Customs shall not be liable for the loss of or damage to any goods subject to their control unless such loss or damage shall have been occasioned by the wilful or negligent act of any officer.

(2) The following goods shall be subject to customs control-

(a) all imported goods, including goods imported through the Post Office, from the time of importation until removal for home consumption or until exportation, whichever first happens;

(b) all goods under drawback from the time of their being brought to a proper officer for examination until exportation or until release from customs control;

(c) all goods for export from the time when the goods are brought to any port or place for exportation until exportation or until release from customs control; and

(d) all goods on board any aircraft or ship while within any airport, port or place in Fiji.

*Interference with goods subject to customs control*

9.-(1) A person shall not, except as may be allowed under the customs laws, alter or interfere in any way with goods subject to customs control.

(2) A person who contravenes subsection (1) is guilty of an offence.

*Right of examination and cost*

10.-(1) The-control of goods by the Customs includes the right of the Customs to examine at any time all goods subject to customs control.

(2) The shipping, unshipping, carrying and landing of goods, including passengers' baggage, and the bringing of such goods to the place of examination, and the measuring, weighing, counting, unpacking and repacking, and the opening and closing of the packages, shall be provided by and at the expense and risk of the owner, importer or exporter of the goods, as the case may be.

## **PART V- ARRIVAL AND REPORT OF AIRCRAFT AND SHIPS**

### *Ship to bring to on being hailed*

**11.** The master of every ship arriving within Fiji shall bring his ship to for boarding when approached by or hailed or signalled from any vessel in the service of the Customs, or from any vessel in the service of Her Majesty or of the Government, flying the proper flag and shall provide the means to facilitate the boarding and disembarkation of the proper officer.

### *Master to facilitate boarding*

**12.** The master of every aircraft or ship arriving in Fiji from outside Fiji, shall bring his aircraft or ship to, for boarding, at the boarding station appointed at an airport or port and shall provide the means to facilitate the boarding and disembarkation of the proper officer.

### *Penalty*

**13.** The master of an aircraft or ship who, under the provisions of sections 11 or 12, when required to do so, refuses or does not facilitate the boarding or disembarkation of, or neglects to receive any officer at any place in Fiji on board such aircraft or ship, or neglects to bring his vessel to when required to do so, is guilty of an offence and is liable to a fine not exceeding \$5,000 or to imprisonment for twelve months or to both such fine and imprisonment.

### *Procedure on arrival*

**14.** - (1) The master of every aircraft or ship arriving in Fiji -

(a) shall not, except where so allowed by the proper officer in any special circumstances, cause or permit the aircraft or ship to land, touch at, or enter, any place in Fiji other than airport;

(b) shall, on arriving at any airport, cause the aircraft or ship to come as quickly as the conditions of the airport or port permit up to the proper place of mooring or unloading without touching at any other place;

(c) shall, after arriving at the proper place of mooring or unloading, not take his aircraft or ship therefrom except with the authority of the proper officer.

(2) The provisions of subsection (1) shall not apply in relation to an aircraft or ship which is compelled by accident, stress of weather or other unavoidable cause to call at a place other

than an airport or port, but the master of any such aircraft or ship shall in those circumstances

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(a) without any unnecessary delay report to an officer the circumstances which caused the aircraft or ship to call at such place and on demand produce to him the documents relating to the aircraft or ship, its cargo and passengers;

(b) not, without the consent of a proper officer or, in his absence, of a police officer, permit any goods to be unloaded or loaded, or any of the crew or passengers to land from the aircraft or ship;

(c) comply with any directions given by a proper officer or, in his absence, of a police officer with respect to any such goods, and no passenger or member of the crew shall, without the consent of a proper officer or police officer, as the case may be, leave the aircraft or ship:

Provided that nothing in this subsection shall prohibit the landing or unloading of passengers, crew or goods from an aircraft or ship where that landing or unloading is necessary for reasons of health, safety or the preservation of life or property.

(3) The master of a ship arriving in Fiji shall, if the Comptroller so requires, provide a proper officer boarding and remaining on the ship for the purposes of this Act with proper and sufficient food and suitable accommodation.

(4) A person who contravenes or fails to comply with any of the provisions of this section is guilty of an offence and is liable to a fine not exceeding \$5,000 or to imprisonment for twelve months or to both such fine and imprisonment.

#### *Place of discharging cargo*

**15.** The proper officer may, unless other provision is lawfully made, direct at what particular part of any airport or port or other place an aircraft or ship shall discharge its cargo.

#### *Restriction on boarding before proper officer*

**16.**-(1) No person, except a port pilot, the Medical Officer of Health for the port, or any other person in the execution of his duty and duly authorised by the Quarantine Authority or the Comptroller, shall board an aircraft or ship before the proper officer.

(2) A person who contravenes the provisions of this section is guilty of an offence and is liable to a fine not exceeding \$1,000.

#### *Provisions as to persons disembarking from on going board an aircraft, ship, etc.*

**17.** (1) The Comptroller may, for the purpose of the customs laws, give directions as to the procedure to be followed by any person going ashore, disembarking from or going on board, any aircraft or ship.

(2) A person who contravenes or fails to comply with any directions given by the

Comptroller under the provisions of this section is guilty of an offence and is liable to a fine not exceeding \$1,000.

*Report*

**18.**-(1) The master or agent of every aircraft or ship, whether laden or in ballast, shall, subject to the provisions of the customs laws, within twenty-four hours after arrival from outside Fiji at any airport or port, or at another place especially allowed by the proper officer, make a report to the proper officer, in the prescribed form and in the prescribed manner, of such aircraft or ship, and of its cargo and stores and of any package for which there is no bill of lading.

(2) Every such report shall, except where otherwise allowed by the proper officer, be made before bulk is broken and shall show separately any goods which are in transit, any goods which are for transshipment, any goods which are to remain on board for other ports in Fiji, and any goods for re-exportation on the same aircraft or ship.

(3) The proper officer may permit the master or agent of an aircraft or ship to amend any obvious error in the report, or to supply any omission, which in the opinion of the proper officer results from accident or inadvertence, by furnishing an amended or supplementary report in the prescribed manner.

(4) A master or agent of an aircraft or ship who-

- (a) fails to make a report in accordance with the provisions of this section;
- (b) makes a report in which any of the material particular contained are false;
- (c) except with the knowledge and consent of the proper officer, causes or permits bulk to be broken contrary to the provisions of this section; or
- (d) except with the knowledge and consent of the proper officer, at any time after arrival, causes or permits any goods to be staved in, destroyed, or thrown overboard, or any packages to be opened,

shall unless such contravention is explained to the satisfaction of the proper officer, be guilty of an offence; and any goods in respect of which an offence has been committed contrary to paragraphs (a), (b) or (d) shall be liable to forfeiture.

*Master to furnish information, etc.*

**19.**-(1) The master or agent of an aircraft or ship-

- (a) shall answer fully and immediately all such questions relating to the aircraft or ship, its cargo, stores, baggage, crew, and passengers, as may be put to him by the proper officer for the purposes of the customs laws;
- (b) shall produce all such books and documents in his custody or control relating to the aircraft or ship, its cargo, stores, baggage, crew, and passengers, as the proper officer may require for the purposes of the customs laws;

(c) shall, if required to do so by the proper officer, before any person disembarks, furnish to the proper officer who boards the aircraft or ship on arrival at an airport, port or other place, a correct list in the prescribed form of the names of the passengers disembarking and of those remaining on board the aircraft or ship, and, if required by the proper officer, the names of the master and of the officers and members of the crew; and

(d) shall, if required to do so by the proper officer, furnish to the officer at the time of furnishing the report, the clearance if any, of the aircraft or ship from the place from which the aircraft or ship arrived.

(2) A master or agent who contravenes any provision of this section is guilty of an offence.

*Power to detain ships, etc.*

**20.**-(1) Where at the expiration of a period of 21 clear days from the date of making a report under the provisions of section 18 of this Act of any aircraft or ship, or, where no such report was made, the date when it should properly have been made, or such longer period as the Comptroller may allow, any goods are still on board the aircraft or ship, the Comptroller may authorise the detention of that aircraft or ship until the expenses specified in subsection (3) have been paid.

(2) Where, in the case of any derelict or other aircraft or ship coming, driven or brought into Fiji under legal process, by stress of weather or for safety, it is necessary to station any officer in charge thereof, whether on board or otherwise, for the protection of the revenue, the proper officer may detain that aircraft or ship until the expenses specified in subsection (3) have been paid.

(3) The Comptroller may recover from the owner or agent of an aircraft or ship detained under the provisions of subsections (1) or (2)-

(a) any expense incurred in watching and guarding such aircraft or ship and any goods contained therein; and

(b) where any goods are removed from an aircraft or ship to a customs warehouse by virtue of any of the provisions of the customs laws, the expenses of that removal.

*Minimum size of ships*

**21.** The Comptroller may order that no goods or class of goods shall be imported into or exported from Fiji in any ship or class of ships of less than 100 tons net tonnage.

**PART VI- UNLOADING AND REMOVAL OF CARGO**

*Authority of unloading*

**22.** No goods shall be unloaded from an aircraft or ship except with the authorisation of the Comptroller or pursuant to any entry passed.



### *Unloading of goods*

**23.**-(1) All goods unloaded from an aircraft or ship shall be either-

(a) landed at such place as the proper officer may require; or  
(b) transhipped or removed direct to the aircraft or ship into which they are to be transhipped or removed, as the case may be, or after conveyance thereto in a boat, lighter or vehicle under such conditions as may be prescribed.

(2) All imported goods which have been unloaded or landed in accordance with the customs laws shall be conveyed to a customs area or, if the proper officer considers the goods to be unsuitable for storage in a customs area, to such other place as the proper officer may direct, at the expense of the owner; and such goods, if the proper officer so requires, shall be deposited in a transit shed or such other place as the proper officer may direct and such place shall, for the purpose of the deposit, be deemed to be a transit shed.

(3) A person who contravenes a provision of this section, or fails to comply with the condition or direction imposed or given by the proper officer, is guilty of an offence and the goods in respect of which the offence is committed are liable to forfeiture.

### *Removable of goods*

**24.**-(1) Imported goods shall not be removed from any part of a customs area until authority for their removal has been given by the proper officer.

(2) Imported goods entered for warehousing shall be removed by the person entering the goods to the warehouse for which they were entered and shall be delivered into the custody of the person in charge of the warehouse.

(3) The goods referred to in subsection (2) shall be removed by such routes, in such manner and within such time, as the proper officer reasonably directs.

(4) If the proper officer so requires, a bond or other security shall be given for the warehousing of goods.

(5) A person who contravenes a provision of this section, or fails to comply with a condition or direction imposed or given by the proper officer thereunder is guilty of an offence, and the goods in respect of which the offence is committed are liable to forfeiture.

### *Stacking, weighing, repacking or sorting of goods on wharves or in storage places*

**25.**-(1) Any goods which are chargeable with duty shall be stacked or restacked in such place and in such manner as the proper officer may require.

(2) Any goods may, with the approval of the proper officer, be weighed, repacked or sorted on wharves or in storage places.

*Goods in customs area, etc., deemed to be in aircraft or ship*

**26.** Goods which have been unloaded and landed into a customs area are deemed to be in the importing aircraft or ship until they are delivered from the customs area, transit shed or other place appointed under section 4; and, while the goods remain in the area, the owner or agent of the aircraft or ship shall be responsible for the purposes of the customs laws, as if the goods had not been removed from the aircraft or ship.

*Unentered goods*

**27.**-(1) Within 10 days after the completion of discharge of the importing aircraft or ship, or at such other time as the Comptroller may direct, the owner of the aircraft or ship or his agent shall deliver to the Comptroller in such form and manner as the Comptroller may require, a list of all goods unloaded from such aircraft or ship and not yet cleared. A person who fails to comply with the provisions of this subsection is guilty of an offence.

(2) Where any imported goods remain uncleared at the expiration of 9 days, or such other period as the Comptroller may direct, from the date of completion of discharge of the importing aircraft or ship, the proper officer may direct the owner of the aircraft or ship or his agent to remove or store all or any of such goods to, or at, a customs warehouse, or such other place as the proper officer may approve. A person who fails to comply with such a direction within 24 hours after the direction is given, or such further period as the proper officer may specify, is guilty of an offence and is liable to a fine not exceeding \$500; and the proper officer may cause any such goods to be removed to a customs warehouse or such other place as he may approve, at the expense of the owner of the aircraft or ship or his agent.

(3) Where, under the provisions of subsection (2), goods are removed to or stored at a place approved by a proper officer, that place is deemed to be a customs warehouse and such goods are deemed to have been removed to and deposited in a customs warehouse.

(4) For the purpose of determining the amount of any duty chargeable, any imported goods which have remained uncleared after the expiration of 9 days as specified in subsection (2), are deemed to be warehoused goods and shall be assessed for duty in accordance with section 51.

*Missing goods*

**28.**-(1) When any dutiable goods shown on the import manifest of any aircraft or ship are not produced or otherwise duly accounted for to the proper officer, the master or agent of the aircraft or ship shall, on demand being made in writing by the proper officer, pay the duty on such goods within one month from the date of the demand.

(2) Where goods on which duty has been paid under the provisions of subsection (1) are, within one year of the time or report of arrival of such goods into Fiji, accounted for to the satisfaction of the proper officer, the proper officer shall refund the duty paid on such goods.

(3) Where it is necessary for the purpose of determining the amount of any duty chargeable

under the provisions of subsection (1) or to classify any goods and assess the value, quantity, weight, measurement or strength thereof, such goods are deemed to be of such description and of such value, quantity, weight, measurement or strength as may be determined by the proper officer having regard to the information in his possession.

*Goods abandoned by importer*

**29.** Goods which have been abandoned by their importer shall be destroyed or otherwise disposed of within such time and in such manner as may be prescribed.

**PART VII- ENTRY, EXAMINATION AND DELIVERY OF GOODS**

*Entries*

**30.**-(1) An entry in respect of imported goods shall be made on the forms prescribed in respect of goods-

- (a) for home consumption;
- (b) for warehousing; or
- (c) for transshipment,

as the case may be.

(2) The Comptroller may allow goods to be entered, under the provisions of this section, prior to importation.

*Provisions relating to mail, personal baggage, etc.*

**31.**-(1) Notwithstanding any other provisions in this Act -

- (a) mail bags and postal articles in the course of transmission by post may be unloaded and delivered to an officer of the Post Office without entry;
- (b) goods which are the *bona fide* personal baggage of passengers or members of the crew of any aircraft or ship may, subject to the Customs Regulations, be imported by those persons without entry.

(2) The proper officer may permit the unloading and delivery to the importer of-

- (a) goods of a dangerous or inflammable nature;
- (b) bullion, currency notes or coin;
- (c) perishable goods;
- (d) bulk goods; or
- (e) any other goods authorised by the Comptroller,

without entry, subject to an undertaking being given by the importer to the Customs that the necessary entry will be provided within 48 hours of the time of delivery.

(3) An importer who contravenes an undertaking given under subsection (2) is guilty of an offence and is liable to a fine not exceeding \$1000 and the goods in respect of which the undertaking was given are liable to forfeiture.

(4) If any goods under the control of the Customs are of a perishable nature or become offensive in any way and such goods are not entered and cleared by the owner thereof within such time as the proper officer may allow, such goods may be immediately destroyed or sold, and the proceeds of sale of any goods sold under this subsection shall be applied as provided under section 63.

#### *Particulars of entries*

**32.** A person entering any goods shall-

- (a) deliver to the Comptroller the entry of those goods in the prescribed form together with such copies as may be required by the proper officer;
- (b) furnish such other particulars and documents as may be prescribed or as may be required by the proper officer, and
- (c) at the same time, pay all duties due upon the goods, unless the goods are entered to be warehoused, or are for transshipment or are free of duty:

Provided that-

- (i) the holder of a draft with a bill of lading in guarantee of the payment thereof may give notice to the Comptroller that he holds those documents, and thereupon the Comptroller shall not allow the entry of such goods without the written consent of the holder of those documents; and
- (ii) where the goods have been entered in compliance with the provisions of this section but have not been taken delivery of by the importer, the Comptroller may, at any time before such goods are disposed of as unclaimed, allowed delivery of such goods to any person holding a draft with a bill of lading or other documents of title to such goods in guarantee of the payment thereof, notwithstanding that an entry has already been made by the importer, and such goods shall be dealt with in accordance with the entry already presented, and the importer shall have no claim against the Comptroller for any expenses or other costs incurred by him in connection with the entering of the goods.

#### *Provisional entries*

**33.** - (1) Where the importer of any goods for home consumption is unable immediately to supply any particulars required by the Comptroller for making an entry, he may make a declaration to that effect before the Comptroller and provide him with an undertaking to make a perfect entry within 6 months of the passing of the provisional entry and he may be authorised to make a provisional entry on payment of the sum specified in subsection (2).

(2) The importer shall, in respect of any provisional entry, produce such documentary evidence as the proper officer may require, including bank drafts, copies of orders, copies of confirmation of indent, catalogues, price lists and other documents as may be in his possession in support of such provisional entry; and after examination, appraisal and computation of duty, shall pay into the Consolidated Fund the amount of estimated duty together with such additional sum as the proper officer may require.

(3) If an importer, within 6 months of the passing of the provisional entry, makes a perfect entry in respect of any goods for which a provisional entry has been made, the importer shall produce to proper officer such documentary evidence as may be prescribed and upon production of the prescribed documentary evidence and the passing of the perfect entry-

(a) any sum which may have been paid under this section by the importer in excess of the correct amount of duty shall be refunded to such importer and any such sum to be so refunded shall be a charge upon the Consolidated Fund, provided that the claim for the payment of duty paid in excess of the correct amount is made by the importer within one month from the date of the passing of the perfect entry or such further period as the Minister may in special circumstances approve; and

(b) where the amount paid by the importer as estimated duty is less than the amount of duty payable, the importer shall pay to the Comptroller the amount of the deficit.

(4) Wherever an importer fails to produce any particulars required by the Comptroller and to make a perfect entry within 6 months or such further period as may be permitted by the Comptroller from the date of passing of the provisional entry, the sum paid under the provisions of subsection (2) shall not be refunded.

(5) When the owner of any goods for warehousing is unable to produce immediately the proper documents required for perfect entry of the goods, the proper officer may permit such goods to be deposited in a customs warehouse, but-

(a) the owner shall furnish a provisional warehouse entry which shall be as complete as possible for the removal of the goods to a customs warehouse; and

(b) if a perfect warehouse entry is not furnished within 12 weeks from the date of such provisional warehouse entry, the provisions of section 63 shall apply.

(6) The special attendance of an officer or officers, which may be required for the examination of goods in respect of which a provisional entry is made, shall be charged to and borne by the owner or importer of the goods at the rates prescribed.

#### *Power to allow special entries*

**34.** Notwithstanding anything to the contrary contained in this Act, the Comptroller may permit the entry of any goods in such form and manner and subject to such conditions as he may direct, to meet the exigencies of any case to which the provisions of this Act may not be strictly applicable.

### *Security*

**35.**-(1) The Comptroller may require and take security for compliance with the provisions of this Act and generally for the protection of the revenue of the Customs, and, pending the giving of the required security in relation to any goods subject to the control of the Customs, may refuse to deliver the goods or to pass any entry relating thereto.

(2) Where any security is required to be given, such security shall be given by bond or guarantee or cash deposit or all or any of these methods and, in each case, the security shall be subject to the approval of the Comptroller.

(3) The forms of security prescribed shall be sufficient for all purposes of a bond or guarantee under the provisions of this Act, and, unless otherwise provided therein, shall bind the subscribers thereto jointly and severally for the full amount.

### *Cancellation of securities*

**36.** (1) All securities may, after the expiration of 3 years from the date thereof, or from the time specified for the performance of the particular conditions thereof, whichever is the later date, be cancelled by the Comptroller.

## **PART VIII- BONDED WAREHOUSES**

### *Licensing of warehouse*

**37.** No warehouse shall be licensed at any port or place other than a port or place appointed by the Minister in accordance with section 4.

### *Appointment of bonded warehouse*

**38.**-(1) (a) The Comptroller may, on application, licence any building, enclosure or storage tank as a bonded warehouse for the deposit of goods permitted to be warehoused on first importation without payment of duty, and may attach such conditions to the licence as he may see fit.

(b) A licence is required for each storage tank, notwithstanding that such tank may be connected by a pipe or other means to any other tank.

(2) The licence issued under subsection (1) shall be in such form as may be prescribed and shall be subject to the payment of such fees as may be prescribed.

(3) A licence shall not be issued under the provisions of this section until the person who applies therefor has furnished such security for the due payment of all duties and the due observance of the provisions of the customs laws as the Comptroller may require; and the Comptroller may, at any time, require a warehousekeeper to furnish such additional or new security as he may consider necessary for such purposes.

(4) The Comptroller may at any time for reasonable cause revoke any licence which has been

issued under subsection (1).

(5) A warehousekeeper who, without the previous consent in writing of the Comptroller, makes any alteration in, or addition to, a warehouse or who uses his warehouse, or permits it to be used in contravention of any of the conditions of his licence, is guilty of an offence and is liable to a fine not exceeding \$1,000.

(6) An owner or occupier of a building, enclosure or storage tank who uses or permits such building, enclosure or storage tank to be used for the deposit of goods entered for warehousing while a valid licence under the provisions of this section is not in force is guilty of an offence and is liable to a fine not exceeding \$1,000.

*Procedure on warehouse ceasing to be licensed*

**39.**-(1) Where the Comptroller intends to revoke or not to renew the licence of a warehouse, he shall, not later than 3 months before the date when the revocation is to take effect or the licence is due to expire, as the case may be, give notice of his intention, specifying therein such date, and no goods shall be deposited for warehousing in that warehouse after notice of intention to revoke or not to renew the licence has been given.

(2) The notice referred to in subsection (1) shall be given in writing and shall be deemed to have been served on all persons interested in any goods then entered for or deposited in that warehouse, if addressed to the warehousekeeper and delivered personally or sent by registered post.

(3) If-

(a) after the date specified in the notice referred to in subsection (1), or such later date as the Comptroller may in any case allow, any goods upon which duty has not been paid remain in the warehouse, or

(b) after such notice has been served, any goods are deposited for warehousing in the warehouse,

the proper officer may cause the goods to be taken to a customs warehouse;

Provided that the Comptroller may, if he thinks fit, permit such goods to be re-warehoused in another licensed warehouse.

*Warehousekeeper to provide facilities*

**40.**-(1) Every warehousekeeper shall at his own expense-

(a) provide and maintain at the warehouse such office, lavatory and sanitary accommodation for the proper officer, with the requisite furniture, lighting and cleaning, as the Comptroller may require;

(b) provide and maintain such appliances, and afford such other facilities, for examining and taking account of goods and for securing them, as the proper officer may require;

- (c) stack and arrange the goods in the warehouse so as to permit reasonable access to and examination of every container at all times;
- (d) provide all necessary labour and materials for the storing, examining, packing, marking, cooperating, weighing and taking stock of the warehoused goods whenever the proper officer so reasonably requires; and
- (e) keep a record of all goods warehoused and at all reasonable times keep such record available for examination by the proper officer.

(2) If, in respect of any warehouse, a warehousekeeper fails to comply with any of the provisions of this section, the Comptroller may direct that no further goods shall be warehoused in that warehouse until the warehousekeeper has complied with such provision or provisions to the satisfaction of the Comptroller.

(3) A warehousekeeper who contravenes any direction given by the Comptroller under the provisions of subsection (2) is guilty of an offence and is liable to a fine not exceeding \$500.

#### *Times at which goods may be warehoused*

**41.**-(1) The Comptroller may give directions as to the times between which goods may be received at a warehouse and goods shall not be removed for warehousing except at such times as may allow them to be received at the warehouse within the times directed by the Comptroller for that purpose.

(2) If any goods are removed in contravention of subsection (1), the person removing such goods is guilty of an offence.

#### *Procedure on warehousing*

**42.**-(1) A warehousekeeper shall immediately report, to the proper officer, the arrival of any goods at a warehouse.

(2) Goods which are, on importation, entered for warehousing are deemed to be duly warehoused as from the time certified by the proper officer.

(3) All goods delivered to be warehoused shall forthwith be removed to the warehouse for which they are entered and shall be deposited therein in the packages or lots in which they were entered for warehousing. Any goods warehoused in contravention of this subsection are liable to forfeiture.

(4) The warehousekeeper shall mark the containers or lots of any warehoused goods in such manner as the proper officer may direct and shall, subject to any further directions, keep them so marked while they are warehoused.

(5) A warehousekeeper who fails to comply with the provisions of this section is guilty of an offence.

#### *Stowage and storage of warehoused goods*



**43.**-(1) The proper officer may direct in what parts of a warehouse and in what manner any goods shall be deposited and kept.

(2) If, except as permitted or directed by the proper officer-

(a) goods deposited in a warehouse are moved from that part of the warehouse in which they have been deposited;

(b) any alteration is made in the goods or in the packages or lots thereof; or

(c) any alteration is made in the marks or numbers of such goods or the containers or lots thereof,

the goods are liable to forfeiture.

(3) If goods are deposited in a warehouse contrary to the directions of the proper officer, the warehousekeeper is guilty of an offence.

*Liability for production of warehoused goods*

**44.** A warehousekeeper shall produce upon request by the proper officer any goods deposited in a warehouse which have not been lawfully removed therefrom, and if he fails to produce any goods so requested he is guilty of an offence.

*Deficiency in warehoused goods*

**45.** If, at any time after any goods have been warehoused and before they are lawfully removed from a warehouse, the goods are found to be missing or deficient, and it is not shown to the satisfaction of the Comptroller that their absence or deficiency can be accounted for by natural waste or other legitimate cause then, without prejudice to any penalty or forfeiture incurred under any other of the provisions of the customs laws, the Comptroller may require the warehousekeeper to pay immediately the duty on the missing goods or on the whole or any part of the deficiency, as the Comptroller sees fit.

*Repacking, etc.*

**46.**-(1) The Comptroller may, subject to such conditions as he sees fit to impose, permit goods in a warehouse to be inspected, bulked, sorted, lotted, packed or repacked therein.

(2) A person who contravenes any conditions imposed by the Comptroller under subsection (1) is guilty of an offence.

*Entry of warehoused goods*

**47.**-(1) Before goods are removed from a warehouse the owner of the goods shall deliver to the proper officer an entry thereof in such form and manner as the Comptroller may require.

(2) Subject to the customs laws, warehoused goods may be entered-

(a) for home consumption in Fiji;

(b) for exportation;

(c) for use as stores; or

(d) subject to such conditions as the Comptroller sees fit to impose, for removal to another warehouse.

(3) Goods are deemed to have been duly entered under the provisions of this section when the entry has been passed by the proper officer.

(4) Except as otherwise provided under the customs laws, goods may not be removed from a warehouse before all duties and other charges payable thereon to the Government have been paid.

(5) A person who contravenes any of the provisions of this section is guilty of an offence and is liable to a fine not exceeding \$5,000, or to imprisonment for 12 months, or to both such fine and imprisonment.

*Account to be taken of goods to be warehoused*

**48.**-(1) Upon the landing of any goods to be warehoused, or as soon as practicable thereafter, the proper officer shall take a particular account of the goods.

(2) Except where otherwise provided, the account referred to in subsection (1) shall be that upon which the duties are ascertained and paid.

*Constructive warehousing*

**49.** If goods, which have been entered for warehousing either on importation or removal for re-warehousing, are entered for home consumption, exportation or removal before they have been actually warehoused, the goods are deemed to have been warehoused and shall be delivered as for home consumption, exportation or removal, as the case may be.

*Samples*

**50.** The Comptroller may allow the owner of any warehoused goods to take samples thereof subject to such conditions as he thinks fit.

*Duty chargeable on warehoused goods*

**51.**-(1) The rates of duty chargeable on warehoused goods shall be those in force with respect to goods of that class or description at the date of the removal of the goods from the warehouse.

(2) Subject to the provisions of subsection (3), the amount payable in respect of any duty chargeable on goods under the provisions of this section shall be calculated in accordance with the quantity and value established by the first account taken of the goods after their importation.

(3) The proper officer may, either on the direction of the Comptroller or on the written application and at the expense of the owner of the goods-

- (a) re-gauge, re-measure, re-weigh, examine or take stock of any warehoused goods;
- (b) re-value any warehoused goods liable to duty *ad valorem* which have deteriorated in quality,

and in either such case the duty on such goods shall be chargeable on the basis of the examination or valuation under paragraphs (a) or (b) unless the proper officer considers that any loss or deterioration so revealed is or has been wilfully or negligently caused. In such event the duty shall, subject to such reduction, if any, as the Comptroller may allow, be chargeable according to the original account.

#### *Period of warehousing*

**52.** If the owner of goods, which have been deposited in a bonded warehouse, does not lawfully remove them within two years of the date of their deposit in the warehouse, the Comptroller may, after giving one month's notice of his intention, proceed to sell the goods in the prescribed manner or otherwise dispose of the goods; and the proceeds of any sale of such goods shall be dealt with in accordance with section 63:

Provided that the Comptroller may in his discretion allow such goods to be re-warehoused by the owner for a further period not exceeding one year.

#### *Goods not worth the duty may be destroyed*

**53.**-(1) The Comptroller may allow any warehoused goods, which are not worth the duty payable, to be destroyed under such conditions as he sees fit, and may remit the duty thereon.

(2) Any charges which may be due in respect of destroyed goods which were stored in a customs warehouse shall be paid to the Comptroller.

#### *Comptroller to have access to warehouse*

**54.** The Comptroller shall have access at all reasonable times to every part of any warehouse and shall have the power to examine the goods therein, and, for that purpose may, if necessary, break open the warehouse.

#### *General offences relating to bonded warehouses*

**55.** Any Person who, except with the authority of the proper officer, opens any of the doors or locks of a bonded warehouse or makes or obtains access to any such bonded warehouse or to any goods warehoused therein is guilty of an offence and is liable to a fine not exceeding \$1,000, or to imprisonment for a term of 12 months or to both such fine and imprisonment.

*Transfer and removal of goods in a bonded warehouse*

**56.** If the ownership of goods in a bonded warehouse is transferred from one person to another, the transferor of such goods shall inform the proper officer and the warehousekeeper in writing of the change of ownership. On removal of any goods from a bonded warehouse neither the Government nor any officer shall be responsible for ascertaining the title to the goods of the person removing the same.

**PART IX-PROVISIONS RELATING TO CUSTOMS WAREHOUSES**

*Customs warehouses*

**57.** Customs warehouses shall be appointed by the Comptroller by notice in the Gazette.

*Deposit of goods in customs warehouse pending payment of import duty*

**58.**-(1) The Comptroller may, in his discretion, allow the removal to and deposit of any goods in a customs warehouse, pending the payment of the import duty payable thereon.

(2) The removal and deposit of all goods in pursuance of the provisions of subsection (1) shall be performed by and at the risk and expense of the owner of the goods.

*Delivery of goods from customs warehouse*

**59.** Subject to section 63, the proper officer shall not permit the removal from a customs warehouse of any goods deposited therein in accordance with the provisions of section 58 until it is shown to his satisfaction that all duties, rent and other charges due in respect of the goods have been paid.

*Rent to be charged*

**60.** Where any goods are deposited in accordance with the provisions of section 58, in a customs warehouse or other place of deposit provided by the Government for the security of the duties thereon, or until the regulations relating to the importation thereof have been complied with, the Comptroller may charge, demand and receive warehouse rent for such period as the goods remain therein, at such rates and subject to such conditions as may be prescribed.

*Inflammable or dangerous goods*

**61.**-(1) Without prejudice to any other law for the time being in force, no goods of a dangerous, combustible, inflammable or offensive nature shall be lodged or deposited in a customs warehouse or a transit shed except with the previous authorisation of the Comptroller, and when any such goods are landed, they may be deposited in any other place approved by the Comptroller in accordance with the provisions of section 4.

(2) While deposited in a place approved by the Comptroller in accordance with the provisions of subsection (1), goods shall be deemed to be in a customs warehouse unless duly cleared or warehoused in some approved place in the meantime; and such charges shall be made for securing, watching and guarding the goods until sold, cleared or ware-housed as aforesaid as the Comptroller may deem reasonable.

(3) The Crown shall not be responsible for any damage which goods may sustain by reason of, or during the time of, their being deposited in any place other than a customs warehouse or a transit shed and dealt with in pursuance of the provisions of this section.