

# CUSTOMS ACT, B.E. 2469 (1926)<sup>1</sup>

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HIS MAJESTY KING PRAJADHIPOK IS GRACIOUSLY PLEASED TO PROCLAIM THAT:

Whereas it is expedient that the management and conduct of the work of the Customs Department should be regulated;

Be it, therefore, enacted by the King, as follows:

## CHAPTER I

**Section 1.** This Act is called the “Customs Act, B.E. 2469 (1926)”, and it shall come into force three months after the date of its publication in the Government Gazette.<sup>2</sup>

### Definitions

**Section 2.** For the purpose of this Act or other laws relating to the Customs, and of the interpretation of such Act or laws, the following terms unless they are contrary to the provisions or contents herein, shall mean and include the following objects and matters:

“Minister” means the Minister having charge and control of the execution of this Act;

“Director-General” means the Director-General of the Customs Department;

“customs official” and “official” means and includes any person performing official duties for the Customs Department, being an officer of Royal Thai Navy or Nai Amphoe or Assistant-Nai Amphoe who has been specifically appointed to act on behalf of the Customs Department;<sup>3</sup>

“competent official” means and includes any “official” who is appointed for a particular duty or who performs any particular duty in the ordinary course of his or her employment;

“foreign port”, “foreign region”, or “foreign city” means any place outside the Kingdom of Thailand;

“ship” or “vessel” shall include anything made or used for the carriage of person or property by water;

“master” means any person having command or charge of a vessel;

“tax” means tax, duty, fee, or charge relating to the Customs or internal duty;

“duly cleared through Customs” means and includes the complete performance of duty under the law, the correct shipment entry being obtained, and the full payment of tax and charge;

“importer” includes and applies to the owner or other persons having a period of possession or interest in any goods as from the time of the importation until the

completion of delivery from the custody of the customs officials; and “exporter” shall mutatis mutandis be construed accordingly;

"customs price" or "price" of any goods:<sup>4</sup>

(1) In the case of exportation, means the wholesale cash prices for the sale of goods of the same category and type without loss at the time and place of the exportation without any deduction or reduction in the price, or

(2) In the case of importation, means the price of goods for the purpose of collecting duty in accordance with one of the following prices:

- (a) the sale and purchase prices of imported goods;
- (b) the sale and purchase prices of identical goods;
- (c) the sale and purchase prices of similar goods;
- (d) the deducted price;
- (e) the calculated price;
- (f) the reversionary price.

The rules, procedures and conditions of the application and specification of prices in accordance with (a), (b), (c), (d), (e) and (f) shall be in accordance with the provisions prescribed in a Ministerial Regulation;

“duty” means tax, duty, fee or charge relating to the customs or internal duty;<sup>5</sup>

“warehouse” means godown, place of security and bonded warehouse;<sup>6</sup>

“duty free zone” means a zone provided for industrial, commercial operations, or other businesses that are beneficial to the economy of the country. Goods imported into such zone shall be granted duty privileges as provided by the law.<sup>7</sup>

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1. As last amended by the Customs Act (No. 20), B. E. 2548 (2005) (published in the Government Gazette Vol. 122, Part 4a, dated 13th January B.E. 2548 (2005)).

2. Published in the Government Gazette Vol. 43 Page 272, dated 13th August B.E. 2469 (1926).

3. As amended by section 3 of the Customs Act (No. 6), B.E. 2479 (1936).

4. As last amended by section 3 of the Customs Act (No. 17), B.E. 2543(2000).

5. As amended by section 3 of the Customs Act (No. 9), B.E. 2482 (1939).

6. As added by article 1 of the Announcement of the National Executive Council No. 329 dated 13th December B.E. 2515 (1972).

7. As added by section 3 of the Customs Act (No. 18), B.E. 2543 (2000).

**CHAPTER I BIS8**  
**Customs Duty Ruling Commission**

**Section 2 bis.** There shall be a Customs Duty Ruling Commission, consisting of the Permanent-Secretary of the Ministry of Finance as Chairman, Director-General of the Customs Department, Director-General of the Revenue Department, Director-General of the Excise Department, Director-General of the Fiscal Policy Office, the Secretary-General of the Council of State and three qualified persons appointed by the Minister as members.

The Commission shall appoint officials of the Ministry of Finance as Secretary and Assistant-Secretary.

**Section 2 ter.** A qualified member appointed by the Minister under section 2 bis shall hold office for a term of three years. An outgoing member may be re-appointed.

**Section 2 quarter.** In addition to the vacation of office upon the expiration of term under section 2 ter, a qualified member appointed by the Minister vacates office upon:

- (1) death;
- (2) resignation;
- (3) dismissal by the Minister;
- (4) being an incompetent person or a quasi-incompetent person or a bankrupt;
- (5) having been imprisoned by a final judgement imposing a term of imprisonment, except for an offence committed through negligence or a petty offence.

In the case where a qualified member vacates office before the expiration of the term, the Minister shall appoint another person to act as a member in his/her place.

The qualified member so appointed in accordance with paragraph two may hold office only for the remaining term of the member replaced.

**Section 2 quinque.** At a meeting of the Customs Duty Ruling Commission, the presence of not less than one-half of the total number of the members is required to constitute a quorum.

If the Chairman is not present at a meeting, the members present shall elect one among themselves to preside over the meeting.

The decision of the Commission shall be by a majority of votes. Each member shall have one vote. In the case of an equality of votes, the presiding member shall have an additional vote as a casting vote.

**Section 2 six.** The members of the Customs Duty Ruling Commission shall be the competent official under the Penal Code.

**Section 2 septem.** The Commission under section 2 bis shall have the following powers:

- (1) to prescribe the scope of power of the competent officials;
- (2) to prescribe the rules, procedures and durations for the inspection and assessment of tax and duty;
- (3) to give rulings on tax and duty related problems as submitted by the Customs Department for advice;
- (4) to give advice or suggestions to the Minister in respect of the collection of tax and duty.

The prescriptions under (1) and (2) shall be carried out by the competent officials after an approval of the Council of Ministers and the publication in the Government Gazette.

The ruling of the Customs Duty Ruling Commission under (3) shall be final. In the case where a ruling is later amended, such amended ruling shall not have retroactive effect with the exception of the case where there is a final judgement causing such amendment. The competent official shall have the power to apply the judgement where related to retroactive penalties only to the parties in such case.

**Section 2 octo.** A member appointed by the Minister who has a vested interest in any issue required to be ruled under section 2 septem (3) may not attend or cast a vote at such meeting.

## **CHAPTER II**

### **Management and Designation of Ports, etc.**

**Section 3.** His Majesty the King shall appoint or shall be graciously pleased to permit the Minister to appoint a suitable person as a chief management of the Customs Department to inspect the activities which are the duties of such department. Such person, hereinafter called the "Director-General", shall have the duty to supervise and control the staff of the Customs Department, the power to grant salaries and allowances, to require securities for good conduct, and to issue rules as he may deem necessary for the proper operation of the Department and its enforcement accordingly.

**Section 4.**<sup>9</sup> For the purpose of importation and/or exportation of goods and customs control, the Minister shall have the power to issue Ministerial Regulations:

- (1) to provide that any port or place in the Kingdom is a port or place for the importation and/or exportation of any or all types of goods by sea or by land, or to be a port or place for the exportation of goods for which an application for the repayment of import duty has been made or for bonded goods, provided that certain conditions may be imposed as he deems fit;
- (2) to provide that any airport in the Kingdom is a customs airport under the conditions as

he deems fit;

(3) to designate the customs limits in any port, place or airport so provided.

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8. As added by section 3 of the Emergency Decree Amending the Customs Act, B.E. 2469 (1926), B.E. 2528 (1985).

9. As amended by section 4 of the Customs Act (No. 8), B.E. 2480 (1937).

**Section 5.** The Director-General may provide a boarding station for arriving and departing ships, and may station an official on any ship while remaining in Thai territorial waters.

**Section 6.** (1) The Director-General may designate any number of proper places to be a legal quay for the loading and unloading of goods, and may specify the bounds of such quay. No vessel shall load or unload goods elsewhere other than the place so provided or within the area approved by the Director-General, and the Director-General may require the owner or guardian of such place to leave security by bond or other things to his or her satisfaction;

(2) The Director-General may orally issue an order on where the examination of imported and exported goods shall take place and the procedure for such examination, and may force the construction of and the approval for the construction of a godown or place of security as the place for the examination and storage of uncleared goods. All such godowns and places of security shall be provided with a proper office and with proper fence and gate to the satisfaction of the Director-General. All gates and doors shall be secured by the Government's lock and key, the key of which shall be kept at the Customs House. Any person who unlawfully removes such locks or furtively enters into such godown or place of security shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding one hundred thousand Bath or both the fine and imprisonment;<sup>10</sup>

(3) If a trader or an owner or a guardian of a quay, godown, or place of security suffers damage by reason of the Government's lock not being opened at the proper time for the commencement of work (the commencement of the official day, the commencement of an overtime under an official permit), the Customs Department shall be liable to compensate such trader, owner, or guardian in an amount of not exceeding the actual damage;

(4) No uncleared goods shall be transferred, bulked, sorted, lotted, packed or repacked on any quay or godown except with the permission and under the supervision of an official;

(5) The official supervising any quay or godown may order the transfer of uncleared goods to a godown or enclosed place of security whenever possible and necessary for the protection of state revenue interests. No uncleared goods shall be left in any open part of a quay where, in the opinion of the Director-General, the Customs Department may not be able to protect them sufficiently;

(6) In order that the collection of duties levied on hazardous goods be in accordance with the safety of loading, unloading or storing of such goods within any customs limit, the Director-General, after consultation with the person in charge of the port, place or airport of such customs limit, shall have the power to issue a Notification in the Government Gazette specifying types or categories of hazardous goods and the methods for the collection of duties for such goods as well as the conditions for loading, unloading, storing and removing such goods from such customs limit, in so far as it is not contrary to other related laws.<sup>11</sup>

**Section 7.** (1) All quays, godowns, and places of security in the port of Bangkok which is in use at the time of the promulgation of this Act shall be deemed as quays, godowns, and places of security approved under the preceding section, provided that there shall be no means of access to such godown and place of security when the Government's lock is on;

(2) after the promulgation of this Act, if any person applies for an approval of a quay, godown, or place of security and the Director-General is not willing to grant such approval, he shall notify the applicant of his objection in writing within ten days as from the date of receipt of the application if such place is situated within the Port of Bangkok, or within two months if it is situated elsewhere. If such objection is not delivered within the time specified, such place shall be deemed to be approved. If the Director-General and the applicant are unable to reach an agreement, two arbitrators from each party shall be appointed to adjudicate on the dispute. If the arbitrators of both parties cannot reach an agreement, such arbitrators shall appoint an umpire whose decision shall be final;

(3) provisional approval of places which are proposed to be established may be granted upon the submission of a plan;

(4) the owner or guardian of every quay, godown, or place of security approved under this Act shall receive a Notification of such approval in writing. This notice shall clearly indicate the boundaries and rules governing such a place. If an owner or guardian submits a true plan of such place, that plan shall be certified by the Director-General. An approval of any place so indicated and provided shall be valid so long as such place remains unchanged in terms of construction and rules, and so long as the security remains to the satisfaction of the Director-General.

**Section 7 (A).**<sup>12</sup> An owner or guardian of a godown shall pay an annual license fee for each godown approved under section 6 or section 7 as prescribed by the Minister in a Ministerial Regulation.

**Section 8.**<sup>13</sup> The Director-General may approve and designate a place for the examination and storage of imported goods as a bonded warehouse and may prescribe procedures and limitations on the storage of goods including the regulations for operation, inspection and control of the bonded warehouse as he deems fit.

In order to secure the payment of tax, duty or other dues which may be required by the Customs Department under the law or an agreement, the Director-General may require an owner or guardian of a bonded warehouse to provide security by bond and/or otherwise to his/her satisfaction.

An owner or guardian of a bonded warehouse shall pay an annual licence fee as prescribed by the Minister in a Ministerial Regulation.

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10. As amended by section 4 of the Customs Act (No. 19), B.E. 2548 (2005).

11. As added by section 3 of the Customs Act (No. 14), B.E. 2534 (1991).

12. As last amended by section 4 of the Customs Act (No. 10), B.E. 2483 (1940).

13. As amended by article 2 of the Announcement of the National Executive Council No. 329 dated 13th December B.E. 2515 (1972).

**Section 8 bis.**<sup>14</sup> The Director-General shall have the following powers:

(1) to approve the establishment of a bonded warehouse for displaying and selling goods stored therein in accordance with the regulations laid down by him;

(2) to approve the establishment of a bonded warehouse for producing, mixing, assembling, packing, or performing any other procedure on the goods imported and stored therein in accordance with the regulations laid down by him.

Unless otherwise provided, the bonded warehouse under (1) and (2) shall be subject to the provisions on bonded warehouse.

**Section 9.** All warehouses, godowns, or other places of security, whether for the examination or storage of goods, shall be established and maintained by and at the cost of the merchants or other persons concerned.

### **CHAPTER III**

#### **Payment of Tax**

**Section 10.**<sup>15</sup> All taxes shall be collected in accordance with the provisions of this Act and the law on Customs Tariff. Payment of tax shall be made to the competent official at the time of issuing of the delivery order.

If the tax paid is less than the actual amount payable, the Customs Department has the right to collect the deficient amount. But in the case where it appears after the release of goods from Customs custody or after exportation that the tax paid is less than the actual amount payable and the amount of deficiency does not exceed twenty Baht per shipment entry, the Director-General or a person entrusted by him may by order waive the additional collection.

Except in the case of evasion or attempted evasion of duty, the right of the Customs Department to collect the deficiency on the grounds of type, quality, quantity, weight or value of any goods or of the rate of duty thereof, shall have a limitation period of ten

years. But in the case of an error in the calculation of duty, the right of the Customs Department shall have a limitation period of two years as from the date of importation or exportation.

In the case where the Director-General deems fit, he has the power to return the tax paid in excess solely due to an error in the calculation of duty without the need for the submission of a statement of claim, provided that such return shall not be made after two years as from the date of importation or exportation.

The right to claim a refund of duty paid in excess lapses upon the expiration of a period of two years as from the date of importation or exportation, as the case may be. The claim for a refund on the grounds of the type, quality, quantity, weight or value of any goods or of the rates of duty thereof shall not be accepted for consideration after the payment of duty and the delivery or exportation of such goods, except in the case where a statement indicating an intention to claim is given to the competent official before the delivery or exportation or where the competent official should have known before the delivery or exportation that the duty paid is in excess of duty payable for the goods so delivered or exported.

**Section 10 bis.**<sup>16</sup> The liability to pay tax on imported goods is incurred at the time when the importation is completed.

Subject to section 87 and section 88, the calculation of tax shall be in accordance with the nature of the goods, price of the goods and the corresponding customs tariffs at the time when such goods have been released from the duty free zone. However, in the case of goods stored in a bonded warehouse, the calculation shall be in accordance with the customs tariff in force at the time of the release of such goods from the bonded warehouse, whether they are in the same condition of the importation or otherwise.

However, in the case where goods existing within the Kingdom are transferred into the duty free zone, where such goods are not entitled to a refund or an exemption of duty, the price of such goods shall not be included in the calculation of tax. The above shall be in accordance with the procedure approved by the Director-General or prescribed by the Director-General in a Notification.

**Section 10 ter.**<sup>17</sup> The liability to pay tax on export goods is incurred at the time when the exportation is completed.

The calculation of tax shall be in accordance with the nature of the goods, price of the goods and the corresponding customs tariff at the time of issuing of the delivery order.

A claim for tax refund, in the case where goods are not exported from the Kingdom, shall be made after thirty days but not more than ninety days as from the date of issuing the delivery order.

**Section 11.**<sup>18</sup> The determination of the customs prices, in the case of the imported goods shall include the cost of insurance, the cost of delivery to the port or the place of entry, the cost of loading onto the ship, the cost of unloading from the ship or other costs concerning the delivery of imported goods to the port or the place of entry.



In the case where there is no cost of insurance, cost of delivery to the port or the place of entry, cost of loading onto the ship, cost of unloading from the ship or other costs related to the delivery of imported goods to the port or the place of entry, the value of such item shall be in accordance with that prescribed by the Director-General.

**Section 11 bis.**<sup>19</sup> In the case where it is considered that the declared price of imported goods are apparently low or is unlikely the true price of the goods and if the customs price determined under the rules, procedure and conditions of payment and determination of customs price under subsection (2) (a), (b), (c), (d) and (e) of the definition of “customs price” or “price” in section 2 is still apparently low or is still unlikely the actual price of such goods, the Director-General shall have the power to prescribe the customs price of such goods.

**Section 12.** If an agreement can not be reached on the customs price of any goods, the Director-General shall have power to accept such goods as payment tax or to purchase all or any part of such goods, or any lot of one sort or type of goods or the whole part or lot of the declared price increased by two and a half percent, or if there is no such payment or purchase, the Director-General and the owner shall have power to appoint an equal number of arbitrators not exceeding two arbitrators on each side to settle the dispute.<sup>20</sup>

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14. As last amended by section 4 of the Customs Act (No.18), B.E. 2543 (2000).

15. As amended by article 4 of the Announcement of the National Executive Council No. 329 dated 13th December B.E. 2515 (1972).

16. As last amended by section 5 of the Customs Act (No. 18), B.E. 2543 (2000).

17. As added by article 5 of the Announcement of the National Executive Council No. 329 dated 13th December B.E. 2515 (1972).

18. As last amended by section 4 of the Customs Act (No. 17), B.E. 2543 (2000).

19. As added by section 5, Ibid.

20. As amended by section 6, Ibid.

If the arbitrators of both parties can not reach an agreement, the aforesaid arbitrators shall appoint an umpire whose decision shall be final.

**Section 13.** All weight, testing, estimation, etc., for the purpose of tax assessment or for any other official purpose shall be performed by the competent official of the Customs Department.

## **CHAPTER IV**

### **Examination of Goods and Prevention of Smuggling**

**Section 14.** While, goods pass through customs or are in any way under the supervision of the customs, any competent customs official may at any time, open the package and examine such goods and may take samples of any goods for examination, test, assessment, or for other purposes as necessary. Samples shall be delivered free of charge. The official may take sample from such packages or any post of the goods provided that such samples are taken in a reasonable size or quantity and in such a manner as to produce the least possible loss or inconvenience to the owner of the goods. And such samples shall be returned to the owner as soon as possible.

**Section 15.**<sup>21</sup> Customs official may embark any vessel within the territory of the Kingdom and may remain on board while goods are loaded or unloaded, or until such vessel departs. Customs official shall have access and ability to inspect any part of the vessel, at any time. He may inspect any book, record, or document relating to the goods in the vessel. He may order that any compartment of the vessel, package, or container be opened, or if necessary, he may break them open. He may place a mark, seal or lock, or fasten any goods on board or on any place or package. And if such mark, seal, lock, or fastener is intentionally removed, opened, broken, or altered, the master shall be liable to a fine not exceeding one hundred thousand Bath.

**Section 15 bis.**<sup>22</sup> Any person who, without permission of a competent official, embarks a foreign-going vessel while she is within the Kingdom shall be liable to a fine not exceeding fifty thousand Baht.

The provisions of paragraph one shall not apply to the master, crew, passengers and persons having duties to perform on such vessel.

**Section 16.** A customs official may remove, land, and keep in a place of security any goods which have not been duly cleared through the customs.

**Section 17.** A customs official may search and release the baggage of passengers, and may detain such baggage if any tax unpaid goods, restricted or prohibited goods are found therein.

**Section 18.** A customs official may search any person on board any ship within a port area, or any person who disembarked from any ship provided that such official shall have reasonable grounds to suspect that such person possess or carries with him the tax unpaid goods, restricted, or prohibited goods. Before searching any person, that person may require to bring him before, at reasonable speed, a superior customs official of a rank not lower than an inspector or the chief official of a station, or the nearest Amphoe, or chief officer of police station, or his Consulate in the case of a person subjected to the jurisdiction of a foreign consular court. The official before whom such person has been brought shall decide whether there are sufficient reasonable grounds for suspicion and whether the search should be permitted. A female shall be searched by a female searcher.

If any official searches any person without reasonable ground, such official shall be liable to a fine of not exceeding one thousand Baht<sup>23</sup>.

**Section 19.**<sup>24</sup> A customs official may stop and search a vehicle, cart, or other conveyances, to ascertain whether any smuggled goods are contained therein provided that there are reasonable grounds to suspect that such vehicle, cart, or conveyances has been or is being used in connection with a ship, warehouse, godown, landing place, quay, waterway, border pass or railway. Any person refuses or obstructs or attempts to obstruct such examination, shall be liable to a fine not exceeding fifty thousand Bath.

**Section 20.**<sup>25</sup> Any person found committing or attempting to commit or employing or aiding or inciting any person to commit an offence under the provisions of this Act may be arrested without warrant by any Competent Official, and taken, with any exhibit as to which the offence or attempted offence may have been committed, to a police station to take legal action. If there are reasonable grounds to suspect that any person commits an offence under the provision hereof or possesses article relating to a previous offence or which might be used to commit an offence, the Competent Officer may arrest such person and dealt with this case in a like manner.

**Section 20 bis.**<sup>26</sup> In the case where an offence under this Act occurs in the territorial sea, when the competent official arrests and sends the alleged offender to an inquiry official of any locality, that inquiry official of such locality shall be the responsible inquiry official. In this case, the normal period of the alleged offender's travel to the inquiry official shall not be counted as the period of keeping in custody of the alleged offender by the inquiry official under the Criminal Procedure Code.

**Section 21.**<sup>27</sup> Every vessel arriving at a port shall halt at the prescribed boarding-station, and shall facilitate the customs official in every manner in approaching and embarking the vessel. The vessel shall anchor if required by the customs official. The master of vessel shall answer any question posed by the official concerning the vessel, crew, passenger, journey, and the nature of goods thereon. The master shall report on any fire-arms, ammunition, gunpowder, or explosive carried on board, and shall, when ordered by the competent official, deliver all fire-arms and ammunition into the custody of the person in charge of the boarding station and deliver all explosives into the custody of the official appointed for this purpose. The master shall comply with all reasonable orders of the customs official. The customs official shall be placed on board to supervise the vessel to the moor provided for such vessel. The customs official shall be treated politely and provided reasonable accommodation on board. No vessel shall pass through a boarding station without a customs official on board unless special permission is granted by the supervising official of the station. If a master or any person in charge of a vessel refuses or neglects to comply with the aforesaid requirements, such person shall be liable to a fine not exceeding one hundred thousand Bath.

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21. As amended by section 4 of the Customs Act (No. 19), B.E. 2548 (2005).

22. As amended by section 5 of the Customs Act (No. 19), B.E. 2548 (2005).

23. As amended by section 9 of the Customs Act (No. 19), B.E. 2548 (2005).

24. As amended by section 4 of the Customs Act (No. 19), B.E. 2548 (2005).
25. As amended by section 10 of the Customs Act (No. 19), B.E. 2548 (2005).
26. As added by section 3 of the Customs Act (No. 15), B.E. 2540 (1998).
27. As amended by section 4 of the Customs Act (No. 19), B.E. 2548 (2005).

**Section 22.**<sup>28</sup> Any vessel leaving a port may be supervised by the customs official until reaching the boarding station, where the vessel shall halt to bring the official back and to be examined by the competent official. Any fire-arm, ammunition, gunpowder, or explosive which has been delivered on arrival into the custody of the customs shall be returned to the vessel. If any vessel, with any customs or other officials of the Government on board, departs from any port without their consent; or the proper facilities are not provided for the official in the execution of his duty, the master shall be liable to a fine not exceeding one hundred thousand Bath.

**Section 23.** If any vessel liable to seizure or examination under this Act does not halt when required to do so, and is chased by a vessel in His Majesty's Service, or in the service of the Customs Department, having the proper pendant and ensign of H.M. Service hoisted, it shall be lawful for the official in charge of the service vessel, after having caused a gun to be fired as a signal, to fire at or into such escaping vessel.

**Section 24.**<sup>29</sup> Any article liable to forfeiture under this Act may be seized at any time and any place by the customs official, administrative or police official.

Where the owner of or the person having a right to the goods so seized does not lodge a claim within sixty days for a conveyance used in committing an offence or thirty days for other things as from the date of the seizure, such article shall be regarded as ownerless and shall become the property of the State, irrespective of whether criminal prosecution is brought against the case.

**Section 25.** All goods or articles seized under this Act shall be delivered into the custody of the competent customs official. If there is no such official within a reasonable distance, they shall be delivered into the custody of the nearest Amphoe, who shall hold them on behalf of the customs. All good seized or forfeited under this Act or other laws relating to the customs shall be disposed of as instructed by the Director-General.

If the goods seized are of perishable or their detention posses a risk of damage or the expense of detention is more than reasonable, the Director-General or the person authorized by him may instruct the competent official to sell them by auction or by other means as appropriate before they become property of the State, and the proceeds thereof, deducted by all expenses and charges, shall be retained in lieu of the goods.<sup>30</sup>

**Section 26.** Any article liable to seizure under this Act may be displayed at a police station or Court if required in

connection with a case charged by the police. For this purpose, the police official shall notify to the customs in writing that it has been detained, and shall, as soon as possible, take it to the Customs House and deliver it into the care of the customs.

**Section 27.** Any person imports or brings into the Kingdom any tax unpaid, restricted, or prohibited goods, or any goods which has not duly passed through the customs, or exports or takes such goods out of the Kingdom or assists in any way in importing or exporting or removing or assisting to removal without permission from any ship, quay, godown, warehouse, place of security, or store room, or provide the place to keep, or conceals such goods, or permits or arranges other persons to do so or is involved in any manner in carrying, removing, or dealing with such goods in any manner to avoid or attempt to avoid the payment of customs tax or of any duties of avoid or attempt to avoid any provisions of law and restrictions relating to the importation, exportation, landing, warehousing, and delivery of goods with the intention to defraud the government tax of His Majesty the King with must be paid for such goods or avoids the prohibition or restriction of such goods, shall for each offence be liable to a fine of not exceeding five thousand Baht or of three times the price of the goods including duty, or to imprisonment for a term of not exceeding ten years, or to both. For each offence there shall be a fine of four times the amount of price of the goods including duty or to imprisonment for a term of not exceeding ten years, or to both.<sup>31</sup>

**Section 27 bis.**<sup>32</sup> Any person whoever assists in concealing, disposing or making away with, purchases, takes in pledge or otherwise receives any goods, knowing that such goods are tax unpaid or restricted or prohibited goods; or that they were imported into the Kingdom without duly cleared through the Customs; or that they were imported into the Kingdom by evading duties, restrictions or prohibitions so related to such goods shall be liable to imprisonment for a term not exceeding five years or a fine equal to quadruple the duty-paid value of the goods or both the imprisonment and fine.

**Section 27 ter.**<sup>33</sup> No vessel shall discharge any goods outside the limits of the port without reasonable grounds or without the permission of the competent official. If any master or person violates this provision, he shall be liable to imprisonment for a term of not exceeding two years or to a fine of three times the price of the goods or to a fine of one hundred thousand Baht, whichever is the higher, or to both.

Any goods related to an offence committed under this section shall be forfeited, irrespective of whether any person is liable to a penalty.

**Section 28.**<sup>34</sup> If any vessel within a port area is found with goods on board, and subsequently such vessel is found lighter or a bare vessel, and the master is not able to prove that the goods have been discharged lawfully, the master shall be liable to a fine not exceeding one million Bath or such vessel may be forfeited.

**Section 29.**<sup>35</sup> If any vessel shall be found to have on board any secret or disguised place or any device adapted for smuggling goods, the master shall be liable to a fine not exceeding five hundred thousand Bath. However, the master shall not bear punishment unless there are reasonable grounds to believe that he failed to exercise proper vigilance to prevent, or was involved in or privy to the construction, adaptation, placing, or using

such place or device. The place or device shall be destroyed or rendered harmless to the satisfaction of the competent official.

**Section 30.**<sup>36</sup> If any vessel is found to have on board goods in packages of a size or character contrary to the directions of this Act or any other law or Notifications, the master shall be liable to a fine not exceeding five hundred thousand Bath and such goods shall be forfeited.

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28. As amended by section 4 of the Customs Act (No. 19), B.E. 2548 (2005).

29. As amended by section 11 of the Customs Act (No. 19), B.E. 2548 (2005).

30. As amended by article 7 of the Announcement of the National Executive Council No. 329 dated 13th December B.E. 2515 (1972).

31. As amended by section 3 of the Customs Act (No. 11), B.E. 2490 (1947).

32. As added by section 12 of the Customs Act (No. 19), B.E. 2548 (2005).

33. As added by section 3 of the Customs Act (No. 16), B.E. 2542 (1999).

34. As amended by section 4 of the Customs Act (No. 19), B.E. 2548 (2005).

35. Ibid.

36. Ibid.

**Section 31.** If any person loads or permits the loading or is involved with the loading in or unloading from any vessel, at sea or river or canal, goods which are subject to tax payment or which are restricted or prohibited, which forfeited supports the cheating and fraud of state revenue, the avoidance of prohibitions, such person shall be liable to the penalties as prescribed in section 27.

**Section 32.**<sup>37</sup> Any type of vessel, not exceeding two hundred and fifty tons burden, and any vehicle, cart, conveyance, packages, carriage, used or for use in the removal, concealment, or carriage of any tax unpaid, restricted, or prohibited goods, shall be forfeited irrespective of whether any person is liable to a penalty and if other goods are contained in a package or tax unpaid, restricted, or prohibited goods founding in the carriage, vessel, vehicle, cart or conveyance, such other goods shall also be liable to forfeiture.

If a vessel exceeding two hundred and fifty tons burden is used or is for use under paragraph one, the Court shall have the power to forfeit such vessel as appropriation for the offence.

**Section 32 bis.**<sup>38</sup> In the case where the forfeited goods in respect of an offence committed under this Act does not belong to the offender, the Court shall have the power to order the forfeiture if the owner knows or has reasonable grounds to suspect that an offence is

committed or will be committed but does nothing to prevent the commission of offence or, its completion or to take care of such goods from being involved in the offence.

**Section 33.**<sup>39</sup> If there is a smuggling offence involving a vessel of exceeding two hundred and fifty tons burden, and the master is not able to prove that he has taken all possible steps to discover and prevent such offence, the master shall be liable to a fine not exceeding five hundred thousand Bath.

**Section 34.**<sup>40</sup> (Repealed)

**Section 35.** All goods imported or exported by post shall be duly declared and entered and subject to the same penalties as goods imported or exported by vessel, with the exception of the liability and penalties which shall fall upon the addressee of imported goods and the sender of exported goods, or upon the recipient or the person who delivered the goods to the Post Office, as the case may be.

**Section 36.** The provisions of section 27 shall apply to goods imported or exported through the post.

**Section 37.** The competent official may examine any parcel-post package entering or leaving the Kingdom and may detain any parcel at the Customs House upon suspicion until the sender or addressee satisfies him that it does not contain any tax unpaid, restricted, or prohibited goods. Customs examination of postal packages may take place either at the Post Office or the Customs House.

## **CHAPTER V BIS**<sup>41</sup> **Customs Powers on Boundaries**

**Section 37 bis.** All vessels that enter into or halt or moor in the contiguous sea shall answer any questions of the customs official concerning the vessel, crew, passenger, nature of the goods in the vessel and things carried on board the vessel as questioned by the customs official and shall comply with reasonable orders of the customs official. If the master does not answer or comply therewith, he shall be liable to a fine of not exceeding ten thousand Baht.

**Section 37 ter.** No vessel that is in the contiguous zone shall discharge any article without reasonable grounds or permission of the competent official. A master or any person who is in violation shall be liable to imprisonment for a term of not exceeding one year or to a fine of twice the value of goods or to a fine of fifty thousand Baht, whichever is the higher, or to both.

Any goods involved in an offence under this section shall be forfeited, irrespective of whether any person is liable to the penalty.

**Section 37 quarter.**<sup>42</sup> The provisions of section 15, section 15 bis, section 18, section 20, section 23, section 24, section 25, section 26, section 29, section 30, section 32, section 32 bis and section 39 of the Customs Act, B.E. 2469 (1926), section 16 of the Customs Act (No. 9), B.E. 2482 (1939), section 10 of the Customs Act (No. 12), B.E. 2497 (1954)

and the penal provisions in relation to the said provisions shall apply to the contiguous zone mutatis mutandis.

**Section 37 quinque.** In the case where there are reasonable grounds to suspect that smuggling has been committed or about to be committed or an offence in accordance with this Act has been committed in the contiguous sea, the customs official shall have the power to stop or compel to the master to take the vessel to any place to examine, search, arrest or take legal proceedings.

When the customs official has arrested and sent the alleged offender to the inquiry official of any locality, the inquiry official of such locality shall have the power of inquiry pending the appointment of a responsible inquiry official by the Attorney-General or person acting on his behalf in accordance with the Criminal Procedure Code. In this regard the normal period involved in transporting the alleged offender to the said inquiry official shall not be counted as the period of time of holding the alleged offender in the custody of the inquiry official under the Criminal Procedure Code.

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37. As amended by section 4 of the Customs Act (No. 16), B.E. 2542 (1999).

38. As added by section 5, *ibid.*

39. As amended by section 4 of the Customs Act (No. 19), B.E. 2548 (2005).

40. As repealed by section 9 of the Customs Act (No. 9), B.E. 2482 (1939).

41. As added by section 4 of the Customs Act (No.15), B.E. 2540 (1997).

42. As amended by section 6 of the Customs Act (No. 16), B.E. 2542 (1999).

#### **CHAPTER IV TER<sup>43</sup> AUTHORITY OF CUSTOMS IN THE JOINT DEVELOPMENT AREA**

**Section 37 six.-** In this Chapter

“Joint Development Area” means the Joint Development Area under the Law on Thailand-Malaysia Joint Authority.

“Customs Approved Goods” means goods in respect of which customs duties are exempted under both the laws of the Kingdom of Thailand and Malaysia relating to customs.

**Section 37 septem.-** The regulations relating to the movement of goods imported into or exported from the Joint Development Area shall be in accordance with the criteria,



procedures and conditions stipulated by the Director-General with the approval of the Minister and shall be published in the Government Gazette.

**Section 37 octo.** - Subject to Section 37 novem, Section 37 decim and Section 37 tredecim (4), the Customs Department still assumes all authorities of Customs in respect of articles imported into or exported from the Joint Development Area.

**Section 37 novem.** - Any goods entered into or exported from the Joint Development Area shall be subject to the following criteria:

- (1) Any goods entering the Joint Development Area from:
  - (a) any country other than the Kingdom of Thailand or Malaysia, any licensed warehouse or any bonded area of either the Kingdom of Thailand or Malaysia shall be deemed an import; and
  - (b) the Kingdom of Thailand or Malaysia shall be deemed an internal movement provided they are Customs approved goods, equipment and materials for use in the Joint Development Area.
- (2) Any goods produced in the Joint Development Area entering the Kingdom of Thailand or Malaysia or a third country shall be deemed an export.
- (3) Any goods which has entered the Joint Development Area under Paragraph (1) (b) and is to be moved into the Kingdom of Thailand or Malaysia shall be subject to the law of either the Kingdom of Thailand or Malaysia, as the case may be.

**Section 37 decim.** - Any goods falling within the category of goods appearing in both the lists of prohibited goods made in accordance with the law of the Kingdom of Thailand and Malaysia, respectively, shall not be permitted to be brought into the Joint Development Area, except where an exemption is required in respect of any specific importation. Such exemption may be made with the agreement of the competent authorities of the Kingdom of Thailand and Malaysia.

**Section 37 undecim.** -A Customs Form as stipulated by the Director-General shall be used for the purpose of import, export and internal movement of goods in the Joint Development Area.

**Section 37 duodecim.** -An official and competent official shall have authority in Customs clearance, including tax and duty collection as provided by this Act, and shall exercise such authority in the Joint Customs Office.

“Joint Customs Office” means the Office of the Joint Customs Committee established in the Headquarters of the Joint Authority for the purpose of the coordination of the administration of Customs and Excise laws in the Joint Development Area.

“Joint Customs Committee” means the committee comprising officers of the Customs Department and officers of Customs and Excise Authority of Malaysia established for the purpose of the coordination of the administration of the Customs and Excise laws in the Joint Development Area.

act shall be that whose officer first makes an arrest or seizure in respect of the alleged offence;

(3) Provided such act is an offence under the Customs-related laws of both the Kingdom of Thailand and Malaysia in respect of which there are simultaneous arrests or seizures by both the Customs Department and the Customs and Excise Authority of Malaysia, the jurisdiction over the alleged offence shall be determined through consultation between such Authorities.

(4) Proceeds from any sale of forfeited goods which are the produce of the Joint Development Area shall be equally shared by the Kingdom of Thailand and Malaysia.

**Section 37 quattuordecim.** - For the benefit of this Chapter, the term the “Royal Kingdom of Siam,” “Royal Territory,” and “Kingdom” herein shall mean the “Joint Development Area.”

**Section 37 quindecim.** - The Central Tax Court, the Provincial Court of Songkhla or the Criminal Court shall assume jurisdiction to try any Customs case relating to the Joint Development Area.”

## **CHAPTER V**

### **Importation**

**Section 38.**<sup>44</sup> The master of every vessel, whether loaded or in ballast, coming from outside the boundary territory of the Kingdom shall make due report to the competent official on the prescribed form (Schedule 1) within twenty-four hours of arriving at a port. When making such a report, the master of the vessel shall produce for inspection the certificate of registry of his vessel, and such report shall be made before the bulk is broken unless specially allowed otherwise. If any vessel arriving at a port is loaded with foreign goods intended for exportation or landing elsewhere within the Kingdom, the master shall make a statement of such goods in his report. If such vessel proceeds to another port within the Kingdom, the master shall carry a “traveling copy” of such report, duly certified by the competent official, and produce it when he makes his arrival report at such other port and every subsequent port until the vessel exits or until all the foreign goods has been discharged, as the case may be. Any infringement of the provisions of this section shall be liable to a fine not exceeding one hundred thousand Bath, and all goods not duly reported shall be liable to detention until so reported, or until the omission is explained to the satisfaction of the Director-General.

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43. As added by section 3 of the Customs Act (No. 20), B.E. 2548 (2005).

44. As amended by section 4 of the Customs Act (No. 19), B.E. 2548 (2005).

**Section 39.** If the master of the vessel reports that he does not know the contents of any package intended for exportation in such vessel, the customs official may order such package to be opened for examination, and if any goods, the importation of which are prohibited, are found therein, such good shall be forfeited unless the Director-General shall permit their exportation.

**Section 40.**<sup>45</sup> Before the release of any goods from the custody of the Customs, the importer shall have fully complied with this Act and other laws relating to the Customs, made due submission of the shipment entry, and paid the full amount of duty or deposited cash security. The application for depositing cash security shall be in accordance with the regulations prescribed by the Director-General.

In the case where there is an application and the Director-General considers it necessary for any goods to be released from the custody of the Customs urgently, he shall have the power to release such goods from the custody of the Customs without prior compliance with the provisions of paragraph one but under the conditions specified by him, and in the case where the goods may be dutiable, cash or other securities to his satisfaction shall be required as a guarantee for the payment of duty.

**Section 41.** If it is in any way necessary in connection with the Customs to determine the precise time at which the importation of any goods is deemed to have been completed, such time shall be deemed to be the time at which the vessel importing such goods came within the limits of the port of discharge or consignment.

**Section 42.**<sup>46</sup> (Repealed)

**Section 43.**<sup>47</sup> If upon the expiration of ten days after the arrival of a vessel there remains on board such vessel or there remains goods landed but for which a shipment entry has not been submitted or which have not been examined or duly delivered, such goods may forthwith be taken into the custody of the Customs, and may be kept in a place of security at the owner's expense. All expenses, which may include a rent charge prescribed by the Minister in a Ministerial Regulation, shall be paid before the goods are delivered from custody.

**Section 44.**<sup>48</sup> If any goods remain on board any importing vessel beyond a period of twenty-one days after its arrival, a competent official may detain such vessel until all the expenses of watching and guarding as prescribed in the Ministerial Regulations and any other expense which may have been incurred have been paid, but the Director-General may exempt the charges upon production of reasonable proof that the delay is unavoidable.

## **CHAPTER VI**

### **Exportation**

**Section 45.**<sup>49</sup> Before the exportation of any goods from the Kingdom, an exporter shall have fully complied with this Act and other laws relating to the Customs, duly submitted a shipment entry and paid the full amount of duty or deposited cash security. An

application for the deposit of cash security shall be in accordance with regulations as prescribed by the Director-General.

In the case where there is an application and the Director-General considers it necessary for any goods to be exported urgently, he shall have the power to allow the exportation of such goods without prior compliance with the provisions of paragraph one but under the conditions specified by him, and in the case where the goods may be dutiable, cash or other securities to his satisfaction shall be required as a guarantee for the payment of duty.

**Section 46.** If it is in any way necessary in connection with the Customs to determine the precise time at which the exportation of any goods is deemed to have been completed, it shall be deemed that exportation has been completed as from the time at which the vessel exporting such goods left the limits of the port of final departure from the Kingdom.

**Section 47.** Before any goods are loaded onto a vessel or transported for loading onto a vessel for exportation from the Kingdom, two copies of a shipment entry in the prescribed form (Schedule 5) shall be lodged with and accepted by the competent official.

**Section 48.** No export goods shall be loaded onto any vessel, until the competent official has granted an “inward clearance” unless special permission has been granted.

**Section 49.**<sup>50</sup> Before any vessel, whether loaded or in ballast, is cleared for departure from the Kingdom, the master, or in his unavoidable absence a person authorized in writing by him, shall report to the competent official at the Customs House and shall answer any question of the competent official concerning the vessel, the goods, and the voyage and shall deliver to such official an account of goods in such vessel in the form prescribed in Schedule 6 or such other form as may be prescribed by the Director-General. The master shall produce, for inspection, the vessel’s certificate of registry, inward clearance and such other evidence as may be required that all due charges on the vessel or goods have been paid for.

Upon due satisfaction that the law has been complied with, a clearance in the form prescribed in Schedule 7 shall be granted by the competent official. A clearance fee shall be charged in accordance with the scale as prescribed in a Ministerial Regulation.<sup>51</sup>

If any vessel departs from a port in the Kingdom for foreign regions without a clearance or without complying with the requirements of the following sections, the master, or in his absence, his agent, if proven to have acted in collusion with him, shall be liable to a fine not exceeding one hundred thousand Bath.<sup>52</sup>

**Section 50.**<sup>53</sup> If any vessel having received a clearance at one port proceeds to any other port in the Kingdom to load goods for exportation, the master shall, after loading such goods at such other ports, deliver to the competent official thereat a written account of the additional goods loaded and shall also produce the clearance granted at the first port of departure. Such performance shall be repeated at every port until a final clearance is obtained for departure from the Kingdom. In each instance the additional clearance certificate shall be attached to the clearance certificate issued at the first port of departure.

A fee shall be charged for each additional clearance certificate, in accordance with the scale as set forth in the Ministerial Regulations.

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45. As amended by article 8 of the Announcement of the National Executive Council No. 329 dated 13th December B.E. 2515 (1972).

46. As repealed by section 9 of the Customs Act (No. 9), B.E. 2482 (1939).

47. As amended by section 4 of the Customs Act (No.10), B.E. 2483 (1940).

48. Ibid.

49. As amended by article 9 of the Announcement of the National Executive Council No. 329 dated 13th December B.E. 2515 (1972).

50. As amended by section 4 of the Customs Act Amendment (No. 19), B.E. 2548 (2005).

51. As amended by section 4 of the Customs Act (No. 10), B.E. 2483 (1940).

52. As amended by section 5 of the Customs Act (No. 3), B.E. 2497 (1954).

53. As amended by section 6 of the Customs Act Amendment (No. 3), B.E. 2474 and by section 4 of the Customs Act (No. 10), B.E. 2483 (1940).

**Section 51.** The master of every vessel carrying exported goods shall lodge or cause to be lodged by his agent a manifest at the Customs House within six full days from the date of issuing of a clearance certificate, which shall contain the full particulars of the goods set forth in accordance with the official export account. Such manifest shall be furnished in duplicate and shall be accompanied by a certificate in the form prescribed in Schedule 8 of this Act.

**Section 52.** The master of every vessel which has been cleared for departure shall deliver to the competent official an account of the passengers carried on board his vessel before leaving the limits of the port. Such account shall show the number, sex, and nationality of such passengers, and shall be in such form as prescribed by the Director-General.

**Section 53.**<sup>54</sup> The master of every vessel with a registered tonnage of under two hundred tons departing from the Port of Bangkok shall obtain a Paknam Pass before sailing and shall deliver such pass to the competent official at Paknam. The master of any other vessel departing from the Port of Bangkok shall proceed at a reduced speed when passing through a Customs Checkpoint at Paknam, and when hailed by a Customs official shall answer by giving the name and destination of the vessel. A master who commits an offence under this section shall be liable to a fine not exceeding forty thousand Bath.

**Section 54.**<sup>55</sup> If the loading of goods onto any exporting vessel is continued for more than twenty-one days from the commencement of such loading, or if any exporting vessel

having loaded goods remains in port beyond such period, a charge as prescribed by the Minister in a Ministerial Regulation shall be imposed and a competent official may detain such vessel until such charge, and any other expense which have been incurred in watching the vessel, shall have been paid. The Director-General may exempt the charge upon production of reasonable proof that the delay was unavoidable.

**Section 55.**<sup>56</sup> If any goods which have been bonded or guaranteed that they will be exported on any vessel was not duly loaded before the departure of such vessel, such goods shall be forfeited unless notice of the reasons for the non-shipment thereof was given to the competent official immediately after the departure of the vessel in order that he may certify the short shipment. If such goods have not been warehoused or issued a new shipment entry for exportation on another vessel by entering under bond or security within fourteen days after the final clearance of the vessel, the submitter of the export entry shall be liable to a fine not exceeding ten thousand Bath.

**Section 56.**<sup>57</sup> (Repealed)

**Section 57.**<sup>58</sup> All vessels about to leave a port shall fly the blue-peter flag at the foremast. The flag shall be kept hoisted until the voyage commences. In the case of vessels departing in the afternoon the flag shall be hoisted as from the morning. In the case of vessels departing in the morning the flag shall be hoisted as from the previous afternoon. Any master failing to comply with the provisions of this section shall be liable to a fine not exceeding forty thousand Bath.

**Section 58.** The transshipment of goods may be permitted once the person authorized to conduct the transshipment has submitted a shipment entry in duplicate in the prescribed form (Schedule 9) provided that no such transshipment shall take place except with the permission and in the presence of a competent customs official.

**Section 59.**<sup>59</sup> (Repealed)

**Section 60.**<sup>60</sup> If any goods upon which a drawback is claimed or allowed is loaded onto a vessel or transported to a quay, wharf or other place for exportation and the competent official finds after an examination that the goods description are inconsistent with the shipment entry, shipping bill, claim form, or other documents, or if the claim in respect of such goods appears to be fraudulent in any respect, all such goods and packages as well as other articles contained therein shall be liable to forfeiture. The applicant for such exportation and drawback claim shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding five hundred thousand Bath or treble the amount of the drawback claimed or both the fine and imprisonment.

## **CHAPTER VII** **Overtime Goods**

**Section 61.**<sup>61</sup> Goods remaining in the custody of Customs in any of the following manner shall be deemed to be overtime goods:

(1) imported goods which are hazardous goods of the types or categories specified by the Director-General under section 6 (6) for which the importer has not yet paid duty and taken such goods out of the Customs limits within the time period specified by the Director-General in the Government Gazette;

(2) imported goods other than (1) which have remained in the custody of the Customs for a period of two months without a certified shipment entry and not having been paid or placed security for the duties levied on such goods, where the Director-General shall immediately notify the agent of the vessel and a period of fifteen days has passed since the agent of the importing vessel was notified by the Director-General.

In proceeding with overtime goods under paragraph one, the Director-General shall have the power to order a competent official to destroy or to sell such goods by auction, or to order the importer or the agent of the importing vessel to re-export such goods, and if the importer or the agent of the importing vessel fails to comply, the Director-General shall have the power to order a competent official to destroy such overtime goods at the expense of the importer or the agent of the importing vessel, as the case may be.

In ordering a competent official to destroy overtime goods under paragraph two, the method employed for such destruction shall be safe for human beings, animals, plants, property, and environment.

If the Director-General considers that the proceeds of a sale by auction under paragraph two would be less than appropriate, or there are any other justifiable reason, he may order the sale of such goods by any other method, and in the case where the proceeds of the sale either by auction or by such other method would be insufficient to cover the full duty or may cause any unnecessary damage, such goods shall be disposed of as the Director-General shall direct.

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54. As amended by section 4 of the Customs Act (No.19), B.E.2548 (2005).

55. As amended by section 4 of the Customs Act (No. 10), B.E. 2483 (1940).

56. As amended by section 4 of the Customs Act (No.19), B.E.2548 (2005).

57. As repealed by section 13 of the Customs Act (No.19), B.E.2548 (2005).

58. As amended by section 4 of the Customs Act (No.19), B.E.2548 (2005).

59. As repealed by section 9 of the Customs Act (No. 9), B.E. 2482 (1939).

60. As amended by section 4 of the Customs Act (No.19), B.E.2548 (2005).

61. As amended by section 4 of the Customs Act (No. 14), B.E. 2534 (1991).

With regard to overtime goods under paragraph one (1), the Director-General shall prescribe the rules, procedure and period for expediting the execution of the official

powers and duties under this section, taking into account the dangers that may subsequently happen.

**Section 62.**<sup>62</sup> The Director-General may order the disposition of or destruction of perishable goods which have not been cleared by the submission of a complete entry and which show clear signs of putrefaction at any time at the expenses of an importer or an agent of the vessel.

**Section 63.**<sup>63</sup> The proceeds of any sale under section 61 shall be first chargeable on the duty, storage costs, removal costs or other charges due to the Customs Department, and the balance shall be available for the payment of any appropriate charges due to the agent of the importing vessel. Any balance remaining after such deductions shall become the property of the State unless a claim is made by the owner of the goods within six months from the date of sale.

**Section 63 bis.**<sup>64</sup> In the case of overtime goods which are waste products and which may be hazardous or dangerous to human beings, animals, plants, property, or the environment, if the facts appear to the Director-General that the master of the importing vessel colluded in the importation of such waste products or the master of the vessel cannot prove his full effort in the search for such waste products or prevent their importation to discard as overtime goods, in addition to the penalty imposed by law, the Director-General has the power to order the person in charge of any or all ports or airport located in the country to immediately re-export the waste products by the agent of the importing vessel or prohibit the use of port or airport and their facilities by the importing vessel or all other vessels belonging to the owner of such importing vessel for a period of time prescribed in accordance with the severity of the offence.

## CHAPTER VIII<sup>65</sup> Coasting Trade

**Section 64.** All trade by sea from one part of the Kingdom to any other part thereof shall be deemed to be coasting trade, and all vessels while employed in such trade shall be deemed to be coasting vessels.

**Section 65.** Any vessel arriving from foreign regions and calls at a port or place in the Kingdom on her way to another port or place within the Kingdom and any vessel proceeding from one port or place in the Kingdom to another port or place on her outbound voyage to foreign regions shall in so far as the trade journey within the coastal limits is concerned be subject to the laws and regulations on coasting trade. In respect of any traffic or goods connected with foreign regions the laws and regulations relating to foreign trade shall apply.

**Section 66.**<sup>66</sup> Any coasting vessel which loads or unloads goods outside harbour limits at sea or outside the territorial waters of the Kingdom, or if any coasting vessel calls at any place outside the territorial waters or deviate from her voyage, in the absence of any



compulsion by an unforeseeable circumstance, or if the master of any coasting vessel which has called at any place outside the boundary of the Kingdom does not declare such events in writing to the competent official at the first port of arrival in the Kingdom immediately upon arrival, the master of such vessel shall be liable to a fine not exceeding one hundred thousand Bath.

**Section 67.** Before loading any goods intended for carriage along the coast onto any vessel which will, or might, first proceed along the coast before heading to foreign regions, a manifest shall be submitted in the prescribed form (Schedule 10), and if any amount of duty is levied on such goods upon exportation, the full amount of such duty shall be deposited at the port of clearance. Such deposit may be returned upon production of the correct certificate to the competent official (Schedule 10 (a)) within two months as from the date of clearance, indicating that the goods have landed within the boundary of the Kingdom.

**Section 68.**<sup>67</sup> Before the departure of any coasting vessel from a port or place of loading or discharge, two copies of an account in the form prescribed in Schedule 11, signed by the master of the vessel, furnishing the prescribed particulars of the vessel and goods, shall be delivered to the competent official who shall retain a duplicate and return the original, dated and signed by him. Such account may be deemed as a goods clearance certificate and the vessel's clearance certificate. A clearance fee shall be charged in accordance with the scale as prescribed by the Minister in the Ministerial Regulations for every port specified in the said Schedule. If any coasting vessel departs from any place without such clearance certificate, or if such certificate is not produced within twenty-four hours after the arrival of the vessel at a port and before the commencement of the discharge of the goods, the master of the vessel shall be liable to a fine not exceeding fifty thousand Bath.

**Section 69.**<sup>68</sup> When the Director-General considers it appropriate to issue a general goods clearance certificate for any vessel trading regularly between ports within the boundaries of the Kingdom under the conditions that a proper account of the goods carried shall be submitted to the competent official consistent with the procedure for every voyage, and that a notice in the form prescribed in Schedule 12 shall be delivered to the competent official at the port of departure before the vessel departs, and a notice as prescribed in the same Schedule shall be furnished to the competent official at the port of arrival within twenty-four hours of the arrival of the vessel and before the commencement of the discharge of the goods. Such general goods clearance certificate may be revoked at any time by written notice. If the holder of a general goods clearance certificate fails to furnish an account of the goods and the notices referred to in this section, the master shall be liable to the penalty provided in section 68.

A vessel clearance fee shall be charged in accordance with the scale prescribed by the Minister in the Ministerial Regulations in respect of vessels sailing under a general clearance certificate for every port specified in the said Schedule for which a schedule of arrival or departure under this section shall be submitted, and at the same rates chargeable on vessels for which no general clearance certificate has been issued but the Director-General may accept deposits from which the total balance due shall be deducted semi-annually.

**Section 70.**<sup>69</sup> If any goods liable to internal duties or restricted goods carried on board any coasting vessel are unloaded from the vessel without the permission of the competent official, the master of the vessel shall be liable to a fine not exceeding fifty thousand Bath.

**Section 71.** The master of every coasting vessel shall keep or cause to be kept on board a manifest to record the full particulars of each voyage, viz. the nature and quantity of the goods, the date and port of departure, the date and port of arrival and discharge, the name of the master, and any other particulars which may be necessary in any particular case, and when demanded by a competent official, the master shall produce the manifest for inspection and the competent official shall have the power to make any note or remarks in such manifest.

## **CHAPTER IX<sup>70</sup>** **Outer Anchorages**

**Section 72.**<sup>71</sup> The Director-General may designate outer anchorages for the Port of Bangkok or any other port for vessels to discharge and load all or any part of the goods and may prescribe the times when such outer anchorages may be used and issue rules for the supervision and control of such outer anchorages by customs officials. If any person commits or is involved in the commission of an offence under these rules or attempts or is involved in an attempt to commit an offence under these rules, such person shall be liable to a fine not exceeding one hundred thousand Bath, but his liability under this section shall not absolve him from liability under any other provisions of this Act or any other law.

**Section 73.** Vessels moored or in the process of loading or discharging goods at an outer anchorage and all persons connected therewith shall be liable to the liability and serve the penalties under this Act or other provisions of law as if they were within the ordinary limits of the port.

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62. As amended by section 14 of the Customs Act (No. 19), B.E. 2548 (2005).

63. As amended by article 11 of the Announcement of the National Executive Council No. 329 dated 13th December B.E. 2515 (1972).

64. As added by section 5 of the Customs Act (No. 14), B.E. 2534 (1991).

65. This chapter shall not apply for Air Traffic according to section 11 of the Customs Act (No.8), B.E. 2480 (1937).

66. As amended by section 4 of the Customs Act (No.19), B.E.2548 (2005).

67. As amended by section 7 of the Customs Act Amendment (No. 3), B.E. 2473 (1930), amended by section 4 of the Customs Act (No. 10), B.E. 2483 (1940) and amended by section 4 of the Customs Act (No. 19), B.E. 2548 (2005).

68. As amended by section 7 of the Customs Act Amendment (No. 3), B.E. 2474 (1931) and amended by section 4 of the Customs Act (No. 10), B.E. 2483 (1940).

69. As amended by section 4 of the Customs Act (No.19), B.E.2548 (2005).

70. This chapter shall not apply for Air Traffic according to section 11 of the Customs Act (No.8), B.E. 2480 (1937).

71. As amended by section 4 of the Customs Act (No.19), B.E.2548 (2005).

**Section 74.**<sup>72</sup> If any vessel loads or discharges goods at any outer anchorage or at any unapproved place without the consent of the Director-General, the master of the vessel and all persons connected in any way with the loading or discharge of its goods shall be liable to a fine not exceeding five hundred thousand Bath and the goods which has been loaded or discharged or placed or remained on board shall be forfeited.

**Section 75.** Fire-arms, ammunition, explosives, opium, alcoholic beverages, or restricted goods of any nature or packages which have not been examined shall not be transferred to another vessel or accepted from the importing vessel at an outer anchorage except with the special permission of the Director-General or a duly authorized official.

**Section 76.** The Director-General may issue a license by granting a general authority to any vessel to discharge or load goods at an outer anchorage, and a vessel not having been granted such general authority shall not load or discharge at such place except where granted special permission by the Director-General or a duly authorized official.

**Section 77.** All vessels at an outer anchorage shall moor within the specified limits of such anchorage, and no vessel shall move from her place of mooring except with the permission of the competent official.

**Section 78.** The master of a vessel whose normal trade is foreign trade and who has a general authority to discharge goods at an approved outer anchorage shall seek the permission of the official in charge of such anchorage before commencing the discharge of goods.

**Section 79.** The master having a special authority to discharge at an outer anchorage shall produce such license to the official in charge before commencing discharge.

**Section 80.** An accurate manifest of details indicating all the articles discharged at an outer anchorage submitted to a competent official to certify the discharge of articles shall be in the form prescribed in Schedule 13. Any vessel carrying goods discharged by a vessel at an outer anchorage and enters any port may proceed when in possession of a manifest duly certified by a competent official. Such manifest shall be deemed to be a license authorizing the carriage of goods. Under the norms governing the vessel, goods

are imported on their arrival in the Kingdom. On arrival at the port the person in charge of the vessel shall deliver such manifest to the competent official at the Customs House, and the goods shall thereafter be discharged and cleared under the ordinary regulations. If any vessel carrying goods transhipped from a vessel at an outer anchorage without such a certified manifest, such vessel shall be prohibited from breaking its bulk until the complete manifest of the vessel from which the goods was transhipped is lodged at the Customs House at such port.

**Section 81.** A master of a vessel having a general or special authority to complete loading at an outer anchorage shall obtain a clearance certificate at the Customs House of such port in accordance with the regulations and pay all due charges. Such clearance certificate shall be endorsed by the competent official as “for completion of loading at .....”, and upon arrival at the outer anchorage, the master shall deliver the clearance certificate to the official in charge of the station. The official shall retain the clearance certificate until satisfied that all duties, and any fees or dues which may be chargeable on the vessel after departure from the port, have been paid or for which a deposit has been made, after which the official shall make an endorsement of the date and affix his signature on the clearance certificate and return it to the master of the vessel who may then proceed with his voyage.

**Section 82.** Export goods may be transferred from a port to an outer anchorage for loading onto any vessel authorized to load goods at such outer anchorage. Before transferring such goods, a shipment entry shall be submitted in the same way as goods loaded at port, and the duties and charges shall be fully paid in a like manner. The exporter shall prepare a boat-note for all such goods, and after the competent official at the port has checked against the shipment entry and signed the document, such boat-note shall be sent with the goods to the outer anchorage and delivered to the official in charge of such place. If the details in the boat-note do not agree with the goods, the official in charge of such place may detain such goods.

**Section 83.** If any export goods have not been loaded or incompletely loaded onto a vessel at an outer anchorage, they may be loaded onto another vessel at such anchorage and bound for the same port of destination. The master of the latter vessel or the exporter shall make a written application to the official in charge of the station for a permission to make such shipment.

**Section 84.** If any goods not loaded onto a vessel is to be returned to the port of dispatch, the responsible person shall obtain a certificate from the official in charge of the station showing the quantity and description of such goods, and such certificate shall accompany the goods to the port and be delivered to the competent official at the Customs House.

**Section 85.** Within six days as from the receipt of a final clearance certificate of a vessel from an outer anchorage, the master of the vessel or his agent shall deliver a manifest of the vessel to the official in charge of such place indicating all the goods loaded at the outer anchorage.

**Section 86.** All vessels at an outer anchorage shall fly the blue-peter flag in accordance with the provisions and shall be liable to the penalties under section 57.

## **CHAPTER X**

### **Warehousing**

**Section 87.**<sup>73</sup> Upon the submission of a shipment entry and landing of goods to be stored in a bonded warehouse, the competent official shall record a detailed account of such goods, and when satisfied that all the requirements of the laws, rules and regulations have been complied with, he shall certify that the goods have been duly stored in the bonded warehouse.

**Section 88.**<sup>74</sup> The detailed account of goods recorded under section 87 shall be used for the assessment of duty for such goods, but in the case where the goods have been used for producing, mixing, assembling, packing, or processing in any way in the bonded warehouse, the calculation of the quantity shall be in accordance with the formula approved by the Director-General or prescribed by the Director-General in a Notification.

Goods removed from a bonded warehouse for exportation shall be exempted from import duty and export duty, regardless of its being exported in the same nature as when imported or in any other nature whatsoever.

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72. As amended by section 4 of the Customs Act (No.19), B.E.2548 (2005).

73. As amended by article 12 of the Announcement of the National Executive Council, No. 329 dated 13th December B.E. 2515 (1972).

74. As amended by section 6 of the Customs Act (No. 18), B.E. 2543 (2000).

The release of goods from a bonded warehouse, if it is a transfer to another bonded warehouse or a distribution to an importer under section 19 bis of the Customs Act (No. 9), B.E. 2482 (1939) or a person entitled to a duty exemption under the law on customs tariff or other laws, shall be deemed as an export out of the Kingdom at the time of release of such goods from the bonded warehouse, the performance of which shall be in accordance with the regulations prescribed by the Director-General.

The acceptance of goods transferred or distributed under paragraph three shall be deemed as an importation into the Kingdom or the completion of importation at the time of release of such goods from the bonded warehouse, the performance of which shall be in accordance with the regulations as prescribed by the Director-General.

official takes a record of such goods and if such goods are not so kept, or if alteration has been subsequently made on the goods or packages so kept or in the packing thereof in the warehouse or on the marks and numbers on such packages, or if removed from the room in the warehouse in which they are deposited, if not done in the presence and sanction of a competent official, such goods and packages shall be forfeited, except where done for the delivery of such goods and packages under the proper warrant, order, or authority for that purpose.

**Section 90.**<sup>75</sup> If the guardian of any warehouse neglects in storing the goods in such a way as to provide easy access to every package, upon the commission of the first act of neglect, he will receive a formal warning, and thereafter, for every subsequent act of neglect, shall be liable to a fine not exceeding ten thousand Bath for each offence.

**Section 91.**<sup>76</sup> For any goods stored in a warehouse which have not been duly inspected and delivered, if the guardian of the warehouse does not produce such goods when requested by a competent customs official, such occupier shall be liable to a fine, other than the duties payable for such goods, not exceeding ten thousand Bath for each offence in respect of every package not so produced.

**Section 92.** If any goods for which a shipment entry has been submitted for warehousing has not been duly warehoused in accordance with such entry, or once warehoused has been concealed or removed from the warehouse in any manner, or extracted from a package, or transferred from one package to another, or done otherwise for the purpose of illegal mixing, transfer, or concealment, such goods shall be forfeited.

**Section 93.**<sup>77</sup> Any person who clandestinely opens a warehouse or reaches the goods stored in such warehouse, except when entered in the presence of a competent customs official in the execution of his duty, such person has committed an offence and shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding one hundred thousand Bath for each offence or both the fine and imprisonment.

**Section 94.** No compensation shall be made by the Director-General to any importer, owner, or consignee of any goods by reason of any damage occasioned thereto in the warehouse by fire or other unavoidable accident or by reason of any damage whatsoever unless such damage was caused by willful neglect, act, or default of an official during his performance of duty.

**Section 95.** If any goods warehoused or for which an entry has been submitted for warehousing, or for which an entry has been submitted for delivery from the warehouse is lost or destroyed by an unavoidable accident, either on board a vessel or in removing, landing or receiving into the warehouse, or in the warehouse, the Director-General may exempt the duties due or remit the duties paid for such goods.

**Section 96.** If at any time it appears that the quantity of any goods in a warehouse is less than the quantity recorded on the original entry when such goods were stored, and the reasons for such discrepancy has not been accounted for in the official's records or in the reasons given by the Director-General in his allowance of an exemption of charges, such unaccounted discrepant quantity shall be deemed to be goods removed without the permission of an official, and the provisions of section 27 shall apply in such case.

**Section 97.** Any goods stored in a warehouse may be removed to any other warehouse in the Kingdom under such rules of the Department as prescribed by the Director-General.

**Section 97 bis.**<sup>78</sup> In the case where there are reasons to suspect that there are goods for which duties have not yet been paid or for which duties have been evaded, or restricted goods or prohibited goods, or goods without the permission to be taken into a bonded warehouse, the competent official shall have the power to enter into the bonded

warehouse to make an inquiry of the facts or to inspect any document or goods, including the search of factories, buildings, conveyances and persons that are in the bonded warehouse, without the need for a search warrant.

## **CHAPTER X BIS<sup>79</sup>** **Duty Free Zone**

**Section 97 ter.** The Director-General shall have the power to approve the establishment of a duty free zone for the operation of industrial, commercial or other activities which are beneficial to the economy of the country, and shall have the power to prescribe rules, procedures and conditions for the application for and the approval of establishment of a duty free zone.

A person who has received an approval for the establishment of a duty free zone should pay an annual fee as prescribed by the Minister in a Ministerial Regulation.

**Section 97 quarter.** The Director-General shall have the power to prescribe the categories or types of articles to be taken into or released from a duty free zone, including the rules, procedures and conditions for the taking of goods into or the release of goods from a duty free zone.

**Section 97 quinque.** Import duty shall be exempted for goods imported into the Kingdom for taking into a duty free zone in the following cases:

(1) goods which are machinery, equipment, tools and appliances, including components thereof, which are necessary for use in industrial, commercial, or any other activity which are beneficial to the economy of the country, which are imported into the Kingdom for taking into the duty free zone approved by the Director-General;

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75. As amended by section 4 of the Customs Act (No.19), B.E.2548 (2005).

76. Ibid.

77. Ibid.

78. As added by section 7 of the Customs Act (No. 18), B.E. 2543 (2000).

79. Added by section 8, *ibid.*

2) goods imported into the Kingdom and into a duty free zone for use in industrial, commercial or any other activity which are beneficial to the economy of the country, or  
(3) goods released from other duty free zones.

Export duty shall be exempted for articles released from a duty free zone for exportation from the Kingdom.

**Section 97 six.** The importation and production of goods in a duty free zone shall be exempted from excise duty as provided in the law on excise duty.

The importation and production of goods in a duty free zone shall be exempted from spirits duty, stamp duty and fees under the law on spirits, the law on tobacco, and the law on playing cards, whereby the provisions relating to the exemption and collection as prescribed in the law on excise duty shall apply mutatis mutandis to the aforementioned exemption of spirits duty, stamp duty and fees.

**Section 97 septem.** In the case of the importation of goods into the Kingdom or the taking of raw materials within the Kingdom into a duty free zone for producing, mixing, assembling, packing, or processing of the goods in any manner with the object of exportation from the Kingdom, the goods shall be exempted from the application of the law where related to the control of standards or quality, the affixation of any mark or sign, which shall be in accordance with the regulations prescribed by the Director-General.

**Section 97 octo.** In the case where there is a law which provides for the exemption of any goods from duty or the refund of duty upon exportation from the Kingdom, if such goods are taken into a duty free zone, they shall be exempted from duty or given a duty refund, whereby it shall be regarded that such goods have been exported out of the Kingdom at the time they are taken into the duty free zone. The foregoing provisions shall be in accordance with the regulations prescribed by the Director-General.

**Section 97 novem.** The taking of goods out of a duty free zone for use or for distribution within the Kingdom or for transfer to a bonded warehouse, or for distribution to an importer under section 19 bis of the Customs Act (No.9), B.E. 2482 (1939) or a person entitled to an exemption of duty under the law on customs tariff or other laws, shall be regarded as an importation into the Kingdom, or the completion of importation at the time when such goods are taken out of the duty free zone. The foregoing provisions shall be in accordance with the regulations prescribed by the Director-General.

The taking of goods in a duty free zone for use or for consumption or for other benefits other than the objectives of establishing the duty free zone shall be deemed as the taking of goods out of the duty free zone under paragraph one, unless it is the disposal or destroying of material waste, damaged articles, goods that cannot be used, or unused goods which are in the duty free zone under the permission of the Director-General and in accordance with rules and procedures prescribed by the Director-General in a Notification.

**Section 97 decem.** The provisions of Chapter 10 Warehousing and the penalties in relation to such provisions shall apply to the taking of goods into, storage, exportation, control, transport of goods in the duty free zone and the powers of a competent official, mutatis mutandis.



## **CHAPTER XI**

### **Bonds and Securities**

**Section 98.** The Director-General may require security from any person or persons beneficially interested in any activity within the management or control of the Customs Department either by bond or otherwise to the satisfaction of the Director-General for the due performance of any condition, order, or activities related to the Customs Department or incidental thereto. All such bonds or other securities shall be valid in law and if a breach of any of the conditions thereof is committed, legal proceedings may be taken in the same manner as any bonds expressly directed by or provided for under the provisions of this Act or any other law. All such bonds shall be taken to and for the use of His Majesty's Government, and may be cancelled by the Director-General after the expiration of two years as from the date of the bond, or if any time limit was prescribed for the performance of the conditions of the bond, as from such time limit.

## **CHAPTER XII**

### **False Declarations**

**Section 99.**<sup>80</sup> Any person who makes or allows others to make or submits or arranges for others to submit a shipment entry, declaration, certificate, record or other instruments to the competent official in relation to this Act or required by this Act, which is false, incomplete, or misleading in any particular statement, or if any person required by this Act to answer any question put to him by the competent official does not truthfully answer such question, or any person who refuses or neglects the up-keep of any record, register, account book, document or other instruments required by this Act, or any person who counterfeits or makes any transaction relating to this Act, or alters any instrument of record or other instruments after it has been officially issued, or any person who counterfeits the seal, signature, initials, or other mark of or used by any official of the Customs Department for any purpose relating to this Act, such person shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding five hundred thousand Bath or both the fine and imprisonment.

## **CHAPTER XIII**

### **Legal Proceedings**

**Section 100.** If in any prosecution in respect of any goods seized for non-payment on duties or for any other cause of forfeiture, or for the recovering any penalty or penalties under this Act, any dispute arises as to whether the proper duties have been paid in respect of such goods, or whether the goods have been legally imported, unshipped, exported, shipped, removed, stored, sold or otherwise dealt with, then and in every such case the burden of proof thereof shall be upon the defendant in such prosecution.

**Section 101.** Any competent official, acting under the authority of the Director-General, may institute, prosecute, defend or conduct any proceeding before any Court in any matter relating to the customs.

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80. As amended by section 4 of the Customs Act (No. 19), B.E.2548 (2005).

**Section 102.**<sup>81</sup> Subject to section 102 bis, any person who is liable to prosecution under this Act, the Director-General, with the consent of such person and upon payment of such fine, or the conclusion of an agreement, bond, or security as the Director-General deems fit, may waive prosecution; and such waiver shall indemnify the offender against any further prosecution on account of the offence in question.

In case the offence involves a small amount of duties, a Ministerial Regulation may be issued authorizing the inquiry official to settle the case and waive the prosecution.

In the case where the Director-General deems fit to prosecute any person for making or submitting any declaration or record which is false or incomplete or misleading in any particulars, or for evading or attempting to evade in any manner whatsoever any payment of the proper duty or any restriction or prohibition, he shall record his opinion as to the reasons wherefore the offender should be prosecuted.

**Section 102 bis.**<sup>82</sup> For the offences under Section 27, Section 31, Section 36 and Section 96; and the offences under Section 5, Section 5 bis and Section 10 of the Customs Act (No.7), B.E. 2480 (1937), provided that the value of the exhibits to which the duties have been included exceeds four hundred thousand Baht, the Committee consisting of a representative of the Customs Department, a representative of the Ministry of Finance and a representative of the Office of the National Police shall have the power to settle the case and waive the prosecution there of; and such waiver shall immunize the offender against any further prosecution on account of such offence.

**Section 102 ter.**<sup>83</sup> The Director-General shall have the power to order the payment of bribes and rewards in accordance with the rules prescribed by the Director-General with the approval of the Minister in the following cases:

(1) For a smuggling offence, or the importation or exportation of prohibited or restricted goods, fifty-five percent of the proceeds of sale of the exhibits shall be deducted and paid as bribe and reward. However, in the case where the exhibits have not been forfeited or cannot be sold, the amount of such payment shall be deducted for the fine. In the case where there is no informer for the arrest, thirty percent of the fine shall be deducted and paid as a reward;

(2) For an offence of false declaration, fifty-five percent of the fine shall be deducted and paid as bribe and reward. However, in the case where there is no informer for the arrest, thirty percent of the said fine shall be deducted and paid as reward;

(3) In the case where there is a deficit in the collection of duties which is discovered by an official investigating the duty resulting in additional duties being payable, ten percent of the additional duty levied and collected by the Customs Department shall be paid as a reward.

**Section 103.** If it is necessary to assess the value of any goods for the purpose of determining the amount of a penalty, such value shall be deemed to be the price for goods of the same type for which the full customs or internal duties have been paid in accordance with the sale and purchase price at or around the time of the offence. However, the offender may choose to accept the assessment determined by the Director-General.

**Section 104.** Notwithstanding any provisions of this Act, any Court may at its discretion impose on an offender a fine in addition to a term of imprisonment, provided such fine and term of imprisonment shall not, altogether, exceed the maximum penalty prescribed for such offence.

**Section 105.** The owner of any vessel shall have a civil liability for the payment of any fine imposed on the master of the vessel for any offence in connection with this Act, and the owner or guardian of any premises shall be liable in a like manner for the payment of any fine imposed on an agent or occupier acting on his behalf or supervising his interests.

## **CHAPTER XIV**

### **Agents**

**Section 106.** Any person who is expressly or impliedly authorized by the owner of any goods to be his agent in respect of the goods for any purpose under this Act, and such authorization has been approved by a competent official, such person shall be deemed to be the owner of the goods for such purpose.

**Section 107.** If the master of any vessel authorizes any person to act as his agent with the approval of a competent official, and such agent expressly or impliedly accepts such agency for the performance of any duty under this Act, when such agent fails to perform the duties, the agent shall be liable to the same penalties as the master.

**Section 108.** If any person files an application with an official for a permission to transact a specific business on behalf of another person, the official may require such applicant to produce a written power of attorney from the person on whose behalf the application was filed by the applicant to act as an agent, and in the absence of such power of attorney, the official may refuse the transaction of such business with such applicant.

**Section 109.** Any clerk or servant of any person or any firm may transact all businesses on behalf of such person or firm at the Customs House. However, a competent official may refuse to recognize any such clerk or servant unless such person or firm has deposited at the Customs House a general power of attorney authorizing such clerk or servant to act on his behalf, and has given security by bond or other means as considered reasonable by and to the satisfaction of the competent official to ensure the proper conduct of business by such clerk or servant.

## CHAPTER XV General Provisions

**Section 110.**<sup>84</sup> If any vessel loads or discharges any articles or goods or performs any work on Sunday or public holiday or before or after official working hours as prescribed in a Ministerial Regulation, except where the permission of the Director-General or a competent official has been previously obtained and the legal fees in accordance with the scale prescribed by the Minister in a Ministerial Regulation have been paid, the master of the vessel or agent, or both shall be liable to a fine not exceeding fifty thousand Bath, but their liabilities under this section shall not absolve them from liabilities under any other section of this Act.

**Section 111.**<sup>85</sup> Whenever it is necessary for the protection of benefits in the revenue of the State to place an official on board a vessel at a place not within easy access from the nearest customs station, or whenever a master of a vessel or other interested persons request the attendance of an official at such place, all travel expenses and a daily fee at the rates prescribed by the Minister in a Ministerial Regulation shall be charged to the vessel, or to the applicant.

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81. As amended by section 8 of the Customs Act (No. 12), B.E.2497 (1954).

82. As amended by section 15 of the Customs Act (No. 19), B.E.2548 (2005).

83. As added by section 9 of the Customs Act (No. 12), B.E.2497 (1954).

84. As last amended by section 4 of the Customs Act (No. 19), B.E.2548 (2005).

85. As amended by section 4 of the Customs Act (No. 10), B.E. 2483 (1940).

**Section 112.**<sup>86</sup> In the case where a competent official considers that there is a question on the amount of duty of any goods which are clearing through customs, such goods shall be taken to the Customs House or placed in any secure place, unless the competent official and the owner of the goods or his agent agree that only a sample shall be taken for determination of the question. In order to safeguard the revenue of the State, the amount of duty declared in the shipment entry by the importer or exporter, as the case may be, shall be paid and an additional sum of money covering the maximum duty payable on such goods shall be deposited as security but the Director-General may issue a Notification that a security by the Ministry of Finance or a bank shall be accepted in lieu of such additional deposit, and may prescribe the conditions for such performance as considered appropriate.

**Section 112 bis.**<sup>87</sup> In the case where a security is given under section 112 and the competent official has assessed the amount of duty payable and notified the importer or exporter, as the case may be, the importer or exporter shall pay the duty in the amount notified within thirty days as from the date of receiving the notice.

In the case of cash security and the cash security given is sufficient to cover the amount of duty assessed by the competent official, such cash security shall immediately be applicable to the payment of the assessed amount of duty, and the importer or exporter shall be deemed to have paid the notified amount or duty within the period specified in paragraph one.<sup>88</sup>

**Section 112 ter.**<sup>89</sup> In the case where an importer or exporter does not pay the full amount of duty within the time limit specified in paragraph one of section 112 bis or does not comply with the regulations or conditions prescribed by the Director-General pursuant to section 40 or section 45, the Director-General or a person authorized by him may levy a surcharge not exceeding twenty percent of the amount of duty or additional duty payable. This surcharge shall be deemed as duty.

**Section 112 quarter.**<sup>90</sup> When the importer or exporter pays the duty or additional duty, a surcharge at the rate of one percent a month of the amount of duty paid, calculated not on a compound basis, as from the date of release or exportation to the date of payment shall be collected, but such surcharge shall not be collected in the case of the payment of additional duty under section 102 ter, sub-section 3.

In the case where there is a conversion of a guarantee to cash security after the release or the exportation of goods, a surcharge shall be collected and calculated at the rate of one percent a month, calculated not on a compound basis as from the date of release or exportation to the date of deposit of cash security in substitution of the guarantee. But in the case where such cash deposit is insufficient to cover the duty, a surcharge shall also be collected for the additional duty payable on the basis provided in paragraph one.

In the calculation of a surcharge under paragraph one and two, a fraction of one month shall be counted as one month, and the surcharge shall be deemed as duty.

In the case where the duty paid or the cash security is to be refunded on account of an excess collection of the amount or additional amount payable, the refund shall be made together with an interest at the rate of 0.625 percent a month of the refund amount, calculated not on a compound basis, as from the date of payment of duty or deposit of last cash security to the date of approval of the refund. In the case where cash security is given in substitution of a guarantee after the release or the exportation of goods, the interest on the cash security to be refunded shall be calculated from the date of latest deposit of cash security to the date of approval of the refund. In the calculation of interest under this paragraph, a fraction of one month shall be counted as one month and shall be deemed as duty to be refunded.

**Section 112 quinque.**<sup>91</sup> In the case where an importer or exporter fails to pay duty, the Director-General or a person authorized by him shall have the power to detain any goods of such person which are passing through customs or are in any way under the supervision of the customs until all duties have been duly paid. Where payment is not made within thirty days as from the date of the detention of such goods, the Director-General shall have the power to order the sale by auction of such goods and the proceeds of such sale shall be first used as payment for the duty in arrears, the duty on the auctioned goods, the costs of storage, removal and other charges due to the customs, and

any balance remaining therefrom shall be used as payment of any other charge reasonably owed to the storekeeper, and any balance remaining thereafter shall be paid to the agent of the vessel importing the auctioned goods. Any balance remaining after the foregoing deductions shall become property of the State unless claimed by the owner of the goods within six months as from the date of sale by auction.

**Section 112 six.**<sup>92</sup> An importer or exporter has a right to appeal the assessment of duty by a competent official to the Appeal Commission in accordance with the rules prescribed by the Director-General within thirty days as from the date of the receipt of such assessment. In the case where the importation or exportation of goods is in a Changwat other than Bangkok Metropolitan, the appeal can be made through the Customs House or the Regional Customs Bureau, and shall be in accordance with the rules prescribed by the Director-General.

**Section 112 septem.**<sup>93</sup> The Appeal Commission shall consist of the Director-General as Chairman, a representative of the Ministry of Finance, a representative of the Office of the Council of State and qualified persons appointed by the Director-General in the number of five but not exceeding seven persons. The Appeal Commission shall appoint the officials of the Customs Department as Secretary and Assistant-Secretary. The Secretary shall also be a member.

**Section 112 octo.**<sup>94</sup> A qualified member appointed by the Director-General shall hold office for a term of three years.

Upon the expiration of a term under paragraph one, if a new member is not yet appointed, an outgoing member shall remain in office to perform the duties until a newly appointed member takes office.

The appointment of a new member shall be within thirty days as from the date of expiration of term.

An outgoing member may be re-appointed but shall not serve for more than two consecutive terms.

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86. As amended by article 14 the Announcement of the National Executive Council No. 329 dated 13th December B.E. 2515 (1972).

87. As added by article 15 of the Announcement of the National Executive Council No. 329 dated 13th December B.E.2515 (1972).

88. As repealed by section 7 of the Customs Act (No. 17), B.E. 2543 (2000).

89. As added by article 15 of the Announcement of the National Executive Council No. 329 dated 13th December B.E.2515 (1972).

90. Ibid.

91. Ibid.

92. As added by section 8 of the Customs Act (No. 17) B.E. 2543(2000).

93. Ibid.

94. Ibid.

**Section 112 novem.**<sup>95</sup> In addition to vacating office at the expiration of term, a qualified member appointed by the Director-General vacates office upon:

- (1) death;
- (2) resignation;
- (3) being a bankrupt;
- (4) being an incompetent or quasi-incompetent person;
- (5) having been dismissed by the Director-General owing to incompetence in the performance of duty or serious misbehaviour;
- (6) having been sentenced by a final judgment to a term of imprisonment, except for an offence committed through negligence or a petty offence.

In the case where a member vacates office before the expiration of term, the Director-General shall appoint another person to replace such member and the replacing member shall hold office for the remaining term of the member he replaces.

**Section 112 decem.**<sup>96</sup> At a meeting of the Appeal Commission, the presence of not less than one-half of the total number of the members is required to constitute a quorum.

If the Chairman of the Appeal Commission is not present at the meeting or is unable to perform the duties, one member shall be elected to preside over the meeting.

A decision shall be by a majority of votes. One member shall have one vote. In the case of an equality of votes, the person presiding over the meeting shall have an additional vote as casting vote.

**Section 112 undecim.**<sup>97</sup> Any member who has an interest in the matter then being decided, shall not attend a meeting or cast a vote in respect of such matter.

**Section 112 duodecim.**<sup>98</sup> For the purpose of an appeal adjudication, the Appeal Commission or a competent official shall have the power to issue a summons requiring an appellant or any person concerned to give an oral statement, or to submit accounts, documents, evidence or data in any form or any other thing concerned with the appealed case, within a period of time of not less than fifteen days as from the date the warrant was sent.

If an appellant does not comply with a summons under paragraph one or does not appear for an oral inquiry without reasonable grounds, the Appeal Commission shall dismiss such appeal.

**Section 112 tredecim.**<sup>99</sup> The Appeal Commission shall have the power to appoint a sub-committee to perform any entrusted duty and report to the Appeal Commission.

The provisions of section 112 decem and section 112 undecim, shall apply mutatis mutandis to the meeting of a sub-committee appointed by the Appeal Commission.

**Section 112 quattuordecim.**<sup>100</sup> The members of the Appeal Commission and the members of the sub-committee appointed by the Appeal Commission shall be competent officials under the Penal Code.

**Section 112 quindecim.**<sup>101</sup> The decision of the Appeal Commission shall be final. In the case where a decision is subsequently amended, the amended decision shall not have retroactive effect except in the case of a final judgment resulting in amendments to the Appeal Commission's decision where an authorized competent official shall execute the judgment where related to retroactive punishment only with the parties to the case.

**Section 112 sedecim.**<sup>102</sup> In the case where additional duty or cash security for duty paid is insufficient, an appeal under section 112 sex does not have reasons for the postpone of payment of duty assessed by a competent official unless the appellant obtains the approval of the Director-General or a person authorized by the Director-General to await for a decision on the appeal or a judgment in which case payment shall be made within thirty days as from the date of receipt of the decision on appeal or from the date of notice of the final judgment, as the case may be.

In the case where there is an appeal decision to pay additional duty, the appellant shall pay within the same period of time prescribed in paragraph one.

**Section 112 septendecim.**<sup>103</sup> The appeal decision of the Appeal Commission shall be in writing and sent to the appellant.

**Section 112 duodeviginti.**<sup>104</sup> The appellant has the right to appeal the decision of the Appeal Commission by filing a case at a Court within thirty days as from the date of receipt of the appeal decision with the exception of the case where the Appeal Commission dismissed the appeal pursuant to section 112 duodecim.

**Section 112 undeviginti.**<sup>105</sup> Any person who does not comply with the summons of the Appeal Commission or a competent official under section 112 duodecim shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding fifty thousand Baht, or to both.

**Section 113.** All shipment entries, accounts, account books, records, or documents of any description shall be made and kept in the Thai or English language. No shipment entry, account, or other record made as required by this Act shall be deemed to be valid unless made in strict accordance with the provisions of this Act. When a classification and denomination of quantity of goods is required, such classification and denomination shall be made in strict accordance with the official import and export accounts. The price of each separate category and the total price balance in the shipment entry shall be indicated in Thai currency. The number of packages in all original shipment entries shall be in words whereas in duplicates they may be shown in figures. No shipment entry shall be accepted unless it bears the full particulars required by the form prescribed by the law together with the prescribed declaration of the importer or agent.



**Section 113 bis.**<sup>106</sup> An importer, exporter, agent of a vessel, agent of such person or a relevant person as specified by the Director-General shall have the duty to keep and maintain the accounts, documents, evidences and data in any form used by such persons in connection with any articles passing or having passed through the customs at a place of business or other places as specified by the Director-General for a period of time of not less than five years as from the date the goods were imported or exported.

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95. Ibid.

96. Ibid.

97. Ibid.

98. Ibid.

99. Ibid.

100. Ibid.

101. Ibid.

102. Ibid.

103. Ibid.

104. Ibid.

105. Ibid.

106. As added by section 9 of the Customs Act (No. 17), B.E. 2543 (2000).

In the case where a person or juristic person under paragraph one terminates business, the person or juristic person or a liquidator of such juristic person shall have the duties of keeping and maintaining the accounts, documents, evidences and data at the place prescribed by the Director-General for a period of two years as from the date of termination of business.

The Director-General shall have the power to prescribe the kinds of documents which the persons under paragraph one are under a duty to keep and maintain, including the rules, procedure and conditions of keeping and maintaining such accounts, documents, evidences and such data.

Any person who fails to comply with paragraph one or paragraph two, or violates or fails to comply with the rules, procedure and conditions under paragraph three, shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding fifty thousand Bath, or to both.

**Section 114.**<sup>107</sup> Any competent official may demand the production of any invoice, manifest, bill of lading, receipt book, record, or other documents in relation to any goods passing or passed through the Customs, for the purpose of inspecting or verifying against any shipment entry, certificate, statement, or particulars submitted to the Customs Department and if the production is refused, such person who has willfully refused to comply with the demand of the competent official shall be liable to a fine not exceeding one hundred thousand Bath.

**Section 115.**<sup>108</sup> Any person who refuses to produce any certificate, statement, declaration, record, or other data to a competent official who requires their submission or production or as required for submission or production under this Act or any law relating to the customs, or any person who neglects to produce such certificate, statement, declaration, record, or other data within a reasonable period of time or a specified time and in accordance with the form prescribed by the law shall be liable to a fine not exceeding one hundred thousand Bath.

**Section 115 bis.**<sup>109</sup> In the case where there are reasonable grounds to suspect that there has been a violation or non-compliance with any provisions of this Act or other laws relating to the customs, the Director-General or a person authorized by the Director-General, or a competent official authorized by the Director-General or a person authorized by the Director-General by a written order, shall have the duties of inspection with the following powers:

(1) to enter the place of business of an importer, exporter, agent of a vessel, agent of such persons or a relevant person or other places relevant with such person, in the period between sunrise and sunset or during official working hour. In such case there shall also be the power to order such person or other persons in such place to perform any act necessary for the inspection;

(2) to inquire the facts or require the production of accounts, documents, evidences or data in any form or other things involved in the commission of an offence from the importer, exporter, agent of a vessel, agent of such persons or a person involved in the importation or exportation;

(3) to seize or attach accounts, documents, evidences or data in any form or other things that may be used to prove an offence under this Act or other laws relating to the customs.

Any person who obstructs or fails to comply with the order of the Director-General or a person authorized by the Director-General or a competent official under paragraph one shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding one hundred thousand Bath, or to both.

**Section 115 ter.**<sup>110</sup> In the case where there are reasonable grounds to suspect or there is a detection of an offence under this Act or other provisions of law relating to the customs, for the purposes of conduction and investigation in connection with the offence, the competent official shall have the power to order the importer, exporter, agent of a vessel, agent of such person or a person involved in the importation or exportation, to give an oral statement or facts or a written statement or order such persons to send the accounts, documents, evidences and data in any form or other things involved in the commission of

the offence for inspection whereby a period of time not exceeding seven days as from the date of receipt of the order shall be given to such person.

Any person who violates or fails to comply with paragraph one shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding one hundred thousand Bath, or to both.

**Section 115 quarter.**<sup>111</sup> In the case where an offender liable to a penalty under this Act is a juristic person, a managing director, a managing partner or a person responsible for the operation of such juristic person shall be liable to the penalties provided for such offence unless it can be proven that such offence was committed without his knowledge or consent or he has acted reasonably in preventing such offence.

**Section 115 quinque.**<sup>112</sup> In the performance of duties of the Director-General, the person authorized by the Director-General or a competent official under this Act shall be rendered all reasonable assistance by the persons concerned.

Any person who does not assist the competent official under paragraph one shall be liable to a fine of not exceeding twenty thousands Baht.

**Section 115 six.**<sup>113</sup> In the performance of duties under this Act, the Director-General, a person authorized by the Director-General or a competent official shall show his identity card to the persons concerned.

The identity card shall be in accordance with the form prescribed by the Director-General as published in the Government Gazette.

**Section 116.**<sup>114</sup> A duplicate of any certificate, entry, or document, and account or non-confidential statement may be issued when the Director-General deems fit on payment of a fee prescribed by the Minister in a Ministerial Regulation.

**Section 117.** The loading, discharge, carrying and landing of goods, the transport of goods to a place for examination, the necessary or permitted weighing, scaling, opening, repacking, bulking, sorting, lotting, marking and numbering, the transport of goods to an storage of in a proper place until duly delivered, shall be performed by and at the expense of the importer or exporter. The Customs Department shall not be held responsible for any damage sustained on the goods while such goods are in the Customs Department's custody and supervision not caused by a willful act or an incompetent performance of duty.

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107. As amended by section 4 of the Customs Act (No. 19), B.E.2548 (2005).

108. Ibid.

109. As amended by section 10 of the Customs Act (No. 17), B.E.2543 (2000).

110. Ibid.

111. Ibid.

112. Ibid.

113. Ibid.

114. As amended by section 4 of the Customs Act (No. 10), B.E.2483 (1940).

**Section 118.** All cases or packages containing goods shall bear marks and numbers and such marks and numbers shall be shown on all documents relating to such goods.

**Section 119.**<sup>115</sup> Any person who commits an offence under this Act and no other penalty for such offence is provided by this Act or any other law, such person shall be liable to a fine not exceeding fifty thousand Bath.

**Section 120.** The provisions of this Act shall prevail in all matters concerned with the customs where inconsistent with the provisions of other Acts or Notifications in force, and Acts or Notifications which will come into force at a future date shall not be deemed as repealing, restricting, altering, or withdrawing the powers under this Act unless such new Act or Notification expressly states such an intention.

**Section 121.** This Act shall equally apply to the importation and exportation of goods or to any kind of trade across the territorial boundaries of the Kingdom as to trade by sea. All the provisions, requirements, and penalties of this Act shall be applicable in so far as possible in connection with such land trade notwithstanding the use of words or terms ordinarily applicable to shipping, and such words or terms shall mean and include trains, vehicles, carriers, beast of burden, aircraft, Customs boundary post, airports prescribed as tax checkpoints, the loading, discharge, as the case may be, or other like words or terms applicable to land or air traffic whenever necessary for the purpose of this section.

**Section 122.**<sup>116</sup> The Minister of Finance shall have charge and control of the execution of this Act and shall have the power to issue Ministerial Regulations prescribing official holidays and official working hours for the Customs, fixing fees, charges, license fees, price of forms and travelling expenses and anything concerned in order to carry out any performance in accordance with these provisions.

Such Ministerial Regulations shall come into force as from their publication in the Government Gazette.

Notified on this 30th July B.E. 1926.

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115. As amended by section 4 of the Customs Act (No. 19), B.E.2548 (2005).

116. As amended by section 7 of the Customs Act (No. 10), B.E. 2483 (1940).