



LAWS OF MALAYSIA

REPRINT

Act 235

CUSTOMS ACT 1967

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LAWS OF MALAYSIA**Act 235****CUSTOMS ACT 1967**

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LAWS OF MALAYSIA

Act 235

CUSTOMS ACT 1967

An Act relating to customs.

[2 November 1967, P.U. 503/1967]

PART I

PRELIMINARY

Short title

1. (1) This Act may be cited as the Customs Act 1967.
- (2) *(Omitted)*.

Interpretation

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

“agent”, in relation to a vessel includes chinchew and comprador;

“aircraft” includes any kind of craft which may be used for the conveyance of passengers or goods by air;

“collection station” means a customs warehouse established in Singapore under subsection 63(2);

“computer” has the meaning assigned thereto in section 3 of the Evidence Act 1950 [Act 56];

“customs airport” means any place which has been prescribed as a customs airport;

“customs duty” means any import duty, export duty, surtax, surcharge or cess imposed by or under this Act, any countervailing duty or anti-dumping duty imposed by or under the Countervailing and Anti-Dumping Duties Act 1993 [*Act 504*] and includes any royalty payable in lieu of an export duty under any written law, or a contract, lease or agreement to which the Federal Government or the Government of any State is a party or to which such Government has consented;

“customs port” means any port prescribed to be a customs port;

“customs warehouse” means a warehouse or other place established by the Minister under subsection 63(1) for the deposit of dutiable goods;

“denatured” means effectually rendered unfit for human consumption to the satisfaction of the Director General;

“Director General” means the Director General of Customs and Excise appointed under subsection 3(1);

“document” has the meaning assigned thereto in section 3 of the Evidence Act 1950;

“dutiable goods” means all goods subject to the payment of customs duty and on which such duty has not yet been paid;

“duty free shop” means any place licensed for the warehousing and sale of dutiable goods free of duty under section 65D;

“electronic data interchange” means the transfer, from computer to computer, of commercial and administrative transactions using an agreed message standard to structure the data pertaining to a transaction;

“export” with its grammatical variations and cognate expressions means to take or cause to be taken out of Malaysia, by land, sea or air or to place any goods in a vessel, conveyance or aircraft for the purpose of such goods being taken out of Malaysia by land, sea or air;

“export by air” includes exportation in any manner or by any means by air;

“export by road” includes exportation in any manner or by any means by land, and includes, in particular, exportation through the land by means of a pipeline;

“export by sea” includes exportation in any manner or by any means by sea, and includes, in particular, exportation through the sea by means of a pipeline;

“exporter” includes any person by whom any goods (including goods transferred from an importing aircraft or ship) are exported from Malaysia or supplied for use as aircraft’s or ship’s stores, and also the owner, or any person acting on his behalf, and any person who for customs purposes signs any document relating to goods exported or intended for exportation or supplied or intended for supply as aircraft’s or ship’s stores as aforesaid;

“Financial Authority” in relation to Sabah and Sarawak means any person appointed by the Minister, by notification in the appropriate *Gazette*, to exercise under the directions of the Minister any function which the Minister is empowered or required by this Act to exercise in Sabah or Sarawak;

“goods” includes animals, birds, fish, plants and all kinds of movable property;

“hover” in the case of a vessel in territorial waters means to linger without apparent lawful purpose, whether such vessel be moving or not moving;

“import” with its grammatical variations and cognate expressions means to bring or cause to be brought into Malaysia by land, sea or air:

Provided that goods *bona fide* in transit, including goods for transshipment, shall not, for the purpose of levy of customs duties, be deemed to be imported unless they are or become uncustomed goods;

“import by air” includes importation in any manner or by any means by air;

“import by road” includes importation in any manner or by any means by land, and includes, in particular, importation through the land by means of a pipeline;

“import by sea” includes importation in any manner or by any means by sea, and includes, in particular, importation through the sea by means of a pipeline;

“importer” includes and applies to any owner or other person for the time being possessed of or beneficially interested in any goods at and from the time of importation thereof until such goods are duly removed from customs control;

“inland clearance depot” means a common-user inland facility equipped with fixed installations and offering services for handling and temporary storage of any kind of goods carried by land and placed under customs control;

“intoxicating liquor” includes any alcohol, or any liquid containing more than two per centum of proof spirit, which is fit or intended to be or which can by any means be converted for use as a beverage;

“in transit” means taken or sent from any country and brought into Malaysia by land, sea or air (whether or not landed or transhipped in Malaysia) for the sole purpose of being carried to another country either by the same or another conveyance;

“Joint Development Area” has the meaning assigned thereto in section 2 of the Malaysia-Thailand Joint Authority Act 1990;

“legal landing place” means any place which has been prescribed as a legal place for the landing and shipping of goods;

“licensed carrier” means a person approved by the Director General to operate vehicles by road for the carriage of any goods in transit or any dutiable goods under this Act or under the Excise Act 1976 [*Act 176*];

“licensed warehouse” means a warehouse or other place licensed for the warehousing of dutiable goods under section 65;

“local craft” means any junk, tongkang, perahu, kumpit or other similar type of vessel, and any steam or motor vessel under seventy-five net registered tons;

“manufacture” means:

- (a) in the case of intoxicating liquors, distilling, brewing, fermenting, bottling of intoxicating liquor, and includes the addition of any substance (other than water) to any intoxicating liquor and the blending, compounding and varying of intoxicating liquors with intent that the compound so formed shall be sold for human consumption, but excluding any such compound prepared at the order of the purchaser, and for his immediate consumption;
- (b) in the case of tobacco, any process converting any raw or leaf tobacco into tobacco fit for smoking, snuffing or chewing, and includes the making of cigarettes from manufactured tobacco;
- (c) in the case of petroleum, refining, compounding and includes the addition of any foreign substance; and
- (d) in other cases, the conversion by manual or mechanical means of organic or inorganic materials into a new product by changing the size, shape, composition, nature or quality of such materials and includes the assembly of parts into a piece of machinery or other products, but does not include the installation of machinery or equipment for the purpose of construction;

“master” means any person (except a pilot or harbour master) having for the time being control or charge of a vessel;

“Officer of customs” means:

- (a) the Director General;
- (b) any Deputy Director General of Customs and Excise appointed under subsection 3(1);
- (c) any Assistant Director General, Director, Senior Assistant Director and Assistant Director of Customs and Excise appointed under subsection 3(1);
- (d) any Senior Superintendent, Superintendent or Assistant Superintendent of Customs and Excise appointed under subsection 3(4);
- (e) any Chief Customs Officer, Senior Customs Officer or Customs Officer appointed under section 4;
- (f) any police officer;

“owner” in respect of goods includes any person (other than an officer of customs acting in his official capacity) being or holding himself out to be the owner, importer, exporter, consignee, agent or person in possession of, or beneficially interested in, or having any control of, or power of disposition over, the goods;

“owner” in respect of a ship includes every person acting as agent for the owner or who receives freight or other charges payable in respect of the ship;

“Peninsular Malaysia” has the meaning assigned thereto in section 3 of the Interpretation Acts 1948 and 1967 [*Act 388*], and includes the Federal Territory.

“petroleum” means any mineral oil or relative hydrocarbon in its solid, liquid or gaseous form existing in its natural condition and includes casing head petroleum spirit, bituminous shales, other stratified deposits from which oil can be extracted commercially and petroleum products obtained from the process of manufacture;

“pilot of an aircraft” means every person having or taking command or charge of an aircraft;

“preventive vessel” means any vessel employed for the prevention of smuggling or for any other purpose relating to the customs and includes a vessel owned and employed for the prevention of smuggling by the Government of Singapore;

“prohibited goods” means goods the import or export of which is prohibited, either absolutely or conditionally by an order under section 31 or by any other written law;

“proper officer of customs” means any officer of customs acting in the fulfilment of his duties under this Act, whether such duties are assigned to him specially or generally, or expressly or by implication;

“road” includes any prescribed land route;

“sea” includes inland waters;

“senior officer of customs” means:

(a) the Director General;

- (b) any Deputy Director General of Customs and Excise appointed under subsection 3(1);
- (c) any Assistant Director General, Director, Senior Assistant Director and Assistant Director of Customs and Excise appointed under subsection 3(1);
- (d) any Senior Superintendent, Superintendent or Assistant Superintendent of Customs and Excise appointed under subsection 3(4);
- (e) any officer of customs invested with the powers of a senior officer of customs under subsection 3(5) or section 5;
- (f) any police officer having the powers of a senior officer of customs by virtue of section 8;

“sufferance wharf” means any place other than an approved place of loading or unloading at which the senior officer of customs may, in his discretion, and under such conditions and in such manner as he may direct, either generally or in any particular case, allow any goods to be loaded or unloaded;

“territorial waters” means the territorial waters of Malaysia;

“uncustomed goods” means goods in respect of which a breach of the provisions of this Act or of any subsidiary legislation made thereunder has been committed;

“value” in relation to imported goods means customs value as determined under subsection 142(35B);

“value” in relation to goods to be exported means the price which an exporter would receive for the goods calculated to the stage where such goods are released by Customs at the place of export;

(1A) For the purposes of this Act (other than section 31), a free zone shall be deemed to be a place outside Malaysia.

In this subsection, the expression “free zone” has the meaning assigned to it under section 2 of the Free Zones Act 1990 [Act 438].

(2) For the purpose of this Act, goods shall be deemed to be under customs control whilst they are deposited or held in any customs or licensed warehouse, post office, or in any vessel, train, conveyance, aircraft, pipeline or place from which they may not be removed except with the permission of the proper officer of customs.

PART II

APPOINTMENT AND POWERS OF OFFICERS

Appointment of Director General, Deputy Director General and other officers

3. (1) There shall be appointed an officer to be styled the Director General of Customs and Excise and such number of Deputy Directors General, Assistant Directors General, Directors, Senior Assistant Directors and Assistant Directors of Customs and Excise as may be considered necessary for the purpose of this Act and any written law relating to excise.

(2) The Director General shall be the Chief Officer of Customs and shall have the superintendence of all matters relating to the customs, subject to the direction and control of the Minister.

(3) The Deputy Directors General, Assistant Directors General, Directors, Senior Assistant Directors and Assistant Directors shall be subject to the general direction and supervision of the Director General, and, subject thereto, shall have and exercise all powers conferred on the Director General by or under this Act, other than those conferred by sections 13B, 22 and 145 thereof.

(4) There shall be appointed so many Senior Superintendents, Superintendents and Assistant Superintendents of Customs and Excise as may be considered necessary for the purposes of this Act and any written law relating to excise.

(5) The Minister may, by notification in the *Gazette*, invest any officer of customs not being a senior officer of customs with all or any of the powers of a senior officer of customs.

Appointment of Customs Officers

4. There shall be appointed so many Chief Customs Officers, Senior Customs Officers, and Customs Officers as may be considered necessary for the purposes of this Act.

Investment of powers of senior officer of customs by Director General

5. The Director General may by authorization in writing invest any officer of customs not being a senior officer of customs with all or any of the powers of a senior officer of custom for a period not exceeding ninety days in respect of any one authorization.

Officers of customs to be public servants

6. All officers of customs shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

Officers of customs exempted from serving as jurors or assessors

7. Notwithstanding anything to the contrary in any written law no officer of customs shall be liable to serve as juror or assessor.

Powers of District Officers, Assistant District Officers and Police Officers

8. For the purpose of this Act, any District Officer or Assistant District Officer in any district in which there is for the time being no senior officer of customs, and all police officers not below the rank of Inspector shall have and may exercise all the powers conferred by this Act on senior officers of customs, and all police officers below the rank of Inspector shall have and may exercise all the powers conferred by this Act on officers of customs.

Minister may prescribe uniforms, etc.

8A. The Minister may, by order published in the *Gazette*, prescribe—

- (a) uniforms and rank markings for any rank of officers of customs; and

- (b) the authority card and badge to be carried by any rank of officers of customs.

Badges and authority cards to be produced

9. (1) Every officer of customs when acting against any person under this Act shall, if not in uniform, on demand declare his office and produce to the person against whom he is acting such badge or authority card as the Director General or, in the case of a police officer, the Inspector General of Police, may direct to be carried by such officers.

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any officer of customs acting or purporting to act under this Act if such officer is not in uniform and refuses to declare his office and produce his badge or authority card, on demand being made by such person.

(3) A badge or an authority card issued to an officer of customs shall be the property of the Government and shall be surrendered by such officer to the person appointed by the Director General for that purpose when such officer ceases to be an officer of customs or when instructed to do so.

Unlawful use, possession, etc., of uniform, etc.

9A. Any person, not being an officer of customs, who unlawfully wears, uses, possesses or displays otherwise than in the course of a stage play or other theatrical performance, any prescribed uniform or badge or authority card, or any dress having the appearance of or bearing the distinctive marks of such uniform shall be guilty of an offence under this Act.

Persons employed on customs duty to be deemed proper officers of customs for such service

10. Every person employed on any duty or service relating to the customs by the orders or with the concurrence of the Director General (whether previously or subsequently expressed) shall be deemed to be the proper officer of customs for that duty or service; and every act required by law at any time to be done by, or with any particular officer nominated for such purpose, if done by or with any person appointed by the Director General to act for such particular officer, shall be deemed to be done by or with such particular officer.

PART III

LEVYING OF CUSTOMS DUTIES

Power of Minister to fix customs duties by orders to be approved by the Dewan Rakyat

11. (1) The Minister may, from time to time, by order published in the *Gazette*, fix the customs duties to be levied on any goods imported into or exported from Malaysia and to be paid by the importer or exporter, as the case may be.

(2) Any order made under subsection (1) shall, at the next meeting of the Dewan Rakyat be laid on the table of the Dewan Rakyat and shall, at the expiration of one hundred and twenty days from being so laid or of such extended period as the Dewan Rakyat may, by resolution, direct, cease to have effect if and in so far as it is not confirmed by a resolution passed by the Dewan Rakyat within the said one hundred and twenty days or, if such period has been extended, within such extended period.

(3) Where an order ceases to have effect in whole or in part as provided by subsection (2), then any customs duty levied in pursuance of such order or, as the case may be, of such part thereof as ceases to have effect shall, subject to subsection (4), be repayable to the person from whom such duty was levied.

(4) Unless the Minister shall otherwise direct, no customs duty repayable under subsection (3) shall be repaid, unless the person entitled to such repayment makes a claim therefor to the Director General within one year from the day on which the order ceases to have effect in whole or in part as provided by subsection (2).

(5) Such claim shall be made in writing and shall contain such particulars as the Director General may, by general or special order, require.

(6) (*Deleted by Act A921*).

Power to fix value

12. The Minister may, from time to time, by notification in the *Gazette*, fix, for the purpose of the levy and payment of customs duties, the value of any dutiable goods.

Classification and valuation by proper officer of customs

13. (1) The proper officer of customs may, in respect of any dutiable or uncustomed goods—

- (a) determine the class of goods to which such dutiable or uncustomed goods belong; and
- (b) value, weigh, measure or otherwise examine, or cause to be valued, weighed, measured or otherwise examined such dutiable or uncustomed goods,

for the purpose of ascertaining the customs duty leviable thereon.

(2) When a valuation of any goods has been made by the proper officer of customs, such valuation shall be presumed to be correct until the contrary is proved.

Payment of customs duty under protest

13A. Any person who is dissatisfied with a decision of a proper officer of customs under subsection 13(1) as to whether any particular goods are or are not included in a class of goods appearing in an order made under subsection 11(1) or with the valuation, weighing, measuring or examining of any goods may pay the customs duty levied under protest.

Director General to determine questions on classification and valuation

13B. Where customs duty has been paid under protest, the proper officer of customs shall, within thirty days of such payment being made, refer any question as to classification or valuation of goods to the Director General for his decision.

Powers of Minister to exempt

14. (1) The Minister may, by order, exempt, subject to such conditions as he may deem fit to impose, any class of goods or persons from the payment of the whole or any part of any customs duty or any other prescribed fee or charge which may be payable.

- (2) The Minister may in any particular case—
- (a) exempt any person from the payment of the whole or any part of the customs duties or any other prescribed fees or charges which may be payable by such person on any goods; or
 - (b) direct the refund to any person of the whole or any part of the customs duties or any other prescribed fees or charges which have been paid by such person on any goods,

and in granting such exemption or directing such refund, impose such conditions as he may deem fit.

(3) Any goods in respect of which an exemption from the payment of customs duties has been granted under subsection (1) or (2) shall be deemed to be dutiable goods until the conditions, if any, subject to which the exemption from duty was granted are fulfilled and shall be liable to all other charges, not being customs duties, to which they would be subject if no such exemption had been granted.

Minister may remit customs duties

14A. The Minister may, if he thinks it just and equitable to do so, and subject to such conditions as he may deem fit to impose, remit the whole or any part of the customs duties or any other prescribed fees or charges payable under this Act.

Reimposition of duty

15. (1) If any goods, on which customs duty has not been paid by reason of an exemption granted under section 14, cease to comply with the conditions subject to which such exemption was granted or cease to be kept or used by the person or for the purposes qualifying them for such exemption, such goods shall, upon such cesser, become liable to the customs duty and the person to whom such exemption was granted and any person found in possession of such goods shall be jointly and severally liable to pay such customs duty.

(2) If any goods, which are liable to customs duty under subsection (1) and on which such duty has not been paid, are found in the possession or on the premises of any person other than the person authorized to possess them under the terms of such exemption, such goods shall, until the contrary is proved, be deemed to be uncustomed goods.

Return of duty or other charges overpaid or erroneously paid

16. It shall be lawful for the Director General, if it is proved to his satisfaction that any money has been overpaid or erroneously paid as customs duties or as any other fee or charge under this Act, to order the refund of the money so overpaid or erroneously paid:

Provided that—

- (a) no such refund shall be allowed unless a claim in respect of it is made in the prescribed form within one year after the overpayment or erroneous payment was made; or
- (b) in the case where any customs duty has been paid under protest under section 13B, no claim of refund shall be allowed unless such claim is made in the prescribed form within one year after the decision on classification or valuation is made known to the claimant.

Payment of duty, etc., short paid or erroneously refunded

17. (1) Whenever—

- (a) through inadvertence, error, or for any other reason, misconstruction on the part of any officer of customs, or through unintentional misstatement as to value, quantity or description by any person, or for any other reason, the whole or any part of any customs duties or other moneys payable under this Act have not been paid; or
- (b) the whole or any part of such customs duties or other moneys, after having been paid, have been, owing to any cause, erroneously refunded,

the person liable to pay such customs duties or other moneys or the person to whom such refund has erroneously been made, as the case may be, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within three years from the date on which customs duty was payable or deficient customs duty was paid or the refund was made, as the case may be, and

without prejudice to any other remedy for the recovery of the amount due, any goods belonging to such person which may be in customs control may be detained until such customs duty or deficiency be paid or the refund be repaid, as the case may be.

(2) Where any amount is payable in accordance with subsection (1) the Director General may allow the amount to be paid by instalments in such amounts and on such dates as he may determine.

Recovery of customs duties from persons leaving Malaysia

17A. (1) Where the Director General has reason to believe that any person is about or is likely to leave Malaysia without paying any customs duties, he may issue to any Director of Immigration a certificate containing particulars of the duties so payable with a request that such person be prevented from leaving Malaysia unless and until he pays all the duties so payable or furnishes security to the satisfaction of the Director General for its payment.

(2) Subject to any order issued or made under any written law relating to banishment or immigration, any Director of Immigration who receives a request under subsection (1) in respect of a person shall exercise all measures which may include the removal or retention of any certificate of identity, passport, exit permit or other travel documents in relation to that person as may be necessary to give effect to the request.

(3) The Director General shall cause a notice of the issue of a certificate under subsection (1) to be served personally or by registered post on the person to whom the certificate relates.

Provided that the non-receipt of the notice by that person shall not invalidate anything done under this section.

(4) Where the person in respect of whom a certificate has been issued under subsection (1) produces on or after the date of the certificate a written statement signed by the Director General stating that all the duties specified in the certificate have been paid or that security has been furnished for its payment, that statement shall be sufficient authority for allowing that person to leave Malaysia.

(5) No legal proceedings shall be instituted or maintained against the Government, a State Government, or any other public officer in respect of anything lawfully done under this section.

(6) In this section “Director of Immigration” means any Director of Immigration appointed under subsection 3(1A) of the Immigration Act 1959/63 [Act 55].

Remission of import duty on goods lost, damaged or destroyed before removal from customs control

18. (1) If any dutiable goods which have been imported are, damaged, destroyed or, by unavoidable accident, lost at any time after their arrival within Malaysia, and before removal from customs control, the Director General may remit the whole or any part of the customs duty payable thereon.

No abatement of duty after goods have been removed from customs control

(2) After removal of any goods from customs control no abatement of customs duties shall be allowed on any such goods—

- (a) on account of damage; or
- (b) on account of any claim—
 - (i) to pay duty at a preferential rate; or
 - (ii) that the weight, measure, volume or value as determined by the proper officer of customs for the purpose of ascertaining the duty on such goods, or any other factor affecting the goods, is incorrect,

unless notice in writing of such claim has been given at or before the time of such removal.

(3) After removal of any goods from customs control no abatement of export duty shall be allowed on any such goods on account of damage, theft or loss.

Calculation of customs duty

19. (1) The rate of customs duty applicable to any goods shall be:

- (a) in the case of goods lawfully imported—
 - (i) if such goods (other than petroleum in a licensed warehouse) are warehoused, or if customs duty is paid at a collection station established under subsection 63(2), the rate in force on the day on which the removal

of the goods is authorized by the proper officer of customs or, in the case of a collection station, by an officer appointed under the provisions of any law for the time being in force in Singapore relating to the collection of customs duties payable to the Government of Malaysia;

- (ii) if such goods consist of petroleum which is in a licensed warehouse, the rate in force on the day on which such petroleum is removed from such warehouse;
 - (iii) if such goods are imported by post, the rate in force on the day on which duty is assessed by the proper officer of customs; and
 - (iv) in any other case, the rate in force on the day on which such goods are released by the proper officer of customs;
- (b) in the case of uncustomed goods, the rate in force on the day on which such goods became uncustomed goods, if known, or the rate in force on the day of seizure, whichever is the higher.

(2) For the purpose of calculating the customs duty payable, the valuation applicable to any goods shall be made in the prescribed manner.

Calculation of export duty

20. The rate of export duty and the valuation (if any) applicable to any goods shall be—

- (a) in the case of goods lawfully exported, the rate and valuation in force on the day on which a receipt is issued for the payment of duty:

Provided that when payment of duty in arrears has been permitted under section 80 the rate and valuation shall be the rate and valuation in force on the day on which the goods are released by the proper officer of customs, or, as the case may be, by an officer appointed under any law for the time being in force in Singapore relating to the collection of export duties on goods exported from Malaysia;

- (b) in the case of uncustomed goods, the rate and valuation in force on the day on which such goods became uncustomed goods, if known, or the rate and valuation in force on the day of seizure, whichever is the higher.

Time of importation and exportation when duty is imposed or repealed

21. When by virtue of an order made under subsection 11(1) a customs duty is fixed on any goods which previously were not dutiable goods or any customs duty on goods is abolished or when the importation or exportation of any goods is prohibited or any such prohibition is abolished by an order made under section 31 and it becomes necessary for the purpose of this Act to determine the time at which an importation or exportation of any goods made and completed shall be deemed to have had effect, such importation or exportation shall, notwithstanding anything in this Act contained, be deemed to be the time at which the goods are released by the proper officer of customs.

Questions in respect of goods deemed to be dutiable

22. If any question arises as to whether any particular goods are or are not included in a class of goods appearing in an order made under subsection 11(1), such question shall be decided by the Director General.

Certificate of Director General admissible in evidence

22A. Notwithstanding anything contained in any other written law or rule of evidence to the contrary, where in any proceedings a document purporting to be a certificate under the hand of the Director General in respect of a decision made by him under section 13B or 22 is produced, such document shall be admissible in evidence and shall be accepted as sufficient evidence of the facts therein stated and the Director General shall not be required to give evidence in respect of such decision unless the court otherwise orders.

Recovery of customs duty as a civil debt

22b. Without prejudice to any other remedy, any customs duty payable under this Act may be recovered by the Minister as a civil debt due to the Government of Malaysia, or where the customs duty is a duty of a category assigned to the State by Article 112c of the Federal Constitution, to the Government of that State.

Joint and several liability of director, etc.

22c. Where any customs duty is payable by—

- (a) a company;
- (b) a firm; or
- (c) a society, an association or other body of persons,

then notwithstanding anything to the contrary in this Act or in any other written law, the directors of such company or the partners of such firm or the members of such society, association or other body of persons, as the case may be, shall, together with such company, firm, society, association or other body of persons, be jointly and severally liable for the customs duty payable:

Provided that in relation to a company that is being wound up, the directors of such company shall only be so liable where the assets of the company are insufficient to meet the amount due, after paying any sums having priority over the customs duty under the Companies Act 1965 in relation to the application of the assets of the company in such winding up.

PART IV**IMPORTATION AND EXPORTATION****Time and place of landing goods inwardly**

23. (1) No goods imported by sea or transported by water from any place in Malaysia shall be landed—

- (a) except at a legal landing place:

Provided that in Sabah and Sarawak goods may be landed at a sufferance wharf;

- (b) until permission to do so has been received from the proper officer of customs; and
 - (c) except on such days and during such times as may be prescribed, unless permission to land goods on other days and during other times has been granted by the proper officer of customs.
- (2) Except with the permission of the proper officer of customs, no such goods—
- (a) after having been landed or unshipped shall be transhipped; or
 - (b) after having been put into any boat or craft to be landed shall be removed into any other boat or craft previously to their being landed.
- (3) The foregoing provisions of this section shall not apply to fresh fish, whether packed with ice or not, which is landed from any vessel licensed for the purpose of fishing under any written law.

Places of landing of goods imported by air

24. No goods imported by air shall be landed except at a customs airport and such goods may be cleared at an inland clearance depot or an inland customs station.

Time and place of import by rail or road

25. No goods imported by rail or road shall be imported—

- (a) except at a prescribed place of import and where a route has been prescribed, by such route; and
- (b) in the case of goods imported by road, except on the days and during the times prescribed for such importation unless permission to import goods on other days and during other times has been granted by the proper officer of customs.

Time and place of loading goods for export by sea

26. No goods shall be loaded, or water-borne to be loaded for exportation by sea or for transportation by water from any place to another place in Malaysia—

(a) except at a legal landing place:

Provided that in Sabah and Sarawak goods may be loaded or water-borne to be loaded for exportation by sea at a sufferance wharf;

(b) until permission to do so has been received from the proper officer of customs; and

(c) except on such days and during such times as may be prescribed, unless permission to load goods on other days and during other times has been granted by the proper officer of customs.

Transportation by sea of goods liable to export duty to another customs port

27. (1) No goods in respect of which customs duty is payable on export shall be loaded, or water-borne to be loaded, for transportation by sea from any place to any other place in Malaysia unless—

(a) the export duty has been paid on any goods intended to be transhipped at such other place; or

(b) in the case of goods to be landed at a legal landing place in Malaysia security in the amount of such export duty has been furnished to the satisfaction of the senior officer of customs that any goods intended to be landed at such other legal landing place shall be so landed:

Provided that in the case of Sarawak, export duty may be paid at such time and in such manner as the Minister may prescribe by regulation under section 142.

(2) No goods in respect of which customs duty is payable on export shall be forwarded by rail from one place to another place in Malaysia when the journey involves passage through territory outside Malaysia unless—

- (a) the customs export duty has been paid thereon; or
- (b) security in the amount of such duty has been furnished to the satisfaction of the senior officer of customs at the station of despatch that such goods shall be produced to the senior officer of customs at the station of destination.

Time and place of export by rail or road

28. No goods shall be exported by rail or road—

- (a) except at a prescribed place of export and, where a route has been prescribed, by such route; and
- (b) in the case of goods exported by road except on such days and during such times as may be prescribed unless permission to export goods on other days and during other times has been granted by the proper officer of customs.

Exportation by air

29. No goods shall be exported by air except at a customs airport and such goods may be cleared at an inland clearance depot or an inland customs station.

Importation or exportation by pipeline

29A. No goods shall be imported or exported by pipeline unless such pipeline is approved by the Director General who, in granting such approval, may impose such conditions as he may deem fit.

Exemption from provisions of sections 23, 24, 25, 26, 28 and 29

30. The Director General may exempt any person from all or any of the provisions of sections 23, 24, 25, 26, 28 and 29 on such conditions as he may deem fit to impose.

Power of Minister to prohibit imports or exports

31. (1) The Minister may, by order—

- (a) prohibit the importation into, or the exportation from Malaysia or any part thereof, either absolutely or conditionally, or from or to any specified country, territory or place outside Malaysia, or the removal from one place to another place in Malaysia of any goods or class of goods; and
- (b) prohibit the importation into, or exportation from, Malaysia or any part thereof, or removal from one place to another place in Malaysia of any goods or class of goods, except at specified ports or places.

(2) If any question arises as to whether any particular goods are or are not included in a class of goods appearing in an order made under subsection (1), such question shall be decided by the Director General.

Transportation by sea of goods of a class the export of which is prohibited

32. (1) No goods of a class the exportation of which is prohibited by an order made under section 31 shall be loaded, or water-borne to be loaded, for transportation by sea from any place to any other place in Malaysia unless security has been furnished in such amount, not exceeding three times the value of such goods, as the senior officer of customs of the place from where the goods are to be transported may determine and such officer is satisfied that any goods intended to be landed at such other place shall be so landed.

(2) No goods of a class the exportation of which is prohibited by an order made under section 31 shall be forwarded by rail from one place to another place in Malaysia when the journey involves passage through territory outside Malaysia unless security has been furnished in such amount, not exceeding three times the value of such goods as the senior officer of customs at the station of despatch may determine and such officer is satisfied that such goods shall be produced to the senior officer of customs at the station of destination.

Saving in respect of certain navigable rivers

33. Where in respect of any goods the provisions of this Act and of any subsidiary legislation made thereunder have been complied with, then notwithstanding sections 23 and 26, such goods may, subject to such conditions and the payment of such fee as the Director General may impose, be landed or loaded at any place on the banks of a navigable river upstream of a customs port or legal landing place.

Power of Director General to require security

34. The Director General may, at his discretion, either generally or in a particular case or in respect of a particular area, require security to be given by any person moving dutiable goods within Malaysia and where any such security has been required to be given no person shall move such goods unless such security has been given. Such security shall not exceed the amount of duty leviable on such goods.

Presumption as to export

35. In relation to export, goods shall be deemed to be taken or caused to be taken out of Malaysia—

- (a) if they have been cleared by a proper officer of customs at the last customs station on their route out of Malaysia;
- (b) if they have been loaded on to a vessel or aircraft which is about to depart from a port or place in Malaysia; or
- (c) if they have been cleared by a proper officer of customs at an inland clearance depot or at an inland customs station on their route out of Malaysia through a customs port or airport.

PART V**PORT CLEARANCES****Arriving vessels, unless exempted, to be reported, and produce papers**

36. (1) The master of every vessel arriving at any customs port and not being a vessel to which the exemption under section 39 applies shall either personally or through the agent of such vessel—

- (a) forthwith report to the proper officer of customs the arrival of such vessel;

- (b) give such information relating to the vessel, cargo, crew and voyage, as the proper officer of customs may require; and
- (c) on demand by such officer, produce the port clearance, or other document which it is usual to grant, granted at the last port of call and any other documents relating to the vessel, cargo, crew and voyage.

(2) The proper officer of customs may retain the port clearance or other document granted at the last port of call.

(3) Where there has been a failure to comply with subsection (1) the master or agent of the vessel concerned shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding one thousand ringgit.

No vessel unless exempted, to sail without port clearance

37. (1) No vessel, whether laden or in ballast or empty, not being a vessel to which the exemption under section 39 applies, shall depart or attempt to depart from any customs port until a port clearance in the prescribed form has been granted by the proper officer of customs to the master or to the agent of the vessel.

(2) If any such vessel, departs or attempts to depart from any customs port without such port clearance, the master of the vessel and also the owner and agent of the vessel, if a party or privy there to, shall be guilty of an offence, and the vessel, if still within the territorial waters, may be detained.

(3) Any person guilty of an offence under this section shall on conviction be liable to a fine not exceeding one thousand ringgit.

Master to attend and answer questions when applying for port clearance, and deliver documents

38. (1) Before any vessel, other than a vessel to which the exemption under section 39 applies, departs from any customs port, the master or the agent of such vessel shall attend before the proper officer of customs, and shall give such information concerning the vessel, the cargo, the crew, the passengers and the voyage, as the proper officer of customs may require and shall deliver to such officer a list of all goods, in respect of which customs duty is

payable on export, and a list of all goods of a class the export of which is prohibited, which are to be delivered at another port in Malaysia.

List of goods carried to be endorsed upon or attached to port clearance

(2) If the proper officer of customs is satisfied that the information given under subsection (1) is accurate, he shall complete, sign and issue to the master or the agent of the vessel, a port clearance in the prescribed form, and shall endorse thereon or, at his discretion, attach thereto, a copy of the list of the goods delivered to the proper officer of customs in accordance with subsection (1).

Port clearance to be carried aboard vessel to next port of call

(3) Such port clearance shall be carried on board the vessel at all the times when such vessel is in the territorial waters.

Vessels exempted from requiring port clearance

39. (1) Sections 36, 37 and 38 shall not apply to vessels of the following classes, namely—

- (a) any vessel of war, troop-ship, or other vessel belonging to, or for the time being operated by the Government of Malaysia or of any foreign State and used exclusively on governmental and non-commercial services;
- (b) vessels engaged solely in fishing and licensed for the purpose of fishing under any written law;
- (c) vessel whose movements are confined to navigable rivers upstream of a customs station situated at or near the mouth of such river;
- (d) privately owned pleasure vessels not plying for hire and not carrying cargo;
- (e) vessels of a class in respect of which an order under subsection (2) is in force.

(2) The Minister may, by order, exempt either absolutely or conditionally, any class of vessels from the operation of sections 36, 37 and 38.

Master of vessel not sailing within 48 hours of port clearance to report to proper officer of customs

40. If a port clearance is issued in respect of any vessel in accordance with subsection 38(2), and the vessel does not sail within forty-eight hours thereafter, the master or agent of such vessel shall report to the proper officer of customs his reason for not sailing, and if the proper officer of customs so directs shall obtain a fresh port clearance.

When clearance may be refused

41. (1) The proper officer of customs shall not grant a port clearance in respect of any vessel—

- (a) until the provisions of this Act and any regulation made thereunder regarding the vessel and cargo carried aboard such vessel have been complied with; or
- (b) until all charges and penalties due by such vessel or by the owner or master thereof and all duties payable in respect of any goods shipped therein have been paid or their payment secured by such deposit or written guarantee as the proper officer of customs may require.

(2) If under the provisions of any written law a Port Officer or other proper authority has notified the proper officer of customs that any vessel is liable to be detained, the proper officer of customs shall not issue a port clearance in respect of such vessel without the written concurrence of such Port Officer or other proper authority.

Application to aircraft

42. The provisions of this Part shall apply, with such modifications and adaptations as may be necessary, in respect of aircraft arriving at, or departing from, any customs airport.

PART VI

GENERAL PROVISIONS AFFECTING VESSELS IN
TERRITORIAL WATERS**Master of vessel to obey signals from preventive vessels and instructions by an officer of customs**

43. The master of any vessel in territorial waters shall obey any signal made to him from a preventive vessel or any instructions given by an officer of customs in uniform from any other vessel or any place requiring him to stop or to heave to or to perform any other act.

Hovering

44. (1) If any vessel hovers within territorial waters and on examination is found to be conveying goods dutiable on import or goods of a class the importation of which is prohibited, the master and every member of the crew of such vessel shall be presumed, until the contrary is proved, to have imported uncustomed or prohibited goods, as the case may be.

(2) If any vessel hovers within territorial waters and on examination is found not to be carrying any of the goods referred to in subsection (1), such vessel shall be presumed, until the contrary is proved, to be hovering for the purpose of receiving dutiable goods upon which export duty has not been paid or prohibited goods exported contrary to a prohibition and the master and every member of the crew of such vessel shall be guilty of an offence against this Act.

(3) The master of any vessel found without lawful excuse in territorial waters without a clearance for a customs port in Malaysia, or carrying cargo or passengers or both without a proper manifest of such, or found to have passed the customs port named in the papers of such vessel without having made entry and declared at such port, shall be liable on conviction before a Magistrate of the First Class to a fine of two thousand ringgit and to imprisonment for a term of twelve months.

Goods unaccounted for to be deemed uncustomed

45. If goods, other than *bona fide* ship's stores, are found by a proper officer of customs in any vessel in territorial waters and such goods are not correctly accounted for in the manifest or other documents which ought to be aboard such vessel, then such goods shall be deemed to be uncustomed goods and shall be liable to seizure.

Missing goods deemed to have been illegally landed

46. If in any vessel in territorial waters the quantity of any goods entered in the manifest or other documents which ought to be aboard such vessel, is found by a proper officer of customs to be short, and the deficiency is not accounted for to the satisfaction of such officer, then such goods shall be deemed to have been illegally landed in Malaysia.

Proper officer of customs may board vessel in a customs port

47. When in exercise of the powers conferred by this Act, a proper officer of customs boards any vessel, the master of such vessel shall provide such officer with suitable shelter and accommodation on the vessel while such vessel remains in territorial waters.

Power to seal up and secure hatchways goods, etc., and use of ship's stores

48. (1) When in exercise of the powers conferred by this Act, a proper officer of customs boards any vessel, he shall have the power to fasten down hatchways or entrances to holds, to mark any goods before landing, and to lock-up, seal, mark or otherwise secure any goods, including ship's stores, on board such vessel; and no hatchway or entrance, after having been fastened down by such officer, shall be opened and no lock, seal or mark shall be opened, broken or altered without the consent of the proper officer of customs while the vessel is within the limits of the customs port or before any goods are delivered to be landed.

(2) The Director General may, in his absolute discretion, permit or refuse to permit the taking of anything without payment of customs duty into a ship as ship's stores and in granting permission for the embarkation of anything under this subsection impose such conditions as he may deem fit.

(3) The Director General may, in his absolute discretion, permit or refuse to permit the use, within the territorial waters, of any ship's stores on which customs duty has not been paid.

Prohibition of carriage of dutiable goods in local craft

49. (1) No goods of a class dutiable on import or export or prohibited goods shall be carried in any local craft except with the permission of the Director General and subject to such conditions as the Director General may impose.

(2) Such permission may be granted either generally, by notification in the *Gazette*, in respect of all local craft or any class or classes of local craft, or specially, in writing under the hand of the Director General or an officer authorized by him in that behalf, in respect of a particular local craft.

(3) No vessel shall go alongside a legal landing place or alongside an ocean going vessel except with the permission of the proper officer of customs.

Bulk not to be broken, etc.

50. After the arrival of any vessel within territorial waters—

- (a) bulk shall not be broken;
- (b) no alteration shall be made in the stowage of the cargo so as to facilitate the unloading of any part of the cargo, before the permission to land goods required by paragraph 23(1)(b) has been received by the master of such vessel; and
- (c) no package shall at any time be opened on board such vessel;

without proper cause shown to a senior officer of customs.

Application to aircraft

51. The provisions of this part shall apply, with such modifications and adaptations as may be necessary, in respect of aircraft arriving at, or departure from, any customs airport.

PART VII

MANIFESTS

Master of arriving vessel to present inward manifest

52. (1) Save as provided in subsection (3), the master or agent of every vessel, other than a local craft, arriving in any customs port, shall, within twenty-four hours after arrival and before any cargo is unshipped, present to the proper officer of customs at the customs office a true inward manifest of the vessel in the National Language or in English, substantially in the prescribed form, certified by such master or agent, together with a duplicate copy thereof, containing all particulars as to marks, numbers and contents of each package intended to be landed at the customs port, together with the names of shippers and consignees of the same, if known to him, and the proper officer of customs may, at his discretion, demand, in addition, a complete manifest of the whole cargo of the vessel and complete list of stores on board such vessel.

Goods for transshipment

(2) A separate transshipment manifest shall be presented in duplicate in the prescribed form in respect of goods to be transhipped at the customs port.

(3) Where it is shown to the satisfaction of the proper officer of customs that it is not practicable to present an inward manifest or a transshipment manifest within a reasonable time after the arrival of a vessel the proper officer of customs may permit cargo to be landed or transhipped prior to presentation of the manifest, but no cargo so landed shall, except with the permission of the proper officer of customs, be delivered to the importer or consignee or his agent until such time as the manifest has been presented to, and scrutinized by, the proper officer of customs.

Provision for cases where all particulars are not known

53. In any case where such master or agent is unable to ascertain the particulars of any inward or transshipment cargo or the names of the consignees thereof, he shall sign the declaration, endorsed upon the prescribed form, that he has exercised due diligence to ascertain the particulars of such cargo and the names of the consignees and shall therein enumerate the packages in respect of which his information is defective.

Person in charge of local craft to make declaration on arrival

54. The master of every local craft, whether carrying cargo or not, arriving in any customs port shall attend in person at the customs office and make a written or oral declaration in the prescribed form or manner of all the cargo to be landed from his vessel.

Correction to be made on completion of discharge

55. (1) On completion of the discharge of cargo or within two months of such discharge or within such further period as the proper officer of customs may allow, the master or agent of the vessel shall present to the proper officer of customs a certified statement in duplicate of the outturn of such cargo and shall enumerate therein any alteration in the manifest due to short shipment, short landing, over landing or any other cause.

Liability of master or agent in respect of goods not satisfactorily accounted for

(2) If any goods entered in the manifest of any vessel are not accounted for to the satisfaction of the proper officer of customs within two months of the presentation of such statement or within such further period as such officer may allow, the master or the agent of the vessel shall be liable to pay to such officer on demand a sum not exceeding *five hundred ringgit, and in addition, in the case of dutiable goods, the agent shall be liable to pay to such officer on demand the amount of customs duty leviable thereon or, when the correct duty cannot be assessed, an amount not exceeding **two thousand ringgit.

(3) If the person liable to the penalties laid down in subsection (2) refuses or fails to pay the penalties demanded of him any senior officer of customs may sue for and recover such penalties in a court of a Magistrate of the First Class.

Pilot or agent of arriving aircraft to present inward manifest

56. The pilot or agent of every aircraft arriving at a customs airport shall, before any cargo is delivered, present to the proper officer of customs at the customs office a true inward manifest of the aircraft in the National Language or in English substantially in the prescribed form, certified by such pilot or agent, together with a duplicate copy thereof, containing particulars of all

*NOTE—Previously “one hundred ringgit”—*see*.

**NOTE—Previously “one thousand ringgit”—*see*.

packages consigned to such airport and the proper officer of customs may, at his discretion, demand, in addition, a complete manifest of the whole cargo of the aircraft and a complete list of stores on the aircraft.

Outward manifest of vessel to be presented

57. The owner or agent of any vessel, other than a local craft, leaving any customs port shall, within seven days of the departure of such vessel, present to the proper officer of customs at the customs office a true outward manifest of the vessel in the National Language or in English, substantially in the prescribed form, certified by such owner or agent, together with a duplicate copy thereof, containing all particulars as to marks, numbers and contents of each package shipped at the customs port and the names of the shippers.

Person in charge of local craft to make declaration before departure

58. The master of any local craft, whether carrying cargo or not, leaving any customs port shall, before the departure of such vessel, attend in person at the customs office, and make a written or oral declaration in the prescribed form or manner of all cargo shipped on board his vessel and the port or ports of destination of such cargo, and if no cargo is being carried he shall make a declaration accordingly:

Provided that in the case of a local craft which in the circumstances mentioned in, and under the provisions of, section 61 is deemed to leave such customs port, no declaration shall be required if the proper officer of customs is satisfied that a declaration has already been made at a customs port further upstream.

Pilot of departing aircraft to present outward manifest

59. The pilot or agent of any aircraft leaving any customs airport shall, before the departure of such aircraft, present to the proper officer of customs at the customs office a true outward manifest of the aircraft in the National Language or in English, substantially in the prescribed form, certified by such pilot or agent, together with a duplicate copy thereof, containing all particulars as to marks, numbers and contents of each package loaded at such customs airport and the names of the consignors and consignees of the same.

Station-master to produce railway invoices and waybills

60. The station-master at the place of import or export of goods by rail and at the customs station to which dutiable goods are consigned, shall on demand produce to the proper officer of customs the railway invoice or waybill, as the case may be, in respect of such goods.

Local craft arriving at or leaving certain navigable rivers

61. Every local craft proceeding up or down a navigable river, at or near the mouth of which there is a customs port, shall stop at such port and shall, for the purposes of this Part, be deemed to arrive at or leave, as the case may be, such customs port.

Saving in respect of exempted vessels and certain aircraft

62. The provisions of this Part shall not apply to any vessel exempted under section 39.

PART VIII

WAREHOUSING

Minister may establish customs warehouses

63. (1) The Minister may establish and maintain customs warehouses, wherein dutiable goods may be deposited and kept without payment of customs duty, at any customs port, customs airport, place of import or export or at any inland customs station and may prescribe the amount to be paid as warehouse rent on goods deposited in such warehouses and remit any amount payable as rent.

Minister may establish collection stations

(2) The Minister may establish customs warehouses in Singapore in this Act referred to as collection stations if provisions for such establishment exist by virtue of any written law in force in Singapore or by virtue of any agreement between the Governments of Malaysia and of Singapore.

Goods imported or exported from a collection station

64. Where collection stations have been established as provided by subsection 63(2), then subject to other provisions of this Act and to such conditions and restrictions as the Director General either generally by order or in any particular case may impose—

- (a) the provisions of this Act relating to the payment of customs duty shall not apply to goods imported from a collection station on which duty has been paid before import; and
- (b) the provisions of this Act requiring payment of duty on goods to be exported at the time of export shall not apply to dutiable goods which are forwarded to a collection station.

Licensed warehouse

65. (1) The Director General may, at his absolute discretion, on payment of such fees as may be fixed by him in each case, grant a licence to any person, hereinafter in this section referred to as the licensee, and when granted withdraw any licence, for warehousing goods liable to customs duties and any other goods in a place or places specified in such licence.

(2) Any such licence shall be for such period and subject to such conditions as the Director General in each case may specify in the licence.

(3) A senior officer of customs, or any officer of customs deputed by him for the purpose, shall at all times have access to any licensed warehouse.

(4) If it appears at any time that in any licensed warehouse or any part thereof there is a deficiency in the quantity of dutiable goods which ought to be found therein, the licensee of such warehouse shall, in the absence of proof to the contrary, be presumed to have illegally removed such goods and shall, without prejudice to any proceedings under this Act, be liable to pay to the proper officer of customs the customs duty leviable on the goods found deficient:

Provided that if it is shown to the satisfaction of the Director General that such deficiency has been caused by unavoidable leakage, breakage or other accident, the Director General may remit the whole or any part of the customs duty leviable on the goods found deficient.

Manufacture and other operations in relation to goods in licensed warehouse

65A. (1) In respect of a warehouse licensed under section 65, the Director General may, at his absolute discretion, on payment of such fees as may be fixed by him in each case, grant an additional licence to the licensee and when granted withdraw any such licence, to carry on any manufacturing process and other operation in respect of the goods liable to customs duties and any other goods.

(2) Any such licence shall be for such period and subject to such conditions as the Director General may specify in the licence.

(3) (a) No goods which have undergone any manufacturing process in the warehouse may be released for home consumption or export without the prior approval of the Director General.

(b) Subject to subsection (4), if such goods are released from the warehouse for home consumption the customs duty thereon shall be calculated on the basis as if such good had been imported:

Provided that the Minister may in any particular case exempt any person from the payment of the whole or part of such duty which may be payable by such person on any such goods and in granting such exemption the Minister may impose such conditions as he may deem fit.

(4) Where in the course of any operation permissible under subsection (1) to any goods liable to customs duty there is waste or refuse customs duty shall be remitted on the quantity of goods liable to customs duty in so much of the waste or refuse as has arisen from the operations carried on in relation to the goods which have undergone any manufacturing process:

Provided that such waste or refuse is destroyed subject to such conditions as the Director General may impose or duty is paid on such waste or refuse as if it had been imported in that form.

Liquidator of company to give notice of winding-up, and set aside duty

65B. (1) Where an effective resolution is passed or an order is made for the winding-up of a company which is a licensed manufacturer the liquidator of the company shall give notice thereof

to the Director General within fourteen days thereafter, and shall before disposing of any of the assets of the company set aside such sum out of the assets as appears to the Director General to be sufficient to provide for any customs duty that is or will thereafter become payable in respect of the company, and shall thereafter pay such customs duty.

(2) A liquidator of any such company who fails to give notice to the Director General within the time specified in subsection (1) or fails to provide for payment of the customs duty as required by that subsection shall be personally liable for any customs duty that is or become payable as aforesaid.

(2A) Any liquidator who fails to comply with subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

(3) Where two or more persons are appointed liquidators or are required by law to carry out the winding-up of any such company, subject to a right of contribution between themselves as in cases of contract, the obligations and liabilities attaching to a liquidator under this section shall attach to all such persons jointly and severally.

Appointment of receiver to be notified to the Director General

65c. (1) Where a receiver of the property of a licensed manufacturer is appointed, he shall give notice thereof to the Director General within fourteen days thereafter, and shall before disposing of any of the assets of the licensed manufacturer set aside such sum out of the assets as appears to the Director General to be sufficient to provide for any customs duty that will thereafter become payable in respect of the goods that have been sold or manufactured by the licensed manufacturer before the appointment of the receiver, and shall thereafter pay such customs duty.

(2) A person appointed as receiver who fails to give notice to the Director General within the time specified in subsection (1) or fails to provide for payment of the customs duty as required by that subsection shall be personally liable for any customs duty that is or becomes payable as aforesaid.

(2A) Any receiver who fails to comply with subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit.

(3) Where two or more persons are appointed receivers, subject to a right of contribution between themselves as in cases of contract, the obligations and liabilities attaching to a receiver under this section shall attach to all such persons jointly and severally.

Licensing of duty free shop

65D. (1) The Director General may at his absolute discretion on payment of such fee as may be prescribed, grant a licence to operate a duty free shop to any person, hereinafter in this section referred to as “the licensee”, and when granted, may suspend or withdraw such licence.

(2) Any such licence shall be for such period and subject to such conditions as the Director General in each case may specify in the licence.

(3) The licensee shall, for the proper conduct of his business, furnish such security as may be required by the Director General.

(4) If it appears at any time that any goods have been sold or removed from such duty free shop otherwise than in accordance with all the conditions of a licence granted under this section, the licensee of such duty free shop shall, in the absence of proof to the contrary, be presumed to have illegally removed such goods and shall, without prejudice to any proceedings under this Act, be liable to pay to the proper officer of customs the customs duty leviable on the goods sold or removed.

Licensing of inland clearance depot

65E. (1) The Director General may at his absolute discretion on payment of such fee as may be prescribed, grant a licence to operate an inland clearance depot to any person, hereinafter in this section referred to as “the licensee”, and when granted, may suspend or withdraw such licence.

(2) Any such licence shall be for such period and subject to such conditions as the Director General in each case may specify in the licence.

(3) The licensee shall, for the proper conduct of his business, furnish such security as may be required by the Director General.

(4) If it appears at any time that in any inland clearance depot there is a deficiency in the quantity of dutiable goods which ought to be found therein, the licensee of such inland clearance depot shall, in the absence of proof to the contrary, be presumed to have illegally removed such goods and shall, without prejudice to any proceedings under this Act, be liable to pay to the proper officer of customs the customs duty leviable on the goods found deficient:

Provided that if it is shown to the satisfaction of the Director General that such deficiency has been caused by any leakage, breakage or other unavoidable accident, the Director General may remit the whole or any part of the customs duty leviable on the goods found deficient.

Dutiable goods to be deposited in a warehouse on arrival

66. (1) Subject to section 73, all goods imported into Malaysia shall, on first arrival or landing, be deposited by the importer or his agent in a customs or licensed warehouse or in a warehouse approved by the Director General:

Provided that, subject to such conditions as the Director General may impose either generally, by order or in any special case,

- (a) the Director General, if satisfied that on account of the weight, quantity or bulk of any such goods or for any other reason it is not practical to deposit such goods in a customs warehouse, may direct such goods to be kept in any other place where such goods shall be deemed to be under customs control;
- (b) any such goods imported by rail may lawfully be consigned to any person at an inland clearance depot or inland customs station where there is a customs warehouse, and such goods shall be deemed for the purposes of this Part and of Part IX, to have first arrived on reaching such inland clearance depot or inland customs station;
- (c) where the bill of lading, airway bill, invoice or other document covering any such goods landed at a customs port or airport shows them to be consigned to a person at an inland clearance depot or at an inland customs

station, such goods may be forwarded by rail or road to an inland clearance depot or to an inland customs station, and such goods shall be deemed for the purposes of this Part, and Part IX, to have first arrived on reaching such inland clearance depot or inland customs station;

- (d) such goods on first landing at a customs airport where there is no customs warehouse may be dealt with as the Director General may direct.

(2) No goods deposited in a warehouse or directed to be deposited in any other place, under subsection (1), shall be removed from such warehouse or from such place except with the permission of the proper officer of customs.

(3) Dutiable goods deposited in a warehouse not being a customs or licensed warehouse, shall be removed therefrom within ten days or such extended time as the Director General may allow, of their being so deposited and if the goods are not so removed, the proper officer of customs may remove them to a customs warehouse at the expense of the owner of such goods.

(4) The provisions of this section shall not apply—

- (a) to goods imported by post;
- (b) to goods imported by road or by sea at places of import where there is no customs warehouse;
- (c) to passengers baggage, containing personal effects only.

(5) Notwithstanding anything contained in subsection (1), if the Director General is of the opinion that having regard to any particular goods imported into Malaysia it would be in the public interest not to require such goods to be deposited by the importer or his agent in accordance with the said subsection, he may direct such goods to be released subject to such conditions as he may impose.

Warehouse deposit receipts

67. (1) A warehouse deposit receipt shall be issued by the proper officer of customs for all dutiable goods deposited in a customs warehouse:

Provided that in the case of dutiable goods imported by road no such receipt shall be issued except at the request of the importer or his agent.

(2) Where the warehouse deposit receipt is lost, a copy of such receipt duly certified by the proper officer of customs shall be supplied to the owner of the dutiable goods or his agent on delivery of an indemnity bond approved by a senior officer of customs and delivered to him at the customs office, securing the Government against any claim for loss owing to wrong delivery of the goods deposited.

(3) The holder or endorsee in due course of a warehouse deposit receipt or a certified copy thereof granted under subsection (2) shall be deemed, for the purposes of this Act, to be the owner of the goods deposited, and delivery to the holder or endorsee or the agent of the holder or endorsee of such warehouse deposit receipt or certified copy thereof shall be a good and lawful delivery.

Power to open and examine packages

68. A senior officer of customs may, at any time, direct that any goods or package lodged in any customs or licensed warehouse shall be opened, weighed or otherwise examined, and after such goods or package has been so opened or examined, may cause the same to be sealed or marked in such manner as he sees fit.

Detention of goods where doubt exists

69. (1) The proper officer of customs may detain in a customs warehouse or any other place deemed to be under customs control any goods if he is in doubt whether such goods are dutiable or not, or any other reason.

(2) In every such case the proper officer of customs shall forthwith make a report to a senior officer of customs, who shall, without undue delay, decide whether such goods are dutiable or not.

(3) If any such goods are found not to be dutiable, no warehouse rent, handling or other charges shall be payable in respect thereof.

Protection of Government from liability

70. The Government shall not be liable to make good any loss sustained in respect of any goods by fire, theft, damage or other cause while such goods are in any customs warehouse or in the lawful custody or control of any officer of customs, unless such

loss is caused by the wilful neglect, or default of an officer of customs or of a person employed by the Government in connection with the customs.

Protection of officers of customs from liability

71. No officer of customs or other person employed by the Government in connection with the customs shall be liable to make good any loss sustained in respect of any goods by fire, theft, damage or other cause while such goods are in any customs warehouse or in the lawful custody or control of such officer or any other officer of customs or person employed in connection with customs unless such loss is caused by his wilful neglect, or default.

Payment of warehouse rent

72. The owner or his agent shall pay to the proper officer of customs the warehouse rent at the prescribed rates which may be due in respect of any goods deposited in a customs warehouse or a warehouse approved by the Director General. Such rent shall be payable at the end of each month whether or not a demand in respect thereof is made and if not so paid may be recovered as a civil debt due to the Government.

Dangerous goods

73. No goods of an inflammable nature or of such a nature as to be likely to cause detriment to other goods shall be deposited in any customs warehouse without the sanction of a senior officer of customs, and if any such goods are landed they may be deposited, at the expense and risk of the importer thereof, in any place that a senior officer of customs may deem fit, and whilst so deposited such goods shall be deemed to be in a customs warehouse, and unless within a period of fourteen days they have been duly cleared or warehoused in any warehouse approved for that purpose shall, at the expiration of that period, be liable to be dealt with in the same manner as goods of a similar nature actually deposited in a customs warehouse. Such goods shall be chargeable with such expenses for securing, watching and guarding the same until sold, cleared or warehoused as aforesaid, as the senior officer of customs may deem fit.

Government lien over goods deposited in a customs warehouse

74. (1) Goods of a perishable nature deposited in a customs warehouse shall be cleared forthwith, and if not so cleared a senior officer of customs may sell such goods.

(2) Goods of an inflammable nature deposited in a customs warehouse shall be cleared within fourteen days of the date of deposit.

(3) Goods not of a perishable or inflammable nature deposited in a customs warehouse shall be cleared within one month of the date of deposit:

Provided that a senior officer of customs may permit any goods to remain deposited for such further periods of not less than one month at a time and not exceeding six months in the aggregate as he may in his discretion think fit.

(4) If any goods are not cleared within the time specified in subsection (2) or (3) or if any warehouse rent in respect of any goods is not duly paid in the manner provided by section 72, a senior officer of customs may, after giving not less than fourteen days notice in writing to the owner (if the name and address of such owner is known to him), or after due notice in the *Gazette* (if the name and address of such owner is not known to him), sell such goods.

(5) The proceeds of the sale of any such goods shall be applied to the payment of any customs duties, warehouse rent and other charges and railway freight which may be due in respect of such goods or of any other goods deposited by the owner of such goods, and the surplus, if any, shall be paid to the owner of such goods and if the owner cannot be found within one month of the sale, such surplus shall be paid to the Consolidated Fund.

(6) If at the sale of any goods no sufficient bid is forthcoming to defray the customs duties, warehouse rent and other charges which are due in respect of such goods, the goods shall be forfeited to Government and shall be disposed of in such manner as the Director General may direct.

(7) Every auction sale shall under this section be conducted by or in the presence of a senior officer of customs.

Removal of dutiable goods from a warehouse

75. No dutiable goods shall be removed from customs control except—

- (a) after payment of the customs duty payable thereon; or
- (b) if such goods are in a customs or licensed warehouse, under such conditions as the Director General may impose, for deposit in another customs or licensed warehouse; or
- (c) under such conditions as the Director General may impose, for a re-export from Malaysia,

and in no case shall any goods be removed from a customs warehouse or any other warehouse approved by the Director General until all warehouse rent and other charges due in respect thereof have been paid:

Provided that petroleum or any other dutiable goods as approved by the Director General in a licensed warehouse may be removed therefrom before payment of the customs duty if security has been lodged to the satisfaction of the Director General by which payment of duty is guaranteed within such time as the Director General may allow.

Landing of goods for transhipment

76. Goods arriving in Malaysia for transhipment and landed at a customs port to await the arrival of the vessel to which they are intended to be transhipped shall, if they are dutiable on import or on export or prohibited to be imported or exported, or belong to a class of such goods, be deposited in a customs or licensed warehouse and shall be liable to warehouse rent at the prescribed rates applicable to such goods or, if such rates are not prescribed, at the prescribed rates applicable to goods warehoused prior to export:

Provided that the Director General may exempt any particular goods from the operation of this section.

Weighing and handling fees

77. (1) All necessary operations relating to the loading, shipping, unloading, unshipping, landing, carrying, weighing, opening, unpacking, repacking, bulking, sorting and marking of goods, including passenger's baggage, whether warehoused or not, shall be performed by or at the expense of the owner, importer, exporter, consignor, consignee or agent as the case may be:

Provided that the proper officer of customs may, at his discretion, direct that any such operations shall be performed by officers of customs or other persons under his control, and in any such case such operation shall be performed at the expense of the owner, importer, exporter, consignor, consignee or agent, as the case may be.

(2) The Minister may prescribe the charges to be paid for operations performed under this section by officers of customs or other persons under the control of the proper officer of customs and may remit any charges due.

PART IX

DECLARATION OF GOODS

*A—Dutiable goods***Declaration of dutiable goods imported**

78. (1) Every importer of dutiable goods, warehoused under section 66 or exempted from being warehoused by virtue of paragraph (a) of the proviso shall, before removal of such goods or any part thereof from customs control or if such goods are not removed within a period of one month from the date on which they were landed, within such period, make personally or by his agent to the proper officer of customs at such warehouse, a declaration, substantially in the prescribed form, of the goods imported, and in any particular case the proper officer of customs may, by notice in writing, require the importer either personally or by his agent to submit such declaration within three days of the receipt of such notice, and the importer shall be required to comply with such notice if it is within his power to do so:

Provided that in the case of goods imported by road such declaration shall be made on arrival of such goods at the place of import.

(2) Every importer of dutiable goods exempted from being warehoused under paragraphs 66(4)(b) and (c) shall, upon arrival of such goods at a place of import, make personally or by his agent to the proper officer of customs at such place of import, a declaration, in such manner or in such form as may be prescribed, of the goods imported, and shall pay the customs duties and other charges leviable thereon within fourteen days of such declaration.

(3) The addressee of any dutiable goods imported by post shall, on demand by the proper officer of customs, make personally or by his agent to such officer a declaration, substantially in the prescribed form, of the goods imported.

Declarations to give a full and true account

79. (1) The declaration referred to in section 78 shall give a full and true account of the number and description of packages, of the description, weight, measure or quantity, and value of all such dutiable goods, and of the country of origin of such goods:

Provided that if it is shown to the satisfaction of the proper officer of customs that such goods are urgently required for home consumption and that it is not within the power of the importer to furnish all the details required, such officer may, at his discretion, release the goods on payment of such customs duty as he may estimate to be leviable thereon, together with a deposit of such amount as such officer may determine not exceeding such estimated duty and on an undertaking being given by the importer or his agent to furnish a correct declaration within two months or such further period as the proper officer of customs may allow.

(2) On the submission of a correct declaration the proper amount of customs duty and other charges leviable shall be assessed and any money paid and deposited in excess of such amount shall be returned to the importer or his agent and in default of such submission within the aforesaid period the deposit shall be forfeited and paid into the Consolidated Fund.

Declaration of dutiable goods to be exported

80. (1) Every exporter of dutiable goods shall immediately before export—

- (a) personally or by his agent make, in the prescribed form and to the officer of customs specified in subsection (2), a declaration of the goods to be exported;

- (b) produce such goods to such officer at any place as the officer may direct;
- (c) pay the export duty and any other charge leviable thereon to such officer:

Provided that, the Director General may permit the export of any goods without prior payment of duty—

- (a) if it is shown to his satisfaction that,
 - (i) weighing of such goods for the purpose of assessment of duty can more conveniently be carried out in Singapore; or
 - (ii) unnecessary delay will be occasioned in ascertaining the net weight of the goods before the export thereof is permitted; and
- (b) if security has been given to his satisfaction for the payment of duty within such time as he may determine.

(2) The declaration referred to in paragraph (1)(a) shall be made to the proper officer of customs at the appropriate place specified hereunder that is to say—

- (a) at an inland clearance depot or at an inland customs station or at a customs port where goods are loaded if export is by sea;
- (b) at an inland clearance depot or at an inland customs station where goods are loaded or at the place of export if export is by rail;
- (c) at the place of export if export is by road, but the Director General may allow the declaration to be made to a proper officer of customs at an inland clearance depot or at an inland customs station if such export by road is on their route to a customs port or airport or any other place approved by him;
- (d) at an inland clearance depot or at an inland customs station or at a customs airport where goods are loaded if export is by air.

(3) The declaration referred to in paragraph (1)(a) shall give a full and true account of the number and description of packages and of the description, weight, measure or quantity, and value of all such dutiable goods, and the country of destination of such goods.

(4) No dutiable goods shall be removed from the place at which such goods were produced to the officer of customs in accordance with subsection (1) unless permission in that behalf has first been obtained from a senior officer of customs.

B—Non-dutiable goods

Declaration of non-dutiable goods imported by sea or air

81. (1) When any goods which are not dutiable on import are imported by sea or air, the importer thereof shall, before taking delivery of such goods and in any case not later than ten days after the arrival of the vessel or aircraft in which such goods are imported or arrival otherwise of goods, make personally or by his agent to the proper officer of customs at the customs port at which such goods are landed or at other prescribed place, or at the customs airport at which such goods are imported, a declaration substantially in the prescribed form, giving particulars of the goods imported.

(2) No owner, master or agent of any vessel, and no pilot or agent of any aircraft arriving at any customs port or airport shall deliver any inward cargo consisting of goods which are not dutiable until he has been authorized to do so by the proper officer of customs to whom the declaration referred to in subsection (1) has been made.

Declaration of non-dutiable goods imported by rail

82. When any goods which are not dutiable on import are imported by rail the importer thereof shall make personally or by his agent to the proper officer of customs at the prescribed place of import a declaration, substantially in the prescribed form giving particulars of the goods imported, and until such a declaration has been made delivery or onward transport of the goods shall not be permitted.

Declaration of non-dutiable goods imported by road

83. When any goods which are not dutiable on import are imported by road, the importer thereof shall make personally or by his agent to the proper officer of customs at the place of import or at other prescribed place a declaration substantially in the prescribed form, giving particulars of the goods imported, and shall not proceed till this has been done.

Declaration of non-dutiable goods exported by sea or air

84. (1) When any goods which are not dutiable on export are exported by sea or air the exporter thereof shall, before such goods are shipped or water-borne to be shipped or transported otherwise to be shipped or loaded into an aircraft, make personally or by his agent to the proper officer of customs at the customs port at which such goods are to be shipped or at the customs airport at which such goods are to be loaded or at other prescribed place, a declaration substantially in the prescribed form, giving particulars of the goods to be exported.

(2) No owner, master or agent of any vessel, and no pilot or agent of any aircraft shall allow any goods which are not dutiable on export to be shipped or loaded until he has been authorized by the proper officer of customs to do so.

Declaration of non-dutiable goods exported by rail

85. When any goods which are not dutiable on export are exported by rail the exporter thereof shall make personally or by his agent to the proper officer of customs at the prescribed place of export a declaration, substantially in the prescribed form giving particulars of the goods to be exported, and until such a declaration has been made such goods shall not be released for export.

Declaration of non-dutiable goods exported by road

86. When any goods which are not dutiable on export are exported by road, the exporter thereof shall make personally or by his agent to the proper officer of customs at the place of export a declaration, substantially in the prescribed form, giving particulars of the goods to be exported, and shall not proceed till this has been done.

Declarations to give a full and true account

87. The declarations referred to in sections 81, 82, 83, 84, 85 and 86 shall give a full and true account of the particulars for which provision is made in the respective prescribed forms:

Provided that, if, in the case of imported goods, any of the particulars required be unknown to the importer thereof, delivery of such goods may be given on a written undertaking of the importer or his agent to furnish the necessary information to the proper officer of customs or station-master, as the case may be, within

ten days of such undertaking or such further period as the proper officer of customs may allow and if the importer or his agent fails to furnish the information as required by the undertaking he shall be deemed to have failed to make the required declaration.

Provisional declaration of exported goods

87A. (1) Notwithstanding subsection 80(1), sections 84, 85, 86 and 87, the Director General may allow any document approved by him to be used as a provisional declaration, in lieu of the prescribed form, for goods if—

- (a) such goods are to be exported by air, sea, rail or in any other manner approved by the Director General;
- (b) unnecessary delay will be occasioned in preparing the prescribed form;
- (c) such goods are not subject to a drawback claim under sections 93 and 99;
- (d) such goods are not prohibited from export; and
- (e) the exporter of such goods makes personally or by his agent to a proper officer of customs at the place of export where the provisional declaration was approved, a declaration substantially in the prescribed form within 7 days after the release of such goods.

(2) The provisional declaration referred to in subsection (1) shall give a full and true account of the number, description and quantity, weight or measure, value and destination of such goods.

(3) Paragraphs 80(2)(a), (b), (c) and (d) shall also be applicable to a provisional declaration under this section in relation to places where such provisional declaration may be made.

C—General Provisions

Goods which have been declared at a collection station exempted

88. The provisions of this Part shall not apply—

- (a) subject to such conditions and restrictions as the Director General may, either generally by order or in any particular case, impose, to goods imported from a collection station or to goods which are forwarded to a collection station;

Passengers' baggage, etc., and postal goods exempted

- (b) to accompanied passengers' baggage or personal effects;
- (c) to fresh fish locally taken; and
- (d) except as provided by subsection 78(3), to any goods sent by post.

Saving provision

89. Nothing in this Part contained shall release any person from any obligation imposed by or under any written law regulating the movement of any special goods or currency.

Control of agents

- 90.** (1) Any person who intends to act as an agent shall—
- (a) attend a course on matters relating to customs and pass such examination as may be specified by the Director General;
 - (b) produce a written authority from the person on whose behalf he is to act; and
 - (c) give such security as may be considered adequate by a senior officer of customs for the faithful and incorrupt conduct of such agent and of his clerks acting for him both as regards the customs and his employers.
- (2) Subject to subsection (1) any application for permission to act as an agent for transacting business relating to the import or export of any goods or luggage or the entry or clearance of any vessel or aircraft shall be considered by a senior officer of customs who may give such permission subject to such terms and conditions as he may deem fit to impose.
- (3) The Director General may waive the requirement of paragraph (1)(a) if he is satisfied that the person has sufficient knowledge on matters relating to customs.
- (4) A senior officer of customs may suspend or cancel any permission granted under this section, if the agent commits any breach of this Act or of any regulation made thereunder or if he fails to comply with the terms and conditions imposed pursuant to subsection (2) or any direction given by an officer of customs with regard to the business transacted by the agent.

(5) Any person aggrieved by the decision of a senior officer of customs in respect of any of the following matters, that is to say—

- (a) refusal to grant permission;
- (b) the nature or the amount of security required from the agent;
- (c) suspension or cancellation of the permission;

may, within one month from the date on which the decision is notified to him, appeal to the Director General, whose decision shall be final.

(6) Any person who acts as agent when permission has not been granted to him under this section or while such permission is cancelled or suspended, or who makes or causes to be made a declaration of any goods without being duly authorized for that purpose by the proprietor or consignee of such goods shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred ringgit.

(7) The clerk or servant of any person or firm may transact business generally at any customs office on behalf of such person or firm:

Provided that a senior officer of customs may refuse to transact business with such clerk or servant unless such person or a member of such firm identifies such clerk or servant to such officer as empowered to transact such business and deposits with such officer a signed authority authorizing such clerk or servant to transact such business on behalf of such person or firm.

Person in charge of goods imported, etc., by road to be deemed agents

91. Notwithstanding anything contained in section 90 the person in charge of any goods imported or exported by road shall be deemed to be the agent of the importer or exporter, as the case may be and shall not be subject to the provision of paragraph 90(1)(a).

Licensed carrier

91A. (1) The Director General may grant a licence to any person to act as a licensed carrier subject to such terms and conditions as she may deem fit to impose and may suspend or withdraw such licence.

(2) In granting a licence under subsection (1), the Director General may require such security to be furnished as he may consider adequate to cover the customs duty payable on the goods moved and for the faithful and incorrupt conduct of such licensed carrier and of his agents and employees acting for him both as regards the customs and his employers.

Declaration to be made in duplicate

92. Every declaration required to be made under this Part shall be in duplicate or in such other number of copies as the person, to whom such declaration is required to be made, may direct.

PART X

DRAWBACK

Definition of “re-export” in sections 93, 94 and 99

92A. In sections 93, 94 and 99 of this Part, the expression “re-export” includes the movement of goods to a warehouse licensed under section 65A and to a duty free shop licensed under section 65D of the Act.

Conditions under which drawback may be paid

93. (1) When any goods, other than goods affected by section 95 and section 96, upon which customs duty has been paid are re-exported, nine-tenths of the duties calculated in accordance with subsection (2) may be repaid as drawback, if—

- (a) the goods are identified to the satisfaction of a senior officer of customs at the customs port or customs airport at which such goods are shipped or loaded for re-export, or at the place of re-export;
- (b) the drawback claimed in respect of any one consignment of re-exported goods is not less than fifty ringgit;

- (c) the goods are re-exported within twelve months of the date upon which the customs duty was paid;
- (d) payment of drawback upon goods of a class to which the goods to be re-exported belong has not been prohibited by regulations made under this Act;
- (e) written notice has been given to a senior officer of customs at or before the time of re-export that a claim for drawback will be made, and such claim is made in the prescribed form and established to the satisfaction of a senior officer of customs within three months of the date of re-export; and
- (f) the goods have not been used after importation.

(2) The amount of drawback allowed shall be calculated at the rate of the customs duty levied at the time of import, or at the rate of customs duty leviable on goods of a like description at the time of re-export of the goods, whichever is the lower.

Declaration by claimant

94. Every person claiming drawback on any goods re-exported shall, personally or by his agent, make to a senior officer of customs a declaration in duplicate, substantially in the prescribed form, that such goods have actually been re-exported and have not been relanded or detained and are not intended to be relanded or detained at any customs port, customs airport or place in Malaysia or within any port of Malaysia, where goods of a like description are liable to customs duty.

Drawback on destroyed goods

95. The Director General may, at his discretion, allow drawback of customs duty on goods which suffer deterioration or damage and are destroyed in the presence of a senior officer of customs, if the conditions set out in section 93 in respect of re-exported goods are fulfilled in respect of such destroyed goods, and sections 93 and 94 shall, *mutatis mutandis* apply to such destroyed goods.

Refund to visitors and owners of samples

96. When any personal effects or other goods which have been imported by visitors to Malaysia for their personal use, or samples imported by commercial travellers, or trade samples or such other goods as may be prescribed, on which customs duty has been paid are re-exported within three months from the date of importation or within such further period as the Director General may, either generally or in any special case allow, the Director General may allow a drawback of such customs duty.

Relief from duty on goods temporarily imported

97. Where the Director General is satisfied that goods are imported only temporarily with a view to subsequent re-exportation, he may permit the goods to be delivered on importation without payment of duty subject to the payment of a deposit equivalent to not less than the amount of duty which would be payable if the goods were imported for home use or security being given to the satisfaction of the Director General for the payment of such duty, and such deposit shall be refunded or such security discharged if the goods are re-exported within three months of the date of importation or within such further period as the Director General may allow.

Export and reimport of trade sample free of duty

98. The Director General may, in any case, at his discretion and subject to such restriction as he may deem fit to impose, allow any goods, which on the exportation thereof have been declared as trade samples, to be reimported free of duty.

Drawback on imported goods used in manufacture or in packing

99. (1) Where any imported goods are re-exported by the manufacturer as part or ingredient of any goods manufactured in Malaysia or as the packing, or part or ingredient of the packing, of such manufactured goods, then, if customs duty has been paid on such imported goods, the Director General may, on such re-export, allow to the manufacturer a full drawback of the duty so paid, if—

- (a) the finished goods exported have been manufactured on premises approved by the Director General;

- (b) such books and account are kept as the Director General may require for the purpose of ascertaining the quantity of the goods used in such manufacture or for or in the packing of such manufactured goods;
- (c) such goods are re-exported within twelve months of the date upon which the import duty was paid or such further period as the Director General may approve;
- (d) written notice has been given on the export declaration form that a claim for drawback will be made, and such claim is made in the prescribed form and established to the satisfaction of a senior officer of customs within six months of the date of such re-export or such further period as the Director General may approve; and
- (e) the finished goods shall be exported through such places or routes as the Director General may approve.

(1A) In determining the amount of drawback of customs duty paid, the Director General may allow drawback of such duty on waste or refuse resulting from such manufacture, whether re-exported or otherwise:

Provided that such drawback shall only be allowed where the quantity of such waste or refuse has been proven to the satisfaction of the Director General.

(2) In this section the expression “manufacturer” includes any person to whom the manufactured goods have been sold or otherwise disposed of.

PART XI

MISCELLANEOUS PROVISIONS

Documents to be produced on demand

100. On demand of the proper officer of customs the importer or exporter of any goods or his agent shall produce to such officer all invoices, bills of lading, certificates of origin or of analysis and any other documents, which such officer may require to test the accuracy of any declaration made by such importer or exporter to any officer of customs and such officers may retain any such invoice, bill of lading, certificate of origin or analysis or other documents.

Records of imported goods

100A. (1) Every person who has possession of documents and records pertaining to valuation of goods imported shall preserve for a period of six years following the importation of the goods all records that relate to the purchase of, cost of, value of, payment for and disposal of the goods.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and—

- (a) where the value of the goods can be ascertained, shall be liable to a fine of not less than two times and not more than ten times the value of the goods; or
- (b) where the value of the goods cannot be ascertained, shall be liable to a fine of not less than one hundred thousand ringgit and not more than five hundred thousand ringgit.

Persons legally bound to give information

101. Every person required by the proper officer of customs to give information or produce any documents on any subject into which it is such officer's duty to enquire under this Act and which it is in such person's power to give shall be legally bound to give such information or produce such documents.

Service of notices

102. (1) Every notice or document required by this Act to be served on any person may be served—

- (a) personally upon that person; or
- (b) by sending such notice or document to that person by registered post.

(2) A notice or document sent by registered post to a person shall be deemed to have been served on that person at the time at which it would have been delivered to that person in the ordinary course of the post if such notice or document was addressed—

- (a) in the case of a company, a firm, a society, an association or other body of persons—
 - (i) to its registered office;

- (ii) to its last known address; or
 - (iii) to any person authorized by it to accept service of process; and
- (b) in the case of an individual, to his usual or last known place of abode.

Baggage of passengers

103. (1) Notwithstanding anything in this Act contained, every passenger or other person arriving in or leaving Malaysia shall declare all dutiable or prohibited goods in his possession, either on his person or in any baggage or in any vehicle, to the proper officer of customs, and if he fails so to do such goods shall be deemed to be uncustomed goods.

(2) The baggage of passengers may be examined and delivered in such manner as the Director General may direct, and it shall be the duty of the person in charge of such baggage to produce, open, unpack and repack such baggage.

The proper officer of customs may take samples

104. (1) The proper officer of customs may at any time, if his duty so requires, take samples of any goods to ascertain whether they are goods of a description liable to any customs duty, or to ascertain the customs duty payable on such goods or for such other purposes as the proper officer of customs may deem necessary, and such samples may be disposed of in such manner as the Director General shall direct.

(2) No payment shall be made for the cost of any sample taken but the proper officer of customs shall, on demand, give a receipt for any such sample.

Packing of dutiable goods

105. No dutiable goods shall be packed in any manner calculated to deceive an officer of customs so that a proper account of such goods may not be taken.

Addition or deduction of new or altered duties in the case of contract

106. (1) Where any new customs duty is imposed or where any customs duty is increased, and any goods in respect of which the duty is payable are delivered after the day on which the new or increased duty takes effect, in pursuance of a contract made before that day, the seller of the goods may, in the absence of agreement to the contrary, recover from the purchaser of the goods as an addition to the contract price, a sum equal to any amount paid by him in respect of the goods on account of the new duty or increase of duty, as the case may be.

(2) Where any customs duty is cancelled or decreased and any goods affected by the duty are delivered after the day on which the duty is cancelled or the decrease in the duty takes effect, in pursuance of a contract made before that day, the purchaser of the goods, in the absence of agreement to the contrary, may if the seller of the goods has had in respect of those goods the benefit of the cancellation or decrease of the duty, deduct from the contract price a sum equal to the amount of the duty or decrease of duty, as the case may be.

PART XII**INSPECTION, INVESTIGATION, SEARCH, SEIZURE AND ARREST****Access to place or premises**

106A. (1) Any senior officer of customs shall for the purposes of this Act at all times have access to any place or premises where an importer carries on his business or where any person who has dealings with such importer carries on his business.

(2) Where any senior officer of customs enters upon any premises in accordance with the provisions of this section, then—

- (a) he may require the importer or the person who has dealings with such importer, as the case may be, to produce any book, data, document or other record, or thing which such importer or person is required to keep under the provisions of this Act, or which relate to any imported goods;

- (b) he may examine any book, data, document or other record, or thing and make copies of or take extracts from any such book or document;
- (c) he may seize and detain any book, data, document or other record, or thing if in his opinion it may afford evidence of the commission of any offence under this Act;
- (d) he may require the importer or the person who has dealings with such importer or any person employed by such importer or person to answer questions relating to—
 - (i) any book, data, document or other record, or thing;
 - (ii) any entry in any book, data, document or other record; or
 - (iii) any imported goods;
- (e) he may require any container, envelope or other receptacle in any such premises to be opened;
- (f) he may at the risk and expense of the importer or the person who has dealings with such importer open and examine any package, or any goods or materials, in any such premises.

(3) Where the senior officer of customs acting under the provisions of this section is unable to obtain free access to any premises where an importer carries on his business or where a person who has dealings with such importer carries on his business or to any receptacle contained in those premises, he may, at any time, enter such premises and open such receptacle in such manner, if necessary by force, as he may think necessary.

(4) Where, on the entry upon any premises under the provisions of this section, any dutiable goods are found in relation to which any offence under the provisions of this Act has been committed, then such dutiable goods shall be liable to forfeiture.

Power of investigation

106B. A proper officer of customs shall have all the powers necessary to carry out an inspection and to investigate the commission of any offence under this Act.

Magistrate may issue search warrant

107. (1) Whenever it appears to any Magistrate, upon written information upon oath, and after any enquiry which he may think necessary, that there is reasonable cause to believe that in any dwelling-house, shop, or other building or place, there are concealed or deposited any prohibited or uncustomed goods or goods liable to forfeiture under this Act or under any regulation made thereunder, or as to which any offence under this Act or such regulation has been committed, or any books or documents relating to any such goods such Magistrate may issue a warrant authorizing any officer of customs named therein, by day or night and with or without assistance—

- (a) to enter such dwelling-house, shop, or other building or place and there to search for and seize any goods reasonably suspected of being prohibited or uncustomed goods, or goods liable to forfeiture under this Act or any regulation made thereunder, or as to which any offence under this Act or such regulation is suspected to have been committed, and any books or documents which may reasonably be believed to contain information as to any offence under this Act or any regulation made thereunder;
- (b) to arrest any person or persons being in such dwelling-house, shop, building or place, in whose possession such goods as aforesaid may be found, or whom such officer may reasonably suspect to have concealed or deposited such goods.

(2) Such officer may if it is necessary so to do—

- (a) break open any outer or inner door of such dwelling-house, shop, or other building or place, and enter thereinto;
- (b) forcibly enter such place and every part thereof;
- (c) remove by force any obstruction to such entry, search, seizure and removal as he is empowered to effect;
- (d) detain every person found in such place until such place has been searched.

When search may be made without warrant

108. Whenever it appears to any senior officer of customs that there is reasonable cause to believe that in any dwelling-house, shop, or other building or place there are concealed or deposited any prohibited or uncustomed goods or goods liable to forfeiture under this Act or any regulation made thereunder or as to which an offence under this Act or such regulation has been committed, and if he has reasonable grounds for believing that by reason of the delay in obtaining a search warrant such goods are likely to be removed, such officer may exercise in, upon and in respect of such dwelling-house, shop, or other building or place all the powers mentioned in section 107 in as full and ample a manner as if he were authorized so to do by a warrant issued under that section.

Power to search vessels and aircraft

109. (1) A proper officer of customs may—

- (a) go on board any vessel or aircraft in any customs port or customs airport or place or within territorial waters;
- (b) require the master of such vessel or the pilot of such aircraft to give such information relating to the vessel or aircraft, cargo, stores, crew, passengers or voyage as he may deem necessary;
- (c) rummage and search all parts of such vessel or aircraft for prohibited or uncustomed goods;
- (d) examine all goods on board and all goods then being loaded or unloaded;
- (e) demand all documents which ought to be on board such vessel or aircraft; and
- (f) require all or any such documents to be brought to him for inspection;

and the master of any vessel and the pilot of any aircraft refusing to allow such officer to board or search such vessel or aircraft, or refusing to give such information or to produce such documents on demand shall be guilty of an offence against this Act.

(2) If any place, box or chest on board such vessel or aircraft is locked and the key withheld, such officer may break open any such place, box or chest.

(3) If any goods be found concealed on board any vessel or aircraft, they shall be deemed to be uncustomed goods.

Proper officer of customs to exercise powers of search

110. (1) A proper officer of customs may enter into and exercise in and upon and in respect of any vessel, aircraft, landing place, wharf, jetty, port installation or railway or any place at which the goods produced to an officer of customs under section 80 are deposited all the powers mentioned in section 107 in as full and ample a manner as if he were authorized so to do by a warrant under that section.

(2) In this section the expression “railway” shall have the meaning assigned to it by any written law relating to railways.

Officers of customs may stop and search conveyances

111. (1) The person in charge or in control of any vehicle arriving at a prescribed place of import and export shall, on arrival at such place, produce his vehicle to the proper officer of customs, and shall, if so required, move his vehicle to another place for examination, and shall not proceed until permission to do so has been given by the proper officer of customs.

(2) Any officer of customs may stop and examine any vehicle for the purpose of ascertaining whether any uncustomed or prohibited goods are contained therein, and the person in control or in charge of such vehicle shall if required so to do by such officer, stop such vehicle and allow such officer to examine the same.

(3) The person in control or in charge of any vehicle examined under this section shall on request by the proper officer of customs open all parts of the vehicle for examination by such officers and take all measures necessary to enable such examination as such officer considers necessary to be made.

Power to set up roadblocks

111A. (1) Notwithstanding anything contained in any other law, any proper officer of customs may, if he deems it necessary to do so for the enforcement of the provisions of this Act, erect or place or cause to be erected or placed any barrier on or across any public

road or street or in any public place in such manner as he may think fit; and any proper officer may take all reasonable measures to prevent any person from passing or any vehicle from being driven past any such barrier, including any measure to pursue and apprehend any such person or stop any such vehicle where, having regard to the attendant circumstances at a given moment of time, it is apparent that if such measure is not taken the escape of such person and vehicle to avoid detection or otherwise is likely to be imminent.

(2) Any person who fails to comply with any reasonable signal of a proper officer requiring such person or vehicle to stop before reaching any such barrier, or attempt to cross or knock any such barrier, shall be guilty of an offence and shall be liable to a fine not exceeding one thousand ringgit or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment; and any proper officer may, without warrant, arrest such person unless he gives his name and address and otherwise satisfies the proper officer that he will duly answer any summons or other proceedings that may be taken against him.

(3) No proper officer shall be liable for any loss, injury or damage caused to any person or property consequent upon his taking the steps mentioned in subsection (1).

Access to recorded information or computerized data

111B. (1) Any officer of customs exercising his powers under sections 106A, 107, 108, 109 and 111 shall be given access to any recorded information or computerized data, whether stored in a computer or otherwise.

(2) In addition, an officer of customs exercising his powers under sections 106A, 107, 108, 109 and 111—

- (a) may inspect and check the operation of any computer and any associated apparatus or material which he has reasonable cause to suspect is or has been used in connection with that information or data; and
- (b) may require—
 - (i) the person by whom or on whose behalf the officer of customs has reasonable cause to suspect the computer is or has been so used; or

- (ii) the person having charge of, or is otherwise concerned with, the operation of the computer, apparatus or material,

to provide him with such reasonable assistance as he may require for the purposes of this section.

(3) For the purposes of subsection (1), “access” includes being provided with the necessary password, encryption code, decryption code, software or hardware and any other means required to enable comprehension of recorded information or computerized data.

Power to open packages and examine goods

112. Any proper officer of customs may examine any goods in the course of being imported or exported or intended to be imported or exported and may for the purposes of such examination bring the same to a customs office and may open any package or receptacle.

Search of persons arriving in Malaysia

113. Any person landing, or being about to land, or having recently landed, from any vessel or aircraft, or leaving any vessel or aircraft in territorial waters, whether for the purpose of landing or otherwise, or entering or having recently entered Malaysia by road or railway shall, on demand by any proper officer of customs either permit his person, goods and baggage to be searched by such officer, or together with such goods and baggage accompany such officer to a customs office or police station and there permit his person, goods and baggage to be searched by an officer of customs:

Provided that—

- (a) any person who requests that his person be searched in the presence of a senior officer of customs shall not be searched except in the presence of and under the supervision of such officer, but such person may be detained until the arrival of such officer, or taken to any customs office or police station where such officer may be found;
- (b) the goods and baggage of any person who requests to be present when they are searched and so presents himself within a reasonable time shall not be searched except in his presence;

- (c) no female shall be searched except by another female with strict regard to decency.

Seizure of goods the subject of an offence

114. (1) All goods in respect of which there has been, or there is, reasonable cause to suspect that there has been committed any offence against this Act or any regulation made thereunder, or any breach of any of the provisions of this Act or of any regulation made thereunder or of any restriction or condition subject to or upon which any licence or permit has been granted, together with any receptacle, package, conveyance, vessel not exceeding two hundred tons nett registered tonnage, or aircraft other than an aircraft engaged in international carriage, in which the same may have been found or which has been used in connection with such offence or breach, and any books or documents which may reasonably be believed to have a bearing on the case, may be seized by any officer of customs in any place either on land or in territorial waters.

(2) All such goods and such receptacles, packages, conveyances, vessels or aircraft shall, as soon as conveniently may be, be delivered into the care of a proper officer of customs whose duty it is to receive the same.

(3) Whenever any goods, conveyances, vessels or aircraft are seized under this Act, the seizing officer shall forthwith give notice in writing of such seizure and the grounds thereof to the owner of such goods, if known, either by delivering such notice to him personally or by post at his place of abode, if known:

Provided that such notice shall not be required to be given where such seizure is made on the person, or in the presence of the offender or the owner or his agent, or in the case of a vessel or an aircraft, in the presence of the master or pilot, as the case may be.

(4) This section relating to the seizure of goods shall apply to all the contents of any package or receptacle in which the same are found and to any article used to conceal the same.

(5) This section relating to the seizure of any vessel or aircraft shall apply also to the tackle, equipment and furnishing of such vessel or aircraft.

(6) This section relating to the seizure of conveyances shall apply to all equipment thereof and to any animal by which the same is drawn.

Return or disposal of movable property

115. (1) Where any movable property has been seized under this Act, a senior officer of customs may, at his discretion—

- (a) temporarily return the movable property to the owner thereof or to the person from whose possession, custody or control it was seized, or to such person as a senior officer of customs may consider entitled thereto, subject to such terms and conditions as a senior officer of customs may impose, and, subject, in any case, to sufficient security being furnished to the satisfaction of a senior officer of customs that the movable property shall be surrendered to a senior officer of customs on demand being made by a senior officer of customs and that the said terms and conditions, if any, shall be complied with; or
- (b) return the movable property to the owner thereof or to the person from whose possession, custody or control it was seized, or to such person as a senior officer of customs may consider entitled thereto, with liberty for the person to whom the movable property is so returned to dispose of the same, such return being subject to security being furnished to the satisfaction of a senior officer of customs in an amount not less than an amount which, in the opinion of a senior officer of customs, represents—
 - (i) for property other than dutiable or uncustomed goods, its open market value, and for dutiable or uncustomed goods, their value, on the date on which the property or goods are so returned;
 - (ii) the customs duty payable in respect thereof; and
 - (iii) any tax payable in respect thereof under any written law,

for the payment of the amount so secured to the Director General in the event of the court making an order for the forfeiture of such amount under subsection 127(1A) or 128(4), or in the event of such amount being forfeited under section 131, as the case may be; or

- (c) sell or destroy the movable property, as appropriate in the circumstances, where it is a living creature or where, in the opinion of a senior officer of customs, it is of a perishable or dangerous nature or likely to speedily deteriorate in quality or value, and where it is so sold, he shall hold the proceeds of sale to abide the result of any prosecution or claim, or a forfeiture under section 131, as the case may be.

(2) Any person who—

- (a) fails to surrender on demand to a senior officer of customs the movable property temporarily returned to him under paragraph (1)(a); or
- (b) fails to comply with or contravenes any of the terms or conditions imposed under paragraph (1)(a),

shall be guilty of an offence and shall, on conviction, be liable to imprisonment for a term not exceeding three years or to a fine not exceeding ten thousand ringgit or to both.

(3) The criminal liability of any person under subsection (2) shall be in addition to any other liability that the said person or any other person may incur under the terms and conditions relating to the return of the movable property under paragraph (1)(a).

(4) The provisions of subsection (2) shall not apply to such person, if any, who is the guarantor or surety of the person to whom the property is returned under paragraph (1)(a).

(5) The Minister may, from time to time, either generally or in any particular case or class of cases, give such directions to the Director General as he may deem necessary or expedient with regard to the exercise of the powers conferred on a senior officer of customs under subsection (1).

(6) No person shall be entitled to maintain any action on account of any act done or any decision taken by or on behalf of the Minister or by or on behalf of a senior officer of customs under this section, and no court shall have any jurisdiction to entertain any such action.

(7) For the purpose of this section “movable property” includes any description of movable property whatsoever seized under this Act.

Production of a certificate of an analyst, or a senior officer of customs, or a person authorized by the Minister

115A. (1) In any proceedings in respect of any offence against this Act or any regulation made thereunder in which the existence, description, classification, composition, quantity, quality or value of, or any other matter in relation to, any movable property returned under paragraph 115(1)(a) or (b) or sold or destroyed under paragraph 115(1)(c), is in question, any document produced by the prosecution purporting to be a certificate in respect of any such matter given and signed by—

- (a) an “analyst” within the meaning of subsection 121(5); or
- (b) a senior officer of customs; or
- (c) any person, regardless whether or not he is a public officer, authorized by or on behalf of the Minister, either generally or in any particular case, for the purposes of this section,

shall be admissible in evidence and its conclusiveness shall not be challenged on the ground that the movable property in respect of which the certificate is given has not been produced before the court either in part or in entirety, and it shall be evidence of its contents, including the facts stated therein, without proof of the signature to such certificate.

(2) The provisions of this section shall apply notwithstanding anything contained in any other written law or rule of evidence to the contrary.

Powers of arrest

116. (1) Any officer of customs may arrest without warrant—

- (a) any person found committing or attempting to commit, or employing or aiding any person to commit, or abetting the commission of, an offence against this Act or any regulation made thereunder;
- (b) any person whom he may reasonably suspect to have in his possession any uncustomed or prohibited goods or any goods liable to seizure under this Act;

- (c) any person against whom a reasonable suspicion exists that he has been guilty of an offence against this Act or any regulation made thereunder,

and may search or cause to be searched, any person so arrested:

Provided that no female shall be searched except by another female with strict regard to decency.

(2) Every person so arrested shall be taken to a police station or may be detained in the custody of the proper officer of customs.

(3) The proper officer of customs may take or cause to be taken photographs and finger and thumb impressions of any person charged with an offence under this Act or any regulation made thereunder.

(4) If any person liable to arrest under this Act is not arrested at the time of committing the offence for which he is so liable, or after arrest makes his escape, he may at any time afterwards be arrested and be dealt with as if he had been arrested at the time of committing such offence.

(5) Every person so arrested may be released from custody—

- (a) on his depositing such reasonable sum of money as the proper officer of customs may require;
- (b) on his executing a bond, with such surety or sureties, as the proper officer of customs may require; or
- (c) on his depositing such reasonable sum of money as the proper officer of customs may require and his executing a bond, with such surety or sureties, as the proper officer of customs may require.

(6) Any person who has been released from custody under subsection (5) may be arrested without warrant by any officer of customs—

- (a) if such officer has reasonable grounds for believing that any condition on or subject to which such person was released or otherwise admitted to bail has been or is likely to be breached; or
- (b) on being notified in writing by the surety of such person that such person is likely to breach any condition on or subject to which such person was released and that the surety wishes to be relieved of his obligation as surety.

Power to examine persons

116A. (1) A senior officer of customs investigating an offence under this Act may—

- (a) order any person who appears to be acquainted with the facts and circumstances of the case to attend before him for the purpose of being examined orally in relation to any matter which may, in his opinion, assist in the investigation into the offence; or
- (b) order any person to produce before him any book, document or any certified copy of it, or any other article which may, in his opinion, assist in the investigation into the offence.

(2) Paragraph (1)(b) shall not apply to banker's books.

(3) A person to whom an order under paragraph (1)(a) has been given shall—

- (a) attend in accordance with the terms of the order to be examined, and shall continue to attend from day to day where so directed until the examination is completed; and
- (b) during such examination, be bound to answer all questions relating to the case put to him and shall be legally bound to state the truth, whether or not such answer is made wholly or partly in answer to questions but he may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty or forfeiture.

(4) A person to whom an order has been given under paragraph (1)(b) shall not conceal, destroy, alter, remove from Malaysia, or deal with, expend, or dispose of, any book, document or article specified in the order, or alter or deface any entry in any such book or document, or cause such act to be done, or assist or conspire to do such act.

(5) A person to whom an order is given under subsection (1) shall comply with such order and with the requirements of subsections (3) and (4) notwithstanding any written law to the contrary.

(6) A statement made by any person in the course of investigation under this Act whether or not a caution has been administered to him under subsection 116B(3) shall be recorded in writing by the

senior officer of customs examining him and the statement so recorded shall be read to and signed by the person, and where such person refuses to sign the record, the senior officer of customs shall endorse on it under his hand the fact of such refusal and the reason for it, if any, stated by the person examined.

(7) The record of an examination made in the course of an investigation under this Act or any book, document or article produced under paragraph (1)(b) or otherwise in the course of an examination under paragraph (1)(a), shall, notwithstanding any written law to the contrary, be admissible in evidence in any proceedings under this Act in any court—

- (a) for offence under this Act; or
- (b) for the forfeiture of property pursuant to section 127, 128 or 131,

regardless whether such proceedings are against the person who was examined, or who produced the book, document or article, or against any other person.

Admissibility of statements in evidence

116B. (1) In any trial or inquiry by a court into an offence under this Act, any statement, whether the statement amounts to a confession or not or whether it is oral or in writing, made at anytime, whether before or after the person is charged and whether in the course of an investigation under this Act or not, and whether or not wholly or partly in answers to questions, by an accused person to or in the hearing of any officer of customs, and whether or not interpreted to him by any other officer of customs or any other person, shall, notwithstanding any written law to the contrary, be admissible at his trial in evidence and, if that person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit.

(2) No statement made under subsection (1) shall be admissible or used in cross-examination or for the purpose of impeaching the credit of the person making the statement if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against the person, proceeding from a person in authority and sufficient in the opinion of the court to give that person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

(3) Where any person is arrested for an offence under this Act, he shall be cautioned in the following words or words to the like effect:

“It is my duty to warn you that you are not obliged to say anything or to answer any question, but anything you say, whether in answer to a question or not, may be given in evidence”.

(4) A statement made by any person accused of an offence under this Act made before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of no such caution having been administered if it has been administered as soon as possible.

(5) Notwithstanding anything to the contrary contained in any written law, a person accused of an offence under this Act to which subsection (1) applies, shall not be bound to answer any question relating to the case after any caution referred to in subsection (3) has been administered to him.

Procedure where investigation cannot be completed within twenty-four hours

116c. (1) Whenever any person is arrested and detained in custody and it appears that the investigation cannot be completed within a period of twenty-four hours and there are grounds for believing that the accusation or information is well founded, the senior officer of customs making the investigation under this Act shall immediately transmit to a Magistrate a copy of the entries in the diary prescribed under section 116D relating to the case and shall at the same time produce such person before the Magistrate.

(2) The Magistrate before whom a person is produced under this section may, whether he has or has no jurisdiction to try the case, from time to time, authorize the detention of such person in such custody as the Magistrate considers fit for a term not exceeding fifteen days in the whole.

(3) If the Magistrate has no jurisdiction to try the case and considers further detention unnecessary, he may order such person to be produced before a Magistrate having such jurisdiction or, if the case is triable only by the High Court, before himself or another Magistrate having jurisdiction with a view to transmitting the case for trial by the High Court.

(4) A magistrate authorizing detention under this section shall record his reasons for so doing.

Diary of proceedings in investigation

116d. (1) Every officer of customs making an investigation under this Act shall day by day enter his proceedings in the investigation in a diary setting forth—

- (a) the time at which the order, if any, for investigation reached him;
- (b) the time at which he began and closed the investigation;
- (c) the place or places visited by him; and
- (d) a statement of the circumstances ascertained through his investigation.

(2) Notwithstanding anything contained in the Evidence Act 1950, an accused person shall not be entitled, either before or in the course of any proceedings under this Act, to call for or inspect any such diary:

Provided that if the officer of customs who has made the investigation refers to the diary for the purposes of section 159 or 160 of the Evidence Act 1950, such entries only as the officer has referred to shall be shown to the accused, and the court shall at the request of the officer cause any other entries to be concealed from view or obliterated.

PART XIII

PROVISIONS AS TO TRIALS AND PROCEEDINGS

117. *(Deleted by Act A1109).*

Magistrate of the First Class to have full jurisdiction

118. Notwithstanding the provisions of any written law to the contrary, a court of a Magistrate of the First Class shall have jurisdiction to try any offence under this Act and to award the full punishment for any such offence.

Burden of proof

119. If in any prosecution in respect of any goods seized for non-payment of duties or for any other cause of for-feiture or for the recovery of any penalty or penalties under this Act, any dispute arises whether the customs duties have been paid in respect of such goods, or whether the same have been lawfully imported or exported or lawfully landed or loaded, or concerning the place whence such goods were brought or where such goods were loaded, or whether anything is exempt from duty under section 14 then and in every such case the burden of proof there of shall lie on the defendant in such prosecution.

Proportional examination of goods seized to be accepted by courts

120. (1) When any goods suspected of being prohibited or uncustomed or otherwise liable to seizure have been seized, it shall be sufficient to open and examine five per centum only of each description of the package or receptacle in which such goods are contained.

(2) If it is necessary to test any goods seized under this Act, it shall be sufficient to test only a sample not exceeding five per centum in volume or weight of the goods examined under subsection (1).

(3) The court shall presume that the goods contained in the unopened packages or receptacles are of the same nature, quantity and quality as those found in the similar packages or receptacles which have been opened.

Evidence of analysis may be given in writing

121. (1) In any prosecution for a breach of a provision of this Act or of any regulation made thereunder, a certificate of analysis purporting to be under the hand of an analyst shall, on production thereof by the prosecutor, be sufficient evidence of the facts stated therein unless the defendant requires that the analyst be called as a witness, in which case he shall give notice thereof to the prosecutor not less than three clear days before the day on which the summons is returnable.

(2) In like manner a certificate of analysis purporting to be under the hand of an analyst shall, on production thereof by the defendant, be sufficient evidence of the facts stated therein, unless the prosecutor requires that the analyst be called as a witness.

(3) A copy of the certificate referred to in subsections (1) and (2) shall be sent to the defendant or prosecutor not less than ten clear days before the day fixed for the hearing of the summons, and if it is not so sent the court may adjourn the hearing on such terms as it may think proper.

(4) Analysts are by this Act bound to state the truth in certificates of analysis under their hands.

(5) In this section, “analyst” means—

- (a) a person employed as Chemist in the Department of Chemistry, or as Chemist or Assistant Chemist at the Institute for Medical Research;
- (b) the Senior Chemist, Department of Agriculture;
- (c) a person employed as chemist or geologist in the Geological Survey Department; and
- (d) any other person or class of persons who is or are declared by the Minister charged with responsibility for chemistry, by notification in the *Gazette*, to be an analyst or analysts for the purposes of this section.

(6) If an analyst is called by the defendant as provided by subsection (1), he shall be called at the expense of the defendant unless the court otherwise directs.

(7) If in any trial or proceeding had under this Act it is necessary to determine the alcoholic content of any liquor, the certificate of a senior officer of customs as to such alcoholic content shall be accepted as if such officer were an analyst and in any such case subsections (1), (4) and (6) shall apply in the same manner and to the same extent as if such officer were an analyst.

Proof as to registration or licensing of vessels and conveyances in Malaysia or Singapore

122. Where in any prosecution under this Act it is relevant to ascertain particulars as to the registration or licensing of any vessel or conveyance registered or licensed in any port or place in Malaysia or Singapore, a certificate purporting to be signed by the officer responsible under any written law for the time being in force in Malaysia or any part thereof or in Singapore for such registration or licensing shall be *prima facie* evidence as to all particulars concerning such registration or licensing contained therein, and the burden of proving the incorrectness of any particulars stated in such certificate shall be on the person denying the same.

Proof as to tonnage or build of a craft

122A. (1) Where in any prosecution under this Act or any regulation made thereunder, it is relevant to ascertain the tonnage or build or such other particulars descriptive of the identity of a craft, and if any of these particulars relating to the identity of the craft is in question, then any document produced by the prosecution purporting to be a certificate in respect of any such matter given and signed by any officer responsible for such under any written law for the time being in force in Malaysia shall be admissible in evidence, and it shall be evidence of its contents, including the facts stated therein, without proof of the signature to such certificate.

(2) The provisions of this section shall apply notwithstanding anything contained in any other written law or rule of evidence to the contrary.

Proof as to accuracy of a compass radar, etc.

122B. Where in any proceedings it is necessary to prove the accuracy of a compass, radar or any other navigational aid, a certificate purporting to be signed by a harbour master or any officer appointed by the Minister responsible in respect of such compass, radar or any other navigational aid, shall be accepted by the court as *prima facie* proof of the facts certified in such certificate.

Proof as to countervailing and anti dumping duties payable

122c. Where in any proceedings it is necessary to prove the amount of countervailing duty or anti dumping duty payable, the production of a certificate signed by the Director General stating the amount of duty payable shall be sufficient authority for the court to give judgement for that amount.

Proof as to accuracy of a meter or other device for measuring petroleum

122d. Where in any proceedings under this Act or any regulations made thereunder it is necessary to prove the accuracy of a meter or any other device for measuring petroleum, a certificate purporting to be signed by any officer responsible under any written law for the time being in force in Malaysia for such measurement shall be admissible in evidence and shall be accepted by the court as *prima facie* evidence of the facts stated in such certificate.

Imprisonment for non-payment of fine

123. Notwithstanding the provisions of the Criminal Procedure Code [*Act 593*] the period of imprisonment imposed by any court in respect of the non-payment of any fine under this Act, or in respect of the default of a sufficient distress to satisfy any such fine, shall be such period of such description, as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case the maximum fixed by the following scale:

Where the fine	The period may extend to
does not exceed fifty ringgit	two months
exceeds fifty ringgit but does not exceed one hundred ringgit	four months
exceeds one hundred ringgit but does not exceed two hundred ringgit	six months

with two additional months for every hundred ringgit after the first two hundred ringgit of the fine until a maximum period of six years is reached.

Manner of seizure not to be enquired into on trial before court or on appeal to High Court

124. On any trial before any court and in any proceeding on appeal in the High Court, relating to the seizure of goods subject to forfeiture under this Act, the court shall proceed to such trial or hear such appeal on the merits of the case only, without enquiring into the manner or form of making any seizure, except in so far as the manner and form of seizure may be evidence on such merits.

Obligation of secrecy

124A. (1) Except as provided under section 125, the name and address of an informer and the substance of the information received from an informer shall be kept secret and shall not be disclosed by any proper officer of customs or any person who in the ordinary course of his duties comes into possession of or has control of or access to such information to any person except the designated officer of customs authorized by the Director General.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Protection of informers from discovery

125. (1) Except as hereinafter provided, no witness in any civil or criminal proceeding shall be obliged or permitted to disclose the name or address of an informer or the substance of the information received from him or to state any matter which might lead to his discovery.

(2) If any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceeding whatsoever contain any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

(3) If on the trial for any offence against this Act or any regulation made thereunder the court after full enquiry into the case believes that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true,

or if in any other proceeding the court is of opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit enquiry, and require full disclosure, concerning the informer.

Confidentiality of information

125A. (1) Any information relating to valuation is confidential and any proper officer of customs or any person who in the ordinary course of his duties come into possession of or has control of or access to such information shall not—

- (a) communicate such information; or
- (b) suffer or permit any person to have access to such information.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

(3) Notwithstanding subsection (1), it shall not be an offence—

- (a) as regards information relating to the valuation of imported goods, if disclosure is made—
 - (i) on the order of a court; or
 - (ii) after written consent has been obtained from the person or government giving such information; and
- (b) as regards information relating to the valuation of exported goods, if the Director General deems it expedient or necessary to allow disclosure of certain information to such person as he thinks fit.

Goods liable to seizure liable to forfeiture

126. All goods liable to seizure under this Act, shall be liable to forfeiture.

Court to order disposal of goods seized

127. (1) An order for the forfeiture or for the release of anything liable to forfeiture under this Act shall be made by the court before which the prosecution with regard thereto has been held, and an order for the forfeiture of goods shall be made if it is proved to

the satisfaction of the court that an offence against this Act or any regulation made thereunder has been committed and that the goods were the subject matter of or were used in the commission of the offence notwithstanding that no person may have been convicted of such offence.

(1A) The amount secured under paragraph 115(1)(a) or (b) or the amount realized by sale under paragraph 115(1)(c) shall be forfeited by the court if it is proved to the satisfaction of the court that an offence against this Act or any regulation made thereunder has been committed and that the movable property in respect of which the amount was secured or realized by sale, as the case may be, was the subject matter of or was used in the commission of the offence notwithstanding that no person may have been convicted of such offence.

(2) All things forfeited shall be delivered to a proper officer of customs and shall be disposed of in accordance with the directions of the Director General.

Goods seized in respect of which there is no prosecution, or the proceeds of sale thereof, are forfeited if not claimed within one month

128. (1) If there be no prosecution with regard to any goods seized under this Act, such goods or the proceeds of sale of such goods which are held pursuant to paragraph 115(1)(c) shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure of the goods unless, before such expiration—

- (a) a claim to such goods or the proceeds of sale of such goods is made under subsection (2);
- (b) a written application is made for the return of such goods under paragraph 115(1)(a) or (b); or
- (c) such goods are returned under the said paragraph (a) or (b).

(2) Any person asserting that he is the owner of such goods or the proceeds of sale of such goods, as the case may be, and that they are not liable to forfeiture may give written notice to a senior officer of customs that he claims the same.

(3) On the expiration of the period mentioned in subsection (1), or, if a decision is made earlier that there be no prosecution with regard to the goods, on the making of the decision the senior officer of customs shall, if such goods or the proceeds of sale of such goods are not taken and deemed to be forfeited under that subsection, refer the claim to the Director General who may direct that such goods or the proceeds of sale of such goods or the security furnished under paragraph 115(1)(a) or (b), as the case may be, be released, or may direct such senior officer of customs, by information in the prescribed form, to refer the matter to a Magistrate of the First Class for his decision.

(4) The Magistrate of the First Class shall issue a summons requiring the person asserting that he is the owner of the goods or the proceeds of sale of such goods, and the person from whom the goods were seized, to appear before him, and upon their appearance or default to appear, due service of such summons being proved, the Magistrate of the First Class shall proceed to the examination of the matter, and upon proof that an offence against this Act or any regulations made thereunder has been committed and that such goods were the subject matter, or were used in the commission, of such offence, shall order such goods or the proceeds of sale of such goods or the amount secured under paragraph 115(1)(a) or (b), as the case may be, to be forfeited, or in the absence of such proof, may order the release of such goods or the proceeds of sale of such goods or the security furnished under paragraph 115(1)(a) or (b), as the case may be.

(5) In any proceedings under subsection (4), section 119 shall apply to the person asserting that he is the owner of the goods and to the person from whom they were seized as if such owner or person had been the defendant in a prosecution under this Act.

Goods or amount forfeited may be delivered or refunded to the owner or other person

129. The Minister may, upon application made to him in writing through the Director General, order—

(a) any goods seized under this Act; or

- (b) any amount secured under paragraph 115(1)(a) or (b) or the amount realized by sale under paragraph 115(1)(c);

whether forfeited, or taken and deemed to be forfeited, pursuant to section 127 or 128, to be delivered or refunded, as the case may be, to the owner or other person entitled thereto or payment of such amount and upon such terms and conditions as he may deem fit:

Provided that any such application shall be made before the expiration of one calendar month from the date on which such goods or amount are forfeited or are taken and deemed to be forfeited, as the case may be.

Conviction under other law

130. Nothing in this Act contained shall be deemed to prevent the prosecution, conviction and punishment of any person according to the provisions of any other written law; but so that no person shall be punished more than once for the same offence.

Compounding of offences

131. (1) Any senior officer of customs may compound any offence, which is prescribed to be a compoundable offence, by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding five thousand ringgit.

(2) In like manner the proper officer of customs, not being a senior officer of customs, may compound any offence which is prescribed to be compoundable by such officer, by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding one hundred ringgit.

(2A) In addition to the power to compound in subsection (1), the Director General may compound any offence under subsection 135(1) by accepting from the person reasonably suspected of having committed such offence—

- (a) in the case of dutiable goods, a sum of money which shall be a sum not more than ten times the customs duty; and

- (b) in the case of prohibited goods, a sum of money which shall be a sum not more than ten times the value of the goods.

(2B) Notwithstanding subsection 3(3), for the purpose of subsection (2A) the power conferred on the Director General shall only be exercised by the Director General himself or by any other senior officer of customs not below the rank of Senior Assistant Director of Customs and Excise.

(3) On the payment of such sum of money—

- (a) the person reasonably suspected of having committed an offence, if in custody, shall be discharged and no further proceedings shall be taken against such person; and
- (b) any property seized shall be released and no further proceedings shall be taken against such property except that—
- (i) if the property seized consists of dutiable goods, such goods or the amount secured under paragraph 115(1)(a) or (b) or the amount realized by sale under paragraph 115(1)(c), as the case may be, shall only be released after payment of the customs duties payable; and
 - (ii) if the property seized consists of prohibited goods, such goods or the amount secured under paragraph 115(1)(a) or (b) or the amount realized by sale under paragraph 115(1)(c), as the case may be, shall be forfeited:

Provided that where the prohibition is conditional upon a licence being issued, a senior officer of customs may release such goods if a licence is issued by any relevant authority within thirty days from the date such sum of money is paid.

No costs of damages arising from seizure to be recoverable unless seizure without reasonable or probable cause

132. No person shall in any proceedings before any court in respect of the seizure of any goods seized in exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of such proceedings or to any damages or other relief other than an order for the return of such goods or the payment of their value unless such seizure was made without reasonable or probable cause.

PART XIV

OFFENCES AND PENALTIES

Penalty on making incorrect declarations and on falsifying documents**133. (1) Whoever—**

- (a) makes, orally or in writing, or signs any declaration, certificate or other document required by this Act which is untrue or incorrect in any particular;
- (b) makes, orally or in writing, or signs any declaration or document, made for consideration of any officer of customs on any application presented to him, which is untrue or incorrect in any particular;
- (c) counterfeits or falsifies, or uses, when counterfeited or falsified, any document which is or may be required under this Act or any document used in the transaction of any business or matter relating to customs;
- (d) fraudulently alters any document, or counterfeits the seal, signature, initials or other mark of, or used by, any officer of customs for the verification of any such document or for the security of any goods or any other purpose in the conduct of business relating to customs;
- (e) being required by this Act to make a declaration of dutiable goods imported or exported, fails to make such declaration as required;
- (f) fails or refuses to produce to a proper officer of customs any document required to be produced under section 100; or
- (g) being so required under section 87^A fails to make a declaration in the prescribed form, within the stipulated period thereunder, of goods exported,

shall, on conviction, be liable to a fine not exceeding *five hundred thousand ringgit or to imprisonment for a term not exceeding **five years or to both.

(2) When any such declaration whether oral or written, or any such certificate or other document as is referred to in paragraphs (1)(a), (b) and (c) has been proved to be untrue or incorrect or

*NOTE—Previously “five thousand ringgit”—see Customs (Amendment) Act 2001 [Act A1109].

**NOTE—Previously “one thousand ringgit”—see Customs (Amendment) Act 2001 [Act A1109].

counterfeited or falsified in whole or in part, it shall be no defence to allege that such declaration, certificate or other document was made or used inadvertently or without criminal or fraudulent intent, or that the person signing the same, was not aware of, or did not understand the contents of, such document, or where any declaration was made or recorded in National Language or in English by interpretation from any other language, that such declaration was misinterpreted or not fully interpreted by any interpreter provided by the declarant.

(3) For the purposes of this section, “falsified” in relation to a document shall be deemed to include a document which is untrue or incorrect in any material particular, and “falsifies” has a similar meaning.

Penalty on refusing to answer questions or on giving false information

134. (1) Whoever, being required by this Act to give any information which may reasonably be required by a proper officer of customs and which it is in his power to give, refuses to give such information or furnishes as true information which he knows or has reason to believe to be false, shall, on conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding one thousand ringgit or to both.

(2) When any such information is proved to be untrue or incorrect in whole or in part it shall be no defence to allege that such information or any part thereof was furnished inadvertently or without criminal or fraudulent intent, or was misinterpreted or not fully interpreted by an interpreter provided by the informant.

Penalty for various smuggling offences

135. (1) Whoever—

- (a) is concerned in importing or exporting any uncustomed goods or any prohibited goods contrary to such prohibition whether such uncustomed or prohibited goods be shipped, unshipped, delivered or not;
- (b) ships, unships, delivers or assists or is concerned in the shipping, unshipping or delivery of any uncustomed goods or any prohibited goods contrary to such prohibition;

- (c) illegally removes or withdraws or in any way assists or is concerned in the illegal removal or withdrawal of any goods from any customs control;
- (d) knowingly harbours, keeps, conceals, or is in possession of, or permits, suffers, causes or procures to be harboured, kept or concealed, any uncustomed or prohibited goods;
- (e) is in any way knowingly concerned in conveying, removing, depositing or dealing with any dutiable, uncustomed or prohibited goods with intent to defraud the Government of any duties thereon, or to evade any of the provisions of this Act or to evade any prohibition applicable to such goods;
- (f) being a passenger or other person, is found to have in his baggage or upon his person or otherwise in his possession, after having denied that he has any dutiable or prohibited goods in his baggage or upon his person or otherwise in his possession, any dutiable or prohibited goods; or
- (g) is in any way knowingly concerned in any fraudulent evasion or attempt at fraudulent evasion of any customs duty, or in evasion or attempt at evasion of any prohibition of import or export;

shall be guilty of an offence and shall, on conviction—

- (i) in the case of goods included in a class of goods appearing in an order made under subsection 11(1)—
 - (aa) be liable for the first offence to a fine of not less than ten times the amount of the customs duty or fifty thousand ringgit, whichever is the lesser amount, and of not more than twenty times the amount of the customs duty or one hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding three years or to both; and
 - (bb) be liable for a second or any subsequent offence to a fine of not less than ten times the amount of the customs duty or one hundred thousand ringgit, whichever is the lesser amount, and of not more than forty times the amount of the customs duty or

*NOTE—This provision come into force on 06-07-2001. For the previous punishment—see Finance Act 1983 [Act 293].

five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding five years or to both:

Provided that where the amount of the customs duty cannot be ascertained, the penalty may amount to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both;

- (ii) in the case of uncustomed goods, such goods not being dutiable or prohibited, be liable to a fine not exceeding twice the value of the goods or ten thousand ringgit whichever is the greater amount:

Provided that where the value cannot be ascertained the penalty may amount to a fine not exceeding ten thousand ringgit; and

- (iii) in the case of prohibited goods—

(aa) be liable for the first offence to a fine of not less than ten times the value of the goods or fifty thousand ringgit, whichever is the lesser amount, and of not more than twenty times the value of the goods or one hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding three years or to both; and

(bb) be liable for a second or any subsequent offence to a fine of not less than ten times the value of the goods or one hundred thousand ringgit, whichever is the lesser amount, and of not more than forty times the value of the goods or five hundred thousand ringgit, whichever is the greater amount, or to imprisonment for a term not exceeding five years or to both.

Provided that where the value of the goods cannot be ascertained, the penalty may amount to a fine not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

*NOTE—Previously “one thousand ringgit”—see Customs (Amendment) Act 2001 [Act A1109].

**NOTE—Previously “ten thousand ringgit”—see Customs (Amendment) Act 2001 [Act A1109].

***NOTE—Previously “ten times the value of the goods or ten thousand ringgit”—see Customs (Amendment) Act 2001 [Act A1109].

†NOTE—Added by Customs (Amendment) Act 2001 [Act A1109].

††NOTE—Previously “ten thousand ringgit”—see Customs (Amendment) Act 2001 [Act A1109].

(2) In any prosecution under this section or section 139 any dutiable, uncustomed or prohibited goods shall be deemed to be dutiable, uncustomed or prohibited goods, as the case may be, to the knowledge of the defendant unless the contrary be proved by such defendant.

Penalty for assaulting or obstructing officers of customs and rescuing goods

136. Every person who—

- (a) assaults or obstructs any officer of customs or other public servant or any person acting in his aid or assistance or duly employed for the prevention of smuggling, in the execution of his duty or in the due seizing of any goods liable to seizure under this Act;
- (b) rescues or endeavours to rescue, or causes to be rescued, any goods which have been duly seized; or
- (c) before or after any seizure staves, breaks or otherwise destroys any package or goods to prevent the seizure thereof or the securing of the same,

shall for any such offence be liable—

- (i) on the first conviction, to imprisonment for a term not exceeding *three years or to a fine not exceeding ten thousand ringgit or to both; and
- (ii) on the second or subsequent conviction to imprisonment for a term not exceeding **five years or to a fine not exceeding twenty thousand ringgit or to both.

Penalty for offering or receiving bribes

137. (1) If any officer of customs or other person duly employed for the prevention of smuggling—

- (a) makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any vessel or aircraft or other means of conveyance, or any goods liable to seizure;
- (b) accepts, agrees to accept, or attempts to obtain, any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty; or

*NOTE—Previously “twelve months” or “five thousand ringgit”—see Customs (Amendment) Act 2001 [Act A1109].

**NOTE—Previously “eighteen months, and to a fine not exceeding five thousand ringgit”—see Customs (Amendment) Act 2001 [Act A1109].

- (c) conspires or connives with any person to import or export or is in any way concerned in the importation or exportation of any goods liable to customs duties or any goods prohibited to be imported or exported for the purpose of seizing any vessel, aircraft or conveyance or any goods and obtaining any reward for such seizure or otherwise,

every such officer so offending shall be guilty of an offence against this Act and shall, on conviction, be liable to imprisonment for a term not exceeding *five years or to a fine not exceeding *ten thousand ringgit or to both such imprisonment and fine, and shall be interdicted from holding office in the public service of the Federal Government or the Government of any State, and every person who gives or offers or promises to give or procures to be given any bribes, gratuity, recompense or reward to, or makes any collusive agreement with, any such officer or person as aforesaid to induce him in any way to neglect his duty or to do, conceal or connive at any act whereby any of the provisions of any other law relating to imports or to exports may be evaded, shall be guilty as an abettor and so punishable under this Act.

(2) Any officer of customs who is found when on duty to have in his possession any monies in contravention of any departmental regulations issued in writing shall be presumed, until the contrary is proved, to have received the same in contravention of paragraph (1)(b).

(3) If an officer of customs has reasonable suspicion that another officer of customs junior in rank to him has in his possession any money received in contravention of paragraph(1)(b) he may search such other officer.

Penalty for offences not otherwise provided for

138. Every omission or neglect to comply with, and every act done or attempted to be done contrary to, the provisions of this Act, or any breach of the conditions and restrictions subject to, or upon which, any licence or permit is issued or any exemption is granted under this Act, shall be an offence against this Act and in respect of any such offence for which no penalty is expressly provided the offender shall be liable to a fine of not exceeding **twenty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

*NOTE—Previously “three years” or “five thousand ringgit”—see Finance Act 1983 [Act 293].

**NOTE—Previously “ten thousand ringgit”—see Customs (Amendment) Act 2001 [Act A1109].

Attempts and abetments

139. Whoever attempts to commit any offence punishable under this Act, or abets the commission of such offence, shall be punishable with the punishment provided for such offence.

Offences by bodies of persons and by servants and agents

140. (1) Where an offence against this Act or any regulation made thereunder has been committed by a company, a firm, a society, an association or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society, association or other body of persons or was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person would be liable under this Act to any punishment, penalty or forfeiture for any act, omission, neglect or default he shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect or default of any clerk, servant or agent, or of the clerk or servant of such agent provided that such act, omission, neglect or default was committed by such clerk, or servant in the course of his employment or by such agent when acting on behalf of such person or by the clerk or servant of such agent when acting in the course of his employment in such circumstances that had such act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

Rewards

141. The Director General may order such rewards as he may deem fit to be paid to any officer or other person for services rendered in connection with the detection of cases of smuggling or of offences under this Act, or in connection with any seizures made under this Act.

PART XV

REGULATIONS

Power to make regulations

142. The Minister may make regulations—

(1) to regulate the powers and duties to be exercised and performed by officers of customs;

(2) to regulate the conduct of all matters relating to the collection of customs duties including the time of payment hereof and the imposition of a surcharge for late payment;

(3) to prescribe the time and the manner for payment of customs duties in Sarawak;

(4) to prescribe customs ports and legal landing places within those customs ports for the landing and shipping of goods imported, exported or transported by sea, and to define the limits of such ports and landing places and to prescribe the goods that may be landed or shipped thereat;

(5) to prescribe places of import and export by road and rail and the routes to be used for the import and export of goods by road;

(6) to prescribe customs airports for the import or export of goods by air;

(7) to prescribe inland customs stations at which customs duties may be collected;

(7A) to prescribe, for any purpose under this Act, places other than those mentioned in paragraphs (4), (5), (6) and (7);

(8) to prescribe the days and times during which any customs office, customs station or customs or licensed warehouse may be open for business and the times during which any goods may be landed, shipped or loaded at any customs port or customs airport or imported or exported by road at any place of import and export;

(9) to prescribe the rates of overtime fees to be paid by the masters or agents of vessels or by pilots of aircraft or agents of aircraft or by the persons in charge of vehicles or by the importers or exporters of goods or their agents in respect of the services of officers of customs rendered on request beyond the ordinary hours prescribed and the conditions under which such overtime may be permitted;

(10) to provide for the control by officers of customs of traffic carried on in coasting vessels in the territorial waters;

(11) to prescribe the flag to be flown by vessels employed for the prevention of smuggling;

(12) to prescribe the forms to be used under this Act;

(13) to regulate the deposit, custody and withdrawal of goods in and from customs and licensed warehouses and the management and control of the same;

(14) to regulate the issue of licences;

(15) to prescribe the fees, if any, to be paid for permits and licences, other than warehouse licences;

(16) to prescribe the stock books to be kept by licensees and the method of keeping the same;

(17) to prescribe the method of importing, exporting, transporting or removing any goods under a licence or permit;

(18) to prescribe the manner in which the packages of goods imported or exported shall be marked and numbered and the manner in which the invoices shall be prepared;

(19) to regulate the manner in which goods may be transhipped or goods in transit may be moved;

(20) to prescribe customs areas and to regulate or prohibit, either absolutely or conditionally, the movement of goods or persons within such areas for the purposes of this Act;

(21) to prescribe the manner in which intoxicating liquor shall be denatured in customs or licensed warehouse;

(22) to regulate the blending, compounding, varying and bottling of intoxicating liquor in customs or licensed warehouse;

(23) to prohibit the payment of drawback upon the re-exportation of any specified goods or class of goods;

(24) to specify the goods dutiable on import in respect of which drawback may be allowed on re-export as part or ingredient of any goods manufactured in Malaysia and to fix the rate of drawback thereon;

(25) to prescribe the conditions under which any goods may be moved in transit through Malaysia;

(26) to prescribe the offences which may be compounded and the manner in which, and the officer of customs by whom, they may be compounded;

(27) to define for the purposes of this Act any goods;

(28) to prescribe penalties for any contravention or failure to comply with any of the provisions of any regulation made under this section or with the restrictions of conditions of any licence or permission granted under any such regulations:

Provided that no such penalty exceed the penalty prescribed under section 138;

(29) to prescribe permits and other documents to be carried by local craft or barges transporting cargo from or to vessels in a customs port;

(30) to prescribe the manner in which dutiable or prohibited goods shall or shall not be packed, and to regulate or prohibit the inclusion of dutiable or prohibited goods in the same package or receptacle with non-dutiable goods;

(31) to prescribe standard containers in which dutiable goods shall be exported;

(32) to regulate the erection, inspection, supervision, management and control of premises licensed under section 65A and the fittings, implements, machinery and apparatus maintained therein;

(33) to regulate the hours during which manufacture may or may not take place and during which goods may be removed from premises licensed under this Act;

(34) to prescribe what accommodation any person licensed under section 65A shall provide free of cost for such proper officers as the Director General may deem to be necessary for the control of the licensed premises;

(35) to regulate the conduct of all matters relating to duty freeshops;

(35A) to regulate the movement of goods into and from the Joint Development Area;

(35B) to determine the customs value of imported goods;

(36) generally to give effect to the provisions of this Act.

PART XVI

GENERAL

Appeal from decision of Director General

143. Where it is provided in this Act that the decision on any matter rests with the Director General then unless it is specifically provided that such decision is at the absolute discretion of the Director General, any person aggrieved by such decision may appeal therefrom to the Minister whose decision shall be final.

Appeal on valuation of imported goods

143A. (1) Notwithstanding section 143, any person aggrieved by a decision of the Director General on the valuation of imported goods may appeal therefrom to the court.

- (2) On an appeal under subsection (1), the court may—
- (i) dismiss the appeal;
 - (ii) substitute for the amount decided upon by the Director General another amount; or
 - (iii) make such other decision as the court deems fit.

Power of Director General to charge fees

144. The Director General may charge such fee as he may consider reasonable in respect of any act or service done or rendered by the Customs Department which is not required to be done or rendered under this Act and for which no fee is prescribed by any written law.

Forms to be used

145. Where any forms have been prescribed under the provisions of paragraph 142(12), no person shall, for the purposes of this Act use any form which is not printed or issued by authority of the Director General:

Provided that the Director General may, at his discretion and subject to such conditions as he may deem fit to impose, permit any person to use forms which are not so printed or issued as aforesaid, or permit the use of any form submitted through an electronic data interchange.

PART XVII

SPECIAL PROVISIONS DEALING WITH PENANG

146–153. (*Deleted by Act 329*).

PART XVIII

SPECIAL PROVISIONS DEALING WITH LABUAN

Interpretation

154. In this Part, unless the context otherwise requires—

“Labuan” means the Island of Labuan and its dependent islands, *viz.* Rusukan Besar, Rusukan Kecil, Keraman, Burong, Papan and Daat;

“principal customs area” means Malaysia exclusive of Labuan, Langkawi and Tioman.

Customs duties on goods imported into or exported from Labuan or transported to or from Labuan from or to the principal customs area

155. (1) Notwithstanding anything to the contrary contained in this Act—

- (a) no import duty shall be payable upon any goods imported into Labuan, other than goods which the Minister may from time to time declare by order published in the *Gazette*;
- (b) no export duty shall be payable upon any goods exported from Labuan;
- (c) import duty shall be payable upon all dutiable goods transported to the principal customs area from Labuan to all intents as if such transportation to the principal customs area were importation into Malaysia;
- (d) export duty shall be payable upon all dutiable goods transported from the principal customs area to Labuan to all intents as if such transportation from the principal customs area were export from Malaysia;
- (e) the Minister may, by order, prescribe the meaning of the word “value” in relation to goods transported from Labuan to the principal customs area.

(2) Subsections 11(2), (3), (4) and (5) shall apply to any order made by the Minister under paragraph (1)(a).

(3) Nothing in this section shall render inapplicable to Labuan any other customs duty which may be fixed by the Minister under subsection 11(1).

Transportation of goods to or from Labuan from or to the principal customs area

156. Where goods are transported—

- (a) from Labuan to the principal customs area; or
- (b) from the principal customs area to Labuan,

the provisions of this Act shall, with such modifications and adaptations as may be necessary, apply as if such goods were imported into, or as the case may be, exported from, the principal customs area from or to a place outside Malaysia, and without prejudice to the above generality, the provisions of Part XII shall

apply to goods transported to or from Labuan from or to the principal customs area and to persons and vessels and aircraft transporting such goods as if Labuan were a place outside Malaysia.

Declaration of goods transported from Labuan to the principal customs area

157. The person in charge of any vessel or aircraft on which goods are transported from Labuan to the principal customs area shall make a declaration substantially in the prescribed form giving particulars of the goods transported in such vessel or aircraft.

Dutiable goods to be deemed to be non-dutiable while in Labuan

158. Except for the purposes of section 48, any dutiable goods, other than goods declared by the Minister under paragraph 155(1)(a) or deemed to have been declared by the Minister under that section, shall, while in Labuan, be deemed to be non-dutiable goods and the provisions of this Act shall be construed accordingly.

Collection of duties in Labuan

159. In making regulations under section 142 the Minister may provide—

- (a) for the collection in Labuan of customs duties payable in respect of goods transported or about to be transported from or to Labuan to or from the principal customs area;
- (b) for the limitation or restriction of vessels and aircraft which may be used to transport such goods; and
- (c) for the licensing or control of persons or vessels or aircraft transporting such goods.

Application of Part X to goods transported to Labuan

160. The provisions of Part X (which deals with drawback) shall apply to goods (other than goods declared by the Minister under paragraph 155(1)(a) or deemed to have been declared by the Minister under that section), transported from the principal customs area to Labuan as if such goods had been re-exported.

PART XIX

SPECIAL PROVISIONS DEALING WITH SABAH AND SARAWAK

Agreements between Sabah and Sarawak relating to movement of goods

161. Notwithstanding anything to the contrary contained in this Act any agreement in force in respect of Sabah and Sarawak relating to the movement of goods between those States shall, until the Minister otherwise directs, have effect with such modifications as the Minister may specify by notification in the *Government Gazettes* of Sabah and Sarawak.

Saving in respect of vessels entering territorial waters due to circumstances beyond the Master's control or in respect of local craft from any other place without clearance or manifest

162. Notwithstanding anything to the contrary contained in this Act, sections 44 and 45 shall not apply in Sabah and Sarawak to—

- (a) any vessel, the Master of which satisfies the proper officer of customs that its entry into the waters of Malaysia was due to circumstances beyond his control, and that its entry and the reason therefor was at the first possible opportunity reported to the nearest customs or police authority, and that after such entry no person on board or connected with the vessel has done any act contrary to any written law; or
- (b) any local craft if the person in charge thereof can show to the satisfaction of a proper officer of customs that he has come from a place of departure from which it is unusual to grant or carry clearances or manifests.

Time and manner of payment of duty in Sarawak

163. Notwithstanding anything to the contrary contained in this Act, all customs duties payable in Sarawak under this Act shall be paid within such period after the date of importation or exportation, or loading of the goods for transshipment for export, as the case

may be, as the Minister may by regulation made hereunder provide, or in default of any such regulation, before such goods are removed from customs control:

Provided that the customs duty on goods stored in a customs licensed or approved warehouse in accordance with any regulation made hereunder in that behalf shall be paid at such time and in such manner as may be prescribed by such regulations.

PART XIXA

SPECIAL PROVISIONS DEALING WITH LANGKAWI

Interpretation

163A. In this Part, unless the context otherwise requires—

“Langkawi” means the Langkawi Island and all adjacent islands lying nearer to Langkawi Island than to the mainland;

“principal customs area” means Malaysia exclusive of Labuan, Langkawi and Tioman.

Customs duties relating to Langkawi

163B. (1) Notwithstanding anything to the contrary contained in this Act—

- (a) no import duty shall be payable upon any goods imported into Langkawi, other than goods which the Minister may from time to time declare by order published in the *Gazette*;
- (b) no export duty shall be payable upon any goods exported from Langkawi, other than any goods which the Minister may from time to time declare by order published in the *Gazette*;
- (c) import duty shall be payable upon all dutiable goods transported to the principal customs area from Langkawi as if such transportation to the principal customs area were importation into Malaysia;
- (d) export duty shall be payable upon all dutiable goods transported from the principal customs area to Langkawi to all intents as if such transportation from the principal customs area were export from Malaysia; and

(e) the Minister may by order, prescribe the meaning of the word “value” in relation to goods transported from Langkawi to the principal customs area.

(2) Subsections 11(2), (3), (4) and (5) shall apply to any order made by the Minister under paragraph (1)(a) or (b).

(3) Nothing in this section shall render inapplicable to Langkawi any other customs duty which may be fixed by the Minister under subsection 11(1).

Transportation of goods to or from Langkawi from or to the principal customs area

163c. Where goods are transported—

- (a) from Langkawi to the principal customs area; or
- (b) from the principal customs area to Langkawi,

the provisions of this Act, other than sections 81, 82, 83, 84, 85, 86, 87 and 87A thereof, shall with such modifications and adaptations as may be necessary, apply as if such goods were imported into, or as the case may be, exported from, the principal customs area from or to a place outside Malaysia, and without prejudice to the above generality, Part XII shall apply to goods transported to or from Langkawi from or to the principal customs area and to persons and vehicles transporting such goods as if Langkawi were a place outside Malaysia.

Declaration of goods transported from Langkawi into the principal customs area

163d. The person in charge of any vessel or aircraft on which goods are transported from Langkawi to the principal customs area shall make a declaration substantially in the prescribed form giving particulars of the goods transported in such vessel or aircraft.

Dutiable goods to be deemed to be non-dutiable while in Langkawi

163e. Except for the purpose of section 48, any dutiable goods, other than goods declared by the Minister under paragraph 163b(1)(a) or deemed to have been declared by the Minister under that section, shall while in Langkawi, be deemed to be non-dutiable goods and the provisions of this Act shall be construed accordingly.

Collection of duties in Langkawi

163F. In making regulations under section 142, the Minister may provide for the collection in Langkawi of the customs duties payable in respect of goods transported or about to be transported from or to Langkawi to or from the principal customs area.

Application of Part X to goods transported to Langkawi

163G. The provisions of Part X which deals with drawback shall apply to goods other than goods declared by the Minister under paragraph 163B(1)(a) or deemed to have been declared by the Minister under that section, transported from the principal customs area to Langkawi as if such goods had been exported.

PART XIXB

SPECIAL PROVISION DEALING WITH THE JOINT
DEVELOPMENT AREA**Movement of goods into or from Joint Development Area**

163H. (1) The movement of goods from a country other than Malaysia or the Kingdom of Thailand or from a licensed warehouse of Malaysia or the Kingdom of Thailand into the Joint Development Area shall be deemed to be an importation of such goods into the Joint Development Area.

(2) The movement of goods produced in the Joint Development Area from the Joint Development Area into Malaysia, the Kingdom of Thailand or any other country shall be deemed to be an exportation of such goods from the Joint Development Area.

(3) The movement of goods from Malaysia or the Kingdom of Thailand into the Joint Development Area for use in the Joint Development Area and the movement of such goods from the Joint Development Area into Malaysia or the Kingdom of Thailand shall be deemed to be an internal movement of such goods.

Customs duty payable on importation into or exportation from Joint Development Area

163i. (1) Import duty shall be payable on all goods imported into the Joint Development Area.

(2) Export duty shall be payable on all goods exported from the Joint Development Area.

PART XIXC

SPECIAL PROVISIONS DEALING WITH TIOMAN

Interpretation

163j. In this Part, unless the context otherwise requires—

“Tioman” means the Island of Tioman and the islands of Soyak, Rengis, Tumok, Tulai, Chebeh, Labas, Sepoi and Jahat;

“principal customs area” means Malaysia exclusive of Labuan, Langkawi and Tioman.

Customs duties relating to Tioman

163k. (1) Notwithstanding anything to the contrary contained in this Act—

- (a) no import duty shall be payable upon any goods imported into Tioman, other than goods which the Minister may from time to time declare by order published in the *Gazette*;
- (b) no export duty shall be payable upon any goods exported from Tioman, other than goods which the Minister may from time to time declare by order published in the *Gazette*;
- (c) import duty shall be payable upon all dutiable goods transported to the principal customs area from Tioman as if such transportation to the principal customs area were importation into Malaysia;
- (d) export duty shall be payable upon all dutiable goods transported from the principal customs area to Tioman to all intents as if such transportation from the principal customs area were export from Malaysia; and

- (e) the Minister may by order, prescribe the meaning of the word “value” in relation to goods transported from Tioman to the principal customs area.

(2) Subsections 11(2), (3), (4) and (5) shall apply to any order made by the Minister under paragraph 1(a) or (b).

(3) Nothing in this section shall render inapplicable to Tioman any other customs duty which may be fixed by the Minister under subsection 11(1).

Transportation of goods from or to Tioman to or from the principal customs area

163L. Where goods are transported—

- (a) from Tioman to the principal customs area; or
(b) from the principal customs area to Tioman,

the provisions of this Act, other than sections 81, 82, 83, 84, 85, 86, 87 and 87A thereof, shall with such modifications and adaptations as may be necessary, apply as if such goods were imported into, or as the case may be, exported from, the principal customs area from or to a place outside Malaysia, and without prejudice to the above generality, Part XII shall apply to goods transported to or from Tioman from or to the principal customs area and to persons and vehicles, vessels and aircraft transporting such goods as if Tioman were a place outside Malaysia.

Declaration of goods transported from Tioman to the principal customs area

163M. The person in charge of any vessel or aircraft on which goods are transported from Tioman to the principal customs area shall make a declaration substantially in the prescribed form giving particulars of the goods transported in such vessel or aircraft.

Dutiable goods to be deemed to be non-dutiable while in Tioman

163N. Except for the purpose of section 48, any dutiable goods, other than goods declared by the Minister under paragraph 163K(1)(a) or deemed to have been declared by the Minister under that section shall, while in Tioman, be deemed to be non-dutiable goods and the provisions of this Act shall be construed accordingly.

Collection of duties in Tioman

163o. In making regulations under section 142, the Minister may provide for the collection in Tioman of the customs duties payable in respect of goods transported or about to be transported from or to Tioman to or from the principal customs area.

Application of Part X to goods transported to Tioman

163p. The provisions of Part X which deals with drawback shall apply to goods other than goods declared by the Minister under paragraph 163κ(1)(a) or deemed to have been declared by the Minister under that section, transported from the principal customs area to Tioman as if such goods had been exported.

PART XX

SINGAPORE PREVENTIVE VESSELS

Interpretation

164. In this Part—

“Singapore preventive vessel” means any vessel owned or employed by the Government of Singapore for the prevention of smuggling;

“preventive flag” means a flag prescribed under subsection 142(11).

Powers of master of Singapore preventive vessels

165. It shall be lawful for the master or other persons having the charge or command of a Singapore preventive vessel, on hoisting a preventive flag, to exercise with such assistance as he may consider necessary within the territorial waters or upon any vessel or is let therein, or upon any landing place or wharf abutting thereon, all the powers conferred by sections 109, 110, 114 and subsection 116(1).

How person arrested dealt with

166. Every person arrested and every article seized under the powers conferred by section 165 shall, without unnecessary delay, be taken to a police station or to a customs office.

Offence

167. Any person who obstructs or hinders any person lawfully exercising any of the powers conferred by section 165 or any person acting in his assistance shall be guilty of an offence against this Act.

Master and crew of Singapore preventive vessel to be public servants

168. The master or other person having the charge or command of a Singapore preventive vessel and all members of the crew thereof shall, while such vessel is within the territorial waters, be deemed to be public servants within the meaning of the Penal Code.

PART XXI

REPEAL

Repeal and saving

169. (1) The written laws specified in the Schedule are hereby repealed.

(2) Unless the contrary intention appears in this Act—

- (a) all persons, things and circumstances appointed or created by or under any of the laws repealed by subsection (1) or existing or continuing under any of such laws immediately before the commencement of this Act shall, under and subject to this Act and regulations made thereunder, continue to have the same status, operation and effect as they respectively would have had as if such laws had not been so repealed; and

(b) in particular and without effecting the generality of paragraph (a) such repeal shall not affect licences, permits, appointments, orders, rules and regulations issued or made under or by virtue of the aforesaid laws and in force immediately before the commencement of this Act and such licences, permits, appointments, orders, rules and regulations shall remain in force and shall continue to remain in force as if every such licence, permit, appointment, order, rule or regulation were issued or made under and by virtue of this Act until replaced or revoked by any licence, permit, appointment, order, rule or regulation made under or by virtue of this Act.

SCHEDULE

[Section 169]

Customs Ordinance 1952 of the States of Malaya	F.M. Ordinance No. 42 of 1952
Customs Ordinance of Sabah	Sabah Cap. 33
Customs Ordinance of Sarawak	Sarawak Cap. 26

LAWS OF MALAYSIA**Act 235****CUSTOMS ACT 1967**

LIST OF AMENDMENTS

Amending law	Short title	In force from
P.U. (A) 92/1970	Emergency (Essential Powers) Ordinance No. 26, 1970 (Part VI, Second Schedule)	08-03-1970
Act 24	Free Trade Zones Act 1971	20-01-1972
Act A147	Customs (Amendment) Act 1972	06-10-1972
Act A161	Customs (Amendment) Act 1973	01-01-1973
Act A187	Customs (Amendment) (No. 2) Act 1973	30-03-1973
Act A241	Customs (Amendment) Act 1974	15-03-1974
Act A313	Customs (Amendment) Act 1975	15-08-1975
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
Act A352	Customs (Amendment) Act 1976	01-06-1976
Act A434	Subordinate Courts (Amendment) Act 1978	01-07-1978
Act 293	Finance Act 1983	Chapter XII: 21-10-1983
Act 329	Finance (No. 2) Act 1986	Chapter XII: 01-01-1987
Act A783	Customs (Amendment) Act 1990	31-08-1990
Act 451	Finance Act 1991	Chapter V: 14-12-1990
Act 438	Free Zones Act 1990	05-09-1991

Amending law	Short title	In force from
Act A873	Customs (Amendment) Act 1994	04-03-1994
Act A921	Customs (Amendment) Act 1995	21-07-1995
Act A960	Customs (Amendment) Act 1996	13-09-1996
Act 557	Finance Act 1997	Chapter VIII: 25-10-1996
Act 578	Finance Act 1998	Chapter VII: 17-10-1997; paragraph 38(<i>d</i>), section 47, 48, 49, 51 and 52: 01-01-2000;
Act A1057	Customs (Amendment) Act 1999	09-07-1999
Act A1109	Customs (Amendment) Act 2001	09-07-2001
Act A1162	Customs (Amendment) Act 2002	09-07-2002
Act A1181	Customs (Amendment) (No. 2) Act 2002	01-01-2003

LAWS OF MALAYSIA

Act 235

CUSTOM ACT 1967

LIST OF SECTIONS AMENDED

Section	Amending Authority	In force from
2	Act A24	20-01-1972
	Act A147	06-10-1972
	Act A313	15-08-1975
	Act A352	01-06-1976
	Act A783	31-08-1990
	Act A438	05-09-1991
	Act A873	04-03-1994
	Act A921	21-07-1995
	Act A960	13-09-1996
	Act A1057	09-07-1999
	Act A578	17-10-1997; except paragraph 38(d)
3	Act A147	06-10-1972
	Act A783	31-08-1990
	Act A921	21-07-1995
8A	Act A921	21-07-1995
9	Act A921	21-07-1995
9A	Act A921	21-07-1995
11	Act A187	30-03-1973
	Act A293	21-10-1983
	Act A921	21-07-1995
13	Act A921	21-07-1995
13A	Act A921	21-07-1995
13B	Act A921	21-07-1995
14	Act 293	21-10-1983
14A	Act 293	21-10-1983

Section	Amending Authority	In force from
16	Act 293 Act A1057	21-10-1983 09-07-1999
17	Act A313 Act A783	15-08-1975 31-08-1990
5	Act A147	06-10-1972
17A	Act A1057	09-07-1997
18	Act A783	31-08-1990
19	Act A1109	06-07-2001
21	Act 578	17-10-1997
22A	Act A921	21-07-1995
22B	Act A921	21-07-1995
22C	Act A1109	06-07-2001
23	Act A313	15-08-1975
24	Act 578	17-10-1997
26	Act A313	15-08-1975
29	Act 578	17-10-1997
29A	Act A293	21-10-1983
35	Act 578	17-10-1997
39	Act A241	15-03-1974
44	Act A783	31-08-1990
55	Act A783	31-08-1990
57	Act 293	21-10-1983
65	Act 557	25-10-1996
65A	Act A161	01-01-1973
65B	Act A1057	09-07-1999
65C	Act A313 Act A1057	15-08-1975 09-07-1999

Section	Amending Authority	In force from
65D	Act A783	31-08-1990
65E	Act A783	31-08-1990
66	Act A783 Act 578	31-08-1990 17-10-1997
69	Act 293	21-10-1983
75	Act 293	21-10-1983
78	Act A783	31-08-1990
80	Act 578	17-10-1997
81	Act A352	01-06-1976
83	Act A352	01-06-1976
84	Act A352	01-06-1976
87A	Act 578	17-10-1997
90	Act A783 Act A1181	31-08-1990 01-01-2003
91	Act A783 Act A1181	31-08-1990 01-01-2003
91A	Act 578	17-10-1997
92A	Act A873	04-03-1994
93	Act 293	21-10-1983
99	Act 293 Act A783 Act A873 Act A1057	21-10-1983 31-08-1990 04-03-1994 09-07-1999
100A	Act 578	01-01-2000
102	Act A1057 Act A1109	09-07-1999 06-07-2001
Heading to Part XII	Act A1109	06-07-2001
106A	Act A1109	06-07-2001
106B	Act A1109	06-07-2001

Section	Amending Authority	In force from
111A	Act A313	15-08-1975
111B	Act A1109	06-07-2001
113	Act A1109	06-07-2001
115	Act A313 Act A783 Act 578 Act A1109	15-08-1975 31-08-1990 01-01-2000 06-07-2001
115A	Act A313	15-08-1975
116	Act A1109	06-07-2001
116A	Act A1109	06-07-2001
116B	Act A1109	06-07-2001
116C	Act A1109	06-07-2001
116D	Act A1109	06-07-2001
117	Act A1109	06-07-2001
118	Act A434	01-07-1978
120	Act A1109	06-07-2001
121	Act 293	21-10-1983
122A	Act 293	21-10-1983
122B	Act 293	21-10-1983
122C	Act A873	04-03-1994
122D	Act A1057	09-07-1999
123	Act 293	21-10-1983
124A	Act A1109	06-07-2001
125A	Act 578	01-01-2000
127	Act 783	31-08-1990
128	Act A783	31-08-1990
129	Act A783 Act A921	31-08-1990 21-07-1995

Section	Amending Authority	In force from
131	Act A293	21-10-1983
	Act A783	31-08-1990
	Act 921	21-07-1995
	ActA1109	06-07-2001
133	Act 578	17-10-1997
	Act A1109	06-07-2001
135	Act 293	21-10-1993
	Act A1109	06-07-2001
136	Act A1109	06-07-2001
137	Act 293	21-10-1983
138	Act 293	21-10-1983
	Act A783	31-10-1990
	Act A921	21-07-1995
	Act A1109	06-07-2001
140	Act A1109	06-07-2001
142	Act A313	15-08-1975
	Act A352	01-06-1976
	Act A783	31-08-1990
	Act A960	13-09-1996
	Act 578	01-01-2000
143A	Act 578	01-01-2000
145	Act A873	04-03-1994
146-153	Act 329	01-01-1987
154	Act 329	01-01-1987
	Act A1162	01-09-2002
155	Act 451	14-12-1990
	Act A1162	01-09-2002
158	Act 451	14-12-1990
	Act A1162	01-09-2002
160	Act 451	14-12-1990
	Act A1162	01-09-2002
163A	Act 329	01-01-1987
	Act 1162	01-09-2002
163B	Act 329	01-01-1987
	Act A1162	01-09-2002

Section	Amending Authority	In force from
163C	Act 329	01-01-1987
	Act A1162	01-09-2002
163D	Act 329	01-01-1987
163E	Act 329	01-01-1987
	Act A1162	01-09-2002
163F	Act 329	01-01-1987
163G	Act 329	01-01-1987
	Act A1163	01-09-2002
163H	Act A960	13-09-1996
163I	Act A960	13-09-1996
	Act A1162	01-09-2002
163J	Act A1162	01-09-2002
163K	Act A1162	01-09-2002
163L	Act A1162	01-09-2002
163M	Act A1162	01-09-2002
163N	Act A1162	01-09-2002
163O	Act A1162	01-09-2002
163P	Act A1162	01-09-2002

