

CHAPTER 16.

CUSTOMS.

1 of 1943.
3 of 1946.

AN ORDINANCE TO CONSOLIDATE AND EXTEND THE LAW
RELATING TO CUSTOMS.

[6th December, 1943.]

Short title

1. This Ordinance may be cited as the Customs Ordinance.

Definitions.

2. In this Ordinance and in any other Ordinance relating to the Customs, unless the context otherwise requires—

“Agent”, in relation to the master or owner of an aircraft or ship, includes any person who notifies the Collector in writing that he intends to act as the agent, and who or on whose behalf any person authorised by him signs any document required or permitted by the customs laws to be signed by an agent; provided that the owner of any aircraft or ship, if resident or represented in the Colony, shall be deemed to be the agent of the master for all the purposes of the customs laws, if no such agent be appointed;

“Aircraft” includes balloons, kites, gliders, airships, and flying machines;

“Approved place of unloading” and “approved place of loading” mean respectively any quay, jetty, wharf or other place, including any part of an aerodrome, appointed by the Governor by notice in the *Gazette* to be a place where coastwise or imported goods or goods about to be carried coastwise or exported may be unloaded or loaded;

“Boarding station” means any station or place appointed by the Governor by notice in the *Gazette* to be a station or place for aircraft or ships arriving at or departing from any port or place to bring to for the boarding or setting down of Officers;

“Burden” means net registered tonnage, or tonnage

[Note. This Ordinance is declared to be in force in the Dependencies by the Application of Colony Laws Ordinance, Cap. 1 (D.S.), and has applied to the Dependencies since 1st May, 1948.]

calculated in the manner prescribed by law for ascertaining net registered tonnage;

“Cargo” means any goods imported other than ships’ stores and the *bona-fide* luggage of passengers.

“Carriage” includes every description of conveyance for the transport by land of human beings or property;

“Collector” means the Collector of Customs and includes any Deputy Collector;

“Customs Area” means any place appointed to be a customs area by the Collector by notice in writing under his hand;

“Customs laws” includes this Ordinance and any legislative enactment relating to the customs, and any proclamation, rule, regulation, resolution or Order in Council made under the authority of any law relating to the customs;

“Drawback” means a refund of all or part of any duty of customs authorised by law in respect of goods exported or used in any particular manner;

“Duty” includes any tax or sur-tax imposed by the customs laws;

“Entered” in relation to goods imported, warehoused, put on board an aircraft or ship as stores or exported means the acceptance and signature by the proper Officer of an entry, specification, or shipping bill and declaration signed by the importer or exporter on the prescribed form in the prescribed manner, together with the payment to the proper Officer by the importer or exporter of all rents and charges due to the Government in respect of the goods, and in the case of dutiable goods (except on the entry for warehousing of imported goods), the payment by the importer or exporter to the proper Officer of the full duties due thereon, or else, where permitted, the deposit of a sum of money or giving of security for the duties, as provided by law, or, in the case of goods for which security by bond is required on the exportation, putting on board an aircraft or ship as stores or removal of such goods, the giving of such security;

“Export” with its grammatical variations and cognate expressions, means to take or cause to be taken out of the Colony or the waters thereof;

"Exporter" includes any person by whom any goods (including goods transferred from an importing aircraft or ship) are exported from the Colony or supplied for use as aircraft's or ship's stores in accordance with section 134, 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;

"Goods" includes all kinds of goods, wares, merchandise and livestock;

"Hulk" shall mean any vessel which has been condemned or dismantled;

"Import" with its grammatical variations and cognate expressions, means to bring or cause to be brought within the Colony or the waters thereof;

"Importer" includes the owner or any other person for the time being possessed of or beneficially interested in any goods at and from the time of the importation thereof until the same are duly delivered out of the charge of the Officers, and also any person who signs any document relating to any imported goods required by the customs laws to be signed by an importer;

"King's warehouse" means any warehouse or hulk or place whatsoever for the time being occupied or used by the Collector for the deposit of goods for security thereof or of the duty thereon;

"Master" includes the person having or taking the charge or command of any aircraft or ship;

"Name" includes the registration mark of an aircraft;

"Obscuration" means the difference, caused by matter in solution, between the actual strength of spirits and the apparent strength as indicated by the hydrometer;

"Occupier" includes any person who signs as principal any bond in respect of any building or place used for the deposit of goods for the security thereof or of the duties thereon under the customs laws;

"Offence against the customs laws" includes any act of any person contrary to the customs laws or any failure of any person to perform an act required by the customs laws to be performed by him;

"Officer" shall mean any person, temporarily or otherwise an officer of customs, duly appointed in writing by the Governor or Collector, and shall include all police constables;

"Owner of goods" includes any person who is for the time being entitled, either as owner or agent for the owner, to the possession of any goods;

"Over the Colony" means above the area contained within the imaginary lines bounding the Colony and the waters thereof; and if any person, goods or thing shall descend or fall or be dropped or thrown from any aircraft within such area, such person, goods or thing shall be deemed to have descended or fallen, or to have been dropped or thrown from an aircraft over the Colony;

"Place" shall (unless such meaning shall be repugnant to the context) mean any Bay or other part of the Colony which shall not be a "Port of Entry" as defined below;

"Port" and "Port of Entry" shall mean the port of Stanley or Fox Bay, and include any place where a collector shall be stationed, and any place hereafter declared a port by the Governor in Council by notice published in the *Gazette*; and any customs aerodrome, whether within a port or not, shall be deemed to be a port for aircraft;

"Private warehouse" means any building or place or hulk appointed by the Governor by notice in the *Gazette* to be a private warehouse;

"Prohibited goods" and "Restricted goods" mean respectively any goods the importation or exportation of which is prohibited or restricted by law;

"Proof spirit" means such spirit as, at the temperature of 51 degrees Fahrenheit, shall weigh 12/13ths of the weight of an equal measure of distilled water; 3 of 1946.

"Proper Officer" means any officer whose right or duty it may be to exact the performance of, or to perform, the act referred to;

"Ship" includes any ship, boat, lighter, or other floating craft of any description other than a hulk as herein defined but does not include aircraft;

"Ship's stores" means any goods required for consumption or use by or for an aircraft or ship, its officers, crew and passengers;

"Sufferance wharf" means any place, other than an approved place of loading or unloading, at which the Collector 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;

"Transit shed" means any building in a customs area appointed to be a transit shed by the Collector by notice in writing under his hand;

"Uncustomed goods" includes goods liable to duty on which the full duties due have not been paid, and any goods, whether liable to duty or not, which are imported or exported or in any way dealt with contrary to the customs laws;

"Warehoused" means deposited in a King's or private warehouse;

"Warehouse-keeper" means the owner or occupier of a private warehouse;

"Waters of the Colony" means any waters within a space contained within an imaginary line drawn parallel to the shores or outer reefs of the Colony which appear above the surface at low water mark at ordinary spring tides and distant three miles therefrom.

Officers to
have powers
of members
of the Police
Force.

3. For the purpose of carrying out the provisions of the customs laws all officers shall have the same powers, authorities and privileges as are given by law to members of the Police Force.

Their acts to
be deemed
acts of
collector,
etc.

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

such purpose, if done by, with, to or before any person appointed by the Collector to act for such particular officer, shall be deemed to be done by, with, to or before such particular officer; and every act required by law to be done at any particular place within any port, if done at any place within such port appointed by the Collector for such purpose, shall be deemed to be done at the particular place so required by law.

DUTIES, PROHIBITIONS, DRAWBACKS AND REFUNDS OF DUTY.

5. It shall be lawful for the Legislative Council from time to time by resolution to impose import or export duties of customs upon any goods whatsoever which may be imported into or exported from the Colony, and to revoke, reduce, increase or alter any such duties, and to provide for the importation or exportation of any goods without payment of customs duty thereon: Provided that all duties of customs and all exemptions from duties of customs which are by law in force at the commencement of this Ordinance shall continue in force until revoked, reduced, increased or altered in the manner provided in this Ordinance.

Customs
duties.

3 of 1946.

6. (1) Notwithstanding anything contained in the preceding section, the Governor in Council may by order (a) increase or reduce any import or export duty of customs, or (b) impose new import or export duties of customs, and from the date of publication of such order in the *Gazette* and until the expiry of such order, the duties specified in such order shall be payable in lieu of any duties payable prior thereto: Provided that where any duty is reduced by any such order the person by whom any goods liable to the reduced duty are entered shall pay the reduced duty and in addition shall deposit with the proper officer the difference between the duty payable prior to the date of the order and the duty payable under the order until the order expires as hereinafter provided.

Governor in
Council may
make interim
order.

3 of 1946.

(2) Every order issued by the Governor in Council under this section shall after four days and within twenty-one days from the date of its first publication be submitted to the Legislative Council and the Legislative Council may by resolution confirm, amend or revoke such order, and upon publication of the resolution of the Legislative Council in the

Interim
order to be
confirmed,
amended or
revoked by
Legislative
Council.

Gazette the resolution shall have effect and the order shall then expire. If the order be not submitted within the said period of twenty-one days to the Legislative Council for confirmation it shall *ipso facto* expire.

Excess duty
to be
refunded
when order
expires.

7. (1) So much of the duties as shall have been paid under the order of the Governor in Council as may be in excess of the duties payable immediately after the expiry of such order shall be repaid to the persons who paid the same.

Refund of
deposit.

(2) So much of any sums which have been deposited in accordance with the proviso to section 6 (1) as, together with the duty paid, shall be equal to the duties payable after the expiry of the order, shall be brought to account by the Collector as duties of customs, and the balance, if any, shall be refunded to the depositor.

Governor in
Council may
remit duties.

8. It shall be competent for the Governor in Council, upon application by the importer or exporter, to remit or refund in whole or in part any customs duty whenever he shall deem it expedient so to do.

British
preferential
and general
tariffs.

9. (1) Any order or resolution made or passed in accordance with section 5, may impose different rates of import duty upon goods which are shown to the satisfaction of the Collector to have been (1) consigned from a part of the British Empire and (2) either (a) to be the produce of the British Empire, or (b) to have been manufactured in the British Empire (such duties to be distinguished in the order or resolution as duties imposed under the British Preferential Tariff), and upon goods not shown to the satisfaction of the Collector to have been so consigned and produced or manufactured (such duties to be distinguished as duties imposed under the General Tariff).

Regulations.

(2) Notwithstanding the provisions of the preceding subsection, no goods shall be admitted under the British Preferential Tariff unless the importer shall comply with regulations which the Governor in Council is hereby authorised to make in relation thereto.

Time of
entry to
govern duty
payable.

10. All goods deposited in any warehouse without payment of duty on the first importation thereof, or which may be imported or exported, and shall not have been entered for use within the Colony, or for exportation, as the case may be,

shall, upon being entered for use within the Colony, or for exportation, as the case may be, be subject to such duties as may be due and payable on the like sort of goods under the customs laws in force at the time when the same are entered, save in cases where special provision shall be made to the contrary.

11. (1) Where by entry, bond, removal of goods, or otherwise, any obligation has been incurred for the payment of duties of customs, such obligation shall be deemed to be an obligation to pay all duties of customs which may become legally payable, or which are made payable or recoverable under the customs laws, and to pay the same as the same become payable.

Effect of
obligation to
pay duties.

(2) When any duty has been short levied or erroneously refunded, the person who should have paid the amount short levied, or to whom the refund has erroneously been made, shall pay the amount short levied, or repay the amount erroneously refunded, on demand being made by the Collector.

12. Where any goods, being of a class or description liable to any import duty of customs, are re-imported into and entered for use within the Colony after exportation therefrom, and it is shown to the satisfaction of the Collector that any duty of customs chargeable in respect of the goods prior to their exportation was duly paid, either prior to exportation or at any subsequent time, and either that no drawback of any such duty was allowed on exportation, or that any drawback so allowed has been repaid to the Collector, then—

Duty on
goods re-
imported.

- (a) if it is further shown as aforesaid that the goods have not been subjected to any process abroad, or having been so subjected (and without change of their form or character) are goods not liable at the time of their re-importation to duty *ad valorem*, the goods shall be exempt from any such duty when the same are entered for use within the Colony after re-importation, unless the rate of duty of customs chargeable on goods of the same class or description at the time when the same are entered for use within the Colony after re-importation shall exceed the rate paid on the said goods on first importation and entry, in which case such goods shall be chargeable

with duty at a rate equal to the difference between the rate at which the duty previously paid was calculated and the rate in force at the date when such goods are entered for use within the Colony after re-importation;

- (b) if the goods at the time when the same are entered for use within the Colony after re-importation are of a class or description liable to an import duty *ad valorem*, and it is further shown as aforesaid that the goods have been subjected to a process of repair, renovation or improvement abroad, but that their form and character has not been changed, such goods shall be chargeable with duty as if the amount of the increase in the value of the goods attributable to the process were the whole value thereof, and, where any sum has been contracted to be paid for the execution of the process, the sum shall be *prima facie* evidence of that amount; but without prejudice to the powers of the Collector under the customs laws as to the ascertainment of the value of the goods for the purpose of assessing duty thereon *ad valorem*.

Provided that if the rate of duty of customs chargeable on goods of the same class or description at the time when the same are entered for use within the Colony after re-importation shall exceed the rate paid on the said goods on first importation and entry, then in such case, in addition to the *ad valorem* duty chargeable hereunder according to the amount of the increase in the value of the goods attributable to the process, such goods shall be chargeable with additional customs duty calculated in the manner set out in paragraph (a) of this section, as if such goods had not been subjected to any process of repair, renovation or improvement abroad.

In case of dispute, importer to deposit the duty demanded.

13. (1) If any dispute shall arise as to the proper rate or amount of duty payable on any goods imported into or exported from the Colony, the importer, consignee, or exporter, or his agent, shall deposit in the hands of the Collector the duty demanded by him, which shall be deemed and taken to be the proper duty payable, unless proceedings shall be commenced by the importer or exporter of such goods, within three months after such deposit, against the Collector, to ascertain whether any and what duty is payable

on such goods; and on payment of such deposit, and on the passing of a proper entry or shipping bill for such goods by the importer, exporter, consignee, or agent, the Collector shall cause delivery or permit shipment thereof, as the case may be.

(2) All such deposits shall be paid by the Collector to the Treasurer, and, in case no such proceedings shall be brought within the time limited for that purpose, such deposit shall be retained and applied to the use of the Colony in the same manner as if it had been originally paid and received as the duty due on such goods; and in case of such proceedings, if it shall be determined that the duty so deposited was not the proper duty, but that a less duty was payable, the difference between the deposit and the duty found to be due, or the whole deposit, as the case may require, shall be returned to such importer or exporter.

(3) Notwithstanding anything hereinbefore contained in this section, it shall be lawful for the importer, after having made the deposit as aforesaid, to request the Governor in Council to decide the dispute on such terms and conditions as the Governor in Council shall deem equitable, in which event the decision of the Governor in Council shall have effect and be final.

14. (1) For the purpose of any enactment for the time being in force whereunder a duty of customs is chargeable on goods by reference to their value, the value of any imported goods shall be taken to be the price which they would fetch on a sale in the open market in the Colony at the time of importation. Value.

(2) For the purpose of computing the price aforesaid it shall be assumed—

(a) that the goods to be valued are to be delivered to the buyer at the port or place of importation, freight, insurance, commission and all other costs, charges and expenses incidental to the making of the contract of sale and the delivery of the goods at that port or place (except any duties of customs payable in the Colony and buying commission not exceeding five per centum of the total value which is shown to the satisfaction of the Collector to have been paid to an agent) having been paid by the seller; and

(b) that in converting the selling price of the said goods

from foreign currency to sterling, the rate of exchange is the selling rate for sight drafts at the principal port of the Colony first quoted on or after the date of importation; and

- (c) that any portion of any charge for primage which is refundable on the performance by the buyer of any specified conditions is not paid by the buyer, whether the buyer intends to fulfil such conditions or not; and
- (d) that the price is the sole consideration for the sale of the said goods; and
- (e) that neither the seller nor any person associated in business with him has any interest, direct or indirect, in the subsequent re-sale or disposal of the said goods; and
- (f) that there has not been and will not be any commercial relationship between the seller and the buyer, whether created by contract or otherwise, other than that created by the sale of the said goods.

(3) For the purposes of this section two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has any interest in the business or property of both of them.

(4) The value of any exported goods for the purpose of assessing duty *ad valorem* shall be determined in accordance with regulations which the Governor in Council is hereby authorised to make in relation thereto.

Duty payable on classification at highest rate.

15. If any article is enumerated in the tariff or can reasonably be classified under two or more names, headings or descriptions, and there is a difference of duty, the highest duty provided shall be charged and collected thereon.

Duty on composite goods.

16. Goods containing any article liable to duty as a part or ingredient thereof shall be liable to duty at the rate payable on such part or ingredient, and any goods composed of more than one article liable to duty shall be liable to duty at the rate payable on the article charged with the highest rate of duty: Provided that the highest rate shall not be exacted

in cases where the Collector in his discretion decides that the goods contain only a negligible proportion of the article liable to the highest rate: Provided also that in no case shall any less duty be charged on any such goods than the duty due thereon when considered as a whole without regard to their contents.

17. If any article subject to the payment of specific duty is imported in any package intended for sale, or of a kind usually sold with the goods when the same are sold retail, and marked or labelled, or commonly sold, as containing, or commonly reputed to contain, a specific quantity of such article, then such package shall be deemed to contain not less than such specific quantity.

Duty chargeable on reputed quantity.

18. If any article subject to the payment of duty according to the weight thereof is imported in any package intended for sale, or of a kind usually sold with the goods when the same are sold retail, and such package is not marked or labelled, or is not in the opinion of the Collector commonly sold as containing, or commonly reputed to contain, a specific quantity of such article, and the importer is not able to satisfy the Collector as to the correct net weight, the duty thereon shall be calculated according to the gross weight of such package and its contents.

On gross weight in certain cases.

19. It shall be lawful for the Governor by notice in the *Gazette* to specify, in gallons and fractions of a gallon, standard capacities for packages containing goods liable to duties according to the liquid measurement thereof, in all cases where, in his absolute discretion, he shall consider that such packages, being of sizes within limits to be specified in the notice, are reputed to be, or are sold as packages of standard sizes, whether or not any statement of the actual contents is contained on any label or other attachment to or part of such package, and thereupon all packages having capacities within the limits specified in any notice shall be deemed to contain the standard capacity in the notice in each case.

Governor may fix standard contents for packages containing liquids.

20. All duties, rates, charges and drawbacks imposed and allowed according to any specified quantity, or any specified value, or any particular description of package, shall be deemed to apply in the same proportion to any greater or less quantity or value or any other description of package,

Duties, etc., to be proportionate to quantity or value.

and shall be paid and received in any currency being legal tender in the Colony, and according to the weights and measures established by the laws of the Colony.

Abatement
of duty.

21 No claim for any abatement of duty in respect of any goods imported into the Colony shall be allowed on account of damage, unless such claim shall be made on the first examination thereof, nor unless it shall be proved to the satisfaction of the Collector that such damage was sustained before the delivery thereof out of the care of the Collector.

Derelect, etc.,
goods liable
to full duty
unless
damaged.

22. All goods derelict, jetsam, flotsam and wreck brought or coming into the Colony, and all droits of Admiralty sold in the Colony, shall at all times be subject to the same duty as goods of the like kind on importation into the Colony are subject, unless it shall be shown to the satisfaction of the Collector that such goods are damaged.

Damage to
be assessed
by Collector.

23. Subject to the provisions of sections 21, 24 and 25, the damage sustained by any goods shall be assessed by the Collector, who shall allow abatement of the duty in proportion to such damage.

No abate-
ment on
certain
goods.

24. No claim for abatement of duty on account of damage shall be allowed in respect of tobacco, cigars, cigarillos, cigarettes, wine and spirits.

Qualification
as to
abatement.

25. No claim for abatement of duty on account of damage shall be allowed in respect of imported goods (not being goods derelict, jetsam, flotsam, or wreck brought or coming into the Colony, or droits of Admiralty sold in the Colony) except on proof to the satisfaction of the Collector that the carrier or insurer of the goods has made an allowance to the importer in respect of the damage. In any such case the abatement shall not exceed such proportion of the duty as the amount of the allowance made bears to the value of the goods undamaged, calculated in accordance with section 14.

Limitations
as to wine
and beer.

26. No liquor containing more than forty-two per centum of proof spirit shall be deemed wine; and no liquor containing more than twenty per centum of proof spirit shall be deemed beer, ale, stout or porter. All liquor containing more than forty-two per centum of proof spirit, and all liquor, other

than wine, containing more than twenty per centum of proof spirit, shall be deemed spirits.

27. (1) In ascertaining the strength of any spirits, any obscuration shall be determined and allowed for. Strength of spirits.

(2) The certificate of the Collector as to the strength of any liquid containing alcohol shall be *prima facie* evidence of the strength thereof.

28. If any goods which are ordinarily liable to duty at a given rate are allowed by law to be, and are in fact, entered at a lower rate of duty, or free of duty, on any special conditions, or for use for some special purpose, or because they are the property of or intended for use by some particular person or functionary, and if such conditions are not observed, and the goods are at any time within two years of the date of importation thereof used for any other than the specified purpose, or, being goods entered as aforesaid because they are the property of or intended for use by some particular person or functionary, are sold or transferred to any other person, such goods, unless the full duties thereon shall have been paid, shall be forfeited, and the importer and any person who shall be knowingly concerned in the use of such goods contrary to such conditions, or for some purpose other than that specified or in any way contrary to this section, shall each incur a penalty of one hundred pounds, or treble the value of such goods, at the election of the Collector. Goods used contrary to purpose for which imported.

29. The importer of any such goods as aforesaid shall, on demand, produce them to any officer, or otherwise account for them to the satisfaction of the Collector, within such period of two years aforesaid, and if he shall fail to produce such goods, or otherwise account for the same as aforesaid, he shall incur a penalty of one hundred pounds, or treble the value of such goods, at the election of the Collector. Penalty for not producing goods.

30. The provisions of sections 28 and 29 shall not apply to goods imported by or for use of the Government, and sold or transferred by Government order. Saving as to goods of Government.

31. The Collector may give permission to any person to import any goods without payment of duty thereon, upon being satisfied that such goods are so imported for temporary use. Goods imported for temporary use.

use only. Such permission shall be subject to the provisions of section 33 and to the following conditions:

- (a) that such goods shall be exported within three months of the date of such permission, and
- (b) that the person to whom such permission is given shall deposit in the hands of the Collector the amount of the duty on such goods, or else give security therefor, at the election of the Collector.

Disposal of
deposit.

32. If any goods imported under the provisions of section 31 are not exported within three months of the date of the said permission, the deposit in the hands of the Collector shall be forfeited, or, if security has been given as aforesaid, then the importer shall pay to the Collector the full duties on such goods. If such goods are exported as aforesaid, such deposit shall be refunded, or the security cancelled: Provided that the Collector may, in his discretion, and on provision of additional security where he so requires, allow any additional period where he is satisfied that the articles are the *bona-fide* property or *bona fide* in the use of any person on a temporary visit to the Colony.

Certain
goods may
be excepted.

33. The Governor in Council may by notice in the *Gazette* declare that any goods named by him shall not be imported under the provisions of section 31 and may also declare that any goods which are permitted to be brought in under the said section shall be subject to such proportion of the duty thereon as he shall specify in such notice.

Contract
prices of im-
ported goods
may be
adjusted to
meet change
in duty.

34. (1) Where any new import duty of customs is imposed, or where any import duty of customs is increased, and any goods in respect of which the duty is payable are delivered on or 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, 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 import duty of customs is repealed or decreased, and any goods affected by the duty are delivered on or after the day on which the duty ceases 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 repeal 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.

(3) Where any addition to or reduction from the contract price may be made under this section on account of any new or repealed duty, such sum as may be agreed upon, or, in default of agreement, determined by the Collector as representing, in the case of a new duty, any new expenses incurred, and, in the case of a repealed duty, any expenses saved, may be included in the addition to or deduction from the contract price, and may be recovered or deducted accordingly.

35. It shall be lawful for the Governor from time to time by proclamation to prohibit the importation, carriage coastwise or exportation of any goods whatsoever, and any such proclamation may prohibit importation, carriage coastwise or exportation until the revocation thereof, or during such period as may be specified therein, and may either absolutely prohibit importation, carriage coastwise or exportation, or may prohibit importation, carriage coastwise or exportation except on compliance with any conditions which may be specified in the proclamation, or importation from or exportation to any particular place named in the proclamation.

Governor may prohibit importation, carriage coastwise or exportation.

36. Until revoked by proclamation under section 35 the importation of the following goods is prohibited:

Goods prohibited to be imported.

- (a) All goods which if sold would be liable to forfeiture under the Merchandise Marks Ordinance, and all goods of foreign manufacture bearing any name or trade mark being or purporting to be the name or trade mark of any manufacturer, dealer or trader in the British Commonwealth, unless such name or trade mark is accompanied by a definite indication of the country in which the goods were made or produced.
- (b) All goods of a kind prohibited to be imported into the United Kingdom by order made under the Anthrax Prevention Act, 1919.

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- (c) Arms and ammunition, except with the written permission of the Colonial Secretary.
- (d) Clocks and watches or any other article of metal impressed with any mark or stamp representing or in imitation of any legal British Commonwealth assay mark, or stamp, or purporting by any mark or appearance to be of the manufacture of any part of the British Commonwealth, such clocks, watches or other articles not being of the manufacture of such part of the British Commonwealth.
- (e) Coin—viz.: base or counterfeit coin of any country.
- (f) Coin, imitation and foreign, of a kind which is prohibited by law to be imported into the United Kingdom.
- (g) Coin, silver of the realm, or any money purporting to be such, not being of the established standard in weight and fineness.
- (h) Extracts, essences or other concentrations of tobacco, or any admixture of the same, tobacco stalks and tobacco-stalk flour, except under such conditions as the Collector may with the approval of the Governor either generally or in any particular case allow.
- (i) Fictitious stamps as defined in the Post Office Ordinance, and any die, plate, instrument or materials capable of making any such stamps.
- (j) Indecent or obscene prints, paintings, photographs, books, cards, lithographic or other drawings, or any other indecent or obscene articles.
- (k) Mechanical games or devices set in operation wholly or partly by the insertion of a coin or coins, and so constructed as to return to the person inserting the coin or coins, in certain circumstances, a coin or coins of greater total value than that of the coin or coins inserted.
- (l) Spirits (not being cordials or perfumed or medicinal spirits), and wine, unless specifically reported as such, and unless in aircraft, or in ships of thirty tons burden at least, and in casks or other vessels capable of containing liquids, each of such casks or other

vessels being of the size or content of nine gallons at the least, or unless in glass or stone bottles, properly packed in cases, or in demijohns, each case or demijohn containing not less than one gallon.

- (m) Saccharin, except with the written permission of the Senior Medical Officer.
- (n) Tobacco, cigars, cigarillos and cigarettes, unless specifically reported as such and unless in aircraft, or ships of thirty tons burden at least, and unless in whole and complete packages, each containing not less than twenty pounds net weight of tobacco, cigars, cigarillos or cigarettes.

37. It shall be lawful for the Collector to permit the importation of spirits, wines, tobacco, cigars, cigarillos and cigarettes in smaller ships and in smaller quantities than are prescribed in section 36 or any proclamation made thereunder under such conditions and subject to such regulations as he may prescribe, and subject to such additional duties (if any) as may be fixed by the Legislative Council.

Saving as to spirits and tobacco.

38. Goods imported in transit or as *bona-fide* stores of any aircraft or ship shall not be deemed to be goods prohibited to be imported or exported unless such goods—

Saving as to transit goods and stores.

- (a) being in transit, are of a description included in paragraphs (a), (b), (d), (e), (f), (g), (i), (j), (l) or (n) of section 36, or
- (b) being the *bona-fide* stores of any aircraft or ship, are of a description included in paragraphs (a), (b), (d), (e), (f), (g), (i) or (j) of section 36, or
- (c) are expressly prohibited to be imported in transit or as aircraft's or ship's stores, in any proclamation made under the customs laws, or in any Ordinance prohibiting the importation of any goods.

39. The provisions of sections 35 to 38 shall be additional to the provisions of section 121, and to any provisions of any other Ordinance prohibiting the importation, carriage coastwise or exportation of any goods.

Prohibitions elsewhere provided.

Governor in Council may direct granting of drawbacks.

40. (1) It shall be lawful for the Governor in Council from time to time by regulation to direct on what goods a drawback of the whole or any part of the duties paid on the importation thereof may be granted, and the conditions under which such drawbacks shall be allowed.

(2) Notwithstanding anything hereinbefore contained in this section, all drawbacks payable under any former Ordinance shall be paid or allowed under this Ordinance until cancelled by direction of the Governor in Council under this section.

Certification of debenture.

41. Every sum of money which shall be due upon any debenture, certificate or other instrument for the payment of money out of the duties of customs shall be paid by the Treasurer on the proper debenture certified by the Collector.

Declaration by owners of goods exported on drawback.

42. The owner of any goods on which drawback is claimed shall make and subscribe a declaration on the debenture that the conditions under which drawback is allowed have been fulfilled, and, in the case of goods exported or put on board an aircraft or ship for use as stores, that such goods have been actually exported or put on board for use as stores, as the case may be, and have not been returned and are not intended to be returned to the Colony, and that such owner at the time of entry of such goods was, and continues to be entitled to the drawback thereon.

Evidence of disposal of goods.

43. The Collector may require the owner to produce satisfactory evidence of the landing or disposal of any goods before certifying any debenture.

Time limit for debenture payment.

44. No debenture for any drawback shall be paid after the expiration of one year from the date of entry of any goods for drawback, or, in the case of goods exported or put on board an aircraft or ship for use as stores, from the date of putting the same on board the exporting or using aircraft or ship.

Refund of duties paid in error.

45. The Treasurer shall return any money which shall have been overpaid as duties of customs at any time within two years after such overpayment, on the proper document for such overpayment being certified by the Collector.

ARRIVAL AND REPORT OF AIRCRAFT AND SHIPS, LANDING OF PASSENGERS AND UNLOADING, REMOVAL AND DELIVERY OF GOODS.

46. If any aircraft or ship arriving in the Colony or the waters thereof (a) shall not come to some port therein, or such other place as may be allowed by the Collector in any special circumstances, without touching at any other place in the Colony, or (b) on arriving at any such port or place, shall not come as quickly up to the proper place of mooring or unloading as the nature of the port or place will admit, without touching at any other place, or (c) in proceeding to such proper place, shall not bring to at the station appointed by the Governor by notice in the *Gazette* for the boarding of aircraft or ships, or (d) after arriving at such proper place shall depart therefrom except directly to some other place of mooring or unloading approved of by the proper officer, or, with the authority of the proper officer, directly to some other port or to some place allowed by the Collector in any special circumstances as aforesaid in the Colony, or directly on any flight or voyage to a place outside the Colony in accordance with the provisions of the customs laws, or, (e) after departing as aforesaid on any flight or voyage to a place outside the Colony shall bring to within the Colony or the waters thereof, unless in accordance with the customs laws, or with the permission of the proper officer, or for some cause which the master shall explain to the satisfaction of the Collector, then in every such case the master of such aircraft or ship shall incur a penalty of one hundred pounds.

Procedure on arrival.

47. The Collector may, subject to any other authority provided by law, direct at what particular part of any port or other place aircraft or ships shall moor or shall discharge their cargo.

Collector may direct mooring and discharge.

48. Any officer on duty may board any aircraft or ship within the Colony or the waters thereof, and stay on board for any period, and shall have free access to every part, with power to secure any part by such means as he shall consider necessary, and to examine any goods, and to require any goods to be unloaded and removed for examination, or for the security thereof, or to unload and remove such goods at the expense of the master or owner, or the agent of either, and to examine any goods in course of being unloaded or

Officer may board aircraft or ship.

removed, or when unloaded or removed, and to lock up, seal, mark or otherwise secure any goods on board such aircraft or ship.

Officer may
open if access
not free.

49. If any officer acting under the provisions of section 48 shall find that there be not free access to any place or to any box or chest, or if the keys of any such place, box or chest, if locked, be withheld, such officer may open any such place, box or chest in any manner; and if any goods be found concealed on board, they shall be forfeited.

Penalty for
interfering
with seal,
etc.

50. If the officer shall place any lock, mark or seal upon any goods on board an aircraft or ship, or upon any place or package in which the same may be, and such lock, mark or seal be wilfully opened, altered or broken before due delivery of such goods, or within the Colony or the waters thereof, except with the authority of the proper officer, or if any of such goods be secretly conveyed away, or if any goods, place or package, after having been secured by the officer, be opened within the Colony or the waters thereof, except with the authority of the proper officer, or if the officer shall require any goods to be unloaded and removed for examination or for the security thereof, and such goods shall not be unloaded and removed forthwith as required by the officer, the master of such aircraft or ship shall incur a penalty of one hundred pounds.

Goods un-
lawfully dis-
charged.

51. If any officer shall board any aircraft or ship and find any goods thereon, and, after leaving such aircraft or ship, such officer, or any other officer, shall board such aircraft or ship, and such or any part of such goods shall no longer be on board, and the master is unable to give a due account of the lawful discharging of the same, the master of such aircraft or ship shall incur a penalty of one hundred pounds, or treble the value of such goods, at the election of the Collector.

Search of
persons.

52. (1) If any officer shall be informed or have reason to suppose that any person on an aircraft or ship, or any person who shall have landed from an aircraft or ship, or any person who the officer may suspect has received any goods from any such person, is carrying or has any uncustomed or prohibited goods about his person, such officer may search such person; and if any such person shall, upon being

questioned by any officer whether he has any goods obtained outside the Colony about his person, or in his possession, or in his baggage, refuse to answer or deny having the same, and any such goods shall be discovered to be or to have been upon his person, or in his possession, or in his baggage, such goods shall be forfeited. No officer shall be liable to any prosecution or action at law on account of any search made in accordance with the provisions of this section.

(2) Before any person shall be searched he may require to be taken with all reasonable despatch before a magistrate, or the Collector or other superior officer, who shall, if he sees no reasonable cause for search, discharge such person, but if otherwise, direct that he be searched.

(3) A female shall not be searched except by a female. Search of female.

53. If upon boarding any ship any officer shall find any goods of which the master shall not be able to give a satisfactory account, and if such officer shall suspect that such goods are being or have been or are intended to be dealt with in any way contrary to the customs laws, he may arrest and detain such master, and take him before a magistrate, and if such master shall fail to satisfy the magistrate that such goods had not been, were not being, and were not intended to be dealt with contrary to the customs laws, such goods shall be forfeited, and the master shall incur a penalty of one hundred pounds. Detention of master.

54. (1) The Governor in Council may from time to time make general regulations in respect of ships not exceeding one hundred tons burden prescribing, with reference to the tonnage, build or general description of such ships, the limits within which the same may be used or employed, the mode of navigation, the manner in which such ships shall be so used or employed, and such other terms, particulars, conditions and restrictions as the Governor in Council may think fit, and also from time to time to revoke, alter or vary such regulations. General regulations for small craft.

(2) Every ship which shall be used or employed contrary to any regulations made under this section shall be forfeited unless the same shall have been specially licensed by the Collector to be so used or employed, as next hereinafter provided. Penalty for infringement of regulations.

Licenses for
small craft.

55. The Collector may, if he thinks fit, grant licences in respect of any ships not exceeding one hundred tons burden upon such terms and conditions, and subject to such restrictions and stipulations as in such licences mentioned, notwithstanding any general regulations made as aforesaid, whether the said regulations shall be revoked or not; and if any ship so licensed shall not comply with the conditions imposed by or expressed in any such licence, or if such ship shall be found without having such licence on board, such ship shall be forfeited. The Collector may revoke, alter or vary any licence granted as aforesaid.

Accommoda-
tion of
officer.

56. If the master of any ship on board of which any officer is stationed shall neglect or refuse to provide every such officer with proper and sufficient food and suitable bedding accommodation under the deck, he shall incur a penalty of twenty pounds.

Report.

57. (1) The master of every aircraft or ship, whether laden or in ballast, or his agent, shall (except as otherwise provided in any regulations made under this Ordinance) within twenty-four hours after arrival from any place outside the Colony at any port, or at any place specially allowed by the Collector, make report of such aircraft or ship, and its stores and cargo, to the Collector on the prescribed form in the prescribed manner, and giving the prescribed particulars.

Certain
goods to
be separately
reported.

(2) Every report required by this section shall show separately any goods which are to be transferred to another aircraft or ship for re-exportation, and shall state whether there be any goods which are to remain on board for exportation in the same aircraft or ship; and such report shall, except where otherwise specially allowed by the Collector, give a particular account of all goods remaining on board for exportation, and shall be made before bulk be broken.

Certain
goods to be
reported
before break-
ing bulk.

(3) The master of any aircraft or ship shall make report of any packages or parcels for which no bill of lading has been issued, before bulk be broken, unless the Collector shall otherwise allow.

Penalty for
not making
due report.

(4) If the master of any aircraft or ship, or his agent, shall fail to make due report, or if any of the particulars contained in such report be false, such master, or his agent, shall incur a penalty of one hundred pounds, and all goods

not duly reported shall be forfeited, unless the omission is explained to the satisfaction of the Collector.

58. If any package or parcel reported (except as remaining on board as stores or for re-exportation or, with the permission of the Collector, for direct transfer to another aircraft or ship for use as stores or for re-exportation) shall not be duly unloaded, removed and deposited in a customs area or other place approved by the Collector, and shall not be duly entered and cleared therefrom in accordance with the customs laws, or else shall not be produced to the proper officer for deposit, or be deposited in the King's warehouse in accordance with the provisions of section 73, the master or his agent shall pay the duty thereon, and, in addition, a penalty of five pounds in respect of each such package or parcel, unless he shall explain the failure to unload, remove and deposit or produce such package or parcel as aforesaid to the satisfaction of the Collector.

Penalty for not accounting for package reported.

59. The master or agent shall (a) answer immediately all such questions relating to the aircraft or ship, its cargo, stores, baggage, crew, passengers and flight or voyage as shall be put to him by the proper officer and (b) produce all such books and documents in his custody or control relating to the aircraft or ship, its cargo, stores, baggage, crew, passengers and flight or voyage as the proper officer may require and (c) before any person (unless permitted by the proper officer) disembarks, deliver to the officer who boards such aircraft or ship on arrival at any port or place a list containing the names of each passenger on board such aircraft or ship, and also, if required by such officer, the names of the master, and of each officer and member of the crew; and if such list be not correct and complete, unless the inaccuracy or omission is explained to the satisfaction of the Collector, or if he shall not observe any of the provisions of this section, the master or his agent shall in respect of every such offence incur a penalty of one hundred pounds.

Master to answer questions.

60. If after arrival within the Colony or the waters thereof bulk shall be broken contrary to section 57 (2) and (3), or any alteration made in the stowage of the cargo of any aircraft or ship so as to facilitate the unloading of any part of such cargo before such aircraft or ship shall have arrived at her proper place of unloading, or, not being an aircraft or ship

Penalty for wrongly breaking bulk.

pecially allowed so to do, before report of such aircraft or ship shall have been made as hereinbefore provided, or if at any time after arrival as aforesaid any goods be staved, destroyed or thrown overboard, or any package be opened without the knowledge and consent of the proper officer, in every such case the master or his agent shall incur a penalty of one hundred pounds, unless cause be shown to the satisfaction of the Collector.

Master to deliver previous clearance.

61. The master of every aircraft or ship or his agent shall, if required, deliver to the Collector at the time of making report the clearance of such aircraft or ship, if any, from the port or ports from which such aircraft or ship shall have arrived.

Tonnage dues.

62. The master of every vessel arriving from any port out of the Colony at any port of the Colony other than Stanley, for the purpose of landing or receiving cargo, shall, at the time of making report, pay to the officer at such port a duty of one shilling per ton on the registered tonnage of such vessel: Provided that no vessel shall be liable to a payment of a larger amount than ten pounds in respect of the aforesaid duty on each entry, and no vessel shall be suffered to clear out until the said duty has been paid; and the same and other duties collected by such officer, shall be transmitted with all convenient speed by such officer to the Treasurer at Stanley. All vessels liable to the payment of tonnage duties shall be liable to the same only for the first two voyages after the first day of January in any one year, and after payment of tonnage duties on such two voyages, shall be exempt from any further duties during the remainder of such year.

Ship abandoned may be seized.

63. Any officer may seize any aircraft or ship found abandoned within the Colony or the waters thereof, and such aircraft or ship shall be forfeited, unless the owner shall claim the same within one month of the date of seizure, and satisfy the Collector that the requirements of the customs laws have been complied with.

Unloading, entry, removal and delivery of goods.

64. Save in accordance with any regulation made under this Ordinance, or with the written permission of the Collector—

(a) No goods shall be unloaded from any aircraft or ship arriving from any place outside the Colony unless

authority for unloading the same has been given by the proper officer.

- (b) No goods shall be unloaded from any aircraft or ship arriving from any place outside the Colony, except at an approved place of unloading or sufferance wharf approved for the purpose and all goods when so unloaded, and all goods which shall have been put into a vessel to be landed shall immediately upon being unloaded or landed be conveyed in the care of the proper officer into the customs area, or to a King's warehouse if the Collector shall so require.
- (c) No goods shall be removed from any part of the customs area or from the King's warehouse into which the same shall have been conveyed unless such goods shall have first been duly reported and entered, and authority for the removal or delivery of the same has been given by the proper officer.
- (d) Goods entered to be warehoused shall be removed by the importer by such ways, in such manner and within such time as the proper officer shall direct to the warehouse for which the same are entered, and delivered into the care of the officer in charge of the warehouse; provided that, if the Collector shall so require, the importer shall first enter into a bond for the due warehousing of such goods.

65. The provisions of section 64 shall apply to the cargo of the aircraft or ship only. No goods whatsoever other than cargo, duly reported as such, shall be taken out of any aircraft or ship arriving from any place outside the Colony or delivered to any person aboard such aircraft or ship other than for the consumption or use of the crew or passengers thereof except under such conditions (which conditions may vary the procedure as to reporting the aircraft or ship as required by this Ordinance) as may be prescribed in any regulations made under this Ordinance or directed by the Collector in any particular case. The term "goods" in the expression "no goods whatsoever" shall include passengers' baggage, stores, and any goods which may be taken on board any aircraft or ship arriving from any place outside the Colony while such aircraft or ship is within the Colony or the waters thereof.

As to goods
other than
cargo.

Forfeiture.

66. If any goods shall be unloaded, removed or dealt with contrary to the provisions of section 64 or section 65, or to the terms and conditions contained in any written permission given by the Collector, they shall be forfeited.

Delivery of
bullion and
coin.

67. Notwithstanding anything hereinbefore contained, it shall be lawful for the Collector to permit the delivery to the importer of any bullion or coin under the authority of the proper officer without entry thereof, but if such importer shall not within forty-eight hours after the same shall have been removed from the importing aircraft or ship deliver to the proper officer a full and true account thereof, including its weight and value, he shall incur a penalty of twenty pounds.

Entry in
absence of
documents.

68. If the importer of any goods shall not be able to furnish full particulars of such goods for want of any documents or information concerning them (other than documents or information relating to the origin of such goods required by regulations made under section 9 (2)) he shall make and subscribe a declaration in the prescribed form to that effect before the Collector or proper officer, and the Collector shall thereupon permit the importer to examine and enter the said goods, notwithstanding that there shall not be satisfactory documentary evidence regarding the same, and may allow delivery of the said goods, provided that the Collector is satisfied that the description of the goods for tariff and statistical purposes is correct and also, in the case of goods liable to duty *ad valorem*, that the value declared on the entry is approximately correct and in the case of goods liable to duty according to the weight or measurement thereof, that the weight or measurement declared on the entry is correct.

Entry
provisional.

69. (1) In the case of goods liable to duty *ad valorem* the entry made in accordance with section 68 shall be deemed provisional. The amount estimated as the duty for the purpose of making such provisional entry shall be held on deposit; and the importer shall also deposit with the Collector, in addition to the amount deposited as the estimated duty on the said goods, such sum as the Collector may require, not being less than one-half of the amount deposited as the estimated duty.

(2) The sum deposited as the estimated duty as aforesaid shall be brought to account as duty, and the additional sum deposited shall be forfeited, unless the importer shall within three months, or such further period as the Collector may in any special circumstances allow, produce to the Collector satisfactory evidence of the value, and make final entry of such goods, in which case so much of the sums deposited as shall be necessary shall be brought to account as duty and the balance returned to the person who deposited the same.

Disposal of deposit.

70. The Collector may retain such samples of the goods entered under section 68 for such period up to the final entry of such goods as he shall require, and the proper officer shall make inventory of the said goods.

Samples to be retained.

71. (1) If the importer, having made a declaration in accordance with section 68, shall not make entry as therein provided, or if the Collector is not satisfied as aforesaid (in which case any entry which shall have been made shall be *ipso facto* void), the Collector shall cause the goods referred to in such declaration to be deposited in a King's warehouse and dealt with as provided in section 74.

Goods not entered after declaration.

(2) Notwithstanding anything hereinbefore contained, if the Collector is satisfied, whether before or after the warehousing under this section of any goods liable to duty *ad valorem*, that it is impossible for the importer to obtain satisfactory documentary evidence of the value of such goods, or if in any case the documentary evidence relating to such goods, though not complete, is in the opinion of the Collector sufficient to enable a reliable estimate of the value to be made, it shall be lawful for the Collector to permit such goods to be entered according to a value which two officers to be appointed by the Collector for the purpose are satisfied is, as nearly as may be estimated, and not less than, the correct value of such goods.

Power to waive production of documents.

72. Where the Collector permits any goods to be entered in the absence of any document under the provisions of section 71, it shall be lawful for him to require the person entering the goods to deposit with him such additional sum as he shall require, not exceeding one-half of the duty paid upon such goods. Any sum so deposited shall be forfeited unless the person entering the goods shall produce the

Deposit in certain cases.

required document within three months of the date of entry, or unless he shall explain his failure to the satisfaction of the Collector.

Goods not entered or delivered to be deposited in King's Warehouse.

73. If any goods imported in any aircraft or ship shall remain on board such aircraft or ship, or having been unloaded, shall not be entered and also delivered from the customs area within ten days from the date of importation, or such further period as the Collector may in any special circumstances allow, then such goods shall be deposited in such King's warehouse as the Collector shall direct by the agent of such aircraft or ship, or by the Collector, if there be no agent, or if the agent shall not act forthwith as herein required. Such goods shall be subject to rent and other charges as if they were goods warehoused in a King's warehouse in pursuance of an entry for warehousing.

Goods warehoused may be sold.

74. (1) Where under the provisions of this Ordinance any goods are required to be deposited in a King's warehouse, and such goods are of a perishable nature, then it shall be lawful for the Collector, notwithstanding such provisions, to sell the same forthwith by public auction; and if such goods, though not perishable, are of a kind not permitted, by any other provision of law, to be deposited in a King's warehouse, it shall be lawful for the Collector, notwithstanding such provisions, to sell the same by public auction after fourteen days' notice by publication in the *Gazette*.

(2) Where any goods are deposited in a King's warehouse under the provisions of this Ordinance, and the same are not entered for warehousing or delivery from such King's warehouse within three months after such deposit, or within such further period as the Collector may direct, and all charges for removal, freight, and rent, and all other expenses incurred in respect thereof, duly paid, such goods may be sold by public auction after one month's notice being given by publication in the *Gazette*.

(3) In all cases where goods are sold under the provisions of this section, the proceeds shall be applied first in discharge of duties (if any), of the expenses of removal and sale, and of rent and charges due to the Government, and then of freight and other charges; and the balance, if any, shall be paid to the owner of the goods on his application for the same, if such application be made within two

years from the time of the sale of such goods, but otherwise shall be paid into the general revenue of the Colony.

75. If any goods on being offered for sale as aforesaid cannot be sold for a sum to pay all duties, expenses, rent and charges, the same may be destroyed, or otherwise disposed of as the Governor may direct.

Goods not sold on being offered for sale.

76. It shall be lawful for the Collector to cause any goods required to be removed under this Ordinance to a King's warehouse to be opened for examination by any officer, as often as may be required, at the expense of the owner of such goods.

Goods warehoused may be examined.

77. Where the owner of any goods imported in any ship into the Colony fails to make entry thereof, or having made entry, fails to land the same or to take delivery thereof by the times severally hereinafter mentioned, the shipowner or master or the agent of either, may make entry of the said goods at the times, in the manner, and subject to the conditions following, that is to say:

Goods may be entered by ship-owner.

- (a) If a time for the delivery of the goods is expressed in the charter party, bill of lading or agreement, then at any time after the time so expressed; and
- (b) If no time for delivery of the goods is expressed in the charter party, bill of lading or agreement, then at any time after the expiration of seventy-two hours, exclusive of a Sunday or public holiday, after the report of the ship:

Provided that if at any time before the goods are landed or unshipped, the owner of the goods is ready and offers to land or take delivery of the same, he shall be allowed to do so, and his entry shall, in such case, be preferred to any entry which may have been made by the shipowner or master, or the agent of either.

78. The periods of time mentioned in sections 73 and 77 shall be computed from the time at which the aircraft or ship and goods shall have been released from any quarantine to which they may have been subjected.

Computation of time.

Officer may remain on board at discretion of Collector: charge for Officers' services.

79. On the arrival of any vessel from any port out of the Colony at any port in the Colony it shall be lawful for the Collector to send one or more officers on board of such vessel to remain on board at the discretion of the Collector till all goods are landed from such vessel, and the duties (if any) shall have been paid or otherwise accounted for to the satisfaction of the Collector, and there shall be paid for the services of every officer so proceeding or remaining on board, as aforesaid, by the master or consignee of such vessel to the Treasurer for the purposes of general revenue, the sum of ten shillings for every day or part of a day during which such officer shall be so employed.

Restrictions as to passengers and other persons.

80. No person whether a passenger or not, shall disembark or go ashore from, or go on board any aircraft or ship that shall have arrived within the Colony or the waters thereof, save at such times, by such means, and by such ways as may be prescribed in any regulations made under this Ordinance, or otherwise as the Collector may allow.

WAREHOUSED GOODS AND GOODS DEPOSITED IN A CUSTOMS AREA.

Warehouse.

81. It shall be lawful for the Governor from time to time by notice in the *Gazette* to declare what kind of goods shall or may be warehoused upon first importation without payment of duty thereon; and any such goods, while in any warehouse, and all goods whatsoever while in any customs area, shall be subject to such regulations as may be made under this Ordinance, and, in the case of goods deposited in a King's warehouse or customs area in the occupation or use of the Government, to the payment by the owner of such goods, at the prescribed times, of such rent and other charges as the Governor shall from time to time direct by notice in the *Gazette*; and if at any time any such rent or other charges shall not be paid to the Collector when due and payable on any goods in any such King's warehouse or customs area, such goods may, without prejudice to any other lawful method of recovery, be sold, or otherwise dealt with, and any proceeds applied, as if they were goods which might be sold, or otherwise dealt with under the provisions of sections 104 and 105.

82. No compensation shall be payable by Government to any importer, owner or consignee of any goods deposited in a King's warehouse or in a customs area in the occupation or use of Government, save when loss or damage occurs as the direct result of the wilful act or negligence of Government or of an officer.

Compensation for damage to goods deposited in King's Warehouse.

83. Where under the customs laws any goods are or may be required to be deposited in a King's warehouse, and for any reason the Collector may in his discretion decide that it is undesirable or inconvenient to deposit such goods in a King's warehouse, such goods shall for all purposes be deemed to be deposited in a King's warehouse as from the time that the same are required to be deposited in a King's warehouse, and shall also be chargeable with such expenses for securing, watching and guarding, and of removing the same from the original to some other place of deposit (if the Collector shall so require) as the Collector shall deem reasonable, and neither the Collector nor any officer shall be liable to make good any damage which such goods may sustain by reason or during the time of their being so deposited and dealt with as aforesaid.

Goods deemed to be in King's Warehouse,

84. No building or place may be used as a private warehouse, or, save with the written permission of the Collector, as a customs area, until a bond, in such sum as may from time to time in each case be required by the Collector, is given by the warehouse-keeper, or by the owner or occupier of the customs area, as the case may be, with one or more sufficient sureties, conditioned on due payment of all duties and the due observation of the provisions of the customs laws.

Private warehouses and customs areas.

85. In all cases where it may be expedient to constitute a hulk a transit shed such hulk shall be fitted with a secure store room, and the key of such store room shall be in the custody of an officer, who shall keep a correct account of all dutiable goods removed from the importing vessel and placed therein, but no goods shall be kept on board any such hulk for a longer period than seven days, unless by special permission in writing of the Collector, and any such goods received on board any hulk without being placed in such secure store room as aforesaid, shall be liable to forfeiture; and the owner of such hulk shall be liable to a penalty not

Hulk warehouse.

exceeding fifty pounds for each offence. The removal of any such goods to and from such hulk shall be carried out in the presence of one or more officers, and there shall be paid by the owner of such hulk the sum of ten shillings per day for the services of each officer so employed and the Collector may send one or more officers on board such hulk there to remain during the time any dutiable goods shall be on board and the owner of such hulk shall pay for the service of each officer at the above mentioned rate.

Officers not
liable for
damage or
wrong
delivery.

86. No action shall be brought against the Government or any of its officers for loss or damage sustained by goods while in any private warehouse or private customs area or hulk warehouse or for any wrong or improper delivery of goods therefrom.

Warehouse-
keeper, etc.,
not to enter
warehouse
without
permission.

87. The owner or occupier of any customs area or a warehouse-keeper shall not by himself or by any person in his employ open or gain access to any building in a customs area or transit shed or private warehouse except in the presence or with the knowledge and consent of an officer acting in the execution of his duty.

Owner of
warehouse,
etc., to
provide
facilities.

88. The owner of any private warehouse or customs area shall provide such office accommodation and weights, scales, measures and other facilities for examining and taking an account of goods and for securing the same as the Collector may require.

Revocation
of order
approving
warehouse.

89. On the revocation of the appointment of any private warehouse, the duties on all the goods warehoused therein shall be paid or the goods shall be exported or removed to another warehouse within such time, not less than three months, as the Collector may direct. Notice in writing of such revocation addressed to the warehouse-keeper of the private warehouse, and left thereat, shall be deemed to be notice to all persons interested in the goods.

Disposal of
goods on
revocation.

90. If any goods shall not be duly exported or removed in conformity with section 89 such goods shall be taken to a King's warehouse by an officer, and may be sold, or otherwise dealt with, and any proceeds applied as if they were goods which might be sold or otherwise dealt with under the provisions of section 74.

91. Upon the delivery of any goods entered to be warehoused into the care of the officer in charge of any warehouse, such officer shall, subject to any other direction of the Collector, whether account has been taken of such goods on the quay or elsewhere, or not, take a particular account of such goods, and shall enter in a book prepared for that purpose the name of the importing aircraft or ship, and of the person in whose name such goods are entered, the number of packages, the mark and number of each package, and the description of the goods; and when the same shall have been deposited in the warehouse, with the authority of such officer, he shall certify at the foot of the account that the entry and warehousing of the goods is complete, and such goods shall from that time be considered goods duly warehoused.

Procedure as to warehousing.

92. All goods warehoused shall be deposited in the packages in which they are imported, except such goods as are permitted to be skipped on the quay, or bulked, sorted, lotted, packed or repacked in the warehouse, in which case they shall be deposited in the packages in which they are contained when the account thereof is taken by the proper officer on the completion of such operation.

Goods to be warehoused in packages in which imported.

93. If in the case of goods warehoused in a private warehouse any alteration shall afterwards be made in the goods or packages so deposited, or in the packing thereof in the warehouse, or in the marks or numbers of such packages, or if the same shall be removed from the part of the warehouse in which they were deposited, without the presence and sanction of the proper officer, except for delivery after they have been duly entered, and under the authority of the proper officer, such goods shall be forfeited.

Penalty for interfering with storage of goods in a private warehouse.

94. The Collector may direct in what different parts or divisions of any warehouse or customs area and in what manner any goods shall be deposited therein, and if any goods are deposited contrary to such directions, the occupier of such warehouse or customs area shall in respect of every package so deposited incur a penalty of five pounds, together with a further penalty of one pound for each day during which any such package shall remain so deposited.

Collector may direct stowing of goods.

Penalty for neglect to stow goods properly.

95. If the occupier of any warehouse or customs area or any part thereof shall neglect to stow the goods deposited therein so that easy access may be had to every package and parcel thereof, he shall, for every such neglect, incur a penalty of five pounds, together with a further penalty of one pound for each day during which such neglect continues.

Warehoused goods to be produced to Officer.

96. If the occupier of any warehouse or customs area, or any part thereof, shall not produce to any Officer, on his request, any goods deposited in such warehouse or customs area, or any part thereof, which shall not have been duly entered and delivered therefrom, such occupier shall, for every such neglect, incur a penalty of five pounds in respect of every package or parcel not so produced, and shall pay the duties due thereon.

Penalty for not warehousing, etc.

97. If any goods entered to be warehoused shall not be duly warehoused by the importer in pursuance of such entry, or if any goods whatsoever, being duly warehoused or deposited in a customs area, shall be in any way concealed in or removed from the warehouse or customs area, or abstracted from any package, or transferred from one package to another, or otherwise, for the purpose of illegal mixing, removal, or concealment, they shall be forfeited.

Penalty for illegally opening or entering warehouse or customs area.

98. If any person shall clandestinely open any warehouse or transit shed or, except in the presence of the proper officer acting in the execution of his duty, gain access to the goods therein, he shall for every such offence, incur a penalty of one hundred pounds; and if any person shall enter any warehouse or any part of a customs area when forbidden by any officer, or refuse to leave any warehouse or any part of a customs area when requested to do so by any officer, he shall incur a penalty of ten pounds.

Penalty for embezzling warehoused goods, etc.

99. If any goods required to be previously entered shall be taken out of any warehouse or customs area without being duly entered (except as permitted by the customs laws), the warehouse-keeper or the occupier of any part of a customs area where such goods shall have been deposited shall forthwith pay the duties due upon such goods; and every person taking out any goods from any warehouse or customs area, without the same having been duly entered (except as aforesaid), or who shall aid, assist, or be concerned therein,

and every person who shall destroy or embezzle any goods duly warehoused or deposited in a customs area shall be guilty of an offence, and shall, on conviction, on an information laid against him in the Supreme Court, be liable to imprisonment with or without hard labour, for any term not exceeding two years; but if such person shall be an officer not acting in the due execution of his duty, and shall be prosecuted to conviction by the importer, consignee, or owner of such goods, no duty shall be payable for or in respect of such goods, and the damage occasioned by such destruction or embezzlement shall, with the sanction of the Governor in Council, be repaid or made good to such importer, consignee, or owner by the Treasurer.

100. (1) The Collector shall have power at the expense of the owner of goods warehoused in a King's warehouse, or deposited in a customs area in the occupation or use of the Government, to do all such reasonable acts as may by him be deemed necessary for the proper custody and preservation of such goods, and shall have a lien on the said goods for expenses so incurred; but no such acts shall be done until the expiration of twenty-four hours after the owner of such goods has been notified that such acts are required, unless the Collector shall in his discretion decide that immediate action is necessary for the proper custody or preservation of the goods as aforesaid.

Collector may do reasonable acts to warehoused goods.

(2) The importer or owner of any such goods shall pay any expenses incurred in respect thereof under this section at such times and in such manner as the Collector shall either generally or in any particular case direct, and if any such expenses be not paid in accordance herewith, such goods may be sold or otherwise dealt with, and any proceeds applied as if they were goods which might be sold or otherwise dealt with under the provisions of section 105.

Owner to pay cost.

101. (1) The removal of warehoused goods from a warehouse to any other warehouse shall be subject to any regulations made under this Ordinance and to such other conditions as the Collector may direct.

Removal of warehoused goods to another warehouse.

(2) On the delivery of any goods for removal as aforesaid, an account containing the particulars thereof shall be transmitted by the proper officer of the port or place of

Procedure on delivery.

removal to the proper officer of the port or place of destination, and the person requiring the removal thereof shall enter into a bond, with such security or securities as the Collector shall require, in a sum equal at least to the duty chargeable on such goods, for the due arrival and re-warehousing thereof at the port or place of destination within such time as the proper officer may direct; and such bond shall not be discharged unless such goods shall have been produced to the proper officer and duly re-warehoused at the port or place of destination within the time directed by the proper officer as aforesaid, or unless the full duties of customs shall have been paid thereon as provided in subsection (4) hereof, or unless such goods shall have been otherwise accounted for to the satisfaction of the Collector, nor until the full duties due upon any deficiency of such goods not so accounted for shall have been paid.

Goods removed
subject to
warehouse
regulations.

(3) Upon the arrival of such goods at the port or place of destination, they shall be entered and warehoused, as nearly as may be subject to the laws, rules and regulations, which apply to the entry and warehousing of goods on first importation.

May be
entered for
use in the
Colony or
exportation.

(4) If, upon the arrival of goods so removed as aforesaid at the port or place of destination, the parties shall be desirous forthwith to export the same, or to pay duty thereon for use within the Colony, without actually lodging the same in the warehouse for which they have been entered and examined to be re-warehoused, the officer at such port or place may permit the same to be entered and delivered for home use; or, after all the formalities of entering and examining such goods for re-warehousing have been duly performed, to be entered and loaded for exportation, as if such goods had been actually lodged in such warehouse.

Removal,
etc., to be
subject to
certain con-
ditions.

102. If any goods taken from a warehouse for removal or for exportation or use as aircraft's or ship's stores shall be removed or put on board an aircraft or ship, except with the authority or under the care of the proper officer, and in accordance with any regulations made under this Ordinance, and in such manner, by such persons and within such time, and by such roads or ways, as such officer shall permit or direct, such goods shall be forfeited; and if any such goods shall be illegally removed or carried away prior to being put on board the exporting or removing aircraft, ship or carriage,

or from any exporting or removing aircraft, ship or carriage, in or on which the same shall have been put, the bond given in respect thereof shall be forfeited, and may forthwith be put in suit for the penalty thereof, although the time prescribed in such bond for putting the goods on board the exporting aircraft or ship, or re-warehousing such goods at the place of destination, shall not have expired; and all such goods shall be forfeited.

103. Notwithstanding anything hereinbefore contained, the Collector may, if in his discretion he shall decide that such action is advisable, remove goods at the cost of Government from one King's warehouse to another in any manner he may deem reasonable.

Collector may remove goods warehoused in King's warehouse.

104. All warehoused goods shall be entered and delivered either for use within the Colony, or as aircraft's or ship's stores, or for exportation not later than two years after the day on which the same were warehoused, or within such further period and in such cases as the Collector shall direct unless the owner of such goods shall be desirous of re-warehousing the same, in which case the same shall be examined by the proper officer; and the duties due upon any deficiency or difference between the quantity ascertained on importation and the quantity found to exist on such examination, together with the necessary expenses attendant thereon, and any charges incurred in respect of the said goods, shall, subject to such allowances as are by law permitted in respect thereof, be paid to the Collector; and the quantity so found shall be re-warehoused in the name of the then owner in the same manner as on first importation; Provided that if the owner shall, with the concurrence of the warehouse-keeper, desire to re-warehouse the same according to the account taken at the importation thereof, without re-examination, such re-examination may be dispensed with, the officer being satisfied that the same are still in the warehouse, and that there is no reason to suspect that there is any undue deficiency; but the warehouse-keeper shall be liable to make good the duty on any deficiency not allowed by law which may be discovered in the goods at the time of delivery thereof, or any earlier time.

Re-warehousing.

105. If any warehoused goods shall not be duly entered for use within the Colony, or as aircraft's or ship's stores, or

Disposal of goods not re-warehoused.

exported or re-warehoused, and the duties ascertained to be due on the deficiencies as aforesaid and any charges and expenses shall not be paid at the expiration of two years from the previous entry and warehousing thereof or within such further period as shall be directed as aforesaid, the same shall, after one month's notice by advertisement in the *Gazette*, with all convenient speed be sold by public auction, and the proceeds thereof shall be applied to payment of the duties, expenses of the sale, and of any rent and charges due to the Government, then in discharge of any lien for freight and other charges, and the surplus, if any, shall be paid to the owner of such goods on his application for the same within two years from the time of sale, but otherwise shall be paid into the general revenue of the Colony; and if such goods, on being so offered for sale, cannot be sold for a sum to pay all duties, expenses, rent and charges due to the Government, then the same may be destroyed or otherwise disposed of as the Governor may direct; and the duties due upon any deficiency in any warehoused goods not allowed by law shall be forthwith paid by the warehouse-keeper.

Freight on
goods ware-
housed.

106. Any officer having the custody of any goods which shall have come into his hands under this Ordinance shall refuse delivery thereof from a King's warehouse or other place of deposit until proof be given to his satisfaction that the freight due on such goods has been paid; provided that this section shall not apply to goods which shall have been warehoused in pursuance of an entry for warehousing.

Warehoused
goods
entered or
sold must be
removed
within 14
days.

107. If any goods shall remain in any warehouse for a period of fourteen days after being entered for use within the Colony, or after being sold by public auction under the customs laws, they shall be forfeited and disposed of in such manner as the Governor may direct, unless the failure to remove the same shall be explained to the satisfaction of the Collector.

Delivery in
special
circum-
stances.

108. The Collector may permit any goods to be taken out of any warehouse or customs area without payment of duty for such purpose and for such period as to him may appear expedient, and in such quantities, and under such regulations and restrictions, and with such security by bond for the due return thereof, or the payment of the duties due thereon, as he may direct or require; and if any such goods shall be dealt

with in any way contrary to the terms of such permission or to such regulations or restrictions, the same shall be forfeited.

109. The Collector may permit warehoused goods to be delivered as stores for a ship of not less than thirty tons burden, or an aircraft, in accordance with section 134; and if any goods taken from a warehouse for use as stores shall not be duly put on board the aircraft or ship for which the same are entered, or otherwise accounted for to the satisfaction of the Collector, or shall be dealt with in any way contrary to the customs laws, such goods shall be forfeited. Stores.

110. The duties to be paid when warehoused goods are entered for use within the Colony shall not be less in amount than would have been payable according to the value or quantity thereof at the time of importation except as to the following goods, namely, tobacco in leaf, oil in casks, wine in casks, malt liquor in casks, and spirits in casks, the duties whereon, when cleared from the warehouse for use within the Colony, shall be chargeable upon the quantity of such goods ascertained by weight, measure or strength at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of any deficiency has been caused by illegal abstraction. Duty to be paid according to original account.

111. Subject to the observance by the exporter of all the provisions of the customs laws and of the conditions of any bond, no import duty shall be charged in respect of any goods entered under bond for the due exportation and landing thereof in a place outside the Colony, or for use as aircraft's or ship's stores in accordance with section 134, and delivered from any warehouse or customs area, unless the Collector has reasonable grounds to suppose that any deficiency in any such goods, or any part thereof, has arisen from illegal abstraction, in which case duty shall be paid on such deficiency by the owner of such goods. Goods entered for exportation exempt from import duty.

LOADING AND EXPORTATION OF GOODS.

112. The master of every ship, in which any goods are to be exported, or his agent, shall, before any such goods be taken on board, deliver to the proper officer at the port at which such ship shall have first arrived an entry outwards Entry outwards.

of such ship, verified by his signature, in the prescribed form, and containing the several particulars indicated in or required thereby, and in such entry outwards the master or his agent shall declare that no imported goods are left on board such ship other than such goods and stores as shall be specified in the entry outwards.

Rummage
certificate
may be
granted
before com-
pletion of
discharge.

113. The master of every ship shall if required obtain from the proper officer a certificate of rummage in the prescribed form. If he desires to obtain such certificate before the whole of the inward cargo of the ship has been discharged, he shall remove and stow the inward cargo remaining on board such ship in such manner as such officer shall direct in order to enable him to rummage the ship, and after the ship has been rummaged, shall stow the inward cargo remaining on board separately and keep it separate to the satisfaction of the proper officer from any coastwise or any outward cargo that may subsequently be put into such ship.

Loading
licence.

114. Before any aircraft or ship required to report at any port in the Colony shall depart therefrom to load cargo at another port or place in the Colony, the master or his agent shall, in respect of each port or place at which he desires to load cargo, obtain from the proper officer a loading licence in duplicate in the prescribed form, and containing the prescribed particulars, and signed by such officer, and, before leaving the port at which such licence is issued, shall enter on both copies of the licence particulars of the cargo and of any stores loaded or remaining on board from the inward voyage at such port.

Procedure
after loading
under load-
ing licence.

115. After the loading of any goods under the authority of a loading licence shall have been completed, the master shall proceed with such aircraft or ship forthwith to an approved port, where all the provisions of the customs laws shall be complied with, as nearly as may be, as if such goods had been loaded at such port, unless the proper officer shall otherwise direct.

Completion
and delivery
of licence
after loading.

116. When loading has been completed at any port or place for which a loading licence has been issued, before the aircraft or ship departs from such port or place, the master or his agent shall enter on both copies of the licence particulars

of the cargo loaded and of any stores taken on board at such port or place, showing the number of packages loaded and the quantity and description of the goods, and shall sign the same and deliver one copy to the proper officer at the port of loading before leaving the port, or, if the goods have been loaded at a place other than a port, then at such place and to such person as shall be named in the licence; and the master or his agent shall deliver the remaining copy of the licence together with the content required to be delivered to the proper officer in accordance with section 137.

117. If any goods shall be taken on board any aircraft or ship at any port or place contrary to the provisions of sections 112 to 116, or if any of the requirements of the said sections shall not be observed, the master of such aircraft or ship or his agent shall incur a penalty of one hundred pounds.

Penalty for breach of sections 112 to 116.

118. Nothing contained in sections 112 to 116 shall be deemed to authorise the loading of goods except from an approved place of loading, unless specially allowed by the Collector under section 123.

Limitation of authority granted as aforesaid.

119. The Governor may by notice to the Collector in writing under his hand direct that any or all of the provisions of sections 112 to 117 shall not apply to aircraft, either generally, or in any particular case, during any period specified in the notice.

Non-application to aircraft.

120. On arrival at any port or place in the Colony of any ship, about to deliver cargo at more than one port or place in the Colony, or having on board any goods duly reported for exportation in the same ship, it shall be lawful, subject to any regulations made under this Ordinance, or to such conditions as the Collector may deem necessary, to allow the entry outwards of such ship, and to permit the loading of goods for exportation in such ship or for carriage coastwise as provided in section 147, before the whole of the goods imported in such ship shall have been discharged therefrom, the complete separation of such goods from the inward cargo and from any cargo remaining on board for exportation being effected to the satisfaction of the proper officer.

Restrictions as to carriage coastwise.

Restriction
on exportation of certain goods.

121. (1) No person shall export or attempt to export any warehoused goods, or goods liable to duties of customs transferred from an importing aircraft or ship, or goods entitled to drawback on exportation (not being wines, spirits, tobacco, cigars, cigarillos or cigarettes), nor shall enter or attempt to enter any such goods for exportation in any ship of less burden than five tons.

Penalty.

(2) Any person who shall export or enter or attempt to export or enter, any goods contrary to this section or place any goods on board a ship of less size than is thereby permitted for exportation shall incur a penalty of fifty pounds, and such goods shall be forfeited.

General provisions as to loading and exportation of goods.

122. Except as provided in section 123, no goods shall be put on board any aircraft or ship for exportation or use as stores, or be put into any vessel to be water-borne, or be water-borne to be put on board any aircraft or ship for exportation or use as stores from any port or place in the Colony without the authority of the proper officer, nor before any due entry outwards of the exporting aircraft or ship, if the same is by law required to be entered outwards, nor before such goods are duly entered, and no goods having been put into any vessel to be water-borne to any aircraft or ship for exportation or use as stores, shall be put on board the exporting aircraft or ship outside the limits of any port; and it shall be lawful for any officer to open and examine all goods put on board any aircraft or ship or brought to any place in the Colony to be put on board an aircraft or ship for exportation or for use as stores.

Collector may relax conditions of shipment.

123. Notwithstanding the provisions of section 122, it shall be lawful for the Collector to permit any goods to be put on board any aircraft or ship under such conditions as he may either generally or in any particular case direct, and in like manner the Collector may direct what goods need not be entered by the exporter until after the departure of any aircraft or ship, but any such goods must be entered within twenty-four hours of such departure, unless the Collector shall otherwise allow; provided that where any goods are permitted to be entered after being put on board, the Collector may in such case require the agent of the master or owner of the aircraft or ship to give security for the payment of any export duties of customs on any goods liable thereto

under such conditions, and subject to such charges to be paid to the agent by the exporter of any such goods, as the Governor in Council may prescribe.

124. Any goods which have been put into any vessel to be water-borne to any aircraft or ship for exportation or use as stores shall be taken directly and without delay to the aircraft or ship in which the same are to be exported or used as stores, and put on board forthwith.

Vessels loading goods into ship to proceed direct.

125. No goods having been put on board any aircraft or ship in accordance with section 136, or for exportation, or as stores, shall be discharged in any part of the Colony without the written permission of the proper officer, and except in accordance with such conditions as the Collector shall impose.

Permission required to discharge goods loaded.

126. If any person shall put or attempt to put any goods on board any aircraft or ship, or discharge or attempt to discharge, or deal with any goods in any way contrary to the provisions of sections 122 to 125 such goods shall be forfeited.

Forfeiture on breach of sections 122 to 125.

127. If any officer shall place any lock, mark or seal upon any goods or stores taken on board any aircraft or ship in the Colony, and such lock, mark or seal be wilfully opened, altered or broken, or if such goods or stores be secretly conveyed away either while such aircraft or ship remains in the Colony, or on her passage from one port or place in the Colony to another before the final departure of such aircraft or ship on a flight or voyage to a place outside the Colony, the master shall incur a penalty of one hundred pounds, and such goods or stores shall be forfeited.

Penalty for interfering with goods secured by Officer.

128. If any person shall put on board any aircraft or ship, or put off or put into any vessel to be water-borne to any aircraft or ship for exportation or use as stores, or bring to any aerodrome, customs area, quay, wharf or any place whatever in the Colony for exportation or use as stores, or export any goods prohibited to be exported, or any goods the exportation of which is restricted contrary to such restriction, or attempt to perform or be knowingly concerned in the performance of any of the aforesaid acts, he shall (except as otherwise provided in section 121 (2)) incur a

Penalty for attempting to ship prohibited goods.

penalty of five hundred pounds, or treble the value of such goods, at the election of the Collector; and all such goods shall be forfeited.

Bond to be given in certain cases.

129. Before any warehoused goods, or goods entitled to any drawback on being put on board an aircraft or ship for use as stores or for exportation, or goods exportable only under particular rules, regulations or restrictions, or goods liable to duties of customs intended for transfer from an importing to an exporting aircraft or ship shall be permitted to be entered for use as stores, or for exportation or for transfer as aforesaid, the exporter shall give such security by bond as the Collector may require that such goods shall be duly put on board the aircraft or ship for which the same are entered and shall be used as stores (if so entered) or else exported to and discharged at the place for which they are entered within such time as the Collector may deem reasonable, or be otherwise accounted for to his satisfaction.

Offences relating to goods for which bond is required.

130. If any goods for which bond is required under section 129, or any goods liable to export duties of customs be put on board any aircraft or ship, or brought to any aerodrome, customs area, quay, wharf or other place to be put on board an aircraft or ship and shall on examination by the proper officer be found not to agree with the entered particulars thereof, or being goods on which drawback shall be claimed or allowed shall be found to be goods not entitled to drawback, all such goods shall be forfeited; and the exporter of such goods shall in every case incur a penalty of one hundred pounds, or treble the amount of the value of such goods, at the election of the Collector.

Penalty for not exporting.

131. If any goods for which bond is required under section 129, after being entered and put on board an aircraft or ship, shall be used otherwise than as stores (if so entered) or shall not be duly exported to and discharged at the declared destination (such goods not having been discharged in the Colony with the permission of the proper officer as provided in section 125) or otherwise accounted for to the satisfaction of the Collector the same shall be forfeited; and the master of the aircraft or ship in which such goods shall have been put shall incur a penalty of one hundred pounds, or treble the value of such goods, at the election of the Collector.

132. If any person who shall have entered any goods for which bond is required under section 129 shall fail, in case such goods or any of them shall not be duly put on board the aircraft or ship for which the same shall have been entered, to attend the proper officer within twenty-four hours of the time of clearance of the aircraft or ship, or such further period as the Collector may allow, and notify such officer of the short loading of such goods, and re-warehouse or re-enter for exportation or use as stores in some other aircraft or ship within such period of twenty-four hours any such goods which shall have been removed from a warehouse for exportation or use as stores, any such goods entered as aforesaid shall be forfeited.

Short loading.

133. If any exporter who shall have entered any goods, not being goods for which bond is required, for exportation in any aircraft or ship shall fail, in case such goods or any of them shall not be duly put on board the aircraft or ship for which the same are entered, to attend the proper officer within twenty-four hours after the departure of such aircraft or ship, or such period as the Collector may allow, and notify such officer of the short loading of such goods, he shall incur a penalty of five pounds.

Exporter to notify short loading of non-bonded goods.

134. Notwithstanding anything to the contrary contained in the customs laws, and subject to any regulations made under this Ordinance, the Collector may, upon due request being made, permit the master of any aircraft or ship departing from any port in the Colony upon a flight or voyage to any place outside the Colony to take on board stores (not being goods prohibited to be exported) for the use of such aircraft or ship, and of the master, crew and passengers, upon payment of any export duty leviable on the like kind of goods exported, and upon such other terms and conditions as the Collector may direct, and in such quantities as the Collector in his discretion shall deem reasonable; and every such request shall be made on the prescribed form and contain the particulars required thereby or indicated therein, and shall be signed by the master or his agent; and no stores shall be put on board for the use of any aircraft or ship, nor shall any articles taken on board any aircraft or ship be deemed to be stores, except such as shall be or have been put on board such aircraft or ship in accordance with the provisions hereof.

Collector may allow shipment of stores.

Drawback
and trans-
shipment of
goods.

135. The provisions of the customs laws with reference to the exportation of warehoused goods, so far as they are applicable, shall be deemed to apply to and include goods liable to duties of customs transferred from an importing to an exporting aircraft or ship, and goods exported on drawback.

Loading of
goods other
than cargo
or stores.

136. Notwithstanding any contrary provisions of the customs laws, and subject to any regulations made under this Ordinance, it shall be lawful for the Collector to permit the loading of passengers' baggage, and also to permit any person to take on board any aircraft or ship any goods for sale or delivery to the passengers, officers, or crew of such aircraft or ship, or for such other purpose as the Collector shall allow, under such conditions as he may either generally or in any particular case direct; but if any goods, not being part of the cargo or authorised stores of any aircraft or ship, shall be taken on board any aircraft or ship which is about to proceed to any place outside the Colony, or which has any goods remaining on board thereof from a voyage from a place outside the Colony, or if any attempt shall be made to put any such goods on board any such aircraft or ship without the permission of or contrary to any conditions directed as aforesaid by the Collector, or otherwise contrary to the customs laws, the same shall be forfeited.

DEPARTURE AND CLEARANCE OF AIRCRAFT AND SHIPS.

Clearance of
aircraft or
ships.

137. The master of every aircraft or ship shall immediately before leaving the Colony on any flight or voyage to any place outside the Colony attend before the proper officer, and shall answer all such questions as shall be demanded of him by such officer concerning the aircraft or ship, the cargo, the stores, the baggage, the officers, crew and passengers and the flight or voyage, and shall deliver to and sign in the presence of the proper officer an account of all cargo and stores on board such ship within the Colony, as well as of any cargo and stores which shall have been brought to the Colony in such ship and shall have remained on board for exportation or for use as stores; and such account shall be in the prescribed form and shall contain the names of all passengers, and of the master, officers and crew of such ship, and, when signed by the proper officer, shall be the clearance and authority for the departure of such ship from the Colony.

138. If any such aircraft or ship shall depart from the Colony to any place outside the Colony without the delivery of such content in accordance with section 137, or if any ship as aforesaid shall so depart without authority having been granted under section 137, the master of such aircraft or ship shall incur a penalty of five hundred pounds, and if any of the particulars contained in any such content or account as aforesaid be false, or if any of the required particulars be omitted therefrom and such omission be not explained to the satisfaction of the Collector, the master or agent shall incur a penalty of one hundred pounds.

Penalty for not clearing.

139. If any ship shall depart in ballast from the Colony to any place outside the Colony, not having any goods on board except stores duly shipped as such, nor any goods reported inwards for exportation in such ship, the Collector shall, on the application of the master or his agent, clear such ship in ballast; and the master of such ship or his agent shall comply with the customs laws as if such ship had cargo on board except that the words "in ballast" shall be written on the prescribed forms in the places which are provided for particulars of cargo.

Clearance in ballast.

140. For the purposes of section 139, ships having only passengers with their *bona-fide* luggage on board, in addition to stores as aforesaid, shall be deemed to be in ballast.

Ships with passengers and baggage deemed in ballast.

141. Any officer may go on board any aircraft or ship within the Colony or the waters thereof, and demand the clearance of such ship, and if the master shall not produce the same, or if the master of any aircraft or ship whatsoever which may be boarded as aforesaid by an officer shall not answer or shall not truly answer such questions concerning the aircraft or ship, the cargo, stores, baggage, officers, crew, passengers and intended flight or voyage as may be demanded of him, he shall incur a penalty of one hundred pounds.

Clearance, etc., to be produced to officer on demand.

142. If there be any goods or stores on board any aircraft or ship which may have been boarded by an officer within the Colony or the waters thereof not contained in the content or account required to be signed as the clearance of such aircraft or ship (if any) such goods or stores shall be forfeited, and the master shall incur a penalty of one hundred pounds, or of treble the value of such goods, at the election of the Collector.

Goods not contained in account forfeited.

Penalty for failure to produce goods.

143. If any officer having boarded any aircraft or ship within the Colony or the waters thereof after clearance, shall discover that any goods which were loaded within the Colony on board thereof as stores or for exportation or which at the time of clearance remained on board from the inward voyage, be no longer on board such aircraft or ship (unless the same shall have been discharged in the Colony, with the permission of the proper officer, as provided in section 125 or, being stores remaining on board from the inward voyage, shall in the opinion of the proper officer not exceed the quantity which might fairly have been consumed, having regard to the period which such aircraft or ship shall have been within the Colony or the waters thereof), the master shall incur a penalty of twenty pounds for every package or parcel of such goods not on board, or a penalty of treble the value of such goods, at the election of the Collector.

Deficiency in stores, etc.

144. If any aircraft or ship, having departed from the Colony on a flight or voyage to a place outside the Colony and having returned within the Colony or the waters thereof, is boarded by an officer, and if such officer shall discover any deficiency in the stores of such aircraft or ship which in his opinion shall be in excess of the quantity which might fairly have been consumed, having regard to the period which has elapsed between the departure of such aircraft or ship and the discovery of the deficiency, the master shall pay the duties on such deficiency at the rate chargeable on similar goods imported, and in addition shall incur a penalty of twenty pounds.

Officers to be set down by departing aircraft or ship, etc.

145. If any aircraft or ship departing from the Colony shall not bring to at the proper boarding station for setting down officers, or for any other purpose required by the customs laws, or shall depart on a flight or voyage with any officer on board without the assent of such officer, the master shall incur a penalty of one hundred pounds.

COASTING TRADE.

Definition.

146. Except as provided in section 147, all trade by sea or by air from any one part of the Colony to any other part thereof shall be deemed to be coasting trade, and all aircraft and ships while employed therein shall be deemed to be coasting aircraft and coasting ships, and if any doubt shall

at any time arise as to what, or to or from what parts of the Colony shall be deemed a passage by sea, the Governor may determine and direct in what cases the trade by water from one port or place in the Colony to another of the same shall or shall not be deemed a trade by sea within the meaning of the customs laws.

147. Notwithstanding any provisions in the customs laws to the contrary, it shall be lawful for the proper officer, on the arrival from a place outside the Colony of any aircraft or ship having on board cargo intended to be delivered at more than one port or place in the Colony, to permit such aircraft or ship to convey goods from any port at which such aircraft or ship shall partially discharge her cargo to any other port or place in the Colony for delivery there, upon the complete separation of such goods from the inward cargo still on board being effected to the satisfaction of the proper officer, but such conveyance of goods from one port or place to another shall not constitute the aircraft or ship a coasting aircraft or coasting ship within the meaning of the customs laws. The loading, unloading and conveyance of goods under this section shall be subject to any regulations made under this Ordinance and to such conditions as the Collector may impose, and if any goods shall be loaded, unloaded, conveyed or dealt with contrary to such regulations or conditions, the goods shall be forfeited, and the master of the aircraft or ship shall incur a penalty of twenty pounds.

Exception in regard to aircraft and ships with cargo for several places in the Colony.

148. No ship shall trade coastwise within the Colony unless she is provided with a licence in the prescribed form to be issued by the Collector, which licence shall expire on the thirty-first day of December in each year. Every ship trading contrary to this section shall be forfeited, and the master of the ship shall incur a penalty of one hundred pounds.

Licence for coasting ship.

149. No goods shall be carried in any coasting aircraft or ship except such as shall be loaded to be carried coastwise at some port or place in the Colony.

Coasting aircraft or ship to take only coastwise cargo.

150. If any coasting aircraft or ship shall deviate from its flight or voyage, unless forced by unavoidable circumstances, whereof the proof shall lie on the master of such aircraft or ship, or if the master of any coasting aircraft or ship which

Offences.

shall have deviated from its flight or voyage, or shall have taken on board any wrecked or other goods, or discharged any goods in the course of a flight or voyage from one part of the Colony to another, shall not enter an account of the circumstances and of any goods so taken on board or discharged in the cargo book hereinafter referred to, and proceed forthwith direct to the nearest port in the Colony, and declare and explain the same to the satisfaction of the proper officer, and deliver all goods so taken on board into his care, such master shall incur a penalty of one hundred pounds, and the aircraft or ship may be seized by any officer and detained until such penalty is paid.

Special conditions as to certain goods.

151. Tobacco, cigars, cigarillos, cigarettes, wines and spirits shall not be put on board any aircraft or ship for carriage coastwise except at an approved place of loading or sufferance wharf and in the presence or with the authority of an officer, and if any such goods shall be put on board contrary hereto, or if any attempt is made so to put them, such goods shall be forfeited.

Coastwise cargo not to be put on board on Sunday, etc.

152. If any goods shall be discharged from any aircraft or ship arriving coastwise, or from any vessel into which the same shall have been put to be landed, or be put on board or be put into any vessel to be water-borne, or be water-borne to be put on board any aircraft or ship for carriage coastwise on Sundays or public holidays, or except between half-past seven in the morning and half-past four in the afternoon on any other day, save with the written permission of the Collector, the same shall be forfeited, and the master of the aircraft, ship or vessel shall incur a penalty of fifty pounds, and the aircraft, ship or vessel may be seized by any officer and detained until such penalty is paid.

Prohibited goods.

153. If any person shall put on board any coasting aircraft or ship, or put off, or put into any vessel to be put on board any coasting aircraft or ship, or bring to any aerodrome, customs area, quay, wharf or any place whatever in the Colony for carriage coastwise or carry coastwise any goods prohibited to be carried coastwise, or any goods the carriage of which is restricted contrary to such restriction, or attempt to perform, or be knowingly concerned in the performance of any of the aforesaid acts, he shall incur a penalty of two hundred pounds, and all such goods shall be forfeited.

154. The master of every coasting aircraft or ship shall keep, or cause to be kept, a cargo book, stating the name of the aircraft or ship, the master, and the port to which the aircraft or ship belongs, and of the port or place to which it is bound on each flight or voyage, and, unless the Collector otherwise directs, shall at every port or place of loading, enter into such book the name of such port or place, and an account of all goods there taken on board such aircraft or ship, stating the descriptions of the packages, and the quantities and descriptions of any goods stowed loose, and the names of the respective consignors and consignees, and shall at every port or place of discharge of such goods note the respective days on which the same, or any of them, are delivered out of such aircraft or ship, and the respective times of departure from every port or place of loading and of arrival at every port or place of discharge.

Master to keep cargo book.

155. The master of every coasting aircraft or ship shall, on demand, produce the cargo book for the inspection of any officer, who shall be at liberty to make any note or remark therein; and if upon examination any package entered in the cargo book as containing imported goods shall be found not to contain such goods, such package with its contents shall be forfeited; or if any package shall be found to contain imported goods not entered in such book, such goods shall be forfeited.

Master to produce cargo book on demand.

156. If such master shall fail correctly to keep or cause to be correctly kept such cargo book, or to produce the same, or if at any time there be found on board such aircraft or ship any goods not entered in such book as loaded, or any goods noted as delivered, or if any goods entered as loaded and not noted as delivered be not on board, the master of such aircraft or ship shall incur a penalty of twenty pounds and the aircraft or ship may be seized by any officer and detained until such penalty is paid.

Penalty for failure to keep cargo book correctly.

157. Notwithstanding any other provisions contained in this Ordinance, it shall be lawful for the Governor, by notice in the *Gazette*, to require the masters or agents of all or any coasting aircraft or ship or ships to deliver to the Collector, prior to the departure from any port or place of such aircraft or ship or ships, an account of all cargo and stores taken on board, in such manner as may be specified in the said notice; and if any coasting aircraft or ship shall depart contrary to

Governor may impose special conditions.

the provisions of any such notice the master and owner shall each incur a penalty of fifty pounds.

Form of
cargo book.

158. The cargo book shall be in the prescribed form, and shall contain such particulars in addition to, or in lieu of the particulars required by sections 154 to 157 as the form prescribed as aforesaid shall indicate or require; and if such cargo book is not in the form prescribed as aforesaid, the master of the aircraft or ship shall incur a penalty of ten pounds, and the aircraft or ship may be seized by any officer and detained until such penalty is paid.

Master to
deliver cargo
book to
officer before
departure.

159. (1) Before any coasting aircraft or ship shall depart from her port or place of loading, her cargo book containing the several particulars required by this Ordinance, and signed by the master shall be delivered to the proper officer, who shall return it dated and signed by him, and such cargo book shall be the clearance of the aircraft or ship for the voyage; and if the master shall fail to deliver such cargo book he shall incur a penalty of twenty pounds, and the aircraft or ship may be seized by any officer and detained until such penalty is paid.

Procedure
where no
officer is
stationed.

(2) Any coasting aircraft or ship taking cargo on board at a place where no officer is stationed to be carried coastwise may depart from such place without delivering such cargo book, on condition that the master of the aircraft or ship shall produce the cargo book to the proper officer at the first place where an officer is stationed at which such aircraft or ship arrives after loading, and the officer shall thereupon sign such book, if satisfied as to its correctness.

Master to
deliver cargo
book on
arrival.

160. Immediately after the arrival of any coasting aircraft or ship at her port or place of discharge and before any goods be unloaded, the cargo book with the name of the place or wharf where the cargo is to be discharged noted thereon shall be delivered to the proper officer, who shall note thereon the date of delivery; provided that a coasting aircraft or ship having cargo duly loaded to be carried coastwise may discharge at a place where no officer is stationed without delivering the cargo book as herein required, on condition that the cargo book, containing an account of the cargo so discharged is produced to the proper officer at the first place where an officer is stationed at which the aircraft or ship arrives after discharging; and if any goods are unloaded or if

any goods are loaded on board any aircraft or ship and carried coastwise, or be brought to any port or place in the Colony for that purpose, contrary to the customs laws, such goods shall be forfeited.

161. Any officer may go on board any coasting aircraft or ship in any port or place in the Colony or on any coasting ship at any period of her voyage, and search such aircraft or ship and examine all goods on board, and all goods then being loaded or unloaded, and demand all books or documents which ought to be on board such aircraft or ship, and may require all or any such books or documents to be brought to him for inspection, and the master shall answer all such questions concerning the aircraft or ship and its cargo, officers, crew, passengers and the flight or voyage as may be put to him by such officer; and if the master shall refuse to produce such books and documents on demand, or to bring the same to such officer when required, he shall incur a penalty of twenty pounds, and the aircraft or ship may be seized by any officer and detained until such penalty is paid.

Cargo book, etc., to be delivered to officer on demand.

162. Notwithstanding anything hereinbefore contained, the Collector may permit the loading and clearance and the entry and unloading of any coasting aircraft or ship and goods under such conditions as he may direct.

Collector may vary procedure.

163. It shall be lawful for the Collector, subject to such conditions as he may require to be observed, to permit the master of any aircraft or ship bringing any goods coastwise to an approved port to enter such aircraft or ship and goods or any of them outwards for exportation without first discharging the same.

Coasting aircraft or ship may be entered outward in certain cases.

164. The carriage of passengers, officers and crew coastwise, whether in a coasting aircraft or ship or not, shall be subject to any regulations made under this Ordinance.

Coastwise passengers, etc.

PREVENTION OF SMUGGLING

165. If any aircraft or ship shall be found or discovered to have been within the waters of the Colony, or within or over the Colony, which has any secret or disguised place adapted for concealing goods, or any device adapted for running goods, or which has on board or in any manner attached thereto,

Penalty on persons found on board smuggling ships.

or which has had on board or in any manner attached thereto, or which is conveying or has conveyed in any manner any goods imported contrary to the customs laws, or from which any part of the contents of such aircraft or ship shall have been thrown overboard to prevent seizure, or on board which any goods shall have been staved or destroyed to prevent seizure, then in every such case every person who shall be found or discovered to have been on board any such aircraft or ship shall incur a penalty of one hundred pounds, and all such goods shall be forfeited; provided that no person shall be liable to conviction under this section unless there shall be reasonable cause to believe that such person was concerned in or privy to the illegal act or thing proved to have been committed.

Smuggling
ships under
250 tons for-
feited.

166. Every ship of less than 250 tons burden on board which, or in respect of which, any offence against section 165 shall be committed shall be forfeited.

Penalty on
smuggling
aircraft and
ships of 250
tons or more.

167. (1) With regard to aircraft or any ship of or exceeding two hundred and fifty tons burden, on board or in respect of which any offence against section 165 shall be committed, such aircraft or ship shall not be forfeited for such offence, but the following provisions shall apply:

- (a) The Collector shall have power, subject to appeal to the Governor, to fine any such aircraft or ship in any sum not exceeding fifty pounds, in any case where in his opinion a responsible officer (as hereinafter defined) of such aircraft or ship is implicated either actually or by neglect;
- (b) For the purpose of enforcing such fine, the Collector shall have power to require the deposit in his hands, at the port where such aircraft or ship shall be, of such sum, not exceeding fifty pounds, as he may think right, pending the ultimate decision, and in default of payment of such deposit the Collector shall have power to withhold clearance and to detain the said aircraft or ship;
- (c) If in any case the Collector shall consider that the fine of fifty pounds aforesaid will not be an adequate penalty against any such aircraft or ship for the offence committed thereon, it shall be lawful for him

to take proceedings for condemnation of the said aircraft or ship in a penalty not exceeding five hundred pounds at the discretion of the Court. And for this purpose the Collector may, as to any aircraft or ship referred to in this section, require the deposit in his hands as aforesaid of a sum not exceeding five hundred pounds, to abide the decision of the Court, and in default of payment of such deposit the Collector may withhold clearance and detain such aircraft or ship;

- (d) No claim shall be made against the Collector for damages in respect of the payment of any deposit, or for the detention of any aircraft or ship under this section.

(2) The expression "responsible officer" in this section shall include the master, mates and engineers of any ship, and in the case of a ship carrying a passenger certificate, the purser or chief steward, and where the ship is manned by Asiatic seamen, the serang or other leading Asiatic officer, and, in the case of an aircraft, the pilot, navigator, chief steward or chief engineer. The expression "neglect" in this section shall include cases where goods unowned by any of the crew are discovered in a place or places in which they could not reasonably have been put or remained if the responsible officer or officers having supervision of such place or places had exercised proper care at the time of loading of the aircraft or ship or subsequently.

168. If any ship within the waters of the Colony, shall not bring to upon the proper signal made by any vessel or boat in His Majesty's service or in the service of the customs, whereupon chase shall be given, and any person on board such ship shall during chase, or before such ship shall bring to, or upon bringing to, throw overboard any part of her contents, or shall stave or destroy any part thereof to prevent seizure, such ship shall be forfeited.

Ship forfeited for offence during chase.

169. If any aircraft or ship liable to seizure or examination under the customs laws shall not bring to when required so to do and remain for such period as the boarding officer shall require, the master of such aircraft or ship shall incur a penalty of one hundred pounds.

Penalty for not bringing to.

Offences by
smugglers,
etc., against
officers.

170. (1) If any person shall maliciously shoot at any aircraft or ship in the service of the customs, or shall maliciously shoot at, maim or wound any officer in the execution of his office or duty, or with violence commit any of the offences mentioned in subsection (4) of this section, every person so offending, and every person aiding, abetting or assisting therein shall, upon conviction on an information laid against him in the Supreme Court, be adjudged guilty of felony, and shall be liable to imprisonment, with or without hard labour, for any term not exceeding fifteen years.

(2) If any person engaged, or who shall have been engaged, in the commission of any offence against the customs laws be armed with firearms or other offensive weapons, or, whether so armed or not, be disguised in any way, or being so armed or disguised shall be found with any goods liable to forfeiture under the customs laws, he shall, on conviction on an information laid against him in the Supreme Court, be liable to imprisonment, with or without hard labour, for any term not exceeding three years.

(3) If any person shall by any means procure or hire, or shall depute or authorize any other person to procure or hire any person to assist in any evasion of the customs laws, he shall on conviction be liable to imprisonment with or without hard labour for any term not exceeding twelve months.

(4) If any person shall stave, break, or destroy any goods to prevent seizure thereof by an officer or other person authorized to seize the same, or shall rescue, or stave, break or destroy to prevent the securing thereof any goods seized by an officer or other person authorised to seize the same, or rescue any person apprehended for any offence punishable by a pecuniary penalty or imprisonment under the customs laws, or prevent the apprehension of any such person, or obstruct any officer going, remaining or returning from on board an aircraft or ship within the Colony or the waters thereof, or in searching an aircraft or ship, or in searching a person liable to be searched under the customs laws, or in seizing any goods liable to forfeiture, or otherwise acting in the execution of his duty, or attempt or endeavour to commit, or aid, abet or assist in the commission of any of the offences mentioned in this subsection, he shall for each such offence incur a penalty of one hundred pounds.

(5) If any person, not being an officer, takes or

assumes the name, designation, appearance or character of an officer for the purpose of thereby obtaining admission into any aircraft or ship, house or other place, or of doing or procuring to be done any act which he would not be entitled to do or procure to be done of his own authority, or for any other unlawful purpose, he shall in addition to any other punishment to which he may be liable for the offence, be liable, on conviction, to be imprisoned, with or without hard labour, for any term not exceeding three months.

(6) In this section "violence" means any criminal force or harm to any person, or any criminal mischief to any property, or any threat or offer of such force, harm or mischief, or the carrying or use of deadly, dangerous or offensive weapons in such manner as that terror is likely to be caused to any person, or such conduct as is likely to cause in in any person a reasonable apprehension of criminal force, harm or mischief to them or to their property.

171. (1) No person shall make or cause to be made, or aid, or assist in making any signal in or on board or from any aircraft or ship, or on or from any part of the Colony, for the purpose of giving notice to any person on board any smuggling aircraft or ship, whether any person so on board of such aircraft or ship be or be not within distance to notice any such signal; and if any person shall make or cause to be made, or aid or assist in making any such signal, he shall on conviction be liable to imprisonment, with or without hard labour, for any term not exceeding twelve months.

Penalty for
signalling to
smuggling
aircraft or
ship.

(2) If any person be charged with having made or caused to be made, or with aiding or assisting in making any such signal as aforesaid, the burden of proof that such signal so charged as having been made with intent and for the purpose of giving such notice as aforesaid was not made with such intent and for such purpose shall be upon the defendant against whom such charge is made.

(3) Any person whatsoever may prevent any signal being made as aforesaid, and may go upon any lands for that purpose, without being liable to any indictment, suit or action for the same.

(4) For the purposes of this section any ship to which a signal is made as aforesaid, and which changes its course, or, if at anchor, weighs anchor, or from which any signal is made, following any signal made from an aircraft or ship or

any part of the Colony as aforesaid, shall, for the purposes of this section be deemed to be a smuggling ship, unless the contrary be proved.

Penalty for interfering with customs gear.

172. Every person who shall cut away, cast adrift, remove, alter, deface, sink or destroy, or in any other way injure or conceal any aircraft, ship, buoy, anchor, chain, rope or mark in the charge of or used by any person for the prevention of smuggling, or in or for use of the service of the customs, shall incur a penalty of fifty pounds.

Inter-meddling with goods found floating.

173. If any person, not being an officer, shall intermeddle with or take up any spirits or any goods prohibited to be imported or exported, being in packages found floating upon or sunk into the sea, such spirits or goods prohibited to be imported or exported shall be forfeited, and every such person shall incur a penalty of twenty pounds.

Writs of assistance.

174. All writs of assistance issued from the Supreme Court (which is hereby authorized and required to grant such writs upon application by the Collector) shall continue in force during the reign for which they were granted and for six months afterwards; and any officer having such writ of assistance may, by day or by night, enter into and search any house, shop, cellar, warehouse, room or other place, and in case of resistance break open doors, chests, trunks, and other packages, and seize and bring away any uncustomed or prohibited goods, or any books or documents relating thereto, and put and secure the same in a King's warehouse.

Search warrant.

175. If any officer shall have reasonable cause to suspect that any uncustomed or prohibited goods, or any books or documents relating to uncustomed or prohibited goods, are harboured, kept or concealed in any house or other place in the Colony, and it shall be made to appear by information on oath before the magistrate or justice of the peace in the Colony, it shall be lawful for such magistrate or justice of the peace by special warrant under his hand to authorise such officer to enter and search such house or other place, by day or by night, and to seize and carry away any such uncustomed or prohibited goods, or any books or documents relating to uncustomed or prohibited goods, as may be found therein; and it shall be lawful for such officer, in case of resistance, to break open any door, and to force and remove any other

impediment or obstruction to such entry, search or seizure as aforesaid.

176. Any officer may upon reasonable suspicion stop and examine any carriage to ascertain whether any uncustomed or prohibited goods are contained therein; and, if none shall be found, the officer shall not on account of such stoppage and examination be liable to any prosecution or action at law; and any person driving or conducting such carriage refusing to stop or allow such examination when required by any officer shall incur a penalty of one hundred pounds.

Officer may stop carriage.

177. Any officer, when on duty, and having the authority of the Collector, may patrol upon and pass freely either on foot or otherwise along and over and enter any part of the Colony other than a dwelling-house or other building and any such officer so proceeding shall not be liable to any indictment, action or suit for so doing.

Officer may patrol freely, etc.

178. The officer in charge of any aircraft or ship employed for the prevention of smuggling may land or haul any such aircraft or ship upon any part of the Colony which shall be deemed most convenient for that purpose, and moor any such aircraft or ship on any part of the Colony, and continue such aircraft or ship so moored as aforesaid for such time as he shall deem necessary and proper; and such officer shall not be liable to any indictment, action or suit for so doing.

Officer may moor patrol craft.

GENERAL.

179. Save as otherwise provided in section 180 any person who shall be convicted of any offence against the customs laws for which no specific penalty is provided shall incur a penalty of fifty pounds.

General penalty.

180. Where any aircraft, ship, carriage or goods become liable to forfeiture under the customs laws, any person who shall be knowingly concerned in the act or omission which renders the same liable to forfeiture shall be guilty of an offence against this Ordinance, and shall incur the penalty provided by this Ordinance in respect of such offence, or, where no such penalty is provided, shall incur a penalty of one hundred pounds, or treble the value of any goods seized, at the election of the Collector; and any such person may be

Penalty in cases of forfeiture.

arrested and detained by any officer, and taken before a magistrate to be dealt with according to law; Provided that no person shall be arrested whilst actually on board any aircraft or ship in the service of a foreign state or country.

Penalty for
false declara-
tion, etc.

181. If any person shall in any matter relating to the customs, or under the control or management of the Collector, make and subscribe, or cause to be made and subscribed, any false declaration, or make or sign, or cause to be made or signed, any declaration, certificate or other instrument required to be verified by signature only, the same being false in any particular, or if any person shall make or sign any declaration made for the consideration of the Collector on any application presented to him, the same being untrue in any particular, or if any person required by the customs laws to answer questions put to him by an officer shall refuse to answer such questions, or if any person shall answer untruly any questions put to him by any officer acting in the execution of his duty, or if any person shall counterfeit, falsify or wilfully use when counterfeited or falsified any document required by the customs laws, or by or under the directions of the Collector, or any instrument used in the transaction of any business or matter relating to the customs, or shall alter any document or instrument after the same has been officially issued, or counterfeit the seal, signature, initials or other mark of or used by any officer for the verification of any such document or instrument, or for the security of goods, or any other purpose in the conduct of business relating to the customs or under the control or management of the Collector, or shall on any document or instrument required for the purpose of the customs laws counterfeit or imitate the seal, signature, initials or other mark of or made use of by any other person whatsoever, whether with or without the consent of such person, every person so offending shall incur a penalty of five hundred pounds.

Penalty for
evading cus-
toms laws
regarding
imported or
exported
goods.

182. Every person who shall import or bring or be concerned in importing or bringing into the Colony any prohibited goods, or any goods the importation of which is restricted, contrary to such prohibition or restriction, whether the same be unloaded or not, or shall unload, or assist or be otherwise concerned in unloading any goods which are prohibited, or any goods which are restricted and imported

contrary to such restriction, or shall knowingly permit or suffer or cause or procure to be harboured, kept or concealed, any prohibited, restricted or uncustomed goods, or shall knowingly acquire possession of or be in any way knowingly concerned in carrying, removing, depositing, concealing, or in any manner dealing with any goods with intent to defraud His Majesty of any duties due thereon, or to evade any prohibition or restriction of or applicable to such goods, or shall be in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any import or export duties of customs, or of the laws and restrictions of the customs relating to the importation, unloading, warehousing, delivery, removal, loading and exportation of goods, shall for each such offence incur a penalty of one hundred pounds, or treble the value of the goods, at the election of the Collector; and all goods in respect of which any such offence shall be committed shall be forfeited.

183. If any person shall import or export, or cause to be imported or exported, or attempt to import or export any goods concealed in any way, or packed in any package or parcel (whether there be any other goods in such package or parcel or not) in a manner calculated to deceive the officers of customs, or any package containing goods not corresponding with the entry thereof, such package and the goods therein shall be forfeited, and such person shall incur a penalty of one hundred pounds, or treble the value of the goods contained in such package at the election of the Collector.

Penalty in relation to concealed goods, etc.

184. (1) Notwithstanding the provisions of section 183, if, upon the examination of any imported goods, which are chargeable with duty upon the value thereof, it appears to the Collector that the value of such goods as declared by the importer and according to which duty has been or is sought to be paid is not the true value thereof, it shall be lawful for the Collector to detain the same, in which case he shall give notice in writing to the importer of the detention of such goods, and of the value thereof as estimated by him, either by delivering such notice personally, or by transmitting the same by post to such importer, addressed to him at his place of abode or business, as stated in his entry.

Power of Collector to purchase goods in certain cases.

(2) The Collector shall, within fifteen days after the detention of such goods, determine, either that the goods are or may be correctly entered according to the value

declared by the importer and permit the same to be delivered, or to retain the same for the public use of the Colony, in which latter case he shall cause the value at which the goods were declared by the importer, together with an addition of ten per centum and the duties already paid, to be paid to the importer in full satisfaction for such goods; or he may permit such person, on his application for that purpose, to enter the goods according to such value and on such terms as he may direct.

(3) Such goods, if retained, shall be disposed of for the benefit of the Colony, and if the proceeds arising therefrom, in case of sale, exceed the sums so paid, and all charges incurred by the Colony, such surplus shall be disposed of as the Governor may direct.

Officer
taking un-
authorised
fees, etc.

185. If any officer shall accept any fee, perquisite or reward, whether pecuniary or otherwise, directly or indirectly from any person on account of anything done or to be done by him, or omitted to be done by him, or in any way relating to his said office or employment, except such as he shall receive with the approval of the Governor or Collector, such officer so offending shall, on proof thereof to the satisfaction of the Governor, be dismissed from his office; and if any person shall give, offer or promise to give any such fee, perquisite or reward, such person shall for every such offence incur a penalty of one hundred pounds.

Collusive
seizure,
bribery, etc.

186. If any officer shall make any collusive seizure, or deliver up, or make any agreement to deliver up or not to seize any aircraft, ship, carriage or goods liable to forfeiture, or shall take any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty, or conspire or connive with any person to commit an offence against the customs laws for the purpose of seizing any aircraft, ship, carriage or goods, and obtaining any reward for such seizure or otherwise, every such officer shall incur a penalty of five hundred pounds, and be rendered incapable of holding any office under the Government of the Colony, and every person who shall give or offer, or promise to give or procure to be given, any bribe, recompense or reward to, or shall make any collusive agreement with any such officer to induce him in any way to neglect his duty, or to do, conceal or connive at any act whereby any provisions of the customs laws may be evaded, shall incur a penalty of five hundred pounds.

187. If any person shall offer for sale any goods under pretence that the same are prohibited, or have been unloaded and removed without payment of duties, all such goods (although not liable to any duties, or prohibited) shall be forfeited.

Offering goods for sale under pretence that they are smuggled.

188. Subject to the provisions of section 167, all aircraft, ships and carriages, together with all animals and things made use of in the importation, attempted importation, landing, removal, conveyance, exportation or attempted exportation of any uncustomed, prohibited or restricted goods, or any goods liable to forfeiture under the customs laws shall be forfeited; and all aircraft, ships, carriages and goods together with all animals and things liable to forfeiture, and all persons liable to be detained for any offence under the customs laws or under any Ordinance whereby officers are authorized to make seizures or detentions, shall or may be seized or detained in any place either upon land or water, by any person duly employed for the prevention of smuggling, or by any person having authority from the Collector to seize or detain the same, and all aircraft, ships, carriages and goods, together with all animals and things so seized shall forthwith be delivered into the care of the Collector; and the forfeiture of any aircraft, ship, carriage, animal or thing shall be deemed to include the tackle, apparel and furniture thereof, and the forfeiture of any goods shall be deemed to include the package in which the same are found and all the contents thereof.

General provision as to forfeiture.

189. (1) Whenever any seizure shall be made, unless in the possession of or in the presence of the offender, master or owner, as forfeited under the customs laws, or under any Ordinance by which officers are empowered to make seizures, the seizing officer shall give notice in writing of such seizure and of the grounds thereof to the master or owner of the aircraft, ship, carriage, goods, animals or things seized, if known, either by delivering the same to him personally, or by letter addressed to him, and transmitted by post to, or delivered at, his usual place of abode or business, if known, and all seizures made under the customs laws or under any Ordinance by which officers are empowered to make seizures shall be deemed and taken to be condemned, and may be sold or otherwise disposed of in such manner as the Governor may direct, unless the person from whom such seizure shall

Procedure on seizure.

have been made, or the master or owner thereof, or some person authorised by him shall within one calendar month from the day of seizure give notice in writing to the Collector that he claims the same, whereupon proceedings shall be taken for the forfeiture and condemnation thereof; provided that if animals or perishable goods are seized, they may by direction of the Collector be sold forthwith by public auction, and the proceeds thereof retained to abide the result of any claim that may legally be made in respect thereof.

(2) Where proceedings are taken as aforesaid for forfeiture and condemnation, the Magistrate may order delivery of such aircraft, ship, carriage, goods, animals or things seized to the claimant, on security being given for the payment to the Collector of the value thereof in case of condemnation.

Disposal of seizure.

190. All seizures whatsoever which shall have been made and condemned under the customs laws, or any other Ordinance by which seizures are authorised to be made by officers, shall be disposed of in such manner as the Governor may direct.

Limit of penalty.

191. Where a penalty is prescribed for the commission of an offence under this Ordinance, such offence shall be punishable by a penalty not exceeding the penalty so prescribed; provided that where by reason of the commission of any offence the payment of any customs duty has or might have been evaded, the penalty imposed shall, unless the Court for special reasons thinks fit to order otherwise, and without prejudice to the power of the Court to impose a greater penalty, be not less than treble the amount of duty payable.

Governor may restore seizures, etc.

192. When any seizure shall have been made, or any fine or penalty incurred or inflicted, or any person committed to prison for any offence against the customs laws, the Governor may direct restoration of such seizure, whether condemnation shall have taken place or not, or waive or compound proceedings, or mitigate or remit such fine or penalty, or release such person from confinement, either before or after conviction, on any terms and conditions, as he shall deem fit.

Collector may mitigate penalty.

193. Subject to the approval of the Governor (which approval may be signified by general directions to the Collector), and notwithstanding anything contained in

section 191, the Collector may mitigate or remit any penalty, or restore anything seized under the customs laws, at any time prior to the commencement of proceedings in any Court against any person for an offence against the customs laws, or for the condemnation of any seizure.

194. The Collector may, with the approval of the Governor, reward any person who informs him of any offence against the customs laws or assists in the recovery of any fine or penalty. Rewards.

195. Every document submitted to the Collector or his officers for the purposes of the customs laws shall be in such form as may be prescribed, if any, and shall contain the particulars required by such form or indicated therein. Documents,
form of.

196. (1) The importer, exporter or any person concerned in the importation or exportation of any goods shall, on the request of any officer made at any time within three years of the date of importation or exportation, as the case may be, or of the date of delivery to the proper officer of an entry for such goods, if the same have been entered, produce, for the inspection of such officer the invoices, books of account and any other documents of whatever nature relating to such goods which the officer shall require, and shall answer such questions and make and subscribe such declarations regarding the weight, measure, strength, value, cost, selling price, origin and destination of such goods, and the name of the place whence or where any imported goods were consigned or transferred from one aircraft or ship to another, as shall be put to him by the officer, and shall produce such evidence as the officer may consider necessary in support of any information so furnished; and if the importer or exporter or other person concerned as aforesaid shall neglect or refuse to carry out any of the provisions of this section, he shall incur a penalty of one hundred pounds, and the Collector may, on such neglect or refusal, refuse entry or delivery or prevent shipment of the goods, or may allow entry, delivery or shipment of the goods upon such terms and conditions, and upon deposit of such sum, pending the production of the proper documents and declarations, as he shall see fit to impose or require. Documents,
production
of.

(2) The deposit made in accordance with subsection

(1) of this section shall be forfeited unless within three months of the time of deposit or such further period as the Collector may allow the person making the deposit shall produce the required documents or declarations to the Collector.

Copies of
documents
to be
submitted.

197. Where any person is required to submit any report, entry, declaration or other form for the purpose of the customs laws, the Collector may require such person to submit as many copies thereof as he may deem necessary; and where the Collector shall require invoices or certificates of origin, or both to be produced for any goods imported or exported, he may require such invoices or certificates of origin or both, to be submitted in duplicate, and may retain the duplicates, or, if such invoices or certificates of origin, or both, are not submitted in duplicate, he may retain the originals.

Translation.

198. Where any document required for the purposes of the customs laws contains any words not in the English language, the person required to produce such document shall produce therewith a correct translation thereof in English.

Samples.

199. Any officer may on the entry of any goods, or at any time afterwards, take samples of such goods for such purpose as the Collector may deem necessary, and such samples shall be disposed of and accounted for in such manner as the Collector may direct.

Goods to be
handled by
owner.

200. The unloading, loading and removal of goods and bringing them to the proper place for examination and weighing, putting them into scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where such operations respectively are necessary or permitted, and removing to and placing them in the proper place of deposit until delivered or put on board an exporting aircraft or ship, shall be performed by or at the expense of the owner of such goods; and the owner shall unpack, sort, pile or otherwise prepare any goods either before or after entry thereof in such manner as the proper officer shall require to enable him to examine or take account of the same.

Samples for
owner.

201. The Collector may direct what goods may be skipped in a customs area or warehouse, or bulked, sorted, lotted, packed and repacked there, and the manner thereof, and direct

in what manner and subject to what conditions the owner of any goods may take samples thereof; Provided that no goods may in any such building or place be repacked into packages of a size in which the same are prohibited to be imported or exported, unless express provision therefor is made by law.

202. If any goods shall be lost or destroyed by unavoidable accident before the same have been delivered out of the care of any officer, either on board an aircraft or ship, or in removing, loading, unloading, or receiving into a customs area or warehouse, or in the customs area or warehouse, or in course of delivery therefrom, the Collector, if satisfied that such goods have not been and will not be consumed in the Colony, may remit or return the duties due or paid thereon, and any goods which may be abandoned by the owner thereof as not worth the duty while in the charge of any officer may be destroyed or otherwise disposed of as the Collector shall direct, at the cost and charges of such owner, and the Collector may thereupon remit or return the duties due or paid thereon.

Remission of
duty on
goods lost,
etc.

203. Where it is proved to the satisfaction of the Collector that any goods after being duly put on board an aircraft or ship for exportation or use as stores have, either before or after exportation, been destroyed by accident on board such aircraft or ship, any drawback or allowance payable on the goods shall be payable in the same manner as if the goods had been actually exported or used as stores.

Drawbacks
on goods
lost.

204. Where it is proved to the satisfaction of the Collector that any goods after being duly put on board an aircraft or ship for exportation or use as stores have been materially damaged on board such aircraft or ship, any drawback or allowance payable in respect of the goods shall, if they are with the consent of the Collector discharged in the Colony and abandoned to the Government, be payable as if the goods had been actually exported or used as stores.

Drawback
on goods
abandoned.

205. The Collector may modify the form of declaration required under section 42 in such manner as he may think necessary for adapting it to the provisions of sections 203 and 204.

Modification
of declara-
tion.

Authority to
be produced
by person
acting for
another.

206. Whenever any person shall make application to any officer to transact any business on behalf of any other person, such officer may require the person so applying to produce a written authority from the person on whose behalf such application is made, and in default of the production of such authority may refuse to transact such business; and any document required by the customs laws to be signed by any particular person, if signed by any person authorised as aforesaid on behalf of the person required to sign the same, shall be deemed for all purposes to be signed by the person required to sign the same; provided that the Collector may in his discretion refuse to allow any such application as aforesaid.

Witnessing
of signatures.

207. Where any document or declaration is required by the customs laws to be signed in the presence of the Collector, or any particular officer, if such document or declaration is signed in the presence of a witness whose signature is known to and who is approved by the Collector or the officer who receives the same, then in such case such document or declaration shall be as valid as if it had been signed in the presence of the Collector or the officer in whose presence it is required to be signed.

Master to
attend before
Collector if
so required.

208. Where under the customs laws the master or agent of any aircraft or ship is required to answer questions put to him by the Collector or any officer, and such aircraft or ship shall be within the Colony or the waters thereof, and shall not have left her final position, anchorage or berth preparatory to leaving the Colony, it shall be lawful for the Collector or such officer to require the master to attend before him at the office of the Collector or such officer, and in such case the requirements of the customs laws shall not be deemed to have been fulfilled unless the master shall so attend when so required; Provided that it shall be lawful for the master, with the consent of the Collector or such officer, to depute a senior officer of such aircraft or ship to attend for the purpose of answering such questions, and in such case, any reply to any question put to such senior officer by the Collector or such officer as aforesaid shall for the purposes of section 181 be deemed to have been made by the person required to answer such questions.

Time of im-
portation,
etc., defined.

209. (1) If for any purpose of the customs laws it becomes necessary to determine the precise time at which an importa-

tion of any goods shall be deemed to have had effect, such time shall be deemed to be the time at which the aircraft or ship importing such goods actually landed in the Colony or came within the waters thereof.

(2) If any question arises upon the arrival of any aircraft or ship at any port or place in the Colony in respect of any charge or allowance for such aircraft or ship, exclusive of cargo, the time of such arrival shall be deemed to be the time at which such aircraft or ship shall first be boarded by any person in the employment of the Government at such port or place.

(3) The time of exportation of any goods shall be deemed to be the time when the same are put on board the exporting aircraft or ship, except in the case of goods prohibited to be exported, with reference to which the time of exportation shall be deemed to be the actual time at which the aircraft or ship departed from its final position, anchorage or berth within the Colony or the waters thereof.

210. All packages and coverings in which goods are imported or exported and which in the opinion of the Collector:

Special packages deemed separate articles.

- (a) are not the usual or proper packages or coverings for such goods, or
- (b) are designed for separate use, other than as packages or coverings for the same or similar goods, subsequent to importation or exportation, as the case may be,

shall for all purposes of the customs laws be deemed to be separate articles, except in cases where a contrary provision shall be made.

211. In addition to any other power of arrest or detention conferred by the customs laws, any officer may arrest and detain any person whom he finds committing an offence against the customs laws, and take him before a magistrate to be dealt with according to law.

Power of arrest.

212. If any person liable to arrest under the customs laws escapes from any officer attempting to arrest him, or if any officer is for any reason whatever unable or fails to arrest any such person, such person may afterwards be arrested

Arrest after escape.

and detained by any officer at any place in the Colony within seven years from the time such offence was committed, and dealt with as aforesaid, as if he had been arrested at the time of committing such offence.

LEGAL PROCEEDINGS.

Prosecutions
for customs
offences.

213. Subject to the express provisions of the customs laws, any offences under the customs laws may be prosecuted, and any penalty or forfeiture imposed by the customs laws may be sued for, prosecuted and recovered summarily, and all rents, charges, expenses and duties, and all other sums of money whatsoever payable under the customs laws may be recovered and enforced in a summary manner before a magistrate in the manner prescribed by the Administration of Justice Ordinance, or as near thereto as the circumstances of the case will permit, on the complaint of any officer.

Chapter 3.

Proceedings
to be taken
within seven
years.

214. Proceedings under the customs laws may be commenced at any time within seven years after the date of the offence.

Alternative
prison
sentence.

215. Where any Court has imposed a penalty for any offence against the customs laws, and such penalty is not paid, the Court may order the defendant who is convicted of such offence, in default of payment of the penalty adjudged to be paid, to be imprisoned, with or without hard labour, for any term not exceeding six months, where the penalty does not exceed one hundred pounds, or twelve months where the penalty exceeds one hundred pounds.

Imprison-
ment for
second
offence.

216. Where a penalty of one hundred pounds or upwards has been incurred under the customs laws and the defendant has previously been convicted for an offence against the customs laws, or has previously incurred a pecuniary penalty or forfeiture under the customs laws which has been enforced in any Court, the Court may, if it thinks fit, in lieu of ordering payment of a pecuniary penalty order the defendant to be imprisoned with or without hard labour, for any period not exceeding one year.

Limitations
as to
pleading.

217. The fact that any duties of customs have been secured by bond or otherwise shall not be pleaded or made

use of in answer to or in stay of any proceeding under the customs laws.

218. Every offence under the customs laws shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which it actually was committed or arose, or in any place on land where the offender or person prosecuted may be or be brought.

Place of
offence.

219. An officer may prosecute and conduct any information or other proceeding under the customs laws in respect of any offence or penalty.

Officer may
prosecute.

220. In all proceedings under the customs laws the same rule as to costs shall be observed as in proceedings between private persons.

Costs.

221. (1) No claim or appearance shall be entered to any information filed or exhibited for the forfeiture of any animal, carriage, aircraft, ship or goods seized for any cause of forfeiture in any Court unless such claim or appearance be made by or in the real name of the owner thereof, describing his place of residence and occupation; and if such claimant shall reside in the Colony, oath shall be made by him before the Court before which such information shall be exhibited, that the said animal, carriage, aircraft, ship or goods were his property at the time of seizure; but if such person shall reside outside of the Colony, then oath shall be made by the attorney by whom such claim or appearance shall be entered that he has full authority from such claimant to make or enter the same, and that to the best of his knowledge and belief the same were at the time of seizure the *bona-fide* property of the claimant; and on failure of making such proof of ownership such animal, carriage, aircraft, ship or goods shall be condemned, as if no claim or appearance had been made; and if such animal, carriage, aircraft, ship or goods shall at the time of the seizure thereof be the *bona-fide* property of any number of owners exceeding five, it shall not be necessary for more than two of them to enter such claim or appearance on the part of themselves and their co-owners, or to make such oath as aforesaid; and if any such animal, carriage, aircraft, ship or goods shall at the time of seizure be the property of a company, such claim and appearance shall be entered and oath made by the secretary or a director of such company.

Claims to
seized goods
to be in name
of owner.

Chapter 13.

(2) For the purpose of this section a company means a limited company registered in the Colony under the provisions of the Companies and Private Partnership Ordinance or a limited company registered in the United Kingdom but operating in the Colony.

Certificate of probable cause of seizure.

222. In case any information or suit shall be commenced or brought to trial on account of the seizure of any animal, carriage, aircraft, ship or goods, or pursuant to any act done by any officer in the execution or intended execution of his duty under the customs laws, and such information or suit be dismissed, and it shall appear to the Court before whom the same shall have been tried that there was probable cause for such seizure or act, the Judge or magistrate, as the case may be, shall certify on the record that there was such probable cause, and in such case the person who made such seizure or performed such act shall not be liable to any action, indictment or other suit or prosecution on account of such seizure or act; and a copy of such certificate, verified by the signature of the officer of the Court, shall at the request of the officer concerned be given to him, and the same shall for all purposes be sufficient evidence of such certificate; and in case any action, indictment or other suit or prosecution shall be commenced and brought to trial against any person on account of any seizure or act as aforesaid (whether any information be brought to trial in respect of the same or not, or having been brought to trial, the Judge or magistrate shall not have certified that there was a probable cause for such seizure or act), wherein a verdict shall be given against the defendant, if the Court shall be satisfied that there was a probable cause for such seizure or act, then the plaintiff shall recover any things seized or the value thereof without costs of suit, but no conviction shall be recorded against the defendant.

PROOFS IN PROCEEDINGS.

Onus of proof on defendant in certain cases.

223. (1) In any prosecution under the customs laws, the proof that the proper duties have been paid in respect of any goods, or that the same have been lawfully imported or exported, or lawfully put into or out of any aircraft or ship, or lawfully transferred from one aircraft or ship to another aircraft or ship shall lie on the defendant.

(2) The averment that the Collector has elected that any particular penalty should be sued for or recovered, or

that any goods thrown overboard, staved or destroyed were thrown overboard, staved or destroyed to prevent seizure, or that any person is an officer, or that any person was employed for the prevention of smuggling, or that the offence was committed, or that any act was done within the limits of any port, or in the waters of the Colony, or over the Colony, or, where the offence is committed in any port or place in the Colony, the naming of such port or place in any information or proceedings, shall be deemed sufficient unless the defendant in any such case shall prove the contrary.

224. If upon any trial a question shall arise whether any person is an officer, his own evidence thereof shall be deemed sufficient, and every such officer shall be deemed a competent witness upon the trial of any suit or information on account of any seizure or penalty, notwithstanding such officer may be entitled to any reward upon the conviction of the party charged in such suit or information.

Evidence of officers.

225. (1) In all cases where any penalty the amount of which is to be determined by the value of any goods is sued for under the customs laws, such value shall, as regards proceedings in any Court, be estimated and taken according to the rate and price for which goods of the like kind, but of the best quality, upon which the duties of importation shall have been paid, were sold at or about the time of the offence, or according to the rate and price for which the like kind of goods were sold in bond at or about the time of the offence, with the duties thereon added to such rate or price in bond;

Valuation of goods for penalty.

(2) A certificate under the hand of the Collector of the value of such goods shall be accepted by the Court as *prima facie* evidence of the value thereof.

226. In case any book or document required by the customs laws be required to be used as evidence in any Court as to the transactions to which it refers, copies thereof certified by an officer shall be admissible for that purpose, without production of the original; and certificates and copies of official documents purporting to be certified under the hand and seal or stamp of office of any of the principal officers of Customs and Excise in the United Kingdom, or of any Comptroller of colonial revenue in any British

Copies of documents valid.

possession, or of any British Consul or Vice-Consul in a foreign country, shall be received as *prima facie* evidence.

Proof of
order of
Governor,
etc.

227. If upon the trial of any issue touching any seizure, penalty or forfeiture, or other proceedings under the customs laws or incident thereto, it may be necessary to give proof of any order issued by the Governor, Collector, or any person in the employment of the Government, the order, or any letter or instructions referring thereto, shall be admitted and taken as sufficient evidence of such order if any such document purports to be signed by any such functionary, or shall appear to have been officially printed or issued, unless the contrary be proved.

Certificate of
condemna-
tion.

228. Condemnation by any Court under the customs laws may be proved in any Court, or before any competent tribunal, by the production of a certificate of such condemnation purporting to be signed by the officer of such Court.

MISCELLANEOUS.

Effect of Air
Navigation
Orders in
Council.

229. Where in any Order in Council made applicable to the Colony in accordance with the provisions of the Air Navigation Acts, 1920 and 1936, or any amending Act, or in any regulations made under any such Order in Council, any provision shall be made contrary to the customs laws, such provisions shall have effect to the exclusion of the corresponding provision contained in the said laws.

Regulations.

230. The Governor in Council may make regulations for the better carrying out of the provisions of the customs laws, and may, in such regulations, prescribe fees, rents or charges to be paid in respect of any matter therein referred to.

Forms.

231. Subject to the provisions of this Ordinance and any regulations made thereunder, the Collector may from time to time prescribe forms required to be used for the purposes of the customs laws.

Application
of section 14
of Copyright
Act, 1911.

232. For the purpose of the application of section 14 of the Copyright Act, 1911, to the importation into the Colony of works made out of the Colony:

- (a) The Treasurer and Collector of Customs shall perform the duties and may exercise the powers

thereby imposed on or given to the Commissioners of Customs and Excise of the United Kingdom.

- (b) Regulations made by the Treasurer and Collector of Customs under that section shall require the approval of the Governor in Council.
- (c) Regulations made under that section may provide that notices given to the Commissioners of Customs and Excise of the United Kingdom, if communicated by them to the Treasurer and Collector of Customs, shall be deemed to have been given by the owner of the copyright to the Treasurer and Collector of Customs.

233. The Collector may permit the entry, unloading, removal and loading of goods, and the report and clearance of aircraft and ships, in such form and manner as he may direct to meet the exigencies of any case to which the customs laws may not be conveniently applicable.

Discretionary power to Collector in special circumstances.

234. All ports, warehouses, sufferance wharves and boarding stations, approved as such at the commencement of this Ordinance, shall continue to be ports, warehouses, sufferance wharves and boarding stations, and all legal quays shall be deemed to be approved places of loading and unloading until the appointment thereof is revoked or varied under this Ordinance.

Existing warehouses, etc., to continue.

235. All officers are hereby constituted Excise Officers.

All officers are excise officers.