

ORDER IN COUNCIL

XXIX
1972

ratifying a Projet de Loi

ENTITLED

**The Customs and Excise (General
Provisions) (Bailiwick of Guernsey)
Law, 1972**

(Registered on the Records of the Island of Guernsey
on the 30th day of January, 1973.)



ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 30th day of January, 1973, before John Henry Loveridge, Esquire, C.B.E., Deputy Bailiff; present:—Claude Fortescue Nason, Esquire, Gilbert Carey de Jersey, Esquire, C.B., Edward James Lainé, Esquire, C.B.E., D.F.C., Jean Le Pelley, Richard Alan Kinnersly, Richard Brook Sutcliffe and Richard Oliver Symons, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 20th day of December, 1972, ratifying a *Projet de Loi* entitled "The Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 20th day of December 1972

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 12th day of December 1972, in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:—

‘1. That, in pursuance of their Resolution of the 27th day of July 1972, the States of Deliberation at a meeting held on the 25th day of October 1972, approved a Bill or “Projet de Loi” entitled “The Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972” which Bill is designed to apply to the Bailiwick of Guernsey, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the States of the Island of Alderney at a meeting held on the 8th November 1972, considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same to Alderney. 3. That the Chief Pleas of the Island of Sark at a meeting held on the 10th November 1972, considered the said Bill or “Projet de Loi”

when a Resolution was passed agreeing to the application of the same to Sark. 4. That the said Bill or "Projet de Loi" is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or "Projet de Loi" of the States of Guernsey entitled "The Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972" and to order that the same shall have force of law in the Bailiwick of Guernsey.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Bailiwick of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. G. Agnew.

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972

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PROJET DE LOI

ENTITLED

The Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972

THE STATES, in pursuance of their Resolution of the twenty-seventh day of July, nineteen hundred and seventy-two, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

PART I

ADMINISTRATION

Interpreta-
tion.

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

“aerodrome” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and licensed by the Royal Court under the provisions of Article sixty-nine of the Air Navigation Order 1972 as extended to the Bailiwick by the Air Navigation (Guernsey) Order 1972;

“approved place” means a place approved by the Board under the provisions of section seven of this Law;

“approved port” means a port appointed by the Board under the provisions of section seven of this Law;

- “approved warehouse” means a place of security approved by the Board by order made under the provisions of section forty-one of this Law;
- “assigned matter” means any matter in relation to which the Chief Revenue Officer is for the time being required in pursuance of any enactment to perform any duties;
- “bill of sight entry” means an entry made in accordance with the provisions of section sixteen of this Law;
- “the Board” means the States of Guernsey Board of Administration;
- “boarding station” means a boarding station for the time being appointed under the provisions of section seven of this Law;
- “Chief Revenue Officer” means the Chief Revenue Officer for the time being appointed by the States Civil Service Board and includes any States Revenue Officer acting by or under the authority of the Chief Revenue Officer;
- “claimant”, in relation to proceedings for the condemnation of any thing as being forfeited, means a person claiming that the thing is not liable to forfeiture;
- “commander” in relation to an aircraft, includes any person having or taking the charge or command of the aircraft;
- “the Communities” means the European Economic Community, the European Coal and Steel Community and the European Atomic Energy Community;
- “Community customs duty” means, in relation to any goods, such duty of customs as may from time to time be fixed for those goods

by order made by the Board under paragraph (a) of subsection (1) of section two of the European Communities (External Tariffs and Non-Discrimination) (Bailiwick of Guernsey) Law, 1972(a);

“Community instrument” means any instrument issued by any institution of any of the Communities or common to the Communities;

“container” includes any bundle or package and any box, cask or other receptacle whatsoever;

“customs airport” means an aerodrome appointed by the Board under the provisions of section seven of this Law;

“customs Laws” and “excise Laws” mean those provisions of this Law and any other enactment for the time being in force relating to customs or, as the case may be, excise;

“customs warehouse” means any place appointed as such by the Board under the provisions of section seven of this Law;

“drawback goods” means goods in the case of which a claim for drawback has been or is to be made;

“dutiable goods” means goods of a class or description subject to any duty of customs or excise, whether or not those goods are in fact chargeable with that duty, and whether or not that duty has been paid thereon;

“duty” includes levy;

“excise” and “excise duty” include impôt and impôt duty respectively;

“exporter”, in relation to goods for exportation or for use as stores, includes the shipper of the goods and any person performing in rela-

- tion to an aircraft functions corresponding to those of a shipper;
- “goods” includes stores and baggage;
- “holiday” means any day which by virtue of the Bank Holidays and Negotiable Instruments (Guernsey) Ordinance, 1955(b), is a bank holiday;
- “home use” in relation to goods, means goods which are to be used, consumed, marketed, retained or otherwise disposed of within the Island;
- “importer”, in relation to any goods at any time between their importation and the time when they are delivered out of customs charge, includes any owner or other person for the time being possessed of or beneficially interested in the goods;
- “impôt Laws”, “Laws relating to impôts” and “enactments relating to impôts” include any Law, Ordinance, order or regulation for the time being in force relating to the impôt duties on goods;
- “the Island” includes the Islands of Guernsey, Alderney, Sark, Herm and Jethou;
- “land” and “landing”, in relation to aircraft, include alighting on water;
- “master”, in relation to a ship, includes any person having or taking the charge or command of the ship;
- “night” means the period between the hours of eleven o’clock at night and five o’clock in the morning;
- “occupier”, in relation to any approved warehouse, means the person who has given

(b) Recueil d’Ordonnances Tome XI, p. 165.

security to the Board in respect of such warehouse;

“officer” means the Chief Revenue Officer or any other States Revenue Officer;

“owner”, in relation to an aircraft, includes the operator of the aircraft;

“perfect entry” means an entry made in accordance with the provisions of section fifteen or of an order made under section forty-one of this Law, as the case may require;

“pipe-lines” means any system of pipes and cables and associated equipment used or capable of being used for the movement or transmission of any liquid, gas or other thing or for the transmission of any power or energy whether or not to or from a place outside the Island to or from a place within the Island or between two places within the Island, but does not include any systems of pipes and associated equipment used or intended for use in connection with the distribution and storage of the domestic gas and water supplies of the Island or the transmission of materials and documents within the confines of a building, factory or works or any system of cables or wires used or intended to be used for the transmission of telephonic, telegraphic and other electronic signals or for the distribution of energy generated within the Island;

“police officer” means—

- (a) in relation to Guernsey, Herm and Jethou, a member of the salaried police force of the Island of Guernsey and, within the limit of his jurisdiction, a member of the special constabulary of the Island of Guernsey; and

- (b) in relation to Alderney, a member of the said police force and a member of any police force which may be established by the States of Alderney; and
- (c) in relation to Sark, the Constable, the Vingtenier and a member of the said police force of Guernsey;

“port” means a port appointed by the Board under the provisions of section seven of this Law;

“proper”, in relation to the person by, with or to whom, or the place at which, anything is to be done, means a person or place appointed or authorised in that behalf by the Board;

“proprietor”, in relation to any goods, includes any owner, importer, exporter, shipper or other person for the time being possessed of or beneficially interested in those goods;

“ship” and “vessel” include any boat, hover vehicle or other vessel whatsoever and include aircraft of any description;

“shipment” includes loading into an aircraft, and “shipped” and cognate expressions shall be construed accordingly;

“the States” means the States of Guernsey;

“States Revenue Officer” means a person authorised to act as such by the Board;

“stores” means goods for use in a ship or aircraft whether or not for sale by retail as merchandise to persons carried therein and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting;

“tons register” means the tons of a ship’s net tonnage as ascertained and registered accord-

ing to the tonnage regulations of the Merchant Shipping Act, 1965, as extended to the Bailiwick by the Merchant Shipping Act 1965 (Guernsey) Order 1969 or, in the case of a ship which is not registered under that Act, ascertained in like manner as if it were to be so registered;

“transit goods” means imported goods entered on importation for transit or transshipment;

“transit or transshipment”, in relation to the entry of goods, means transit through the Island or transshipment with a view to the re-exportation of the goods in question;

“vehicle” includes a railway vehicle;

“warehouse” means approved warehouse or customs warehouse as the case may be.

(2) In computing for the purpose of this Law any period expressed therein as a period of clear days no account shall be taken of the day of the event from which the period is computed nor of any Sunday or holiday.

(3) Except where the context otherwise requires, any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment including this Law.

(4) The Interpretation (Guernsey) Law, 1948(c), shall apply to the interpretation of this Law throughout the Bailiwick.

**Duties of
officers.**

2. The Chief Revenue Officer shall, subject to the general control of the Board, be charged with the

(c) Ordres en Conseil Vol. XIII, p. 355.

duty of collecting and accounting to the Board for the duties of customs and excise.

3. (1) Any act or thing required or authorised by or under this Law or any other enactment to be done by the Chief Revenue Officer may be done by any officer or other person authorised generally or specifically in that behalf in writing by the Board or by the Chief Revenue Officer. Performance of duties.

(2) Any person, whether an officer or not, engaged by the orders or with the concurrence of the Board or the Chief Revenue Officer (whether previously or subsequently expressed) in the performance of any act or duty relating to an assigned matter which is by law required or authorised to be performed by or with an officer, shall be deemed to be the proper officer by or with whom that act or duty is to be performed, and any person so deemed to be the proper officer shall have all the powers of an officer in relation to that act or duty.

(3) The Board shall furnish every officer with a written certificate of his appointment and identity and an officer shall, if so required, produce the said certificate in proof of his appointment and identity.

(4) Any person authorised in writing by the Board or by the Chief Revenue Officer under the provisions of subsection (1) of this section shall, if so required, produce such written authorisation in proof of his authorisation and identity.

4. It shall be the duty of every police officer to assist, within the territorial limits to which his authority extends, in the enforcement of the law relating to any assigned matter. Assistance to be rendered by police.

Obstruction
of officers,
etc.

5. Any person who—

- (a) obstructs, hinders, molests or assaults any person duly engaged in the performance of any duty or the exercise of any power imposed or conferred on him by or under this Law or any enactment relating to an assigned matter, or any person acting in his aid; or
- (b) does anything which impedes or is calculated to impede the carrying out of any search for any thing liable to forfeiture under this Law or under any such enactment or the detention, seizure or removal of any such thing; or
- (c) rescues, damages or destroys any thing so liable to forfeiture or does anything calculated to prevent the procuring or giving of evidence as to whether or not any thing is so liable to forfeiture; or
- (d) prevents the detention of any person by a person duly engaged or acting as aforesaid or rescues any person so detained, or who attempts to do any of the aforementioned things, shall be liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

Disposal of
duties, etc.

6. All money and securities for money collected or received on account of any duty of customs or excise shall be paid by the Chief Revenue Officer to the States Treasurer for the account of the General Revenue.

PART II

IMPORTATION OF GOODS, ETC.

7. (1) The Board may by order appoint and name as a port for the purposes of customs and excise any area in the Island specified in the order.

Appoint-
ment of
ports,
airports,
boarding
stations, etc.

(2) The Board may by order appoint as a customs airport for the purposes of customs and excise any aerodrome in the Island specified in the order.

(3) The Board may appoint any place as a customs warehouse for the deposit of goods for the security thereof or the duties chargeable thereon.

(4) The Chief Revenue Officer may in any place from time to time appoint boarding stations for the purpose of the boarding of or disembarkation from ships and aircraft by officers.

(5) The Board may, in any port or customs airport, approve for such periods and subject to such conditions and restrictions as it thinks fit a part of, or a place at, that port or airport for the loading and unloading of goods and the embarkation and disembarkation of passengers.

(6) If any goods are landed in the Island elsewhere than at a port or an airport appointed by the Board in pursuance of, subsections (1) and (2) of this section, the goods shall be forfeited for the account of the General Revenue, and the master of the ship or the commander of the aircraft as the case may be from which the goods are landed shall be liable on conviction to a fine not exceeding one hundred pounds.

(7) Any person contravening or failing to comply with any condition or restriction imposed by the Board under the provisions of this section

shall be liable on conviction to a fine not exceeding one hundred pounds.

Officers'
powers of
boarding,
access, etc.

8. (1) At any time while a ship is within the limits of a port, or an aircraft is at a customs airport, any officer may board the ship or aircraft and remain therein and rummage and search any part thereof.

(2) The Chief Revenue Officer may station officers in any ship at any time while it is within the limits of a port, and if the master of any ship neglects or refuses to provide reasonable accommodation below decks for any officer stationed therein, or means of safe access to and egress from the ship in accordance with the requirements of any such officer, he shall be liable on conviction to a fine not exceeding one hundred pounds.

(3) The commander of an aircraft shall permit an officer at any time to board the aircraft and inspect it and any goods loaded therein and all documents relating to the aircraft or to goods or persons carried therein and an officer shall have the right of access at any time to any place to which access is required for the purpose of any such inspection.

(4) If the commander of an aircraft contravenes or fails to comply with any of the provisions of subsection (3) of this section he shall be liable on conviction to a fine not exceeding one hundred pounds.

(5) Without prejudice to the foregoing provisions of this section, the proper officer shall have free access to every part of any ship or aircraft at a port or customs airport and may—

(a) cause any goods to be marked before they are unloaded from that ship or aircraft;

- (b) lock up, seal, mark or otherwise secure any goods carried in the ship or aircraft or any place or container in which they are so carried;
- (c) break open any place or container which is locked and of which the keys are withheld.

(6) Any goods found concealed on board a ship or aircraft mentioned in the foregoing provisions of this section shall be liable to forfeiture.

9. (1) Where at the expiration of a period, in the case of a ship of fourteen or, in the case of an aircraft, of seven clear days from the date of making the declaration required under section fourteen of this Law of any ship or aircraft, or such longer period as the Chief Revenue Officer may in any case allow, any goods are still on board the ship or aircraft, the proper officer may detain that ship or aircraft until—

Officers' powers of detention of ships, etc.

- (a) any expenses properly incurred in watching and guarding the goods beyond the said period, except in respect of the day of clearance inwards; and
- (b) where the goods are removed by virtue of any provision of this Law from the ship or aircraft to a customs warehouse, the expenses of that removal,

have been repaid to the Board.

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

General provisions as to movement of aircraft into and out of the Island.

10. (1) Save as permitted by the Chief Revenue Officer, the commander of an aircraft entering the Island from a place or area outside the Island shall not cause or permit the aircraft to land—

- (a) for the first time after its arrival in the Island; or
- (b) at any time while it is carrying passengers or goods brought in that aircraft from a place or area outside the Island, and not yet cleared,

at any place other than a customs airport, and any person importing or concerned in importing any goods in any aircraft shall not bring the goods into the Island at any place other than a customs airport.

(2) Save as permitted by the Chief Revenue Officer, no person shall depart on a flight to a place or area outside the Island, from any place in the Island other than a customs airport, and the commander of any aircraft engaged in a flight from a customs airport to a place or area outside the Island, shall not cause or permit it to land at any place in the Island other than a customs airport specified in the application for clearance for that flight.

(3) The provisions of subsections (1) and (2) of this section shall not apply in relation to any aircraft flying to or from any place or area outside the Island from or to any place therein which is required under or by virtue of any enactment relating to air navigation, or is compelled by accident, stress of weather or other unavoidable cause, to land at a place other than a customs airport, but the commander of any such aircraft—

- (a) shall immediately report the landing to an officer or to a police officer and shall on demand produce to him the journey log book belonging to the aircraft;

(b) shall not without the consent of an officer permit any goods carried in the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the aircraft; and

(c) shall comply with any directions given by an officer with respect to any such goods,

and no passenger or member of the crew shall without the consent of an officer or police officer leave the immediate vicinity of the aircraft:

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

(4) Any person contravening or failing to comply with any provision of this section shall be liable on conviction to a fine not exceeding two hundred pounds, or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(5) The provisions of this Law relating to aircraft shall apply in relation to any aircraft belonging to or employed in the service of Her Majesty other than a military aircraft.

In this subsection, the expression "military aircraft" includes naval and air force aircraft and any aircraft commanded by a person in naval, military or air force service detailed for the purpose of such command.

11. (1) The Board may from time to time give general or special directions as to the manner in which and the conditions under which goods chargeable with any duty which has not been paid, or

Control of movement of uncleared goods, etc.

drawback goods, or any other goods which have not been cleared from customs charge, or any class or description of such goods, may be moved within the limits of any port or customs airport or between any port or customs airport and any other place.

(2) Any such directions may require that any such goods shall be moved only—

- (a) by persons approved by the Chief Revenue Officer for that purpose;
- (b) in such ships, aircraft or vehicles or by such other means as may be approved by the Chief Revenue Officer for that purpose,

and any such approval may be granted for such period and subject to such conditions and restrictions as the Chief Revenue Officer thinks fit and may be revoked at any time by him.

(3) Any person contravening or failing to comply with any direction given or condition or restriction imposed by the Chief Revenue Officer under this section shall be liable on conviction to a fine not exceeding fifty pounds.

(4) If any goods which have not been cleared from customs charge have been taken possession of by the proprietor or consignee thereof, both the master of the ship or the commander of the aircraft as the case may be and the proprietor or consignee shall be liable on conviction to a fine not exceeding fifty pounds and the goods shall be liable to forfeiture.

Penalty for
carrying
away
officers.

12. (1) If any ship or aircraft departs from any place carrying on board without his consent any officer or any police officer, the master of the ship or commander of the aircraft shall be liable on conviction to a fine not exceeding one hundred pounds.

(2) Without prejudice to the liability of any person under the provisions of subsection (1) of this section, the amount of any expenses incurred by the States by reason of the carrying away of any officer or any police officer may be recovered as a civil debt from that person or from the owner of the ship or aircraft concerned.

13. (1) The person in command of any ship having a commission from Her Majesty or any foreign State which has on board any goods loaded in any place outside the Island, shall, before any such goods are unloaded, or at any time when called upon to do so by the proper officer, deliver to the proper officer an account of the goods in such form and manner and containing to the best of his knowledge such particulars as the Chief Revenue Officer may direct, and if he fails so to do, he shall be liable on conviction to a fine not exceeding one hundred pounds.

Provisions
as to Her
Majesty's
ships, etc.

(2) The person delivering such an account shall when delivering it answer all such questions relating to the goods as may be put to him by the officer and if he refuses to answer he shall be liable on conviction to a fine not exceeding one hundred pounds.

(3) Subject in the case of ships having a commission from Her Majesty to any order made by the Board, the provisions of this Part of this Law as to the boarding and search of ships shall have effect in relation to such a ship as aforesaid as they have effect in relation to any other ship, and any officer may remove to a customs warehouse any goods loaded as aforesaid found on board the ship.

14. (1) The master of every ship and the commander of every aircraft which arrives in the Island from a port or place outside the Island shall declare

Masters'
declara-
tions.

to the Chief Revenue Officer all goods, including stores, carried in that ship or aircraft and shall declare to the Chief Revenue Officer all goods and stores which are to be unloaded from that ship or aircraft in the Island.

(2) The declarations prescribed by this section shall be signed by the master of the ship or the commander of the aircraft, shall bear the date of delivery, and shall be delivered to the Chief Revenue Officer as soon as may be after the arrival of the ship or aircraft, and, in any case, before any portion whatsoever of the cargo of the ship or aircraft has been unloaded.

(3) The said declarations shall be in such form as the Board may direct and shall contain:—

- (a) a description of the goods liable to be declared, together with their value, number, weight or other convenient measure of quantity and the country of origin;
- (b) the number and nature of the packages containing the said goods;
- (c) the name of the ship or the registration mark of the aircraft in which the said goods have been carried to the Island;
- (d) the place at which the said goods were loaded into the ship or aircraft;
- (e) the name of the consignor; and
- (f) the name of the proprietor or consignee.

(4) The master or commander shall, at the time of making his declaration under this section, answer all such questions relating to the ship or aircraft, cargo, crew and voyage as shall be put to him by the Chief Revenue Officer, and shall produce on demand any freight notes, way bills, bills of lading

or other documents relating to the carriage of the goods by the ship or aircraft.

(5) If the master of the ship or the commander of the aircraft fails to comply with the provisions of this section he shall be liable on conviction to a fine not exceeding five hundred pounds.

15. (1) The proprietor or consignee of goods which are to be unloaded or which have been unloaded from a ship or aircraft arriving in the Island from a port or place outside the Island shall make entry of the same in the manner prescribed by this section within three clear days of the unloading of the goods: Entry of goods on importation.

Provided that the Board shall by order prescribe that the foregoing provisions of this subsection shall not apply to any such goods or to any such class of goods as may be specified in such order.

(2) The entries prescribed by this section shall be signed by the proprietor or consignee of the goods, shall bear the date of delivery and shall be delivered to the Chief Revenue Officer before the said proprietor or consignee takes possession of such goods.

(3) The said entries shall be made in such form as the Board may direct and shall contain:—

- (a) a description of the goods liable to be declared, together with their value, number, weight or other convenient measure of quantity;
- (b) the number and nature of the packages containing the said goods;
- (c) the name of the ship or the registration mark of the aircraft in which the said goods have been carried to the Island;

- (d) the place at which the said goods were loaded into the ship or aircraft;
- (e) the name of the consignor;
- (f) the name of the proprietor or consignee; and
- (g) the name of the country of origin of the said goods:

Provided that the Board at its absolute discretion—

- (i) may vary the form of entry and the information to be furnished therein in respect of any particular goods or in respect of any goods originating in or consigned from any particular country; or
- (ii) subject to such conditions as it thinks fit to impose, may waive the provisions of this section in respect of any particular goods or of goods consigned from any particular country.

(4) The Chief Revenue Officer may at any time within three years after the importation of the goods require any person concerned with their importation to furnish, in such form as he may require, any information relating to the goods, and to produce any books or documents of whatever nature relating to the goods.

(5) If the proprietor or consignee fails to comply with any of the provisions of this section he shall be liable on conviction to a fine not exceeding five hundred pounds.

Entry by
bill of sight.

16. (1) Without prejudice to the provisions of section fifteen of this Law, where on the importation of any goods the importer is unable for want of full information to make immediately perfect entry thereof, he may, on making a signed declaration to

that effect before the proper officer, deliver to that officer an entry of the goods by bill of sight in such form and manner and containing such particulars as the Chief Revenue Officer may direct, and the importer, on furnishing such security as the Chief Revenue Officer may require, may take delivery of the goods:

Provided that the Chief Revenue Officer may refuse to accept an entry by bill of sight of any goods.

(2) If within such period from the date of the entry of any goods by bill of sight as the Chief Revenue Officer may allow, no entry purporting to be a perfect entry has been made of those goods, without prejudice to any other provision of this Law, the Chief Revenue Officer shall pay the amount of the security furnished by the importer to the States Treasurer for the account of the General Revenue.

17. (1) Where in the case of any imported goods entry has not been made of the goods as required by the provisions of section fifteen or section sixteen of this Law within three months of the date of the arrival of the importing ship or aircraft in a port or place in the Island, after—

Disposal of
uncleared
goods by
the Board.

- (a) seven days notice in writing of its intention to sell the goods has been served by the Board on the importer or proprietor of the goods, where such importer or proprietor and his whereabouts are known to the Board; or
- (b) where the identity of the importer or proprietor of the goods is unknown or his whereabouts cannot be found, the Board has inserted in La Gazette Officielle a notice giving details of the nature and quantity of

the goods and stating its intention to sell the goods,

then the Board may sell the goods and shall pay the proceeds of such sale to the account of the General Revenue.

(2) Any notice to the proprietor or consignee of goods by the Board under this section shall be deemed to have been served on such proprietor or consignee if addressed to and left at the premises last known to have been occupied by such proprietor or consignee.

Irregular
sale of
uncleared
goods.

18. A sale or any other disposal of any dutiable goods in respect of which—

- (a) declarations and entries have not been delivered to the Chief Revenue Officer as required by the provisions of section fourteen, fifteen or sixteen of this Law; or
- (b) the duty payable has not been paid or security for such duty has not been furnished,

shall not pass to the purchaser any rights of ownership:

Provided that nothing in this section contained shall apply to a sale or other disposal of dutiable goods by the Board in pursuance of the provisions of this Law.

Power to
regulate
unloading.

19. (1) The Board may by order make provision for—

- (a) prescribing the procedure to be followed by a ship arriving at a port or at an approved place or an aircraft arriving at a customs airport;

- (b) regulating the unloading, landing, movement and removal of goods on their importation;

and different orders may be made with respect to importation by sea or air respectively.

(2) If any person contravenes or fails to comply with any provision of any order made under this section or with any direction given by the Board or the Chief Revenue Officer or the proper officer in pursuance of any such order, he shall be liable on conviction to a fine not exceeding one hundred pounds and any goods in respect of which the offence was committed shall be liable to forfeiture.

PART III

PROVISIONS AS TO DUTY ON IMPORTED GOODS

20. (1) Save as permitted by or under this Law or any other enactment relating to customs or to impôts, no imported goods shall be delivered or removed on importation until the importer has paid to the proper officer any duty chargeable thereon, and that duty shall, in the case of goods of which entry is made, be paid on making the entry.

Duty on
imported
goods.

(2) Where security for the payment of duty is given to the satisfaction of the Chief Revenue Officer in accordance with such arrangements as may be prescribed by orders made by the Board, then subject to such conditions as may be so prescribed or such additional conditions as the Chief Revenue Officer may think fit to impose, the Chief Revenue Officer may permit payment under this section of the duty to be deferred for such period as may be so prescribed and duty of which payment is deferred under

this subsection shall be deemed to have been paid for purposes of any relief from duty by way of drawback, for purposes of section twenty-one of this Law, and for such other purposes as may be so prescribed; but the orders may provide for payment to be deferred in the case of some duties of customs or some goods but not of others.

(3) Without prejudice to the provisions of any enactment relating to impôts the duties of customs and the rates thereof chargeable on imported goods shall be those in force in relation to such goods at the time of their entry for home use.

(4) Any goods brought or coming into the Island by sea otherwise than as cargo, stores or baggage carried in a ship shall be chargeable with the like duty, if any, as would be applicable to those goods if they had been imported as merchandise; and if any question arises as to the origin of the goods they shall be deemed to be the produce of such country as the Chief Revenue Officer may on investigation determine.

(5) Subject to the provisions of section twenty-one of this Law, save as provided by or under any other enactment relating to customs, any goods which are re-imported into the Island after exportation therefrom, whether they were manufactured or produced in or outside the Island and whether or not any duty was paid thereon at a previous importation, shall be treated for the purpose of charging duty in like manner as if they were being imported for the first time and, in the case of goods manufactured or produced in the Island, as if they had not been so manufactured or produced.

Relief from
duty.

21. (1) Subject to the provisions of subsections (2) and (3) of this section, the Board may by order pro-

vide for the relief from duty of goods otherwise chargeable with duty under the Import Duties Act (Bailiwick of Guernsey) 1932(d), or under the European Communities (External Tariffs and Non-Discrimination) (Bailiwick of Guernsey) Law, 1972, and such orders may make different provisions either in relation to particular goods or to goods imported or exported in particular circumstances or for particular use.

(2) In considering what relief (if any) should be allowed in respect of goods of any description the Board shall also take account of any agreements between Her Majesty's government in the United Kingdom and any other government or any international organisation or authority the provisions of which agreement have been extended to the Island, and where it appears to the Board to be expedient with a view to implementing the provisions of any such agreement regarding commercial relations, an order under this section may differentiate between the goods of different countries or different groups of countries, and may do so subject or not to conditions as to the place from which the goods are consigned or shipped to the Island.

(3) The Board may give directions for the administration of any relief from duty under this section or for the implementation or administration of any like relief provided for by any Community instrument and may in particular, where the relief is limited to a quota of imported goods, provide for determining the allocation of the quota or for enabling it to be determined by the issue of certificates or licences or otherwise.

(4) In this section the word "relief" is to be construed as including drawback allowed in respect of goods exported from the Island.

(d) *Ordres en Conseil* Vol. IX, p. 279.

Forfeiture
of goods
improperly
imported.

22. Where—

- (a) except as provided by or under this Law any imported goods, being goods chargeable with a duty of customs, are without payment of that duty unshipped in any port, unloaded from any aircraft in the Island or removed from their place of importation or from any approved place; or
- (b) any goods are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment; or
- (c) any goods, being goods chargeable with any duty, or goods, the importation of which is for the time being prohibited or restricted by or under any enactment, are found, whether before or after the unloading thereof, to have been concealed in any manner on board any ship or aircraft; or
- (d) any goods are imported concealed in a container holding goods of a different description; or
- (e) any imported goods are found, whether before or after delivery, not to correspond with the entry made thereof; or
- (f) any imported goods are concealed or packed in any manner appearing to be intended to deceive an officer,

those goods shall be liable to forfeiture:

Provided that where any goods the importation of which is for the time being prohibited or restricted

by or under any enactment are on their importation either—

- (i) reported as intended for exportation in the same ship or aircraft; or
- (ii) entered for transit or transshipment; or
- (iii) entered for deposit in a warehouse for subsequent exportation or for use as stores,

the Chief Revenue Officer may, if he thinks fit, permit the goods to be dealt with accordingly.

23. (1) If any person discharges, unships or lands in any place or unloads from any aircraft in the Island or removes from their place of importation or from an approved place or an approved warehouse or a customs warehouse—

Penalty for improper importation of goods, etc.

- (a) any goods chargeable with a duty which has not been paid; or
- (b) any goods imported, landed or unloaded contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods,

or assists or is otherwise concerned in such unshipping, landing, unloading or removal, or if any person imports or is concerned in importing any goods contrary to any such prohibition or restriction as aforesaid, whether or not the goods are unloaded, then, if he does so with intent to defraud the States of any such duty or to evade any such prohibition or restriction, he shall be liable on conviction to a fine not exceeding three times the value of the goods or five hundred pounds, whichever is the greater, or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

(2) If any person—

- (a) imports or causes to be imported any goods concealed in a container holding goods of a different description; or
- (b) directly or indirectly imports or causes to be imported or entered any goods found, whether before or after delivery, not to correspond with the entry made thereof,

he shall be liable on conviction to a fine not exceeding three times the value of the goods or five hundred pounds, whichever is the greater.

(3) The penalties imposed by this section shall not apply in the case of an offence in connection with the importation of goods contrary to a prohibition or restriction where a penalty is expressly prescribed for that offence by the enactment or other instrument imposing the prohibition or restriction.

PART IV

EXPORTATION, STORES AND CLEARANCE OUTWARDS

Entry
outwards
of certain
goods.

24. (1) Where any goods to which this section applies are to be shipped for exportation or as stores for use on a voyage or flight to an eventual destination outside the Bailiwick, the exporter—

- (a) shall deliver to the proper officer an entry outwards of the goods in such form and manner and containing such particulars as the Board may direct;
- (b) shall give security to the satisfaction of the Chief Revenue Officer that the goods will be duly shipped or exported and discharged at the destination for which they are entered outwards within such time as the

Chief Revenue Officer considers reasonable, or, in the case of goods for use as stores, will be duly so used, or that they will be otherwise accounted for to the satisfaction of the Chief Revenue Officer; and

- (c) shall produce the goods to the proper officer at such time and place as the proper officer may direct:

Provided that the Board may relax all or any of the requirements of this section as it thinks fit in relation to any goods.

- (2) Goods shall be deemed to have been duly entered under this section when the written declaration has been signed by the proper officer.

(3) If any goods of which entry is required under this section are shipped for exportation or as stores or are waterborne for such shipment before the declaration thereof has been duly made, the goods shall be liable to forfeiture and, where the shipping or making waterborne is done with fraudulent intent, any person concerned therein with knowledge of that intent shall be liable on conviction to a fine not exceeding three times the value of the goods or five hundred pounds, whichever is the greater, or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

(4) If any goods are found not to correspond with any entry thereof made under this section, they shall be liable to forfeiture.

(5) The goods to which this section applies are—

- (a) goods from an approved warehouse or a customs warehouse;
- (b) transit goods;

- (c) any other goods chargeable with any duty which has not been paid;
- (d) drawback goods;
- (e) goods with respect to the exportation of which any restriction is for the time being in force under or by virtue of any enactment;
- (f) any goods required by or under any other provision of this or any other Law to be entered before exportation or before shipment for exportation or as stores.

Additional
provisions
as to goods
requiring
entry
outwards.

25. (1) No person shall export any goods such as are mentioned in paragraphs (a) to (d) of subsection (5) of section twenty-four of this Law, or enter any such goods for exportation, in any ship of less than forty tons register, and any such goods shipped or entered contrary to this subsection shall be liable to forfeiture.

(2) If any goods which have been entered at any port or customs airport under section twenty-four of this Law have not been duly shipped before the clearance from that port or airport of the ship or aircraft for which they were entered, the goods shall be liable to forfeiture unless notice of the failure to ship or export is given to the proper officer immediately after that clearance has been given.

(3) If any goods entered but not shipped or exported as aforesaid have not, at the expiration of a period of seven days after the clearance of the ship or aircraft as aforesaid, been either deposited in a customs warehouse, again entered for exportation or for use as stores, or otherwise accounted for to the satisfaction of the Chief Revenue Officer, the person by whom the entry was made shall be liable on conviction to a fine not exceeding fifty pounds:

Provided that the provisions of this subsection shall not apply where, before the expiration of the said period, the goods have been seized by virtue of the provisions of subsection (2) of this section.

26. (1) The Board may make orders—

Provisions
as to
stores.

- (a) as to the quantity of any goods which may be loaded in any ship or aircraft as stores for use on a voyage or flight to an eventual destination outside the Bailiwick;
- (b) as to the authorisation to be obtained for the supply and carriage of, and the procedure to be followed in supplying, any goods as stores for use as aforesaid, whether or not any duty is chargeable or has been paid, or any drawback is payable, in respect of those goods.

(2) Notwithstanding anything in the customs Laws or the Laws relating to impôts, goods shall not be permitted to be shipped as stores without payment of duty or on drawback—

- (a) in any ship of less than forty tons; or
- (b) in an aircraft other than an aircraft departing for a voyage or flight to some place outside the Bailiwick:

Provided that the Board may, in such cases and subject to such conditions and restrictions as it thinks fit, permit goods to be so shipped in any ship which is departing for a place or area outside the Bailiwick.

(3) If any goods shipped or carried as stores for use on a voyage or flight to an eventual destination outside the Bailiwick are without the authority of the proper officer landed, unloaded or used at any place in the Bailiwick, the goods shall be liable to forfeiture and the master or commander and the owner

of the ship or aircraft shall each be liable on conviction to a fine not exceeding three times the value of the goods or five hundred pounds, whichever is the greater.

(4) The proper officer may lock up, mark, seal or otherwise secure any goods entered, shipped or carried as stores for use as aforesaid or any place or container in which such goods are kept or held.

(5) If any ship or aircraft which has departed from any port, approved place or customs airport for a destination outside the Bailiwick carrying stores fails to reach the destination for which it was cleared outwards and returns to any place within the Bailiwick, then—

- (a) if the failure was not due to stress of weather, mechanical defect or any other unavoidable cause and any deficiency is discovered in the said goods; or
- (b) if the failure was due to any such cause as aforesaid and any deficiency is discovered in the said goods which, in the opinion of the Chief Revenue Officer, exceeds the quantity which might fairly have been consumed having regard to the length of time between the ship's or aircraft's departure and return as aforesaid,

the master of the ship or the commander of the aircraft shall be liable on conviction to a fine not exceeding one hundred pounds, and shall also pay on the deficiency or, as the case may be, on the excess deficiency, any duty chargeable on the importation of such goods, and any duty so payable shall be recoverable as a civil debt due to the States.

27. (1) Where a ship is to load any goods at a port for exportation or as stores for use on a voyage to an eventual destination outside the Bailiwick, the master of the ship shall, before any goods are taken on board that ship at that port, deliver to the proper officer—

Entry
outwards of
exporting
ship.

- (a) an entry outwards of the ship in such form and manner and containing such particulars as the Board may direct; and
- (b) if the ship has already loaded goods at some other port for exportation or as stores for use as aforesaid or has been cleared in ballast from some other port, the clearance outwards of the ship from that other port.

(2) If, when a ship is required by this section to be entered outwards from any port, any goods are taken on board that ship at that port before the ship is so covered, the goods shall be liable to forfeiture and the master of the ship shall be liable on conviction to a fine not exceeding one hundred pounds, and where the goods are so taken on board or made waterborne for that purpose with fraudulent intent, any person concerned therein with knowledge of that intent shall be liable on conviction to a fine not exceeding three times the value of the goods or five hundred pounds, whichever is the greater, or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

28. (1) Save as permitted by the Chief Revenue Officer, no ship or aircraft shall depart from any port or customs airport from which it commences, or at which it touches during, a voyage or flight to an eventual destination outside the Bailiwick until clearance of the ship or aircraft for that departure has been obtained from the proper officer at that port or airport.

Clearance
outwards
of ships
and aircraft.

(2) The Board may give directions—

- (a) as to the procedure for obtaining clearance under this section;
- (b) as to the documents to be produced and the information to be furnished by any person applying for such clearance.

(3) Any officer may board any ship which is cleared outwards from a port at any time while the ship is within the limits of a port or within three nautical miles of the coast of any Island of the Bailiwick and require the production of the ship's clearance, and if the master refuses to produce it or to answer such questions as the officer may put to him concerning the ship, cargo and intended voyage, he shall be liable on conviction to a fine not exceeding fifty pounds.

(4) Every ship departing from a port shall, if so required for the purpose of disembarking an officer or of further examination, bring to at such place as the proper officer may require, and if any ship fails to comply with any such requirement the master shall be liable on conviction to a fine not exceeding one hundred pounds.

(5) If any ship or aircraft required to be cleared under the provisions of this section departs from any port or customs airport without a valid clearance, the master or commander shall be liable on conviction to a fine not exceeding five hundred pounds.

(6) If, where an aircraft is required to obtain clearance from any customs airport under the provisions of this section, any goods are loaded, or are being loaded, into that aircraft at that airport before application for clearance has been made, the goods shall be liable to forfeiture and, where the loading

or preparation for loading is done with fraudulent intent, any person concerned therein with knowledge of that intent shall be liable on conviction to a fine not exceeding three times the value of the goods or five hundred pounds, whichever is the greater, or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

29. (1) If any goods which have been loaded or retained on board any ship or aircraft for exportation are not exported to and discharged at a place outside the Bailiwick but are unloaded in the Bailiwick, then, unless the unloading was authorised by the proper officer and, except where that officer otherwise permits, unless any duty chargeable and unpaid on the goods is paid and any drawback or allowance paid in respect thereof is repaid, the master of the ship or the commander of the aircraft and any person concerned in the unshipping, re-landing, landing, unloading or carrying of the goods from the ship or aircraft without such authority, payment or repayment shall each be guilty of an offence under this section.

Offences in relation to exportation of goods.

(2) The Chief Revenue Officer may impose such conditions as he thinks fit with respect to any goods loaded or retained as aforesaid which are permitted to be unloaded in the Bailiwick, and if any person contravenes or fails to comply with, or is concerned in any contravention of or failure to comply with any such condition he shall be guilty of an offence under this section.

(3) Where any goods loaded or retained as aforesaid are goods from an approved warehouse or customs warehouse, transit goods or other goods chargeable with a duty which has not been paid or are drawback goods, then if any container in

which the goods are held is without the authority of the proper officer opened, or any mark, letter or device on any such container or on any lot of the goods is without that authority cancelled, obliterated or altered, every person concerned in the opening, cancellation, obliteration or alteration shall be guilty of an offence under this section.

(4) Any goods in respect of which an offence under this section is committed shall be liable to forfeiture and any person guilty of an offence under this section shall be liable on conviction to a fine not exceeding three times the value of the goods or five hundred pounds, whichever is the greater.

Offences in
relation to
exportation
of pro-
hibited or
restricted
goods.

30. (1) If any goods are—

- (a) exported or shipped as stores; or
- (b) brought to any place in the Island for the purpose of being exported or shipped as stores,

and the exportation or shipment is or would be contrary to any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any enactment, the goods shall be liable to forfeiture and the exporter or intending exporter of the goods and any agent of his concerned in the exportation or shipment or intended exportation or shipment shall each be liable on conviction to a fine not exceeding three times the value of the goods or five hundred pounds, whichever is the greater.

(2) Any person knowingly concerned in the exportation or shipment as stores, or in the attempted exportation or shipment as stores, of any goods with intent to evade any such prohibition or restriction as aforesaid shall be liable on conviction to a fine not exceeding three times the value of the goods or

five hundred pounds, whichever is the greater, or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

31. (1) The Board may make orders regulating the carriage of goods coastwise between places in any Island of the Bailiwick or between the Islands of the Bailiwick. Carriage of goods coastwise.

(2) If any person contravenes or fails to comply with the provisions of any order made under the provisions of the foregoing subsection, he shall be liable on conviction to a fine not exceeding one hundred pounds and any goods in respect of which such contravention or failure was committed shall be liable to forfeiture.

PART V

DUTIES OF PERSONS ENTERING OR LEAVING THE ISLAND

32. (1) Upon request by a proper officer any person entering the Island shall, at such place and in such manner as the Chief Revenue Officer may direct, declare any thing contained in his baggage or carried with him which— Customs control of persons entering or leaving the Island.

(a) he has obtained outside the Island; or

(b) being dutiable goods, he has obtained in the Island without payment of such duty, and in respect of which he is not entitled to relief or exemption from payment of duty by virtue of an order made under section twenty-one of this Law or by virtue of any other enactment granting relief in respect of any duty of customs or impôt.

(2) Any person entering or leaving the Island shall answer such questions as the proper officer may put to him with respect to his baggage and any thing contained therein or carried with him, and shall, if required by the proper officer, produce that baggage and any such thing for examination at such place as the Chief Revenue Officer may direct.

(3) Any person failing to declare any thing or to produce any baggage or thing as required by this section shall be liable on conviction to a fine not exceeding three times the value of the thing not declared or of the baggage or thing not produced, as the case may be, or one hundred pounds, whichever is the greater; and any thing chargeable with any duty of customs or impôt which is found concealed or is not declared, and any thing which is being taken into or out of the Island contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, shall be liable to forfeiture.

Power to
require
evidence in
support of
information.

33. The Chief Revenue Officer may require evidence to be produced to his satisfaction in support of any information required by or under this Part of this Law to be provided in respect of goods imported or exported.

Additional
evidence
as to the
origin, etc.
of goods.

34. Where any question as to the duties of customs chargeable on any goods, or the operation of any prohibition or restriction on importation, depends on any question as to the place from which the goods were consigned, or any question where they or other goods are to be treated as grown, manufactured or produced, or any question as to payments made or relief from duty allowed in any country or territory, then—

- (a) the Chief Revenue Officer may require the importer of the goods to furnish to him, in such form as he may prescribe, proof of any statement made to him as to any fact necessary to determine that question, or of the accuracy of any certificate or other document furnished in connection with the importation of the goods and relating to the matter in issue, and if such proof is not furnished to his satisfaction the question may be determined without regard to that statement or to that certificate or document; and
- (b) if in any proceedings relating to the goods or to the duty chargeable thereon the accuracy of any such certificate or document comes in question, it shall be for the person relying on it to furnish proof of its accuracy.

PART VI

PREVENTION OF SMUGGLING

35. (1) The Board may by order make provision with respect to ships not exceeding one hundred tons register and in particular as to the purposes for which and the limits within which such ships may be used; and different provisions may be made by any such order for different classes or descriptions of such ships.

Power to
regulate
small craft.

(2) The Board may, in respect of any such ship as aforesaid, grant a licence exempting that ship from all or any of the provisions of any order made under this section.

(3) Any such licence may be granted for such period, for such purposes and subject to such conditions and restrictions as the Board thinks fit, and may be varied or revoked at any time by the Board.

(4) Any such ship as aforesaid which, except under and in accordance with the terms of a licence granted as aforesaid, is used contrary to any order made under this section, and any ship granted such a licence which is found not to have that licence on board, shall be liable to forfeiture.

Power to
take action
for the
prevention
of smug-
gling.

36. Any officer and any person acting in aid of an officer or otherwise duly engaged in the prevention of smuggling may for that purpose patrol on and pass freely along and over any part of the coast or of the shore of the Island, and over any aerodrome or land adjoining any aerodrome:

Provided that in the Island of Sark no such officer or person shall exercise the powers conferred upon him by this section save in the presence of a police officer.

Penalties for
activities in
connection
with
smuggling.

37. (1) Any person who by any means makes any signal or transmits any message from any part of the Bailiwick or from any ship or aircraft, being a signal or message connected with the smuggling or intended smuggling of goods into or out of the Bailiwick, shall be liable on conviction to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment, and any equipment or apparatus used for sending the signal or message shall be liable to forfeiture.

(2) Any person who knowingly and save for just and sufficient cause interferes in any way with any ship, aircraft, vehicle, buoy, anchor, chain, rope

or mark which is being used for the purposes of any functions of the Board or of the Chief Revenue Officer under this Law shall be liable on conviction to a fine not exceeding one hundred pounds.

(3) Any person who fires on any vessel, aircraft or vehicle in the service of Her Majesty or of the States while that vessel, aircraft or vehicle is engaged in the prevention of smuggling shall be liable on conviction to imprisonment for a term not exceeding five years.

(4) If any person offers any goods for sale or otherwise seeks to dispose of any goods as having been imported without payment of duty, or as having otherwise been unlawfully imported, then, whether or not the goods were so imported or were in fact chargeable with duty, the goods shall be liable to forfeiture and the person so offering them for sale or otherwise seeking to dispose of them shall be liable on conviction to a fine not exceeding three times the value of the goods or five hundred pounds, whichever is the greater.

38. (1) Where, in pursuance of any power conferred by this Law, an officer has placed any lock, mark or seal on any goods in any ship, aircraft, or vehicle, or on any place or container in which such goods are kept, then if, without the authority of the proper officer, at any time while the ship is within the limits of any port or on passage between ports or while the aircraft or vehicle is in the Island, that lock, mark or seal is wilfully opened, altered or broken, or if, before that lock, mark or seal is lawfully removed, any of the goods are secretly conveyed away, the master of the ship or commander of the aircraft or the person in charge of the vehicle shall be liable on conviction to a fine not exceeding five hundred pounds.

Penalty for
breaking
seals, etc.

(2) Where, in pursuance of any Community requirement or practice as to the movement of goods between countries, a seal, lock or mark is used (whether in the Island or elsewhere) to secure or identify any goods for customs purposes, and the seal, lock or mark is at any time wilfully and prematurely removed or tampered with in the Island, the person then in charge of the goods shall be liable on conviction to a fine not exceeding one hundred pounds.

Forfeiture
of ships
engaged in
or constructed
or adapted
to engage
in smuggling.

39. (1) Where—

- (a) a ship is or has been within the limits of any port or within three nautical miles of the coast of the Island; or
- (b) an aircraft is or has been at any place, whether on land or on water, in the Island; or
- (c) a vehicle is or has been within the limits of any port or at any aerodrome,

while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that ship, aircraft or vehicle shall be liable to forfeiture.

(2) If any part of the cargo of a ship is thrown overboard, or is staved or destroyed to prevent seizure while the ship is within three nautical miles of the coast of the Island, the ship shall be liable to forfeiture.

(3) Where a ship has been within the limits of any port, or an aircraft has been in the Island, with a cargo on board and a substantial part of that cargo is afterwards found to be missing, then, if the master of the ship or commander of the aircraft fails to account therefor to the satisfaction of the Board, the ship or aircraft shall be liable to forfeiture.

40. Any person concerned in the movement, carriage or concealment of goods contrary to or for the purpose of contravening any prohibition or restriction for the time being in force under or by virtue of this Law or any other enactment with respect to the importation or exportation thereof, or without payment having been made of, or security given for, any duty payable thereon, who, while so concerned, is armed with any offensive weapon or disguised in any way, and any person so armed or disguised found in the Bailiwick in possession of any goods liable to forfeiture under this Law or any other enactment, shall be liable on conviction to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding three years or to both such fine and such imprisonment.

Special
penalty
where
offender
armed or
disguised.

PART VII

DUTIES AND DRAWBACKS—GENERAL PROVISIONS

41. The Board may by order regulate the deposit in an approved warehouse or a customs warehouse of goods chargeable to duty under any enactment relating to customs or to excise without payment of such duty and, without prejudice to the generality of the foregoing, any such order may include provisions for—

Provisions
as to
approved
warehouses
and customs
warehouses.

- (a) the entry, marking and securing of goods so deposited;
- (b) accounting and charging the duty on goods so deposited when such goods are entered for home use or, on taking an account, are found by the proper officer to be deficient;
- (c) regulating operations on goods so deposited;

- (d) approving of places of security for use as approved warehouses; and
- (e) generally for managing the arrangements relative to the deposit of goods in a warehouse under this section.

Importation
and
exportation
of goods by
pipe-line.

42. (1) The States may from time to time by Ordinance adapt the provisions of this Law relating to the import and export of goods by ship or aircraft to cover the import and export by means of pipe-lines of goods chargeable with duty and may vary or repeal any such Ordinance.

(2) The Board may by order regulate the import and export by means of pipe-lines of goods chargeable with duty.

Time of
importa-
tion, expor-
tation, etc.

43. (1) The provisions of this section shall have effect for the purposes of this Law and of any other enactment relating to customs or impôts.

(2) The time of importation of any goods shall be deemed to be—

- (a) where the goods are brought by sea in a ship, the time when the ship carrying them comes within the limits of a port;
- (b) where the goods are brought by air, the time when the aircraft carrying them lands in the Island or the time when the goods are unloaded in the Island, whichever is the earlier:

Provided that, in the case of goods brought by sea of which entry is not required under the provisions of section fifteen of this Law, the time of importation shall be deemed to be the time when the ship carrying them came within the limits of the port at which the goods are discharged.

(3) The time of exportation of any goods from the Island shall be deemed to be the time when the goods are shipped for exportation:

Provided that in the case of goods of a class or description with respect to the exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment, the time of exportation shall be deemed to be the time when the exporting ship or aircraft departs from the last port or customs airport at which it is cleared before departing for a destination outside the Island.

(4) A ship shall be deemed to have arrived at or departed from a port at the time when the ship comes within or, as the case may be, leaves the limits of that port.

44. (1) Where it is impracticable immediately to ascertain whether any or what duty of customs is payable in respect of any imported goods which are entered for home use, whether on importation or from warehouse, the Board may, if it thinks fit and notwithstanding any other provision of this Law, allow those goods to be delivered upon the importer giving security by deposit of money or otherwise to its satisfaction for payment of any amount unpaid which may be payable by way of duty.

Delivery of
imported
goods on
giving of
security for
duty.

(2) The Chief Revenue Officer may for the purposes of subsection (1) of this section treat goods as entered for home use notwithstanding that the entry does not contain all the particulars required for perfect entry if it contains as many of those particulars as are then known to the importer, and in that event the importer shall supply the remaining particulars as soon as may be to the Chief Revenue Officer.

(3) Where goods are allowed to be delivered under this section, the Chief Revenue Officer shall, when he has determined the amount of duty which in his opinion is payable, give to the importer a notice specifying that amount; and the amount so specified or, where any amount has been deposited under subsection (1) of this section, any difference between those amounts shall forthwith be paid or repaid as the case may require:

Provided that if the importer disputes the correctness of the amount so specified he may at any time within three months of the date of the said notice make such a requirement for reference to arbitration or such an application to the Court as is provided for by section forty-nine of this Law and that section shall have effect accordingly, so, however, that no such requirement or application shall be made until any sum falling to be paid by the importer under this subsection has been paid, and where any sum so falls to be paid no interest shall be paid under subsection (2) of the said section forty-nine in respect of any period before that sum is paid.

(4) Where any question as to the duties of customs chargeable on any goods depends on the use to be made of any goods or on any other matter not reasonably ascertainable from an examination of the goods, and that question is not in law conclusively determined by the production of any certificate or other document, then on the importation of those goods the Board may impose such conditions as it sees fit for securing that the goods will be so used or otherwise for the prevention of abuse or the protection of the revenue (including conditions requiring security for the observance of any conditions so imposed).

45. (1) Subject to such conditions as the Chief Revenue Officer sees fit to impose, where it is shown to the satisfaction of the Chief Revenue Officer—

Repayment
of customs
duty where
goods
returned or
destroyed by
importer.

(a) that goods were imported in pursuance of a contract of sale and that the goods were found to be defective or that the description, quality, state or condition of the goods was not in accordance with the contract or that the goods were damaged in transit; and

(b) that the importer with the consent of the seller either—

(i) returned the goods unused to the seller or after such limited use as in the opinion of the Chief Revenue Officer was indispensable to reveal any inherent defect in the goods, and for that purpose complied with the provisions of section twenty-four of this Law as to entry in like manner as if they had been goods to which that section applies; or

(ii) destroyed the goods unused or after such limited use as aforesaid,

the importer shall be entitled to obtain from the Board repayment of any duty of customs paid on the importation of the goods.

(2) Nothing in this section shall apply to goods imported on approval, or on sale or return, or on other similar terms.

46. (1) If by virtue of any provision of this or any other Law—

Forfeiture
for breach
of certain
conditions.

(a) goods chargeable with a duty of customs are allowed to be delivered without payment of that duty on condition that they will not be sold or will be re-exported or on any other like condition; or

- (b) the amount of customs duty payable on any goods depends on their being imported on any such condition,

any goods are allowed to be delivered without payment of duty or on payment of duty calculated in accordance with that provision, and the condition is not observed, the goods shall, unless the non-observance was sanctioned by the Board, be liable to forfeiture.

(2) The provisions of this section shall apply whether or not any undertaking or security has been given for the observance of the condition or for the payment of the duty payable apart therefrom, and the forfeiture of any goods under this section shall not affect any liability of any person who has given any such undertaking or security.

Valuation of
goods for
purposes of
ad valorem
duties.

47. (1) For the purposes of any duty of customs for the time being chargeable on any imported goods by reference to their value, whether a Community customs duty or not, the value of the goods shall be taken according to the rules applicable in the case of Community customs duties, and duty shall be paid on that value:

Provided that in relation to an importation in the course of trade within the Communities the value shall be determined on the basis of a delivery to the buyer at the port or place of importation into the British Islands.

(2) The Board may make orders for the purpose of giving effect to the foregoing provisions of this section, and in particular for requiring any importer or other person concerned with the importation of goods to furnish to the Chief Revenue Officer, in such form as he may require, such information as is in his opinion necessary for a proper valuation

thereof, and to produce any books of account or other documents of whatever nature relating to the purchase, importation or sale of the goods by that person.

(3) If any person contravenes or fails to comply with any order made under this section, he shall be liable on conviction to a fine not exceeding fifty pounds.

(4) Notwithstanding the provisions of this section, any goods which have been imported into the Island before the date of entry of the United Kingdom into the European Economic Community shall have their value determined in accordance with the provisions of section fifteen of the Import Duties Act (Bailiwick of Guernsey), 1932.

48. Fish, whales or other natural produce of the sea, or goods produced or manufactured therefrom at sea, if brought direct to any place in the Bailiwick are—

Origin of goods.

- (a) in the case of goods of the Bailiwick, to be deemed for the purpose of any charge to duty not to be imported; and
- (b) in the case of goods of any other country, to be deemed to be consigned to the Bailiwick from that country.

49. (1) If, before the delivery of any imported goods from customs charge, any dispute arises as to whether any or what duty of customs is payable on those goods, the importer shall pay the amount demanded by the proper officer but may, not later than three months after the date of the payment—

Determination of disputes as to customs duties.

- (a) if the dispute is in relation to the value of the goods require the question to be referred

to the arbitration of a referee appointed by the Royal Court, not being a person who holds any paid office or other place of profit under the States, whose decision shall be final and conclusive; or

- (b) in any other case apply to the Royal Court sitting as an Ordinary Court for a declaration as to the amount of duty, if any, properly payable on the goods.

(2) If on any such reference or application the referee or Court determines that a lesser or no amount was properly payable in respect of duty on the goods, the amount overpaid shall be repaid by the Board, together with interest thereon from the date of the overpayment at such rate as the referee or Court may determine; and any sum so repaid shall be accepted by the importer in satisfaction of all claims in respect of the importation of the goods in question and the duty payable thereon and of all damages and expenses incidental to the dispute other than the costs of the proceedings.

(3) The procedure on any reference to a referee under this section shall be such as may be determined by the referee.

Extension of
drawback.

50. (1) Without prejudice to any other provision of this or any other Law, where drawback is allowable on the shipment of any goods as stores, the like drawback shall, subject to such conditions and restrictions as the Chief Revenue Officer thinks fit to impose, be allowed on the deposit of those goods in an approved warehouse or a customs warehouse.

(2) Without prejudice to any other provision of this or any other Law, where drawback would be payable on the exportation of any goods, or on the deposit in an approved warehouse or a customs ware-

house of any goods for exportation, then, subject to such conditions and restrictions as the Chief Revenue Officer thinks fit to impose, the like drawback shall be payable on the shipment of any such goods as stores or, as the case may be, on their deposit in such a warehouse.

51. (1) Any claim for drawback shall be made in such form and manner and contain such particulars as the Board may direct.

General
provision
as to
claims for
drawback.

(2) Where drawback has been claimed in the case of any goods—

- (a) no drawback shall be payable unless it is shown to the satisfaction of the Chief Revenue Officer that duty in respect of the goods or of the article contained therein or used in the manufacture or preparation thereof in respect of which the claim is made has been duly paid and has not been drawn back; and
- (b) no drawback shall be paid until the person entitled thereto or his agent has made a declaration in such form and manner and containing such particulars as the Chief Revenue Officer may direct that the conditions on which the drawback is payable have been fulfilled; and
- (c) the Chief Revenue Officer may require any person who has been concerned at any stage with the goods or article to furnish such information as may be reasonably necessary to enable the Chief Revenue Officer to determine whether duty has been duly paid and not drawn back and for enabling a calculation to be made of the amount of drawback

payable, and to produce any book of account or other document of whatever nature relating to the goods or article.

(3) If any person fails to comply with any requirement made under paragraph (c) of subsection (2) of this section, he shall be liable on conviction to a fine not exceeding fifty pounds.

Drawback
and allow-
ance on
goods
damaged or
destroyed
after
shipment.

52. (1) Where it is proved to the satisfaction of the Chief Revenue Officer that any goods after being duly shipped for exportation have been destroyed by accident on board the exporting ship or aircraft, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be payable in the same manner as if the goods had been exported to their destination.

(2) Where it is proved to the satisfaction of the Chief Revenue Officer that any goods, after being duly shipped for exportation, have been materially damaged by accident on board the exporting ship or aircraft, and the goods are with the consent of and in accordance with any conditions imposed by the Chief Revenue Officer relanded or unloaded again in or brought back into the Island and either abandoned to the Board or destroyed, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be paid as if they had been duly exported and not so relanded, unloaded or brought back; and notwithstanding any provision of this or any other Law relating to the reimportation of exported goods, the person to whom any such amount is payable or has been paid shall not be required to pay any duty in respect of any goods relanded, unloaded or brought back in accordance with the provisions of this subsection.

53. (1) If any person obtains or attempts to obtain, or does anything whereby there might be obtained by any person, any amount by way of drawback, allowance, remission or repayment of, or any rebate from, any duty in respect of any goods which is not lawfully payable or allowable in respect thereof or which is greater than the amount so payable or allowable, then—

Offences in connection with claims for drawback, etc.

- (a) if the offence was committed with intent to defraud the States he shall be liable on conviction to a fine not exceeding three times the value of the goods or two hundred pounds, whichever is the greater;
- (b) in any other case, he shall be liable on conviction to a fine not exceeding three times the amount improperly obtained or allowed or which might have been improperly obtained or allowed or one hundred pounds, whichever is the greater.

(2) Any goods in respect of which an offence under subsection (1) of this section is committed shall be liable to forfeiture:

Provided that, in the case of a claim for drawback, the Board may, if it thinks fit, instead of seizing the goods either refuse to allow any drawback thereon or allow only such drawback as it considers proper.

(3) Without prejudice to the foregoing provisions of this subsection, if, in the case of any goods on which a claim for drawback, allowance, remission or repayment of duty has been made, it is found that—

- (a) those goods do not correspond with any entry made thereof in connection with that claim; or

(b) the goods, if sold for home use, would realise less than the amount claimed,

the goods shall be liable to forfeiture and any person by whom any such entry or claim was made shall be liable on conviction to a fine not exceeding three times the amount claimed or one hundred pounds, whichever is the greater.

Recovery of duties and calculation of duties, drawbacks, etc.

54. (1) Without prejudice to any other provision of this Law, or of any other enactment, any amount due by way of customs or excise duty may be recovered as a civil debt due to the States.

(2) Any duty, drawback, allowance or rebate the rate of which is expressed by reference to a specified quantity or weight of any goods shall be chargeable or allowable on any fraction of that quantity or weight of the goods, and the amount payable or allowable on any such fraction shall be calculated proportionately:

Provided that the Board may determine the fractions to be taken into account in the case of any weight or quantity.

(3) For the purpose of calculating any amount due from or to any person under the customs or excise Laws by way of duty, drawback, allowance, repayment or rebate, any fraction of a penny in that amount shall be disregarded.

PART VIII

DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS

Provisions as to detention of persons.

55. (1) Any person who has committed, or whom there are reasonable grounds to suspect of having committed, any offence under the customs or excise

Laws may be detained by any officer or police officer at any time within three years from the date of the commission of the offence.

(2) Where it was not practicable to detain any such person as aforesaid at the time of the commission of the offence, or where any such person having been then or subsequently detained for that offence has escaped, he may be detained by any officer or police officer at any time and may be proceeded against in like manner as if the offence had been committed at the date when he was finally detained.

(3) Where an officer detains a person under the provisions of this section, he shall forthwith inform a police officer and shall as soon as may be reasonably practicable either deliver that person into the custody of a police officer or release him.

56. (1) Any thing liable to forfeiture under the customs or excise Laws may be seized or detained by any officer or police officer.

Provisions
as to
detention,
seizure and
condemna-
tion of
goods, etc.

(2) Where any thing is seized or detained as liable to forfeiture under the said Laws by a police officer, he shall, subject to the provisions of subsection (3) of this section, either—

- (a) deliver that thing to the Chief Revenue Officer; or
- (b) if such delivery is not practicable, give to the Board notice in writing of the seizure or detention with full particulars of the thing seized or detained.

(3) Where the person seizing or detaining any thing as liable to forfeiture under the said Laws is a police officer and that thing is or may be required for use in connection with any proceedings to be brought otherwise than under those Laws, it may

be retained in the custody of the police until either those proceedings are completed or it is decided that no such proceedings shall be brought:

Provided that—

- (a) notice in writing of the seizure or detention and of the intention to retain the thing in question in the custody of the police, together with full particulars as to that thing, shall be given to the Chief Revenue Officer;
 - (b) any officer shall be permitted to examine that thing and take account thereof at any time while it remains in the custody of the police.
- (4) Subject to the provisions of subsection (3) of this section and to the provisions of the First Schedule to this Law, any thing seized or detained under the customs or excise Laws shall, pending the determination as to its forfeiture or disposal, be dealt with, and, if condemned or deemed to have been condemned as forfeited, shall be disposed of, in such manner as the Board may direct.
- (5) The provisions of the said First Schedule shall have effect for the purpose of forfeitures, and of proceedings for the condemnation of any thing as being forfeited, under the customs or excise Laws.
- (6) The provisions of subsections (2) to (5) of this section shall apply in relation to any dutiable goods seized or detained by any person other than an officer notwithstanding that they were not so seized as liable to forfeiture under the customs or excise Laws.

57. (1) Without prejudice to any other provision of this Law or any other enactment relating to customs and excise where any thing has become liable to forfeiture under the customs or excise Laws—

Forfeiture of ships, etc. used in connection with goods liable to forfeiture.

- (a) any ship, aircraft, vehicle, animal, container (including any article of passengers' baggage) or other thing whatsoever which has been used for the carriage, handling, deposit or concealment of the thing so liable to forfeiture, either at a time when it was so liable or for the purposes of the commission of the offence for which it later became so liable; and
- (b) any other thing mixed, packed or found with the thing so liable,

shall also be liable to forfeiture.

(2) Where any ship, aircraft, vehicle or animal has become liable to forfeiture under the said Laws, whether by virtue of the provisions of subsection (1) of this section or otherwise, all tackle, apparel or furniture thereof shall also be liable to forfeiture.

(3) Where any ship not exceeding one hundred tons register or any aircraft becomes liable to forfeiture under the provisions of this section by reason of having been used in the importation, exportation or carriage of goods contrary to or for the purpose of contravening any prohibition or restriction for the time being in force with respect to those goods, or without payment having been made of, or security given for, any duty payable thereon, the owner and the master or commander shall each be liable on conviction to a fine not exceeding an amount equal to the value of the ship or aircraft or one thousand pounds, whichever is the less.

Special provision as to forfeiture of larger ships.

58. (1) Notwithstanding any other provision of this Law, a ship of two hundred and fifty or more tons register shall not be liable to forfeiture under or by virtue of any provision of this Law, except under the provisions of section thirty-nine thereof, unless the offence in respect of or in connection with which the forfeiture is claimed—

- (a) was substantially the object of the voyage during which the offence was committed; or
- (b) was committed while the ship was under chase by a vessel in the service of Her Majesty or the States after failing to bring to when properly summoned to do so by that vessel.

(2) For the purposes of this section a ship shall be deemed to have been properly summoned to bring to if the vessel making the summons did so by means of an international signal code or other recognised means and while flying her proper ensign.

(3) The exemption from forfeiture of any ship under this section shall not affect any liability to forfeiture of goods carried therein.

Penalization of master and owner where responsible ship's officer implicated in offence.

59. (1) Where any ship of two hundred and fifty or more tons register would, but for the provisions of section fifty-eight of this Law, be liable to forfeiture for or in connection with any offence under this Law or any other enactment relating to customs or impôts and a responsible officer of the ship is implicated either by his own act or by neglect in that offence, the owner and the master of that ship shall each be guilty of an offence under this section unless the owner or the master, as the case may be, proves that he did not know and had no reason to suppose that such officer was so implicated and shall

each on conviction be liable to a fine not exceeding five hundred pounds.

(2) For the purposes of this section—

- (a) the expression “responsible officer” means the master, a mate or an engineer of any ship and, in the case of a ship carrying a passenger certificate, the purser or chief steward and, in the case of a ship manned wholly or partly by Asiatic seamen, the serang or other leading Asiatic officer of the ship;
- (b) without prejudice to any other grounds on which a responsible officer may be held to be implicated by neglect, he may be so held if goods not owned to by any member of the crew are discovered in a place under that officer’s supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the ship or subsequently.

60. (1) Where, in any proceedings for the condemnation of any thing seized as liable to forfeiture under the customs or excise Laws, judgment is given for the claimant, the Royal Court, sitting as an Ordinary Court, may, if it sees fit, certify that there were reasonable grounds for the seizure.

Protection of officers, etc., in relation to seizure and detention of goods, etc.

(2) Where any civil proceedings are brought against the States or any person authorised by or under this Law to seize or detain any thing liable to forfeiture under the said Laws on account of the seizure or detention of any thing, and judgment is given for the plaintiff, then if either—

- (a) a certificate relating to the seizure has been granted under subsection (1) of this section;
- or

- (b) the Court is satisfied that there were reasonable grounds for detaining that thing under the Law,

the plaintiff shall not be entitled to recover any damages or costs:

Provided that nothing in this subsection shall affect any right of any person to the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction thereof.

- (3) Any certification under subsection (1) of this section may be proved by the production of the Act of Court relating thereto.

Proceedings for offences.

61. Save as otherwise expressly provided in the customs or excise Laws and notwithstanding anything in any other enactment, any proceedings for an offence under the said Laws may be commenced at any time within, and shall not be commenced later than, three years from the date of the commission of the offence.

Incidental provisions as to legal proceedings.

62. (1) Where liability for any offence under the customs or excise Laws is incurred by two or more persons jointly, those persons shall each be liable for the full amount of any fine and may be proceeded against jointly or severally.

(2) In any proceedings for an offence or for the condemnation of any thing as being forfeited under any of the said Laws, the fact that security has been given by bond or otherwise for the payment of any duty or for compliance with any condition in respect of the non-payment of which or non-compliance with which the proceedings are instituted shall not be a defence.

Application of fines.

63. All fines imposed under the customs or excise Laws shall be credited to the account of the General Revenue.

64. Any document purporting to be signed either by order of the Board or by any person with the authority of the Board or by the Chief Revenue Officer or by his order or by any other person with his authority, shall, until the contrary is proved, be deemed to have been so signed and to be made and issued by the Board or the Chief Revenue Officer, as the case may be, and may be proved by the production of a copy thereof purporting to be so signed.

Proof of
certain
documents.

65. (1) An averment in any process in proceedings under the customs or excise Laws—

Proof of
certain
other
matters.

- (a) that any person is or was an officer or police officer; or
- (b) that any person is or was appointed or authorised by the Board or the Chief Revenue Officer to discharge, or was engaged by the orders or with the concurrence of the Board or the Chief Revenue Officer in the discharge of, any duty; or
- (c) that the Board or the Chief Revenue Officer has or has not been satisfied as to any matter as to which it or he is required by any provision of the said Laws to be satisfied; or
- (d) that any goods thrown overboard, staved or destroyed were so dealt with in order to prevent or avoid the seizure of those goods;

shall, until the contrary is proved, be sufficient evidence of the matter in question.

(2) Where in any proceedings relating to customs or excise any question arises as to the place from which any goods have been brought or as to whether or not—

- (a) any duty has been paid or secured in respect of any goods; or
- (b) any goods or other things whatsoever are of the description or nature alleged in the information, writ or other process; or
- (c) any goods have been lawfully imported or lawfully unloaded from any ship or aircraft; or
- (d) any goods have been lawfully loaded into any ship or aircraft or lawfully exported or were lawfully waterborne; or
- (e) any goods were lawfully brought to any place for the purpose of being loaded into any ship or aircraft or exported; or
- (f) any goods are or were subject to any prohibition of or restriction on their importation or exportation;

then, where those proceedings are brought by or against the States or an officer, or against any other person in respect of anything purporting to have been done in pursuance of any power or duty conferred or imposed on him by or under the customs or excise Laws, the burden of proof shall lie on the other party to the proceedings.

Bonds and security.

66. (1) Without prejudice to any express requirement as to security contained in the customs or excise Laws, the Board may, if it thinks fit, require any person to give security by bond or otherwise for the observance of any condition in connection with customs or excise.

(2) Any bond taken for the purposes of any assigned matter—

- (a) shall be taken on behalf of the States; and

- (b) shall be valid notwithstanding that it is entered into by a person under twenty years of age; and
- (c) may be cancelled at any time by the Board.

67. (1) Any person required by the Board under this Law to give security in respect of any premises or place to be used for the examination of goods by an officer shall—

Power to require provision of facilities etc.

- (a) provide and maintain such appliances and afford such other facilities reasonably necessary to enable an officer to take any account or make any examination or search or to perform any other of his duties on the premises of that trader or at the bonded premises or place as the Board may direct;
- (b) keep any appliances so provided in a convenient place approved by the proper officer for that purpose; and
- (c) allow the proper officer at any time to use anything so provided and give him any assistance necessary for the performance of his duties;

and any person who contravenes or fails to comply with any provision of this subsection shall be liable on conviction to a fine not exceeding one hundred pounds.

(2) Any person required by the Board as afore-said shall provide and maintain any fitting required for the purpose of affixing any lock which the proper officer may require to affix to the premises of that person or any part thereof or to any vessel, utensil or other apparatus whatsoever kept thereon, and in default—

- (a) the fitting may be provided or any work necessary for its maintenance may be carried out by the proper officer, and any expenses so incurred shall be paid on demand by the person aforesaid; and
- (b) if the person aforesaid fails to pay those expenses on demand, he shall in addition be liable on conviction to a fine not exceeding one hundred pounds.

(3) If any person aforesaid or any servant of his—

- (a) wilfully destroys or damages any such fitting as aforesaid or any lock or key provided for use therewith, or any label or seal placed on any such lock; or
- (b) improperly obtains access to any place or article secured by any such lock; or
- (c) has any such fitting or any article intended to be secured by means thereof so constructed that that intention is defeated;

he shall be liable on conviction to a fine not exceeding five hundred pounds.

Power to
examine
and take
account
of goods.

68. (1) Without prejudice to any other power conferred by this Law, an officer may examine and take account of any goods—

- (a) which are imported; or
- (b) which are deposited in an approved warehouse or customs warehouse; or
- (c) which have been loaded into any ship or aircraft at any place in the Bailiwick; or
- (d) which are entered for exportation or for use as stores; or

- (e) which are brought to any place in the Bailiwick for exportation or for shipment for exportation or as stores; or
- (f) in the case of which any claim for drawback, allowance, rebate, remission or repayment of duty is made;

and may for that purpose require any container to be opened or unpacked.

(2) Any examination of goods by an officer under this Law shall be made at such place as the Board or the Chief Revenue Officer may appoint for the purpose.

(3) In the case of such goods as the Board or the Chief Revenue Officer may direct, and subject to such conditions as he thinks fit to impose, an officer may permit goods to be skipped on the quay or bulked, sorted, lotted, packed or repacked before account is taken thereof.

(4) Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, lotting, marking, numbering, loading, unloading, carrying or landing of goods or their containers for the purposes of, or incidental to, the examination by an officer, removal or warehousing thereof shall be done, and any facilities or assistance required for any such examination shall be provided, by or at the expense of the proprietor of the goods.

(5) If any imported goods which an officer has power under this Law to examine are without the authority of the proper officer removed from customs charge before they have been examined, those goods shall be liable to forfeiture; and any person who so removed them, if he did so with intent to defraud the States of any duty chargeable thereon or to evade any prohibition or restriction for the

time being in force with respect thereto under or by virtue of any enactment, shall be liable on conviction to a fine not exceeding three times the value of the goods or one hundred pounds, whichever is the greater, or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

(6) Without prejudice to the foregoing provisions of this section where by this section or by or under any other provision of this Law an account is authorised or required to be taken of any goods for any purpose by an officer, the Chief Revenue Officer may, with the consent of the proprietor of the goods, accept as the account of those goods for that purpose an account taken by such other person as may be approved in that behalf by both the Chief Revenue Officer and the proprietor of the goods.

Power to
take
samples.

69. (1) An officer may at any time take samples of any goods—

- (a) which he is empowered by this Law or any other enactment relating to customs and excise to examine; or
- (b) which are on premises where goods chargeable with any duty are stored, deposited, manufactured, prepared or subjected to any process; or
- (c) which, being dutiable goods, are held by any person as stock for his business or as materials for manufacture or processing.

(2) Any sample taken under this section shall be disposed of and accounted for in such manner as the Board may direct.

(3) Where any sample is taken under this section from any goods chargeable with a customs or

excise duty after that duty has been paid, other than—

- (a) a sample taken when goods are first entered on importation; or
- (b) a sample taken from goods in respect of which a claim for drawback, allowance, rebate, remission or repayment of that duty is being made,

and the sample so taken is to be retained, the officer taking it shall if so required by the person in possession of the goods pay for the sample on behalf of the Board such sum as reasonably represents the wholesale value thereof.

70. (1) The Chief Revenue Officer and other States Revenue Officers shall be entitled to visit all stores, depôts and other places used by vendors, stockists, importers and agents of dutiable goods and all other places where such goods may be deposited, in order to assure themselves that no goods, in respect of which duty has not been levied, are deposited therein, or to obtain particulars relative to goods deposited therein which are exempt from duty under the provisions for the relief of duty and the grant of drawback under this Law and the Laws relating to customs and excise:

Power to
search
premises.

Provided that in the Island of Sark no such officer shall exercise any of the powers conferred upon him by this subsection save in the presence of a police officer.

(2) Without prejudice to the provisions of subsection (1) of this section or to any other power conferred by this Law or any other enactment relating to customs and excise, if the Bailiff is satisfied by information on oath given by the Chief Revenue Officer that there are reasonable grounds to

suspect that any thing liable to forfeiture under the customs or excise Laws is kept or concealed in any building or place, he may grant a search warrant authorizing that officer or any other person named in the warrant to enter and search any building or place so named, and that officer or person shall thereupon have power to enter that building or place at any time, whether by day or night, on any day, and to search for, seize, and detain or remove any such thing and, so far as is reasonably necessary for the purpose of such entry, search, seizure, detention or removal, to break open any door, window or container and force and remove any other impediment or obstruction :

Provided that entry shall not be made by night except in the company of a police officer.

(3) In this section, the expression " the Bailiff " means—

- (a) in relation to Guernsey, Herm and Jethou, the Bailiff, the Deputy Bailiff, a Lieutenant-Bailiff or the Juge Délégué;
- (b) in relation to Alderney, the Chairman of the Court of Alderney; and
- (c) in relation to Sark, the Seneschal.

Power to
search
vehicles and
vessels.

71. (1) Without prejudice to any other power conferred by this Law or any other enactment relating to customs and excise, where there are reasonable grounds to suspect that any vehicle or vessel is or may be carrying any goods which are—

- (a) chargeable with any duty which has not been paid or secured; or
- (b) in the course of being unlawfully removed from or to any place; or

(c) otherwise liable to forfeiture under the customs or excise Laws,

any officer or police officer may stop and search that vehicle or vessel.

(2) If when so required by any such officer as aforesaid the person in charge of any such vehicle or vessel refuses to stop or to permit the vehicle or vessel to be searched, he shall be liable on conviction to a fine not exceeding five hundred pounds.

72. (1) Where there are reasonable grounds to suspect that any person to whom this section applies is carrying any article— Power to search persons.

(a) which is chargeable with any duty which has not been paid or secured; or

(b) with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment,

any officer or any person acting under the directions of an officer may search him and any article he has with him:

Provided that—

(i) the person to be searched may require to be taken before a Jurat of the Royal Court or a superior of the officer or other person concerned, who shall consider the grounds for suspicion and direct accordingly whether or not the search is to take place;

(ii) no woman or girl shall be searched in pursuance of this section except by a woman.

(2) This section applies to the following persons, namely—

- (a) any person who is on board or has landed from any ship or aircraft;
- (b) any person entering or about to leave the Island;
- (c) any person within the limits of a port;
- (d) any person at a customs airport;
- (e) any person within the area of an approved place.

(3) In this section, the expression "a Jurat of the Royal Court" means—

- (a) in relation to Guernsey, Herm and Jethou, a Jurat of the Royal Court of Guernsey;
- (b) in relation to Alderney, a Jurat of the Court of Alderney; and
- (c) in relation to Sark, the Prévôt.

Power to
pay
rewards.

73. Where it appears to the Board that any service rendered to it by any person in relation to any assigned matter merits reward, the Board may, at its discretion, pay rewards in respect of such service.

Agent to
produce
authority.

74. (1) If any person requests an officer or a person appointed by the Board or the Chief Revenue Officer to transact any business relating to an assigned matter with him on behalf of another person, the officer or person appointed as aforesaid may refuse to transact that business with him unless written authority from that other person is produced in such form as the Board or the Chief Revenue Officer may direct.

(2) Subject to the provisions of subsection (1) of this section, anything required by this Law or by any other enactment relating to customs and excise to be done by the importer or exporter of any goods

may, except where the Board or the Chief Revenue Officer otherwise requires, be done on his behalf by an agent.

75. (1) If any person knowingly or recklessly—
- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Board or an officer, any declaration, notice, certificate or other document whatsoever; or
 - (b) makes any statement in answer to any question put to him by an officer which he is required by or under any enactment to answer,

Untrue
declara-
tions, etc.

being a document or statement produced or made for any purpose of any assigned matter which is untrue in any material particular, then, without prejudice to the provisions of subsection (2) of this section, he shall be liable on conviction to a fine not exceeding one thousand pounds or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment; and any goods in relation to which the document or statement was made shall be liable to forfeiture.

(2) Where by reason of any such document or statement as aforesaid the full amount of any duty payable is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of the duty unpaid or of the overpayment shall be recoverable as a civil debt due to the States.

76. If any person—

- (a) counterfeits or falsifies any document which is required by or under any enactment relating to an assigned matter or which is used

Counter-
feiting
documents,
etc.

in the transaction of any business relating to an assigned matter; or

- (b) knowingly accepts, receives or uses any such document so counterfeited or falsified; or
- (c) alters any such document after it is officially issued; or
- (d) counterfeits any seal, signature, initials or other mark of, or used by, any officer for the verification of such a document or for the security of goods or for any other purpose relating to an assigned matter,

he shall be liable on conviction to a fine not exceeding one thousand pounds, or to imprisonment for a term not exceeding two years or to both such fine and such imprisonment.

Fraudulent
evasion of
duty, etc.

77. Without prejudice to any other provision of this Law, if any person—

- (a) knowingly and with intent to defraud the States of any duty payable thereon or to evade any prohibition or restriction for the time being in force under or by virtue of any enactment with respect thereto, acquires possession of, or is in any way concerned in carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any goods which have been unlawfully removed from an approved warehouse or a customs warehouse, or which are chargeable with a duty which has not been paid, or with respect to the importation or exportation of which any prohibition or restriction is for the time being in force as aforesaid; or

- (b) is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any duty chargeable thereon or of any such prohibition or restriction as aforesaid or of any provision of this Law or of any other enactment relating to customs and excise applicable to those goods,

he may be detained and, save where, in the case of an offence in connection with a prohibition or restriction, a penalty is expressly provided for that offence by the enactment imposing the prohibition or restriction, shall be liable on conviction to a fine not exceeding three times the value of the goods or five hundred pounds, whichever is the greater, or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

78. (1) Where by any provision of any enactment relating to an assigned matter a punishment is prescribed for any offence thereunder or for any contravention of or failure to comply with any order, direction, condition or requirement made, given or imposed thereunder, and any person is convicted in the same proceedings of more than one such offence, contravention or failure, that person shall be liable to that punishment for each such offence, contravention or failure of which he is so convicted.

General provisions as to offences and penalties.

(2) Where a penalty for any offence under any enactment relating to an assigned matter is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might reasonably be expected to have fetched, after payment of any duty or tax chargeable thereon, if they had been sold in the open market at or about the date of the commission of the offence for which the penalty is imposed.

(3) Where an offence under any enactment relating to an assigned matter which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) Where in any proceedings for an offence under the customs Laws any question arises as to the duty or the rate thereof chargeable on any imported goods, and it is not possible to ascertain the relevant time specified in section twenty of this Law, that duty or rate shall be determined as if the goods had been imported at the time when the proceedings were commenced.

Orders.

79. (1) Any power conferred by this Law to make an order may be exercised from time to time and may be exercised—

- (a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases; and
- (b) so as to make, as respects the cases in relation to which it is exercised—
 - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases in relation to which the power is exercised or different provision for different cases or

classes of cases or different provision as respects the same case or class of case for different purposes of this Law;

- (iii) any such provision either unconditionally or subject to any specified condition.

(2) Without prejudice to any specific provision in this Law, any order under this Law may contain such incidental or supplementary provisions as appear to the Board to be expedient for the purposes of the order.

(3) Any power conferred by this Law to make an order shall include power to vary or revoke any order so made by a subsequent order.

80. The Import and Export (Control) (Guernsey) Law, 1946(e), is hereby amended as set out in the Second Schedule to this Law.

Amend-
ments to
Import and
Export
(Control)
(Guernsey)
Law, 1946.

81. (1) This Law may be cited as the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972.

Citation and
commence-
ment.

(2) This Law shall come into force on the first day of January, nineteen hundred and seventy-three.

(e) Ordres en Conseil Vol. XII, p. 332.

FIRST SCHEDULE

Sections 56 and 59

*Provisions relating to forfeiture**Notice of seizure*

1. The Board shall give notice of the seizure of any thing as liable to forfeiture and of the grounds therefor to any person who to its knowledge was at the time of seizure the owner or one of the owners thereof:

Provided that notice shall not be required to be given under this paragraph if the seizure was made in the presence of—

- (a) the person whose offence or suspected offence occasioned the seizure; or
- (b) the owner or any of the owners of the thing seized or any servant or agent of his; or
- (c) in the case of any thing seized in any ship or aircraft, the master or commander.

2. Notice under paragraph 1 of this Schedule shall be given in writing and shall be deemed to have been duly served on the person concerned:—

- (a) if delivered to him personally; or
- (b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business or, in the case of a body corporate, at its registered or principal office; or
- (c) where he has no address within the Island, or his address is unknown, by publication of notice of the seizure in *La Gazette Officielle*.

Notice of claim

3. Any person claiming that any thing seized as liable to forfeiture is not so liable shall, within one month of the date of the notice of seizure or, where no such notice has been served on him, within one month of the date of the seizure, give notice of his claim in writing to the Board.

4. Any notice under paragraph 3 of this Schedule shall specify the name and address of the claimant, and, in the case of a claimant who is outside the Island, shall specify the name and address of an advocate in the Island who is authorised to accept service of process and to act on behalf of the claimants, and service of process upon an advocate so specified shall be deemed to be a proper service upon the claimant.

Condemnation

5. If on the expiration of the relevant period aforesaid for the giving of notice of claim in respect of any thing no such notice has been given to the Board, or if, in the case of any such notice given, any requirement of paragraph 4 of this Schedule is not complied with, the thing in question shall be deemed to have been duly condemned as forfeited.

6. Where notice of claim in respect of any thing is duly given in accordance with the foregoing provisions of this Schedule, the Board shall take proceedings for the condemnation of that thing by the Court, and if the Court finds that the thing was at the time of seizure liable to forfeiture the Court may condemn it as forfeited.

7. Where any thing is in accordance with either paragraph 5 or 6 of this Schedule condemned or deemed to have been condemned as forfeited, then, without prejudice to any delivery up or sale of the thing by the Board under paragraph 15 of this Schedule, the forfeiture shall have effect as from the date when the liability to forfeiture arose.

Proceedings for condemnation by Court

8. Proceedings for condemnation shall be civil proceedings and shall be instituted, by way of summons, in the case of any thing seized as liable to forfeiture:—

- (a) in the Island of Guernsey, in the Royal Court sitting as an Ordinary Court;
- (b) in the Island of Alderney, in the Court of Alderney; or
- (c) in the Island of Sark, in the Court of the Seneschal.

9. (1) In any proceedings for condemnation, the claimant or his advocate shall make oath that the thing seized was, or was to the best of his knowledge and belief, the property of the claimant at the time of the seizure.

(2) In any such proceedings the claimant shall give such security for the costs of the proceedings as may be determined by the Court.

(3) If any requirement of this paragraph is not complied with, the Court may give judgement for the Board.

10. In any proceedings for condemnation, either party may appeal against the decision of the Court.

11. Where an appeal has been made against the decision of the Court in any proceedings for the condemnation of any thing, that thing shall, pending the final determination of the matter, be left with the Board or the Chief Revenue Officer as the case may be.

Provisions as to proof

12. In any proceedings arising out of the seizure of any thing, the fact, form and manner of the seizure shall be taken to have been as set forth in the summons without any further evidence thereof, unless the contrary is proved.

13. In any proceedings, the condemnation by a Court of any thing as forfeited may be proved by the production of the Act of Court relating thereto.

Special provisions as to certain claimants

14. For the purposes of any claim to, or proceedings for the condemnation of, any thing, where that thing is at the time of seizure the property of a body corporate, of two or more partners or of any number of persons exceeding five, the oath required by this Schedule to be taken and any other thing required by this Schedule or by any rules of the Court to be done by, or by any person authorised by, the claimant or owner may be taken or done by, or by any other person authorised by, the following persons respectively, that is to say—

- (a) where the owner is a body corporate, the secretary or some duly authorised officer of that body;
- (b) where the owners are in partnership, any one of those owners;

- (c) where the owners are any number of persons exceeding five not being in partnership, any two of those persons on behalf of themselves and their co-owners.

Power to deal with seizures before condemnation etc.

15. Where any thing has been seized as liable to forfeiture the Board may at any time if it thinks fit and notwithstanding that the thing has not yet been condemned, or is not yet deemed to have been condemned, as forfeited—

- (a) deliver it up to any claimant upon his paying to the Board such sum as it thinks proper, being a sum not exceeding that which in its opinion represents the value of the thing, including any duty chargeable thereon which has not been paid; or
- (b) if the thing seized is a living creature or is in the opinion of the Board of a perishable nature, sell or destroy it.

16. (1) If, where any thing is delivered up, sold or destroyed as aforesaid, it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Board shall on demand by the claimant tender to him:—

- (a) an amount equal to any sum paid by him under sub-paragraph (a) of paragraph 15 of this Schedule; or
- (b) where the Board has sold the thing, an amount equal to the proceeds of sale; or
- (c) where the Board has destroyed the thing, an amount equal to the market value of the thing at the time of its seizure:

Provided that where the said amount includes any sum on account of any duty chargeable on the thing

which had not been paid before its seizure the Board may deduct so much of that amount as represents that duty.

(2) If the claimant accepts any amount tendered to him under sub-paragraph (1) of this paragraph, he shall not be entitled to maintain any action on account of the seizure, detention, sale or destruction of the thing.

(3) For the purposes of head (c) of sub-paragraph (1) of this paragraph, the market value of any thing at the time of its seizure shall be taken to be such amount as the Board and the claimant may agree or, in default of agreement, as may be determined by a referee appointed by the Royal Court, not being a person who holds any paid office or other place of profit under the States, whose decision shall be final and conclusive; and the procedure on any reference to a referee shall be such as may be determined by the referee.

SECOND SCHEDULE Section 80

*Amendments to the Import and Export (Control)
(Guernsey) Law, 1946*

1. In paragraph (1) of Article 3, immediately after the word "goods" where that word secondly occurs, there shall be inserted the words "shall be deemed to be prohibited goods and", and immediately after the word "liable" there shall be inserted the words "in addition to any other penalty under any other enactment".

2. Immediately after paragraph (1) of Article 3 there shall be inserted the following paragraph:—

"(1A) If any such order as aforesaid prohibits the exportation of any goods unless consigned to a particular place or person, and such goods so consigned are delivered otherwise than to that place or person, as the case may be, the vessel in which the goods were exported shall be deemed to have been used in the conveyance of prohibited goods."

3. In paragraph (2) of Article 3, for the words "goods whereof the importation, exportation or shipment as ships' stores, as the case may be, is prohibited and shall be forfeited" are repealed and the words "prohibited goods and be forfeited." are substituted therefor.

4. Immediately after Article 5 there shall be inserted the following Article:—

“ Article 5A

Administrative provisions

The provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, shall apply to goods under this Law as if they were goods subject to a duty of customs.”.

R. H. VIDELO,
Her Majesty's Greffier

