

# ACT NO. IV OF 1969

[8th March, 1969]

*An Act to consolidate and amend the law relating to customs*

WHEREAS it is expedient to consolidate and amend the law relating to the levy and collection of customs-duties and to provide for other allied matters;

It is hereby enacted as follows: -

## CHAPTER I

### PRELIMINARY

**1. Short title, extent and commencement.**- (1) This Act may be called the Customs Act, 1969.

(2) It extends to the whole of <sup>1</sup>[Bangladesh].

(3) It shall come into force on such date<sup>2</sup> as the <sup>3</sup>[Government] may, by notification in the official Gazette, appoint.

**2. Definitions.**- In this Act, unless there in anything repugnant in the subject or context-

<sup>4</sup> [(a) "agent" means any person, including a shipping agent, clearing and forwarding agent, cargo agent <sup>1</sup>[and freight forwarding agent], licenced under section 207, or any person permitted to transact any business under section 208;]

<sup>6</sup>[(aa) "Appellate Tribunal" means the Customs, Excise and <sup>মূল্য</sup> সংযোজন কর Appellate Tribunal constituted under section 196;]

(b) "appropriate officer", in relation to any functions to be performed under this Act, means the officer of customs to whom such functions have been assigned by or under this Act;

<sup>7</sup>[(bb) "Bangladesh customs-waters" means the waters extending into the sea to a distance of twelve nautical miles measured from the appropriate base line on the coast of Bangladesh;]

<sup>1</sup> Subs by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July, 1980.

<sup>2</sup> This Act come into force on the 1st January, 1970, vide Notification No. S.R.O. 267(i)/69 dt. 31-12-69 published in the Pakistan Gazette Extraordinary, Dt. 31-12-69, page 1035.

<sup>3</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Central Government", w.e.f. 1st July, 1980.

<sup>4</sup> This clause "(aa)" Subs. by Act No. 15 of 2000, s. 8 (ka) (a), w.e.f. 1st July 2000.

<sup>5</sup> This words were subs. for the words "and freight forwarding agent" by Act of 2001, s. 2 (Ka), w.e.f. 1st July 2001.

<sup>6</sup> This clause "(aa)" was inserted by Act 12 of 1995, s. 5 (1) (a), w.e.f. 1st July 1995.

<sup>8</sup>[(c) "bill of entry" means a bill of entry delivered under section 79, and includes, an electronically transmitted bill of entry in such cases and in such manner containing such particulars as the Board may specify;]

<sup>1</sup>(d) "bill of export" means a bill of export delivered under section 131, and includes an electronically transmitted bill of export in such cases and in such manner containing such particulars as the Board may specify;

<sup>2</sup>[(e)"Board" means the National Board of Revenue constituted under the National Board of Revenue Order, 1972 (P.O. No. 76 of 1972);]

(f) "coastal goods" means goods transported in a vessel from one port in <sup>3</sup>[Bangladesh] to another, but does not include imported goods on which customs duty has not been paid;

<sup>4</sup>[(ff) "container" means a receptacle of permanent nature, having an internal volume of one meter or more, full or partially enclosed to constitute a compartment for containing goods and specially designed to facilitate carriage of goods by one or more modes of transport, without intermediate reloading, and ready handling, particularly when transferred from one mode of transport to another and strong enough for repeated use;

(ffff) "controlling authority", in relating to any customs-airport, customs-port, customs-inland container depot or customs-station, means the owner or legal occupier thereof or any person having legal control thereof;]

(g) "conveyance" means any means of transport used for carrying goods or passengers such as a vessel, aircraft, vehicle or animal;

(h) "customs-airport" means any airport declared under section 9 to be a customs-airport;

(i) "customs-area" means the limits of the customs-station specified under section 10 and includes any area in which imported goods

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<sup>7</sup> This clause "(bb)" was inserted by Act of 2001, s. 2(Kha), w.e.f. 1st July 2001.

<sup>8</sup> This clause "(c)" Subs. by Act No. 15 of 2000, s. 8 (ka) (b), w.e.f.

<sup>1</sup> This clause "(d)" Subs. by Act No. 15 of 2000, s. 8 (ka) (c), w.e.f.

<sup>2</sup> Subs by Act XXIII of 1980, s. 11 (2), for clause(e), w.e.f. 1st July 1980.

<sup>3</sup> Subs by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July, 1980.

<sup>4</sup> This clause (ff) and (ffff) was inserted after clause (f) by Act XXI of 1992, s. 6(1)(a) w.e.f. 1st, July 1992.

or goods for export are ordinarily kept before clearance by the customs authorities;

<sup>5</sup>[(ii) "Customs computer system" means the customs computerized entry processing system established by the Board for the purposes of this Act;]

<sup>6</sup><sup>7</sup>[(iii)] "customs-inland container depot" means any place declared under section 9 to be a customs-inland container depot;]

(j) "customs-port" means any place declared under section 9 to be a port for the shipment and landing of goods;

(k) "customs-station" means any customs-port, customs-airport or any land customs-station;

<sup>2</sup>(kk) "export manifest" means an export manifest delivered under section 53, and includes electronically transmitted export manifest in such cases and in such manner containing such particulars as the board may specify;

(l) "goods" means all movable goods and includes-

(i) conveyances,

(ii) stores and materials,

<sup>1</sup>[(iii) baggage,

(iv) currency and negotiable instruments;

(v) electronic data;]

<sup>2</sup>(ll) "import manifest" means an import manifest delivered under sections 43 and 44, and includes electronically transmitted import manifest in such cases and in such manner containing such particulars as the Board may specify;

(m) "land customs-station" means any place including an inland river port declared under section 9 to be a land customs-station;

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<sup>5</sup> This clause "(ii)" was inserted by Act of 2001, s. 2(Ga), w.e.f. 1st July 2001.

<sup>6</sup> Renumbered by Act of 2001, s. 2(Ga), w.e.f. 1st July 2001.

<sup>7</sup> This paragraph was inserted by *ibid.*, s. 6(1)(b).

<sup>2</sup> This clause (kk) was inserted after clause (k) by Act of 2000, s. 8(ka)(d) w.e.f.

<sup>1</sup> This sub-clause was subs. by Act No. of 2001, s. 2 (Gha), w.e.f. 1<sup>st</sup> July, 2001.

<sup>2</sup> This clause (ll) was inserted after clause (l) by Act of 2000, s. 8(ka)(e) w.e.f.

(n) "master" when used in relation to any vessel, means any person, except a pilot or harbour master, having command or charge of such vessel;

(o) "officer of customs" means an officer appointed under section 3;

<sup>3</sup>[ \*\*      \*\*      \*\*      \*\*      \*\*      \*\*      \*\*      \*\*];

<sup>4</sup>[(pp) "person" includes a company, partnership, association, firm or a body of persons;];

(q) "person-in-charge" means-

(i) in relation to a vessel, the master of the vessel;

(ii) in relation to an aircraft, the commander or pilot in-charge of the aircraft;

(iii) in relation to a railway train, the conductor, guard or other person having the chief direction of the train;

(iv) in relation to any other conveyance, the driver or any other person having control of the conveyance;

<sup>5</sup>[(qq) "pre-shipment inspection agency" means any person appointed under section 25A as a pre-shipment inspection agency and includes a representative of that person;

<sup>3</sup>[(qqa) "prescribed" means prescribed by rules or order, as the case may be ;]

<sup>4</sup>[(qqq) "registered user", in relation to a Customs computer system, means a user of that system and registered for the purposes of this Act;]

(r) "rules" means the rules made under this Act;

<sup>1</sup>[(s) "smuggle" means to bring into or take out of Bangladesh in breach of any prohibition or restriction for the time being in force; or evading payment of customs-duties or taxes leviable thereon,-

<sup>3</sup> This clause (p) was dropped by Act of 2001, s. 2(Uma), w.e.f. 1<sup>st</sup> July, 2001.

<sup>4</sup> This clause (pp) was inserted after clause (p) by Act 16 of 1999, s. 4(1)(b) w.e.f. 1st, July 1999.

<sup>5</sup> This clause (qq) was inserted after clause (q) by Act 16 of 1999, s. 4(1)(c) w.e.f. 1st, July 1999.

<sup>3</sup> This clause (qqa) was inserted by Act 17 of 2003; w.e.f

<sup>4</sup> <sup>7</sup> This clause (qqq) was inserted by Act of 2001, s. 2(Cha), w.e.f. 1<sup>st</sup> July, 2001.

<sup>1</sup> This clause was inserted by Act 12 of 1995, s. 5(1)(c) w.e.f. 1st July 1995.

- (a) narcotics, narcotic drugs or psychotropic substance, or
- (b) gold bullion, silver bullion, platinum, palladium, radium, precious stones, currency, manufactures of gold or silver or platinum or palladium or precious stones, or any other goods notified by the Government in the official Gazette, in each case exceeding <sup>2</sup>[Taka ten lakhs] in value; or
- (c) any goods concealed in any manner in any place on board any ship, vessel or aircraft or in any other vehicle or in any baggage or cargo or on person; or
- (d) any other goods by any route other than a route declared under section 9 or 10 from any place other than a customs-station; and includes an attempt, abatement or connivance of so bringing in or taking out of such goods; and all cognate words and expressions shall be construed accordingly;]

<sup>3</sup>[(t) “Special bonded warehouse” means a private warehouse licensed under section 13 and which is a hundred percent export oriented industry to be determined as such by the Board for the purpose of exemption from the provision of sub-section (2) of section 91;]

- <sup>4</sup>[(tt) “warehouse” means a place appointed under section 12 or a place licensed under section 13;]
- (u) "warehousing station" means a place declared as a warehousing station under section 11;
  - (v) "wharf" means any place in customs-port approved under clause (b) of section 10 for the loading and unloading of goods or any class of goods.
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## CHAPTER II

### APPOINTMENT OF OFFICERS OF CUSTOMS AND THEIR POWERS

<sup>5</sup>[(3. Appointment of officers of Customs.- For the purposes of this Act, the Board may, by notification in the official Gazette, appoint, in relation to any area or function specified in the notification, any person to be-

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<sup>2</sup> This words were subs. for the words “Taka two lakhs” by Act 18 of 1996, s. 3 (1), w.e.f. 1st July 1996.

<sup>3</sup> These clause (t) was subs. by Act No. 14 of 2002, s. (10), w.e.f 1<sup>st</sup> July, 2002.

<sup>4</sup> These clause (tt) was subs. by Act No. 15 of 2000, s. (8), w.e.f 1<sup>st</sup> July, 2000.

<sup>5</sup> This section was Subs. by Act of 2001 for section 3, s. 3, w.e.f. 1st July, 2001.

- [(a) a Chief Commissioner of Customs;
- (aa) a Commissioner of Customs; ]
- (b) a Commissioner of Customs (Appeal);
- (c) a Commissioner of Customs (Bond);
- (d) a Commissioner of Customs (Valuation and Internal Audit);
- (e) a Director General (Customs Intelligence and Investigation);
- [(f) a Director General (Audit, Intelligence and Investigation, Value Added Tax)]
- (g) a Director General (Duty Exemption and Drawback);
- (h) a Director General (Training);
- <sup>5</sup>(hh) a Director General, Central Intelligence Cell;
- [<sup>6</sup>[(i) an Additional Commissioner of Customs or an Additional Director General or a Director (Central Intelligence Cell)
- (j) a Joint Commissioner of Customs or a Director or a Joint Director (Central Intelligence Cell)]]
- (k) a Deputy Commissioner of Customs or a Deputy Director;
- (l) an Assistant Commissioner of Customs or an Assistant Director;
- <sup>7</sup>[(ll) a Revenue Officer; ]
- (m) an Officer of Customs with any other designation.].

**4. Powers and duties of officers of customs.-** An officer of customs appointed under section 3 shall exercise such powers and discharge such duties as are conferred or imposed on him by or under this Act; and he shall also be competent to exercise all powers and discharge all duties conferred or imposed upon any officer subordinate to him:

Provided that, notwithstanding anything contained in this Act or the rules, the Board may, by general or special order, impose such limitations or conditions on the exercise of such powers and discharge of such duties as it thinks fit.

**'[5. Delegation of Powers.-** The Board may, by notification in the official Gazette, and subject to such limitations or conditions, if any, as may be specified therein, empower by name or designation-

<sup>5</sup> These clause (hh) was subs. by Ordinance No. 10 of 2007, s. (3), w.e.f 1<sup>st</sup> July, 2007

<sup>6</sup> This words were subs by Act 17 of 2003, w.e.f.

<sup>7</sup> These clause (ll) was subs. by Act No. 33 of 2010, s. (3), w.e.f 1<sup>st</sup> July, 2010

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (4), for section 5, w.e.f. 1<sup>st</sup> July, 1980.

- <sup>8</sup>[(a) any Additional Commissioner of Customs to exercise any of the powers of a Commissioner of Customs specified in clauses (a), (b), (c) and (d) of section 3];
- (b) any <sup>5</sup>[Joint Commissioner of Customs] to exercise the powers of an <sup>2</sup>[Additional Commissioner of Customs] or a <sup>3</sup>[Commissioner of Customs <sup>4</sup>[specified at clauses (a), (c) and (d) of section 3]];
- (c) any <sup>6</sup>[Deputy Commissioner of Customs] to exercise any of the powers of a <sup>5</sup>[Joint Commissioner of Customs] or an <sup>2</sup>[Additional Commissioner of Customs];
- (d) any <sup>7</sup>[Assistant Commissioner of Customs] to exercise any of the powers of a <sup>6</sup>[Deputy Commissioner of Customs];
- (e) any other officer of Customs to exercise any of the powers of an <sup>7</sup>[Assistant Commissioner of Customs].

**6. Entrustment of functions of the customs officers to certain other officers.-** The Board may, by notification in the official Gazette, entrust, either conditionally or unconditionally, any functions of any officer of customs under this Act to any officer of the <sup>8</sup>[Government].

<sup>9</sup>[7. Assistance to the officers of customs.- All officers and staffs of government and semi-government organizations, law enforcement agencies, security forces, autonomous bodies, statutory bodies, financial institutions, educational institutions, private organizations, local government and non-government organizations shall assist the officers of customs in the discharge of their functions under this Act.]

**8. Exemption from service on jury or inquest or as assessors.-** Notwithstanding anything contained in any other law, no officer of the Board or <sup>3</sup>[Commissioner of Customs] and no other officer of customs whom the Board or <sup>3</sup>[Commissioner of Customs] deems it necessary to exempt on grounds of public duty shall be compelled to serve on <sup>4</sup>[an inquest].

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<sup>8</sup> These clause (a) was amend. by Ordinance No. 10 of 2007, s. (5), w.e.f 1<sup>st</sup> July, 2007

<sup>5</sup> The words "Joint Collector of Customs" were subs. by *ibid.*

<sup>6</sup> The words " Deputy Collector of Customs" were subs. by *ibid.*

<sup>7</sup> The words "Assistant Collector of Customs" were subs. by *ibid.*

<sup>8</sup> Subs. Act XXIII of 1980 s. 11 (1) (b), for "Central or Provincial Government", w.e.f. 1st July, 1980.

<sup>9</sup> These section (7) was amend. by Ordinance No. 10 of 2007, s. (7), w.e.f 1<sup>st</sup> July, 2007

<sup>3</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st. July 1995.

<sup>4</sup> The words were subs. by Act of 2001, s. 5, w.e.f. 1st July, 2001.

## CHAPTER III

### DECLARATION OF PORTS, AIRPORTS, LAND CUSTOMS-STATIONS, ETC.

**9. Declaration of customs-ports, customs-airports, etc.-** The Board may, by the notification in the official Gazette, declare-

- (a) the ports and airports which alone shall be customs-ports or customs-airports for the unloading of imported goods and loading of goods for export or any class of such goods;
- (b) the places which alone shall be land customs-stations <sup>5</sup>[or customs-inland container depot] for the clearance of goods or any class of goods imported or to be exported by land or inland waterways;
- (c) the routes by which alone goods or any class of goods specified in the notification may pass by land or inland waterways into or out of <sup>6</sup>[Bangladesh], or to or from any land customs-station or to or from any land frontier;
- (d) the places which alone shall be ports for the carrying on of coastal trade with any specified customs-ports in <sup>6</sup>[Bangladesh]; and
- (e) what shall for the purposes of this Act be deemed to be a custom-house and the limits thereof.

**10. Power to approve landing places and specify limits of customs-stations.-** The Board may, by notification in the official Gazette-

- (a) specify the limits of any customs-station; and

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<sup>5</sup> The words were inserted by Act XXI of 1992, s. 6(3), w.e.f. 1st July, 1992.  
<sup>6</sup> Subs. Act XXIII of 1980, s. 11 (1) (a) for "Pakistan", w.e.f. 1st July, 1980.

- (b) approve proper places in any customs-station for the loading and unloading of goods or any class of goods.

**11. Power to declare warehousing stations.-** The Board may, by notification in the official Gazette, declare places to be warehousing stations at which alone public warehouses may be appointed and private warehouses may be licensed.

**12. Power to appoint public warehouses.-** At any warehousing station, the <sup>1</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board] may, from time to time, appoint public warehouses wherein dutiable goods may be deposited without payment of customs-duty.

**<sup>2</sup>[13. Licensing of private warehouses.-** (1) Subject to sub-section (2), at any warehousing station, the Commissioner of Customs (Bond) or any other Commissioner of Customs authorized by the Board may, license private warehouses wherein dutiable goods imported by or on behalf of the licensee, or any other imported goods in respect of which facilities for deposit in a public warehouse are not available, may be deposited.

(2) The Board may, from time to time, by notification in the official Gazette, impose conditions, limitations or restrictions-

- (a) on granting licence for private warehouse;
- (b) on goods to be warehoused; and
- (c) on import entitlement of the warehouse.

(3) The Commissioner of Customs (Bond) or any other Commissioner of Customs authorized by the Board may, suspend or cancel a licence granted under sub-section (1)-

- (a) if the licensee contravenes any provision of this Act or the rules made thereunder or commits breach of any of the conditions of the licence; or
- (b) in the case where, he deems fit, a license to be suspended or cancelled in the public interest:

Provided that in case of cancellation of any licence, the licensee shall be served with a show cause notice of thirty days, and be given a reasonable opportunity of being heard. "]

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<sup>1</sup> The words were subs. by Act of 2001, s. 6, w.e.f. 1st July 2001.  
<sup>2</sup> Section 13 was substituted by Act 17 of 2003; *ibid.*, s. 5 (4).

**14. Stations for officers of customs to board and land.-** The <sup>1</sup>[Commissioner of Customs] may, from time to time, appoint, in or near any customs-ports, stations or limits at or within which vessels arriving at or departing from such port shall bring to for the boarding or landing of officers of customs, and may, unless separate provisions therefor have been made under the Ports Act, 1908 (XV of 1908) direct at what particular place in any such vessels, not brought into port by pilots, shall anchor or moor.

#### CHAPTER IV

#### PROHIBITION AND RESTRICTION OF IMPORTATION AND EXPORTATION

**15. Prohibitions.-** No goods specified in the following clauses shall be brought whether by air or land or sea, into <sup>1</sup>[Bangladesh] :-

- (a) counterfeit coin;
- (b) forged or counterfeit currency notes and any other counterfeit product;
- (c) any obscene book, pamphlet, paper, drawing, painting, representation, figure, photograph, film or article, video or audio recording, CDs or recording on any other media;
- (d) goods having applied thereto a counterfeit trade mark within the meaning of the Penal Code (Act XLV of 1860), or a false trade description within the meaning of the ট্রেডমার্ক আইন, ২০০৯ (২০০৯ সনের ১৯ নং আইন) [Trademark Act, 2009 (Act No. 19 of 2009)];
- (e) goods made or produced outside <sup>3</sup>[Bangladesh] and having applied thereto any name or trade mark, being or purporting to be the name or trade mark of any manufacturer, dealer or trader in <sup>3</sup>[Bangladesh] unless-
  - (i) the name or trade mark is, as to every application thereof, accompanied by a definite indication of the goods having been made or produced in a place outside <sup>3</sup>[Bangladesh]; and

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<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July 1980.

<sup>3</sup> Subs. *ibid.* s. 11 (1) (a), for "Pakistan".

- (ii) the country in which that place is situated is in that indication shown in letters as large and conspicuous as any letter in the name or trade mark, and in the same language and character as the name or trade mark;
- (f) piece-goods manufactured outside <sup>3</sup>[Bangladesh] (such as are ordinarily sold by length or by the piece), unless the real length thereof in standard <sup>4</sup>[meters] or other measurement for the time being applying in <sup>3</sup>[Bangladesh] has been conspicuously stamped on each piece in Arabic numerals;[]
- (g) goods made or produced outside Bangladesh and intended for sale, and having applied thereto, a design in which copyright exists under the Patents and Designs Act, 1911 (Act No. II of 1911) and in respect of the class to which the goods belong and any fraudulent or obvious imitation of such design except when the application of such design has been made with the license or written consent of the registered proprietor of the design; and
- (h) goods or items produced outside Bangladesh involving infringement of কপিরাইট অইন, ২০০০ (২০০০ সনের ২৮ নং আইন) [Copyright Act, 2000 9Act No. 28 of 2000] or infringement of layout design of integrated circuit that are intended for sale or use for commercial purposes within the territory of Bangladesh.

<sup>1</sup>[Provided that the Government may, by an order in writing, condone, subject to such conditions, limitations or restrictions, if any, as it thinks fit to impose, any classes of goods from the provisions mentioned in sub-section (d), (e), (f), (g) and (h).]

**16. Power to prohibit or restrict importation and exportation of goods.**- The <sup>2</sup>[Government] may, from time to time, by notification in the official Gazette, prohibit or restrict the bringing into or taking out of <sup>3</sup>[Bangladesh] of any goods of specified description by air, sea or land.

<sup>10</sup>"**17. Detention and confiscation of goods imported in breach of section 15 or section 16.** - Where any goods are imported into or attempted to be exported out of Bangladesh in violation of the provisions of the section 15 or of a notification under section 16, such goods shall, without prejudice to any other

<sup>4</sup> Subs. by Act XXI of 1992, s.. 6(5), for "yards", w.e.f. 1st July 1992.

<sup>1</sup> Substituted by Act 12 of 1995, s. 5 (5), w.e.f. 1st July 1995.

<sup>2</sup> Subs. by Act XXII of 1980, s. 11 (1) (b), for "Central Government" w.e.f. 1st July 1980.

<sup>3</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan" w.e.f. 1st July 1980.

<sup>10</sup> This section was Substituted by Act 17 of 2003; w.e.f

penalty to which the offender may be liable under this Act, or any other law, be liable to be detained and confiscated and shall be disposed of in such a manner as may be prescribed."]

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## CHAPTER V

### LEVY OF, EXEMPTION FROM, AND REPAYMENT OF, CUSTOMS-DUTIES

**6[18. Goods dutiable.-** (1) Except as hereinafter provided, customs-duties shall be levied at such rates as are prescribed in the First Schedule <sup>7[\* \*]</sup> or under any other law for the time being in force on-

- (a) goods imported into, or exported from, Bangladesh;
- (b) goods brought from any foreign country to any customs-station, and without payment of duty there, transhipped or transported for, or thence carried to, and imported at, any other customs-station; and
- (c) goods brought in bond from one customs-station to another <sup>1[:</sup>

Provided that no customs duty under this Act or other tax leviable by a customs officer under any other law for the time being in force shall be levied or collected in respect thereof, if-

- (a) in value of the goods in any one consignment do not exceed one thousand taka; and
- (b) the total amount of such duty and tax does not exceed taka one thousand.]

**2[(2)** The Government may, by notification in the official Gazette, levy, subject to such conditions, limitations or restrictions as it may deem fit to impose, a regulatory duty on all or any of the goods specified in the First

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<sup>6</sup> Subs. by *ibid.* s. 11 (6), for section 18.

<sup>7</sup> This words "and the Second Schedule" were deleted by Act 18 of 1993, s. 5 (2), w.e.f. 1st July 1993.

<sup>1</sup> This colon and proviso was inserted by Act No. 15 of 2000, s. 10, w.e.f. 1st July 2000.

<sup>2</sup> Sub- section (2) was substituted by Act No. 15 of 2000, s. 10, w.e.f. 1st July 2000.

Schedule at the rate not exceeding the highest rate of customs duty <sup>3</sup>[\* \*] specified in the said Schedule.]

<sup>3</sup>[“**Explanation :-** *The rate of regulatory duty on any such goods may be higher than that of the customs duty leviable on that goods as prescribed in the said Schedule, provided such regulatory duty does not exceed the highest rate of customs duty of that Schedule.”*]】

(3) The regulatory duty levied under sub-section (2) shall be in addition to any duty imposed under sub-section (1) or under any other law for the time being in force.

(4) Any notification issued under sub-section (2) shall, if not earlier rescinded, stand rescinded on the expiry of the financial year in which it was issued.]

<sup>4</sup>[\* \* \* \* \*]

<sup>5</sup>**[18A. Imposition of countervailing duty.-]** (1) Where any country or territory pays, bestows, directly or indirectly, any subsidy upon the manufacture or production therein or the exportation therefrom of any goods including any subsidy on transportation of such goods, then, upon the importation of any such goods into Bangladesh, whether the same is imported directly from the country of manufacture, production or otherwise, and whether it is imported in the same condition as when exported from the country of manufacture or production or has been changed in condition by manufacture, production or otherwise, the Government may, by notification in the official Gazette, impose a countervailing duty not exceeding the amount of such subsidy.

*Explanation.- For the purposes of this section, subsidy shall be deemed to exist, if-*

(a) *there is financial contribution by a Government, or any public body within the territory of the exporting or producing country, that is, where-*

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<sup>3</sup> This words omitted and *Explanation* were subs. by Act No. of 2001, s. 8, w.e.f. 1st July 2001.

<sup>4</sup> Sub- section (5) & (6) were inserted by Act 18 of 1993, s. 5 (2) (b), w.e.f. 1st July 1993 and was omitted by Act 12 of 1995, s. 5 (6), w.e.f. 1st July 1995.

<sup>5</sup> Section “18A” was inserted by *ibid.*, s. 5 (6).

- (i) a Government practice involves a direct transfer of funds (including grants, loans and equity infusion) or potential direct transfer of funds or liability or both;
  - (ii) Government revenue that is otherwise due is forgone or not collected (including fiscal incentives);
  - (iii) a Government provides goods or services other than general infrastructure or purchases goods;
  - (iv) a Government makes payments to funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions specified in clauses (i), (ii) or (iii) which would normally be vested in the Government and the practice, in no real sense, differs from practices normally followed by Governments; or
- (b) a Government grants or maintains any form of income or price support, which operates directly or indirectly to increase export of any goods from, or to reduce import of any goods to its territory, and a benefit is thereby conferred.

(2) The Government may, pending the determination of the amount of subsidy, in accordance with the provisions of this section and the rules made thereunder impose a countervailing duty under this sub-section not exceeding the amount of such subsidy as provisionally estimated by it and if such countervailing duty exceeds the subsidy as so determined,-

- (a) the Government shall, having regard to such determination and as soon as may be after such determination reduce such countervailing duty; and
- (b) refund shall be made of so much of such countervailing duty which has been collected as is in excess of the countervailing duty as so reduced.

(3) Subject to any rules made by the Government, by notification in the official Gazette, the countervailing duty under sub-section (1) or sub-section (2) shall not be levied unless it is determined that-

- (a) the subsidy relates to export performance;

- (b) the subsidy relates to the use of domestic raw materials over imported raw materials in the exported goods; or
- (c) the subsidy has been conferred on a limited number of persons engaged in manufacturing, producing or exporting the goods unless such a subsidy is for:
  - (i) research activities conducted by or on behalf of persons engaged in the manufacture, production or export; or
  - (ii) assistance to disadvantaged regions within the territory of the exporting country; or
  - (iii) assistance to promote adaptation of existing facilities to new environmental requirements.

(4) If the Government, is of the opinion that the injury to the domestic industry which is difficult to repair, is caused by massive imports in relatively short period, of the goods benefiting from subsidies paid or bestowed and where in order to preclude the recurrence of such injury, it is necessary to levy countervailing duty retrospectively, the Government may, by notification in the official Gazette, impose countervailing duty from a date prior to the date of imposition of countervailing duty under sub-section (2) but not beyond ninety days from the date of notification under that sub-section and notwithstanding anything contained in any law for the time being in force, such duty shall be payable from the date as specified in the notification issued under this sub-section.

(5) The countervailing duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

(6) The countervailing duty imposed under this section shall unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:

Provided that if the Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of subsidization and injury, it may, from time to time, extend the period of such

imposition for a further period of five years and such further period shall commence from the date of order of such extension:

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the countervailing duty may continue to remain in force pending outcome of such a review for a further period not exceeding one year.

(7) The amount of any subsidy referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Government, after such inquiry as it may consider necessary and the Government may, by notification in the official Gazette, make rules for the identification of such goods and for the assessment and collection of any countervailing duty imposed upon the importation thereof under this section.

(8) No proceeding for imposition of countervailing duty under this section shall commence unless the Bangladesh Tariff Commission, on receipt of written application by or on behalf of a domestic industry, informs the Government that there is *prima-facie* evidence of injury which caused by direct or indirect subsidy on any particular imported goods.

**<sup>1</sup>18B. Imposition of anti-dumping duty.-** (1) Where any goods are exported from any country or territory (hereinafter in this section referred to as the exporting country or territory) to Bangladesh at less than the normal value, then, upon the importation of such goods into Bangladesh, the Government may, by notification in the official Gazette, impose an anti-dumping duty not exceeding the margin of dumping in relation to such goods.

*Explanation.- For the purposes of this section,-*

- (a) “margin of dumping”, in relation to any goods, means the difference between its export price and its normal value;
- (b) “export price”, in relation to any goods, means the price of the goods exported from the exporting country or territory and in cases where there is no export price or where the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer of a third party, the export price may be constructed on the basis of the

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<sup>1</sup> Section “18B” was inserted by Act 12 of 1995, s. 5 (6), w.e.f. 1st July 1995.

*price at which the imported goods are first resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made under sub-section (6);*

- (c) “normal value”, in relation to any goods, means-
- (i) *the comparable price, in the ordinary course of trade, for the like goods when meant for consumption in the exporting country or territory as determined in accordance with the rules made under sub-section (6); or*
  - (ii) *when there are no sales of the like goods in the ordinary course of trade in the domestic market of the exporting country or territory, or, when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison the normal value shall be either-*
    - (a) *comparable representative price of the like goods when exported from the exporting country or territory or an appropriate third country as determined in accordance with the rules made under sub-section (6); or*
    - (b) *the cost of production of the said goods in the country of origin along with reasonable addition for administrative, selling and general costs and for profits, as determined in accordance with the rules made under sub-section (6);*

*Provided that in the case of import of the goods from a country other than the country of origin and where the goods have been merely transhipped through the country of export or such goods are not produced in the country of export, the normal value shall be determined with reference to the price in country of origin.*

- (2) The Government may, pending the determination of the normal value and the margin of dumping in relation to any goods, in accordance with the provisions of this section and the rules made thereunder, impose on the

importation of such goods into Bangladesh an anti-dumping duty on the basis of a provisional estimate of such value and margin and if such anti-dumping duty exceeds the margin as so determined-

- (a) the Government shall, having regard to such determination and as soon as may be after such determination, reduce such anti-dumping duty; and
- (b) refund shall be made of so much of the anti-dumping duty which has been collected as is in excess of anti-dumping duty as so reduced.

(3) If the Government, in respect of the dumped goods under inquiry, is of the opinion that-

- (i) there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping cause injury; and
- (ii) the injury is caused by massive dumping of goods imported in a relative short time which in light of the timing and the volume of imported goods dumped and other circumstances, is likely to seriously undermine the remedial effect of the anti-dumping duty liable to be levied, the Government may, by notification in the official Gazette, levy anti-dumping duty retrospectively from a date prior to the date of imposition of anti-dumping duty under sub-section (2) but not beyond ninety days from the date of notification under that sub-section and notwithstanding anything contained in any law for the time being in force, such duty shall be payable at such rate and from such date as may be specified in the notification.

(4) The anti-dumping duty chargeable under this section shall be in addition to any other duty imposed under this Act or any other law for the time being in force.

(5) The anti-dumping duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of five years from the date of such imposition:

Provided that if the Government, in a view, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the period of such imposition for a further period of five years and such further period shall commence from the date of order of such extension:

Provided further that where a review initiated before the expiry of the aforesaid period of five years has not come to a conclusion before such expiry, the anti-dumping duty may continue to remain in force pending outcome of such a review for a further period not exceeding one year.

(6) The margin of dumping as referred to in sub-section (1) or sub-section (2) shall, from time to time, be ascertained and determined by the Government after such inquiry as it may consider necessary and the Government may, by notification in the official Gazette, make rules for the purposes of this section and without prejudice to the generality of the forgoing, such rules may provide for the manner in which goods liable for anti-dumping duty under this section may be identified and for the manner in which the export price and the normal value of and the margin of dumping in relation to such goods may be determined and for the assessment and collection of such anti-dumping duty.

(7) No proceeding for imposition of anti-dumping duty under this section shall commence unless the Bangladesh Tariff Commission, on receipt of written application by or on behalf of a domestic industry, informs the Government that there is *prima-facie* evidence of injury which is caused by dumping on any particular imported goods.

**<sup>1</sup>18C. No imposition under section 18A or 18B in certain cases.-** (1) Notwithstanding any thing contained in section 18A or section 18B-

- (a) no goods shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization;
- (b) the Government shall not levy any countervailing duty or anti-dumping duty-
  - (i) under section 18A or Section 18B by reasons of exemption of such goods from duties or taxes borne by the like goods

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<sup>1</sup> Section "18C" was inserted by Act 12 of 1995, s. 5 (6), w.e.f. 1st July 1995.

when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes;

- (ii) under sub-section (1) of each of these sections, on the import into Bangladesh of any goods from a member country of the World Trade Organization or from a country with which the Government of the People's Republic of Bangladesh has most favoured nation agreement (hereinafter referred as a specified country), unless in accordance with the rules made under sub-section (2) of this section, a determination has been made that import of such goods into Bangladesh causes or threatens to cause material injury to any established industry in Bangladesh or materially retards the establishment of any industry in Bangladesh; and
- (iii) under sub-section (2) of each of these sections on import into Bangladesh of any goods from the specified countries unless in accordance with the rules made under sub-section (2) of this section, preliminary findings have been made of subsidy or dumping and consequent injury to domestic industry; and a further determination has been made that a duty is necessary to prevent injury being caused during the investigation:

Provided that nothing contained in sub-clauses (ii) and (iii) of clause (b) shall apply if a countervailing duty or an anti-dumping duty has been imposed on any goods to prevent injury or threat of an injury to the domestic industry of a third country exporting the like goods to Bangladesh;

(c) the Government may not levy-

- (i) any countervailing duty under section 18A, at any time, upon receipt of satisfactory voluntary undertaking from the Government of the exporting country or territory agreeing to eliminate or limit the subsidy or take other measures concerning its effect, or the exporter agreeing to revise the price of the goods and if the Government is satisfied that injurious effect of the subsidy is eliminated thereby;

- (ii) any anti-dumping duty under section 18B, at any time upon receipt of satisfactory voluntary undertaking from any exporter to revise its prices or to cease exports to the area in question at dumped price and if the Government is satisfied that the injurious effect of dumping is eliminated by such action.

(2) The Government may, by notification in the official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the forgoing, such rules may provide for the manner in which any investigation may be made for the purposes of this section, the factors to which regard shall be paid in any such investigation and for all matters connected with such investigation.

**<sup>1</sup>18D. Appeal against imposition of countervailing or anti-dumping duty.-** (1) An appeal against the order of determination or review thereof regarding the existence, degree and effect of any subsidy or dumping in relation to import of any goods shall lie to the Customs, Excise and General <sup>ms: hvRb Ki</sup> Appellate Tribunal constituted under section 196.

(2) Every appeal under this section shall be filed within ninety days of the date of order under appeal:

Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against.

(4) Every appeal under sub-section (1) shall be heard by a special Bench constituted by the President of the Appellate Tribunal for hearing such appeals and such Bench shall consist of the President and not less than two members and shall include one technical member and one judicial member.

**<sup>2</sup>18E. Imposition of safeguard duty.—**(1) If the Government after conducting such enquiry as it deems fit, is satisfied that any article is being imported into Bangladesh in such increased quantities and under such

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<sup>1</sup> Section “18D” was inserted by Act 12 of 1995, s. 5 (6), w.e.f. 1st July 1995.

<sup>2</sup> Section “18E” was inserted by Act \_\_\_\_\_ of 1997, s. \_\_\_\_\_, w.e.f. 1st July 1997.

conditions that such importation may cause or threaten to cause serious injury to domestic industry, it may, by notification in the official Gazette, impose a safeguard duty on that article:

Provided that the Government, may, by notification in the official Gazette, exempt any goods from the whole or any part of safeguard duty leviable thereon, subject to such conditions, limitations or restrictions as it thinks fit to impose.

(2) The Government may, pending the determination under sub-section (1) of the injury or threat thereof, impose a provisional safeguard duty on the basis of a preliminary determination in the prescribed manner that increased imports have caused or threatened to cause serious injury to a domestic industry:

Provided that where, on final determination, the Government is of the opinion that increased imports have not caused or threatened to cause serious injury to a domestic industry, it shall refund the duty so collected:

Provided further that the provisional safeguard duty shall not remain in force for more than two hundred days from the date on which it was imposed.

(3) The duty chargeable under this section shall be in addition to any other duty imposed under this Act or under any other law for the time being in force.

(4) The duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of four years from the date of such imposition:

Provided that if the Government is of the opinion that the domestic industry has taken measures to adjust to such injury or threat thereof and it is necessary that the safeguard duty should continue to be imposed, it may extend the period of such imposition:

Provided further that in no case the safeguard duty shall continue to be imposed beyond a period of ten years from the date on which such duty was first imposed.

(5) The Government may, by notification in the official Gazette, make rules for the purposes of this section, and without prejudice to the generality of

the foregoing, such rules may provide for the manner in which articles liable for safeguard duty may be identified and for the manner in which the causes of serious injury or causes of threat of serious injury in relation to such articles may be determined and for the assessment and collection of such safeguard duty.

(6) For the purposes of this section,—

(a) "domestic industry" means the producers—

(i) as a whole of the like article or a directly competitive article in Bangladesh; or

(ii) whose collective output of the like article or a directly competitive article in Bangladesh constitutes a major share of the total production of the said article in Bangladesh;

(b) "serious injury" means an injury causing significant overall impairment in the position of a domestic industry;

(c) "threat of serious injury" means a clear and imminent danger of serious injury.]

**19. General power to exempt from customs-duties.-** <sup>1</sup>[(1)] <sup>2</sup>[If the Government is satisfied, after consultation with the Board, that it is necessary in the public interest to do so, it may, subject to such conditions, limitations or restrictions, if any, as it thinks fit to impose,] by notification in the official Gazette, exempt any goods imported into, or exported from, <sup>3</sup>[Bangladesh] or into or from any specified port or station or area therein, from the whole or any part of the customs-duties chargeable thereon <sup>4</sup>:

Provided that if, in a financial year, exemption under this sub-section is given in respect of any goods the rate of duty cannot be changed more than once in that year so as to increase that rate.

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<sup>1</sup> Renumbered by Act XXXVI of 1989, s. 8 (1), w.e.f. 1st July 1989.

<sup>2</sup> Subs. by Act XXI of 1992, s. 6(6), for the words "The Government, subject to such conditions, limitations or restrictions, if any, as it thinks fit to impose may,".

<sup>3</sup> Subs by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July, 1980.

<sup>4</sup> This "colon" was subs. by Act No. 15 of 2000 and "proviso" was inserted by Act No. 15 of 2000, s. 11, w.e.f.

<sup>5</sup>[(2) An exemption granted under sub-section (1) shall be effective from the date mentioned in the notification issued under that sub-section.]

**20. <sup>6</sup>[Government's power] to grant exemption from duty in exceptional circumstances.-** <sup>7</sup>[If the <sup>8</sup>[Government] is satisfied that it is necessary in the public interest to do so, it may, under circumstances of exceptional nature,] subject to such conditions, limitations or restrictions, if any, as it thinks fit to impose, by a special order in each case recording such circumstances, exempt any goods from payment of the whole or any part of the customs-duties chargeable thereon.

**21. Power to deliver certain goods without payment of duty and to repay duty on certain goods.-** Subject to such conditions, limitations or restrictions, as it thinks fit to impose, the Board <sup>11</sup>[or any other authority authorised by the Board in writing in this behalf] may, in such general cases as may be prescribed by rules or in particular cases by special order, authorise-

- (a) the delivery without payment of the customs-duties chargeable thereon of goods which are imported only temporarily with a view to subsequent exportation;
- (b) the delivery without payment of the whole or any part of the customs-duties chargeable thereon of imported goods of such classes or description, as it may prescribe, intended to be used in the production, manufacture, processing, repair or refitting in <sup>10</sup>[Bangladesh] of goods of such classes or descriptions as it may prescribe; and
- (c) the repayment in whole or in part of the customs-duties paid on the importation of any goods of such classes or descriptions as it may prescribe, which have been used in the production, manufacture, processing, repair or fitting in <sup>1</sup>[Bangladesh] of goods of such classes or descriptions as it may prescribe, provided such repayment shall not be made in respect of the class or description of goods for which drawback can be claimed under section 37.

<sup>5</sup> This new sub-section (2) was inserted by Act XXXVI of 1989, s. 8 (1), w.e.f. 1st July 1989.

<sup>6</sup> These words "Board's power" were substituted by Act 12 of 1995, s. 5 (7) (a), w.e.f. 1st July 1995.

<sup>7</sup> Subs. by Act XXI of 1992, s. 6(7), for the words ""Under circumstances of exceptional nature, the Board may,"", w.e.f. 1st July 1992.

<sup>8</sup> The word "Board" was substituted by Act 12 of 1995, s. 5 (7) (b), w.e.f. 1st July 1995.

<sup>11</sup> These words were inserted by Act XXVII of 1987, s. 5 (1), w.e.f. 1st July 1987.

<sup>10</sup> Subs by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July, 1980.

<sup>1</sup> Subs by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July, 1980.

**22. Re-importation of goods produced or manufactured in**

**<sup>1</sup>[Bangladesh].-** If goods produced or manufactured in and exported from <sup>1</sup>[Bangladesh] are subsequently imported into <sup>1</sup>[Bangladesh], such goods shall be liable to customs-duty and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value not so produced or manufactured are liable on the importation thereof:

Provided if such goods have been imported within two years of their exportation <sup>12</sup>[\*\*\*] and have not undergone any processing since their exportation, the appropriate officer not below the rank of an <sup>2</sup>[Assistant Commissioner of Customs] may admit the goods -

- <sup>1</sup>(a) where at the time of exportation of such goods, drawback was allowed, on payment of the amount of such drawback;
- (b) where such goods were exported from any bonded warehouse, without payment of -
  - (i) the duties and taxes chargeable on the imported materials, if any, used in the manufacture of such goods ; or
  - (ii) the duties and taxes chargeable on the indigenous raw materials, if any, used in the manufacture of such goods; or
  - (iii) the duties and taxes, if any, chargeable on such indigenous goods;

on payment of customs-duty equal to the aggregate amount of all such duties and taxes calculated at the rates prevailing at the time and place of importation of goods; or]

- <sup>2</sup>[“(c) in any other case, without payment of customs-duty.”]

**23. Goods, derelict, wreck, etc.-** All goods, derelict, jetsam, flotsam and wreck, brought or coming into <sup>1</sup>[Bangladesh], shall be dealt with as if they were imported into <sup>1</sup>[Bangladesh].

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<sup>12</sup> Words omitted by Act No, 33 of 2010m s 4, w.e.f 1<sup>st</sup> July, 2010.

<sup>2</sup> The words “Assistant Collector of Customs” were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan" w.e.f. 1st July, 1980.

**24. Provisions and stores may be exported free of duty.-** Goods produced or manufactured in <sup>1</sup>[Bangladesh] and required as provisions and stores on any conveyance proceeding to any foreign port, airport or station may be exported free of customs-duty, <sup>2</sup>[and Value Added Tax (মূল্য সংযোজন কর)] in such quantities as the appropriate officer may determine having regard to the size of the conveyance, the number of passengers and crew and the length of the voyage or journey on which the conveyance is about to depart.

**3[25. <sup>3</sup>[Value of goods for assessment purposes.-]** (1) <sup>4</sup>[Whenever customs duty is leviable on any goods by reference to their value, the actual price, that is, the price actually paid or payable, or the nearest ascertainable equivalent of such price, at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation or exportation, as the case may be, in course of international trade under fully competitive conditions, where the seller and the buyer have no interest in the business of each other and the price is the sole consideration for sale or offer for sale, shall be the value.]

<sup>5</sup>[*Explanation.- For the purposes of this sub-section, the expression -*

<sup>6</sup>[*(a) “the time of importation” means the date on which a bill of entry is delivered under section 79;]*

*(b) “the time of exportation” means the time when the bill of export is delivered under section 131, or when export of the goods is allowed <sup>7</sup>[under that section] without a bill of export or in anticipation of the presentation of a bill of export, the time when the goods is taken to the customs port or customs airport or customs station for the purpose of export;*

*(c)(i) “the place of importation” means the customs port or customs airport or the customs station at which the bill of entry is first submitted; and*

*(ii) “place of exportation” means the customs port or the station at which the bill of export is submitted.]*

(2) Subject to the provision of sub-section (1), the price referred to in that sub-section in respect of imported goods shall be determined in accordance with the rules made in this behalf.

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<sup>3</sup> Headline was replaced by Act No. 14 of 2002 s 11(Ka), w.e.f 1<sup>st</sup> July, 2002.

<sup>4</sup> This words “Whenever ..... for sale” was replaced by Act No. 14 of 2002, s.11(Kha)(i), w.e.f 1<sup>st</sup> July, 2002.

<sup>5</sup> This explanation was inserted by Act No. 15 of 2000 s 12(Ka), w.e.f

<sup>6</sup> This explanation was subs. by Act No. of 2001 s 9(Ka)(i), w.e.f

<sup>7</sup> This words “under that section” was inserted by Act No. of 2001 s 9(Ka)(ii), w.e.f 1<sup>st</sup> July, 2001.

(3) Notwithstanding anything contained in this section, the Government may, by notification in the official Gazette, fix, for the purpose of levying customs duties, tariff values <sup>8</sup>[or minimum values] for any goods imported or exported as chargeable with customs duty *ad valorem*:

Provided that any imported or exported goods, the declared value of which is higher than its tariff value fixed under this sub-section, shall be chargeable with customs duties on the basis of its declared value.

<sup>1</sup>[(4) The average rate of exchange prevailing during the thirty days preceding the last working day of the third week of the month preceding the month during which the bill of entry or the bill of export is delivered under sections 79 or 131 or electronically transmitted to the Customs computer system shall be the rate of exchange for the computation of the value of any imported or exported goods and such rate shall be fixed by the Board or by such officer as the Board may authorise in this behalf.]

(5) For the purpose of this section <sup>2</sup>[\* \*]—

(a) "rate of exchange" means the rate of exchange determined by the Government for the conversion of Bangladesh currency into foreign currency or foreign currency into Bangladesh currency;

(b) "foreign currency" and "Bangladesh currency" have the meaning respectively assigned to them in the Foreign Exchange Regulation Act, 1947 (VII of 1947).]

<sup>3</sup>[(6) For the purposes of sub-section (1)-

(a) the value of any goods shall include the freight, insurance, commission and all other cost, charges and expenses incidental to the sale and delivery at the place of importation or exportation; and

(b) the Board may, by notification in the official Gazette, fix the freight for the transportation of any goods or class of goods by aircraft that are delivered or could have been delivered at a Customs airport to the buyer.]

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<sup>8</sup> These words were inserted by Act 2000, s. 12(Kha), w.e.f

<sup>1</sup> This sub-section (4) was substituted by Act No. 14 of 2002, s. 11(Ga), w.e.f 1st July, 2002.

<sup>2</sup> This words "and section 109" were dropped by Act No. of 2001, s. 9(Ga), w.e.f 1<sup>st</sup> July, 2001.

<sup>3</sup> This sub-section (6) was inserted by Act No. 15 of 2000, s. 12(Ga), w.e.f

**<sup>4</sup>[25A. Pre-shipment inspection agencies and assessment on the basis of their certificates.—<sup>5</sup>(1) For the purposes of this Act, the Government may, by notification in the official gazette -**

- (a) appoint pre-shipment inspection agencies and audit agencies, and**
- (b) determine the scope and manner of certification, and also the scope and manner of audit, and any matter related to such certification and audit.]**

**<sup>13</sup>[(2) The Government may, by notification in the official gazette, declare that the quality, quantity, price, description and customs classification of any goods verified and certified in the prescribed manner by a pre-shipment inspection agency shall be accepted as the basis for assessment, unless otherwise prescribed.]**

**(3) For the purposes of this section, "price" means value of the goods determined in accordance with sub-sections (1) and (2) of section 25.”;]**

**<sup>1</sup>[25B. Mandatory pre-shipment Inspection.- It is mandatory for the importers to have their importable goods inspected by a pre-shipment inspection agency before or at the time of shipment of those goods on board a vessel, aircraft or other conveyance:**

Provided that the Government may, by notification in the official Gazette, exempt any class of goods or any goods imported by any class of importers or any goods imported through a customs port or a customs station or any area within such port or station from the mandatory pre-shipment inspection.

**25C. Pre-shipment inspection service charge.-** The Government may, by notification in the official Gazette, impose pre-shipment inspection service charge on imported goods required to be inspected by pre-shipment inspection agencies at a rate not exceeding one percent of the value of such goods and this charge shall be collected as if it were a customs duty leviable under section 18(1).];

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<sup>4</sup> Section 25A was inserted by Act 11 of 1994, s. 4 (1), w.e.f. 1st July 1994, was substituted by Act 12 of 1995, s. 5 (8), w.e.f. 1st July 1995 and was substituted by Act 16 of 1999, s. 4 (3), w.e.f. 1st July 1999.

<sup>5</sup> Sub-section (1) was subs. by Act 17 of 2003, w.e.f. 1st July, 2001.

<sup>13</sup> Sub-section (2) was subs. by Act 17 of 2003, w.e.f.

<sup>1</sup> Section 25B & 25C was inserted by Act 16 of 1999, s. 4 (4), w.e.f. 15th February, 2000.

<sup>2</sup>|**26. Requisition to produce documents.-**(1) Where-

- (a) an officer of Customs has reasons to believe that goods have been unlawfully imported, exported, under valued or overvalued, entered, removed, or otherwise unlawfully dealt with by any person contrary to this Act or that any person attempts to import, export, under or overvalue, enter, remove or otherwise deal with any goods; or
- (b) goods have been seized under this Act, an officer of Customs not below the rank of an Assistant Commissioner may, by notice in writing, require that person or any person whom the officer suspects to be or to have been the owner, importer or exporter of those goods, or agent thereof, as the case may be, as and when required, to produce and deliver to the officer or to any other specified Customs officer all books of account, invoice books, or other books, records or documents in which any entry or memorandum appears or may be supposed to appear in respect of the purchase, importation, exportation, cost, or value of, or payment for, the goods and any other goods so imported or exported or otherwise dealt with within a period of three years preceding the date of the notice.

(2) In addition to the requirements of sub-section (1) of this section, an officer of Customs not below the rank of an Assistant Commissioner may require the owner or importer or exporter of those goods, or agent thereof, as the case may be, as and <sup>3</sup>[when necessary], to-

- (a) produce for the inspection of the officer or any specified Customs officer, and allow the officer to make copies of or extracts from, any of the documents, books, or records referred to in sub-section (1), <sup>4</sup>[\* \*]
- <sup>4</sup>[(aa) transmit or send, by electronic or other means, the information contained in those documents, books or records, and]
- (b) answer any question concerning those documents, books, or records.

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<sup>2</sup> This section was replaced by Act No. 15 of 2000, s. 13, w.e.f

<sup>3</sup> This words "when necessary" was replaced by Act No. of 2001, s. 11(Ka), w.e.f 1<sup>st</sup> July, 2001.

<sup>4</sup> This words "and" was dropped and clause "(aa)" was inserted by Act No. of 2001, s. 11(Kha), w.e.f 1<sup>st</sup> July, 2001.

**26A. Further powers in relation to documents.-** An officer of Customs not below the rank of Joint Commissioner may, by notice in writing, require any person (including any officer employed in or in connection with any Government department, Corporation, or local authority, or any officer employed in or in connection with any bank), as and when required to-

- (a) produce for inspection by an officer of Customs any documents or records that the Joint Commissioner considers necessary or relevant to an investigation or audit under this Act;
- (b) allow the officer of Customs to make copies of or extracts from any such documents or records;
- (c) appear before the Joint Commissioner of Customs and answer all questions put to him concerning any goods or any transactions relating to those goods that are the subject of any such investigation, or concerning the documents or records that are relevant to any such investigation.

**26B. A Customs officer may take possession of and retain documents and records.-** (1) A Customs officer may take possession of and retain any document or record presented in connection with any entry or required to be produced under this Act.

(2) Where the Customs officer takes possession of a document or record under sub-section (1) of this section, the said officer shall, at the request of the person otherwise entitled to the document or record, provide that person with a copy of the document certified by him or on his behalf under the seal of the Customs as a true copy.

(3) Every copy so certified shall be admissible as evidence in all Courts as if it were the original.

**26C. Copying of documents obtained during search.-** (1) Where an officer of Customs or an authorized person carries out any lawful search, inspection, audit, or examination under this Act, and has reasonable cause to believe that documents coming into his possession during such search, inspection, audit, or examination are evidence of the commission of an offence under this Act, he may remove the documents for the purpose of making copies.

(2) The documents or records so removed must, as soon as practicable after copies thereof have been made, be returned to the person otherwise entitled to them.

(3) A copy of any such document certified by or on behalf the officer of Customs under the seal of the Customs shall be admissible in evidence in all Courts as if it were the original.

**26D. Retention of documents and goods obtained during search.-**

Where an officer of Customs or an authorized person carries out any lawful search, inspection, audit, or examination under this Act, and has reasonable cause to believe that any document or goods coming into his possession during such search, inspection, audit, or examination are evidence of the commission of an offence under this Act, or are intended to be used for the purpose of committing any offence under this Act, the officer or his authorized person may take possession of and retain the documents or goods, as the case may be.

(2) Where an officer of Customs or his authorized person takes possession of a document under sub-section (1) of this section, he shall, at the request of the person otherwise entitled to the document, provide that person with a copy of the document certified by or on behalf of the Custom officer under the seal of the Customs as a true copy.

(3) Every copy so certified shall be admissible in evidence in Courts as if it were the original.]

**<sup>1</sup>[27. Abatement of duty on damaged, deteriorated, lost, or destroyed goods.-<sup>14</sup>(1)Where, at the time of first examination, of any imported goods, it is shown by the owner in writing to the satisfaction of an officer not below the rank of an <sup>2</sup>[Assistant Commissioner of Customs]-**

- (a) that the goods had been damaged or had deteriorated at any time before or during their landing; or
- (b) that the goods <sup>3</sup>[\* \*] had been damaged, at any time after landing but before such examination, by accident and not due to any wilful act, negligence or default of the importer or his agents;

the value of such goods shall, on a written application made by the owner of the goods, be appraised by an appropriate officer of Customs, and the owner shall be allowed abatement of duty in proportion to the diminution in value of the goods as so appraised.

(2) Where it is shown, in writing by the owner of any imported goods to the satisfaction of the <sup>4</sup>[Commissioner of Customs] that the goods have been

<sup>1</sup> Subs. by Act 21 of 1991, s. 8(1) for section 27, w.e.f. from 1st July 1991.

<sup>14</sup> The bracket and number “(1)” were added by Act 16 of 2004 Sec. 5, w.e.f 10. june 2004

<sup>2</sup> The words “Assistant Collector of Customs” were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st. July 1995.

<sup>3</sup> Words and comma ( , other than warehoused goods) were omitted by Act No. 15 of 2000. s. 14 w.e.f.

<sup>5</sup>[damaged, deteriorated, lost or destroyed] by an accident or *force majeure*, after importation but before clearance thereof for home consumption, the Commissioner may, on an application made by the owner, furnishing all particulars necessary to establish the fact of such <sup>6</sup>[damage, deterioration, loss or destruction], remit or repay any duty chargeable or paid on such goods.

*Explanation.-For the purpose of this sub-section "force majeure" means an act of god.]*

<sup>7</sup>[(3) Where it is shown to the satisfaction of the <sup>4</sup>[Commissioner of Customs] that any warehoused goods had been damaged at any time before clearance for home-consumption by an accident or *force majeure*, the <sup>4</sup>[Commissioner of Customs] may, on an application from the owner of the goods furnishing all particulars necessary to establish the fact of such damage, allow the value of such goods to be appraised by an appropriate officer of customs and the owner of the goods shall be allowed abatement of duty in proportion to the diminution in value of the goods as so appraised.]

**28. Power to test and denature imported spirit.-** When by any law for the time being in force a duty lower than that prescribed by <sup>8</sup>[this Act], is imposed on denatured spirit, any such spirit imported into <sup>9</sup>[Bangladesh] may, subject to rules, be tested and if necessary adequately denatured by officers of customs, at the expense of the person importing the same, before the customs-duty is charged thereon.

**29. Restriction on amendment of bill of entry or bill of export.-** Except as provided in section 88, no amendment of a bill of entry or bill of export relating to goods assessed for duty on the declared value, quantity or description thereof shall be allowed after such goods have been removed from the customs-area.

**<sup>1</sup>["30. Date for determination of rate of duty, value and exchange rate for imported goods-** The rate of duty, <sup>8</sup>[value and exchange rate applicable to any imported goods, shall be the rate of duty, value and exchange rate] in force, -

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<sup>4</sup> The words "Collector of Customs" were subs. by *ibid.*

<sup>5</sup> Subs. by Act XXI of 1992, s. 6(9)(a), for the words " lost or destroyed", w.e.f. 1st July, 1992.

<sup>6</sup> Subs. by *ibid.* , s. 6(9)(b), for the words " loss or destruction".

<sup>7</sup> This new sub-section (3) is inserted after sub-section (2), *ibid.*, s. 6 (9) (b).

<sup>8</sup> Subs. by Act XXII of 1980, s. 11 (8), for "the Tariff Act 1934 (XXXII of 1934)", w.e.f. 1st July, 1980.

<sup>9</sup> Subs. by *ibid.* s. 11 (1) (a), for "Pakistan".

<sup>1</sup> Section 30 was subs. by Act 17 of 2003 s 5, w.e.f.

<sup>8</sup> Subs. by Act XXII of 1980, s. 11 (8), for " the Tariff Act 1934 (XXXII of 1934)", w.e.f. 1st July, 1980.

- (a) in the case of goods cleared for home consumption under section 79, on the date a bill of entry is presented under that section and a bill of entry number is allocated thereto;
- (b) in the case of goods cleared from a warehouse for home consumption under section 104, on the date <sup>15</sup>[a bill of entry was presented under section 79 and the bill of entry number was allocated thereto]; and
- (c) in the case of any other goods, on the date of payment of duty:

Provided that if a bill of entry is presented in anticipation of arrival of a conveyance by which the goods are imported, the relevant date for the purpose of this section shall be the date on which the manifest of the conveyance is delivered after its arrival."]

**<sup>2</sup>[30A. Value and effective rate of duty.-** Notwithstanding anything contained in any other law for the time being in force or any decision of any court, for the purposes of section 30, the value and the rate of duty applicable to any goods shall respectively include the value as determined under section 25 and any amount of duty imposed under section 18, 18A or 18B and the amount of duty that may have become payable in consequence of the withdrawal of the whole or any part of the exemption or concession from duty whether before or after the conclusion of a contract or agreement for the sale of goods or opening of a letter of credit in respect thereof.]

**<sup>3</sup>[31. Date for determination of export duty.-** The rate of duty applicable to, and the rate of exchange for computation of the value of, any goods exported shall be the rate of duty or, as the case may be, the rate of exchange prevailing on the date of the delivery of the bill of export under section 131:

Provided that where the export of any goods is permitted without a bill of export or in anticipation of the delivery of such a bill, the rate of duty applicable to, and the rate of exchange for the computation of the value of, such goods shall be the rate of duty or, as the case may be, the rate of exchange applicable on the date on which loading of the goods on the outgoing conveyance commences.]

**32. Untrue statement, error, etc.-** (1) If any person, in connection with any matter of customs,-

<sup>15</sup> The words "on which the goods are actually removed from the warehouse" were subs. by by Act 16 of 2005, section 3, w.e.f. 1st July 05.

<sup>2</sup> Section "30A" was inserted by Act 12 of 1995, s .5(9), w. e. f 1st July 1995.

<sup>3</sup> Subs. by Act V of 1979, s. 9, for section 31, w.e.f. 1st July, 1979.

(a) make or signs or causes to be made or signed, or delivers or causes to be delivered to an officer of customs any declaration, notice, certificate or other document whatsoever, or

(b) makes any statement in answer to any question put to him by an officer of customs which he is required by or under this Act to answer,<sup>4</sup>[or]

<sup>5</sup>[(c)transmits any statement, document, information or record through electronic device or produces soft copy thereof,]

and such document or statement is untrue in any material particular, he shall be guilty of an offence under this section.

(2) Where, by reason of any such document or statement as aforesaid or by reason of some collusion, any duty or charge has not been levied or has been short-levied or has been erroneously refunded, the person liable to pay any amount on that account shall be served with a notice<sup>16</sup>[\*\*] requiring him to show cause why he should not pay the amount specified in the notice.

(3) Where, by reason of any inadvertence, error or misconstruction, any duty or charge<sup>1</sup>[amounting to not less than one thousand taka] has not been levied or has been short-levied or has been erroneously refunded, the person liable to pay any amount on that account shall be served with a notice within<sup>2</sup>[three years] of the relevant date requiring him to show cause why he should not pay the amount specified in the notice.

(4) The appropriate officer, after considering the representation, if any, of such person as is referred to in sub-section (2) or sub-section (3) shall determine the amount of duty payable by him which shall in no case exceed the amount specified in the notice, and such person shall pay the amount so determined<sup>3</sup>[:

Provided that where the amount so determined is less than one thousand taka, the person concerned shall not be required to make the payment.]

(5) For the purposes of this section, the expression "relevant date" means-

(a) in any case where duty is not levied, the duty on which an order for the clearance of goods is made;

<sup>4</sup> This word was added by Act No. 15 of 2000, s. 16 (Ka) w.e.f.

<sup>5</sup> This Clause (c) was inserted after Clause (b) by Act No. 15 of 2000, s. 16 (Ka)(b) w.e.f.-----

<sup>16</sup> Words omitted by Act No. 33 of 2010, s. 5, w.e.f. 1<sup>st</sup> July, 2010.

<sup>1</sup> These words were inserted by Act No. 15 of 2000, s.16(kha),w.e.f 1<sup>st</sup> July 2000.

<sup>2</sup> These words "three years" were subs. for "four months" by Act No. 15 of 2001, s.13,w.e.f 1<sup>st</sup> July 2001.

<sup>3</sup> Colon was substituted for the full stop and proviso was inserted by Act No. 15 of -2000, s 16(ga),w.e.f -----

- (b) in a case where duty is provisionally assessed under section 81, the date of adjustment of duty after its final assessment;
- (c) in a case where duty has been erroneously refunded, the date of its refund;
- (d) in any other case, the date of payment of duty or charge.

**33. Refund to be claimed within <sup>4</sup>[six months].-** (1) No refund of any customs-duties or charges claimed to have been paid or over-paid through inadvertence, <sup>17</sup>[error or misconstruction or in any other way] shall be allowed, unless such claim is made within <sup>4</sup>[six months] of the date of payment:

<sup>18</sup>[“Provided that where the amount so claimed is less than one thousand taka, refund shall not be allowed.”]

(2) In the case of provisional payment made under section 81, the said period of <sup>4</sup>[six months] shall be reckoned from the date of the adjustment of duty after its final assessment.

**34. Power to give credit for, and keep account-current of, duties and charges.-** An officer of customs, not below the rank of <sup>5</sup>[Assistant Commissioner of Customs] may, in the case of any mercantile firm or public body, if he so thinks fit, instead of requiring payment of customs-duties or charges as and when they become due, keep with such firm or body an account-current of such duties and charges, which account shall be settled at intervals of not exceeding one month, and such firm or body shall make a deposit or furnish a security sufficient in the opinion of that officer to cover the amount which may at any time be payable by it in respect of such duties or charges.

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## CHAPTER VI

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<sup>4</sup> Subs. by Act XXI of 1992, s. 6(10), for the words "four months", w.e.f. 1st July 1992.

<sup>17</sup> These words subs. by Act No. 33 of 2010, s. 5, w.e.f. 1<sup>st</sup> July, 2010.

<sup>18</sup> These words were inserted by Act No. 16 of 2004, w.e.f. 10<sup>th</sup> June, 2004.

<sup>5</sup> The words “Assistant Collector of Customs” were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

## DRAWBACK

**35. Drawback of the export on imported goods.-** Subject to the subsequent provisions of this Chapter and the rules, when any goods, capable of being easily identified, which have been imported into <sup>1</sup>[Bangladesh] and upon which customs-duties have been paid on importation, are exported to any place outside <sup>1</sup>[Bangladesh] or as provisions or stores for use on board a conveyance proceeding to a foreign territory, <sup>2</sup>[such duties, not exceeding seven-eights thereof] shall be repaid as drawback, subject to the following conditions, namely:-

- (1) the goods are identified to the satisfaction of an officer of customs not below the rank of <sup>3</sup>[Assistant Commissioner of Customs] at the customs-station, to be the same as had been imported, and
- (2) the goods are entered for export within two years of the date of their importation, as shown by the records of the custom-house or if such time is extended by the Board or the <sup>4</sup>[Commissioner of Customs] for sufficient cause within such extended time:

Provided that the <sup>4</sup>[Commissioner of Customs] shall not extend the time beyond three years of the importation of such goods.

*Explanation.- For the purposes of this section, the goods shall be deemed to have been entered for export on the date on which the bill of export is delivered to the appropriate officer under section 131.*

**36. Drawback on goods taken into use between importation and exportation.-** Notwithstanding anything contended in section 35, the repayment of duty as drawback in respect of goods which have been taken into use between their importation and subsequent exportation shall be made in accordance with the provisions of the rules made in that behalf.

**37. Drawback on goods used in the manufacture of goods which are exported.-** Where it appears to the Board that in respect of goods of any class or description manufactured in <sup>1</sup>[Bangladesh] and exported to any place outside <sup>1</sup>[Bangladesh], a drawback of customs-duties should be allowed on any imported

<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan" w.e.f. 1st July 1980.

<sup>2</sup> Subs. by Act XXI of 1992, s. 6(11), for the words "seven-eights of such duties", w.e.f. 1st July 1992.

<sup>3</sup> The words "Assistant Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

<sup>4</sup> The words "Collector of Customs" were subs. by *ibid*.

goods of a class or description used in the manufacture of such exported goods, the Board may, by notification in the official Gazette, direct that drawback shall be allowed in respect of such imported goods to such extent and subject to such condition as may be provided in the rules.

**38. Power to declare what goods are identifiable and to prohibit drawback in case of specified foreign territory.-** (1) The Board may, from time to time, by notification in the official Gazette, declare what goods shall, for the purposes of this Chapter, be deemed to be not capable of being easily identified.

(2) The <sup>1</sup>[Government] may, from time to time, by notification in the official Gazette, prohibit the payment of drawback upon the exportation of goods or any specified goods or class of goods to any specified foreign port or territory.

**39. When no drawback allowed.-** Notwithstanding anything hereinbefore contained, no drawback shall be allowed-

- (a) upon goods which are required to be included in export manifest and are not so included, or
- (b) when the claim is for drawback amounting, in respect of any single shipment, to less than hundred <sup>2</sup>[Taka], or
- (c) unless the claim for drawback has been made and established at the time of export <sup>3</sup>[or within six months from the date of export].

**40. Time of payment of drawback.-** No such payment of drawback shall be made until the vessel carrying the goods has put out to sea or other conveyance has left <sup>4</sup>[Bangladesh].

**41. Declaration by parties claiming drawback.-** Every person, or his duly authorized agent, claiming drawback on any goods duly exported shall make and subscribe a declaration that such goods have been actually exported and have not relanded and are not intended to be relanded at any place in <sup>4</sup>[Bangladesh] and that such person was at the time of entry outwards and export and continues to be entitled to drawback thereon.

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<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (b), for "Central Government", w.e.f. 1st July 1980.

<sup>2</sup> Subs. by *ibid.*, s. 11 (1) (c), for "Rupees".

<sup>3</sup> This words were inserted by Act XXI of 1992, s. 6(12), w.e.f. 1st July, 1992.

<sup>4</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan" w.e.f. 1st July 1980.

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## CHAPTER VII

### ARRIVAL AND DEPARTURE OF CONVEYANCE

**42. Arrival of conveyance.-** (1) The person-in-charge of a conveyance entering <sup>4</sup>[Bangladesh] from any place outside <sup>4</sup>[Bangladesh] shall not cause or permit the conveyance to call or to land in the first instance at any place other than a customs-station.

(2) The provisions of sub-section (1) shall not apply in relation to any conveyance which is compelled by accident, stress of weather or other unavoidable cause to call or land at a place other than a customs-station but the person-in-charge of any such conveyance-

- (a) shall immediately report its arrival to the nearest officer of customs or the officer-in-charge of the police-station and shall on demand produce before him either the cargo book or the manifest or the log-book belonging to such conveyance;
- (b) shall not, without the consent of any such officer, permit any goods carried in the conveyance to be unloaded from, or any of the crew or passenger to depart from its vicinity;
- (c) shall comply with any direction given by such officer with respect to any such goods; and no passenger or member of the crew shall, without the consent of any such officer, leave the vicinity of the conveyance:

Provided that nothing in this section shall prohibit the departure of any passenger or member of the crew from the vicinity of, or the removal of goods from, the conveyance where such departure or removal is necessary for reasons of health, safety or the preservation of life or property.

**43. Delivery of import manifest in respect of a vessel.-** (1) The Board may, by notification in the official Gazette, fix a place in any river or port beyond which no vessel arriving shall pass until an import manifest has been delivered to the pilot, <sup>1</sup>[officer of customs, or other person duly authorised to receive the same, or as the case may be, until the manifest has been transmitted to the Customs computer system by a registered user].

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<sup>1</sup> The words were subs. by Act of 2001, s. 14, w.e.f. 1st July 2001.

(2) If in any river or port wherein a place has been fixed by the Board under this section, the master of any vessel arriving remains outside or below the place so fixed, such master shall, nevertheless, within twenty-four hours after the vessel anchors, deliver an import manifest to the pilot, officer of customs or other person duly authorised to receive the same.

(3) If any vessel arrives at any customs-port in which a place has not been so fixed, the master of such vessel shall, within twenty-four hours after such vessel has anchored within the limits of the port, deliver an import manifest to the pilot, officer of customs or other person authorised to receive the same<sup>2</sup>:

Provided that if any officer not below the rank of<sup>19</sup>[Revenue Officer] is satisfied that the master of the vessel was prevented by circumstances beyond his control from delivering the import manifest within twenty-four hours after the vessel anchored outside or below the place fixed by the Board under sub-section (1), allow it to be delivered within a further period of twenty-four hours or immediately after the first lighter vessel takes berth, whichever is earlier.]

(4) Notwithstanding anything hereinbefore contained, the appropriate officer may allow an import manifest to be delivered in anticipation of the arrival of a vessel.

**44. Delivery of import manifest in respect of a conveyance other than a vessel.-** The person-in-charge of a conveyance other than a vessel shall, within twenty-four hours after arrival thereof at a land customs-station or customs-airport, as the case may be, deliver an import manifest to the appropriate officer<sup>4</sup>[or if the person-in-charge is a registered user, he may transmit the manifest to the Customs computer system].

**45. Signature and contents of import manifest and amendment thereof.-** (1) Every manifest delivered under section 43 or section 44 shall be signed by the person-in-charge of the conveyance or his duly authorised agent and shall specify all goods imported in such conveyance showing separately all goods, if any, intended to be landed, transhipped, transited or taken on to another customs-station or to a destination outside<sup>1</sup>[Bangladesh] and stores intended for consumption at the customs-station or in the outward voyage or journey, and shall be made out in such form and contain such further particulars as the Board may from time to time direct<sup>2</sup>[:]

<sup>2</sup> Colon was subs. for the full-stop at the end and thereafter this paragraph was inserted by Act XXI of 1992, s. 6(13), w.e.f. 1st July, 1992.

<sup>19</sup> These words were subs. by Act No. 33 of 2010, s. 7, w.e.f. 1<sup>st</sup> July, 2010.

<sup>4</sup> This words were inserted by Act of 2001, s 15 w.e.f. 1<sup>st</sup> July, 2001.

<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan" w.e.f. 1st July 1980.

<sup>2</sup> Colon was substituted by full stop by Act No. 15 of 2000, s(17) w.e.f.----

<sup>3</sup>[Provided that the manifest transmitted to the Customs computer system by a registered user shall be deemed to have been signed by him.]

(2) The appropriate officer shall permit the person-in-charge of a conveyance or his duly authorised agent to correct any obvious error in the import manifest or to supply any omission which in the opinion of such officer results from accident or inadvertence, by furnishing an amended or supplementary import manifest and shall levy thereon such fees as the Board from time to time directs.

<sup>4</sup>[(3) Notwithstanding anything contained in sub-section (2), the Board may specify, by special Order, the manner, conditions, limitations or restrictions under which the appropriate officer shall permit, the person-in-charge of a conveyance, or his duly authorised agent, to submit an amended or supplementary import manifest in special circumstances and shall levy thereon such fees as the Board may direct.]

**46. Duty of person receiving import manifest.-** The person receiving an import manifest under section 43 or section 44 shall countersign the same and enter thereon such particulars as the <sup>5</sup>[Commissioner of Customs] from time to time directs<sup>6</sup>[, and where the import manifest is transmitted electronically to the Customs computer system by a registered user, the import manifest shall be deemed to have been countersigned by the person authorised to receive such transmission and that person shall comply with the direction of that Commissioner, if any, in this regard].

**47. Bulk not to be broken until manifest, etc., delivered and vessel entered inwards.-** No vessel arriving in any customs-port shall be allowed to break bulk, until an import manifest has been delivered as hereinbefore provided or until a copy of such manifest, together with an application for entry of such vessel inwards, has been presented by the master to the appropriate officer and an order has been given thereon for such entry.

**48. Power to require production of documents and ask questions.-** (1) When an import manifest is presented, the person-in-charge of a conveyance or his duly authorised agent, if required so to do by the appropriate officer, shall deliver to the officer the bill of lading or the bill of freight or a copy thereof for every part of cargo or goods laden or board, journey log-book and any port clearance, docket or other paper granted in respect of such conveyance at the

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<sup>3</sup> This proviso was subs by Act of 2001, s 16, w.e.f. 1<sup>st</sup> July, 2001

<sup>4</sup> The sub-section was substituted by Act 14 of 2002, S. 12, w.e.f. 1st. July 2002.

<sup>5</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st. July 1995.

<sup>6</sup> This words were inserted by Act of 2001, s 17 w.e.f. 1<sup>st</sup> July, 2001.

place from which it is stated to have come, and shall answer all such questions relating to the conveyance, goods, crew<sup>7</sup>[, passengers] and voyage or journey as are put to him by such officer.

(2) The appropriate officer may, if any requisition or question made or put by him under this section is not complied with or answered, refuse to grant permission to a vessel to break bulk and to other conveyance to land the imported goods, as the case may be.

**49. Special pass for breaking bulk.-** Notwithstanding anything contained in section 47 and subject to rules, the appropriate officer may grant, prior to receipt of the import manifest and the entry inwards of a vessel, a special pass permeating bulk to be broken.

**50. Order for entry outwards or loading of goods to be obtained before export goods are loaded.-** (1) No goods other than passengers' baggage and mail bags shall be loaded on a conveyance until-

- (a) in the case of a vessel, a written application for entry of such vessel outwards, subscribed by the master of such vessel has been made to the appropriate officer and an order has been given thereon for such entry; and
- (b) in the case of any other conveyance, a written application for authority to load the goods subscribed by the person-in-charge of the conveyance has been made to the appropriate officer and an order has been given thereon authorising the loading.

(2) Every application made under this section shall specify the particulars as prescribed by the Board.

**51. No vessel to depart without port-clearance.-** (1) No vessel, whether laden or in ballast, shall depart from any customs-port until a port-clearance has been granted by the appropriate officer.

(2) No pilot shall take charge of any vessel proceeding to sea, unless the master of such vessel produces a port-clearance.

**52. No conveyance other than vessel to leave without permission.-** No conveyance other than a vessel shall depart from a land customs-station or customs-airport until a written permission to that effect has been granted by the appropriate officer.

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<sup>7</sup> This comma and ward was subs. by crew by Act No. 15 of 2000 ,s.18 w.e.f.1<sup>st</sup> july 2000.

**53. Application for port-clearance of vessels.-** (1) Every application for port-clearance Shall be made by the master of a vessel at least twenty-four hours before the intended departure of the vessel:

Provided that the <sup>1</sup>[Commissioner of Customs] or an officer authorised by him in this behalf may for special reasons to be recorded allow a shorter period for the delivery of the said application<sup>2</sup>[.]

<sup>3</sup>[Provided further that when the master is a registered user, he may make the application under this sub-section by transmitting it to the Customs computer system, and an application so transmitted shall be deemed to have been duly signed by him.]

(2) The master shall, at the time of applying for port-clearance,-

- (a) deliver to the appropriate officer an export manifest in duplicate in such form as may from time to time be prescribed by the Board signed by such master specifying all goods to be exported in the vessel and showing separately all goods and stores entered in the import manifest, and not landed or consumed on board or transhipped;
- (b) deliver to the appropriate officer such bills of export or other documents as such officer acting under the general instructions of the <sup>1</sup>[Commissioner of Customs] requires; and
- (c) answer such questions respecting the departure and destination of the vessel as are put to him by the appropriate officer<sup>2</sup>[:]

Provided that if the master is a registered user, he may transmit to the Customs computer system the export manifest and other documents specified at clauses (b) and (c) and the documents so transmitted shall be deemed to have been signed by him for the purposes of this section.]

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<sup>1</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st. July 1995.

<sup>2</sup> Colon sbus. by semicolon and this proviso was inserted by Act, No. 15 of -2000, s.19,w.e.f.----

<sup>3</sup> This proviso was subs. by Act, No. of 2001, s.18(Ka),w.e.f.1<sup>st</sup> July, 2001.

<sup>1</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st. July 1995.

<sup>2</sup> Colon sbus. by full stop and this proviso was inserted by Act, No. of 2001, s.18(Kha), w.e.f.1<sup>st</sup> July, 2001.

(3) The provisions of section 45, relating to the amendment of import manifest shall, *mutatis mutandis*, apply also to export manifest delivered under this section or under section 54.

**54. Conveyances other than vessels to deliver documents and answer question before departure.-** The person-in-charge of a conveyance other than a vessel or his duly authorised agent shall-

- (a) deliver to the appropriate officer an export manifest in duplicate in such form as may from time to time be prescribed by the Board signed by such person-in-charge or the agent specifying all goods or stores entered in the import manifest, and not landed or transhipped or consumed on board the conveyance;
- (b) deliver to the appropriate officer such bills of export or other documents as such officer acting under the general instructions of the <sup>1</sup>[Commissioner of Customs] requires; and
- (c) answer such questions respecting the departure and destination of the conveyance as are put to him by the appropriate officer.

**55. Power to refuse port-clearance to vessels or permission for departure to other conveyance.-** (1) The appropriate officer may refuse to give port-clearance to a vessel or permission for departure to any other conveyance until-

- (a) the provisions of section 53 or section 54, as the case may be, have been complied with;
- (b) all station or port dues and other charges and penalties payable in respect of such vessel or by the owner or master thereof, or in respect of such other conveyance by the owner or person-in-charge thereof, and all taxes, duties and other dues payable in respect of any goods loaded therein, have been duly paid, or their payment secured by such guarantee, or by such deposit at such rate, as such officer directs;
- (c) where export goods have been loaded without payment or securing payment as aforesaid of all taxes, duties and other dues payable in respect thereof or in contravention of any provision of

this Act or the rules or of any other law for the time being in force relating to export of goods-

- (i) such goods have been unloaded, or
- (ii) where the appropriate officer is satisfied that it is not practicable to unload such goods, the person-in-charge or his duly authorised agent has given an undertaking, secured by such guarantee or deposit of such amount as the appropriate officer may direct, for bringing back the goods to<sup>1</sup>[Bangladesh];
- (d) the agent, if any, delivers to the appropriate officer a declaration in writing to the effect that he will be liable for any penalty imposed under clause 24 of the Table under sub-section (1) of the section 156 and furnishes security for the discharge of the same;
- (e) the agent, if any, delivers to the appropriate officer a declaration in writing to the effect that such agent is answerable for the discharge of all claims for damage or short delivery which may be established by the owner of any goods comprised in the import cargo in respect of such goods.

(2) An agent delivering a declaration under clause (d) of sub-section (1) shall be liable to all penalties which might be imposed on the person-in-charge of such conveyance under clause 24 of the Table under sub-section (1) of section 156 and an agent delivering a declaration under clause (e) of the sub-section (1) shall be bound to discharge all claims referred to in such declaration.

**56. Grant of port-clearance or permission for departure.-** When the appropriate officer is satisfied that the provisions of this Chapter relating to the departure of conveyances have been duly complied with, he shall grant a port-clearance to the master of the vessel or a written permission for departure to the person-in-charge of any other conveyance and shall return at the same time to such master or person-in-charge one copy of the manifest duly countersigned by the appropriate officer.

**57. Grant of port-clearance or permission for departure on security of agent.-** Notwithstanding anything contained in section 55 or section 56 and

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<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan" w.e.f. 1st July 1980.

subject to rules, the appropriate officer may grant a port-clearance in respect of a vessel or permission for departure in respect of any other conveyance, if the agent furnishes such security as such officer deems sufficient for duly delivering within ten days from the date of such grant, the export manifest and other documents specified in section 53 or section 54, as the case may be.

**58. Power to cancel port-clearance or permission for departure.-** (1)

For the purpose of securing compliance with any provision of this Act or the rules or any other law, the appropriate officer may at any time, while the vessel is within the limits of any port or any other conveyance is within the limits of any station or airport or within <sup>1</sup>[Bangladesh] territory, demand the return of port-clearance or the written permission for departure, as the case may be.

(2) Any such demand may be made in writing or may be communicated to the person-in-charge of the conveyance by wireless, and if made in writing it may be served-

- (a) by delivery to the person-in-charge or his agent personally; or
- (b) by leaving it at the last known place of abode of such person or agent; or
- (c) by leaving it on board the conveyance with the person appearing to be in charge or command thereof.

(3) Where a demand for the return of a port-clearance or of a permission for departure is made as aforesaid, the port-clearance or permission shall forthwith become void.

**59. Exemption of certain classes of conveyance from certain provisions of this Chapter.-** (1) The provisions of sections 44, 52 and 54 shall not apply to a conveyance other than a vessel which carries no goods other than the baggage of its occupants.

(2) The <sup>2</sup>[Government] may, by notification in the official Gazette, exempt conveyances belonging to Government or any foreign Government from all or any of the provisions of this Chapter.

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<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan" w.e.f. 1st July 1980.

<sup>2</sup> Subs. by Act XXII of 1980, s. 11 (1) (b), for "Central Government", w.e.f. 1st July 1980.

## CHAPTER VIII

### GENERAL PROVISIONS AFFECTING CONVEYANCES AT CUSTOMS-STATIONS

**60. Power to depute officers of customs to board conveyances.**- At any time while a conveyance is in a customs-station or is proceeding towards such station, the appropriate officer may depute one or more officers of customs to board the conveyance, and every officer so deputed shall remain on board such conveyance for such time as the appropriate officer may consider necessary.

**61. Officer to be received and accommodation to be provided.**- Whenever an officer of customs is so deputed to be on board any conveyance, the person-in-charge shall be bound to receive him on board and to provide him with suitable accommodation and adequate quantity of fresh water.

**62. Officers' powers of access, etc.**- (1) Every officer deputed as aforesaid shall have free access to every part of the conveyance and may-

- (a) cause any goods to be marked before they are unloaded from that conveyance;
- (b) lock up, seal, mark or otherwise secure any goods carried in the conveyance or any place or container in which they are carried; or
- (c) fasten down any hatchway or entrance to the hold.

(2) If any box, place or closed receptacle in any such conveyance be locked, and the key be withheld, such officer shall report the same to the appropriate officer, who may thereupon issue to the officer on board the conveyance or to any other officer under his authority, a written order for search.

(3) On production of such order, the officer empowered thereunder may require that any such box, place or closed receptacle be opened in his presence; and if it be not opened upon his requisition, he may break open the same.

**63. Sealing of conveyance.**- Conveyances carrying transit goods for destinations outside <sup>1</sup>[Bangladesh] or goods from some foreign territory to a

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<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July 1980.

customs-station or from a customs-station to some foreign territory may be sealed in such cases and in such manner as may be provided in the rules.

**64. Goods not to be loaded or unloaded or water-borne except in presence of officer.-** Save where general permission is given under section 67 or with permission in writing of the appropriate officer, no goods other than passengers' baggage or ballast urgently required to be loaded for the vessel's safety, shall be shipped or water-borne to be shipped or discharged from any vessel, in any customs-port, nor any goods except passenger' baggage shall be loaded in or unloaded from any conveyance other than a vessel at any land customs-station or customs-airport except in the presence of an officer of customs.

**65. Goods not to be loaded or unloaded or passed on certain days or at certain times.-** Except with the permission of the appropriate officer and on payment of such fees as may be prescribed by the Board no goods, other than passengers' baggage or mail bags, shall in any customs-port be discharged, or be shipped or water-borne to be shipped or shall be loaded or unloaded or passed at any land customs-station or customs-airport-

- (a) on any public holiday within the meaning of the section 25 of the Negotiable Instruments Act, 1881 (XXVI of 1881) or on any day on which the discharge or shipping of cargo at customs-port or loading, unloading, passage or delivery of cargo at any land customs-station or customs-airport, as the case may be, is prohibited by the Board by notification in the official Gazette; or
- (b) on any day except between such hours as the Board may, from time to time, by a like notification, appoint.

**66. Goods not to be loaded or unloaded except at approved places.-** Save where general permission is given under section 67 or with permission in writing of the appropriate officer, no imported goods shall be unloaded or goods for export loaded at any place other than a place duly approved under clause (b) of section 10 for the unloading or loading of such goods.

**67. Power to exempt from sections 64 and 66.-** Notwithstanding anything contained in section 64 or section 66, the Board may, by notification in the official Gazette, give general permission for goods to be loaded at any customs-station from any place not duly appointed for loading and without the presence or authority of an officer of customs.

**68. Boat-note.-** (1) When any goods are water-borne for the purpose of being landed from any vessel and warehoused or cleared for home-consumption, or of being shipped for exportation on board any vessel, there shall be sent, with each boat-load or other separate despatch, a boat-note specifying the number of packages so sent and the marks or number or other description thereof.

(2) Each boat-note for goods to be landed shall be signed by an officer of the vessel, and likewise by the officer of customs on board, if any such officer be on board, and shall be delivered on arrival to any officer of customs authorised to receive the same.

(3) Each boat-note for goods to be shipped shall be signed by the appropriate officer and, if an officer of customs is on board the vessel on which such goods are to be shipped, shall be delivered to such officer, and if no such officer be on board, shall be delivered to the master of the vessel or to an officer of the vessel appointed by him to receive it.

(4) The officer of customs who receives any boat-note of goods landed, and the officer of customs, master or other officer as the case may be, who receives any boat-note of goods shipped, shall sign the same and note thereon such particulars as the <sup>1</sup>[Commissioner of Customs] may from time to time direct.

(5) The Board may from time to time, by notification in the official Gazette, suspend the operation of this section in any customs-port or part thereof.

**69. Goods water-borne to be forthwith landed or shipped.-** All goods water-borne for the purpose of being landed or shipped shall be landed or shipped without any unnecessary delay.

**70. Goods not to be transhipped without permission.-** Except in cases of imminent danger, no goods discharged into or loaded in any boat for the purpose of being landed or shipped shall be transhipped into any other boat without the permission of an officer of customs.

**71. Power to prohibit plying of unlicensed cargo-boats.-** (1) The Board may declare with regard to any customs-port, by notification in the official Gazette, that, after a date therein specified, no boat not duly licensed and registered shall be allowed to ply as a cargo-boat for the landing and shipping of merchandise within the limits of such port.

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<sup>1</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

(2) In any port with regard to which such notification has been issued, the <sup>1</sup>[Commissioner of Customs] or other officer whom the Board appoints in this behalf, may, subject to rules and on payment of such fees as the Board may, by notification in the official Gazette, prescribe, issue licences for and register cargo-boats, or cancel the same.

**72. Plying of ships of less than one hundred tons.-** (1) Every boat belonging to a <sup>2</sup>[Bangladeshi] ship and every other vessel not exceeding one hundred tons, shall be marked in such manner as may be prescribed by rules.

(2) Plying of all or any class or description of vessels of less than one hundred tons, whether in sea or inland waters, may be prohibited or regulated or restricted as to the purposes and limits of plying by rules.

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## CHAPTER IX

### DISCHARGE OF CARGO AND ENTRY INWARDS OF GOODS

**73. Discharge of cargo by vessels may commence on receipt of due permission.-** When an order for entry inwards of any vessel which has arrived in any customs-port or a special pass permeating such vessel to break bulk has been given, discharge of the cargo of such vessel may be proceeded with.

**74. Discharge of goods by conveyances other than vessels.-** When on arrival of a conveyance other than a vessel at a land customs-station or customs-airport the person-in-charge of such conveyance has delivered the import manifest under section 44 and the documents required under section 48, he shall forthwith take the conveyance or cause it to be taken to the examination station at the land customs-station or customs-airport and remove or cause to be removed all goods carried in such conveyance to the custom-house in the presence of the appropriate officer or some person duly authorised by him in that behalf.

**75. Imported goods not to be unloaded unless entered in the import manifest.-** (1) No imported goods required to be shown in the import manifest shall, except with the permission of the appropriate officer, be unloaded from any conveyance at any customs-station unless they are

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<sup>1</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

<sup>2</sup> Subs. by Act XIV of 1982, s. 11 (2), for "Pakistani", w.e.f. 1st July 1982.

specified in the import manifest or amended or supplementary import manifest for being unloaded at that customs-station.

(2) Nothing in the section shall apply to the unloading of the baggage accompanying a passenger or a member or a crew or mail bags.

**76. Procedure in respect of goods not unloaded by vessels within time allowed.-** (1) (a) If any goods imported by a vessel (except such as have been shown in the import manifest as not to be unloaded) are not unloaded within such period as is specified in the bill of lading or if no period is so specified, within such number of the working days, not exceeding fifteen, after entry of the vessel as the Board may from time to time by notification in the official Gazette appoint, or

(b) if the cargo of any vessel, excepting a small quantity of goods, has been discharged before the expiration of the period so specified or appointed, the master of such vessel or, on this application, the appropriate officer may then carry such goods to the custom-house, there to remain for entry.

<sup>1</sup>[(2) The appropriate officer shall thereupon take charge of, and grant receipt for, such goods; and if notice in writing has been given by the master or the agent of the vessel to the appropriate officer that goods are to remain subject to a lien for freight, primage, general average demurrage, container detention charges, dead-freight, terminal handling charges, container service charge or other charges of a stated amount, the appropriate officer shall hold such goods until he receives notice in writing that the said charges have been paid.]

**77. Power to land small parcels and hold unclaimed parcels.-** (1) At any time after the arrival of any vessel, the appropriate officer may, with the consent of the master of such vessel, cause any small package or parcel of goods to be carried to the custom-house there to remain for entry in-charge of the officers of customs, during the remainder of the working days allowed under this Act for the landing of such package or parcel.

(2) In any package or parcel so carried to the custom-house remains unclaimed on the expiration of the number of working days so allowed for its unloading or at the time of the clearance outwards of the vessel from which it was unloaded, the master of such vessel may give such notice as is provided in section 76, and the officer-in-charge of the custom-house shall thereupon hold such package or parcel as provided in that section.

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<sup>1</sup> Subs. by Act XXI of 1992, s. 6(14), for sub-section (2), w.e.f. 1st July, 1992.

**78. Power to permit immediate discharge.-** (1) Notwithstanding anything contended in sections 74, 76 and 77, the appropriate officer in any customs-station to which the Board, by notification in the official Gazette, declares this section to apply, may permit the master of any vessel immediately on receipt of an order under section 47 or a special pass under section 49, or the person-in-charge of a conveyance other than a vessel on receipt of the import manifest to discharge the goods imported by such conveyance, or any portion thereof, into the custody of his agent, if he be willing to receive the same, for the purpose of unloading the same forthwith-

- (a) at the custom-house, or at any specified landing-place or wharf; or
- (b) at any landing-place or wharf belonging to the port commissioners, port trust, railways or other public body or company; or
- (c) for giving it in the custody of such person as may be approved by the <sup>2</sup>[Commissioner of Customs].

(2) Any agent so receiving such cargo or portion shall be bound to discharge all claims for damage or short delivery which may be established in respect of the same by the owner thereof, and shall be entitled to recover from such owner his charges for service rendered, but not for commission or the like, where any agent for the unloading of such cargo or portion has been previously appointed by the owner and such appointment is unrevoked <sup>1</sup>[:

Provide that no agent so receiving such cargo or portion shall cause it to be removed or otherwise dealt with except in accordance with the written order of the appropriate officer.]

(3) The appropriate officer shall take charge of all goods discharged under clause (a) of sub-section (1) and otherwise proceed in relation thereto as provided in section 76 and 82.

(4) <sup>2</sup>[A public body or company or port authority or airlines or] person at whose landing- place or wharf or place of storage any goods are discharged under clause (b) or clause (c) of sub-section (1) shall not permit the same to be

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<sup>2</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

<sup>1</sup> Semi-colon was substituted for the full-stop at the end and thereafter this paragraph was inserted by Ord. No. XLV of 1986, s. 7(1) w.e.f. 1st July 1986.

<sup>2</sup> This words were subs. by Act XXI of 1992, s. 6(15), for "A public body or company or", w.e.f. 1st July, 1992.

removed or otherwise dealt with except in accordance with the order in writing of the appropriate officer.

**79. Entry for home-consumption or warehousing.-** (1) The owner of any imported goods shall make entry of such goods for home-consumption or warehousing or for any other approved purpose by delivering to the appropriate officer a bill of entry thereof in such form and manner and containing such particulars as the Board may direct:

Provided that, if the owner makes and subscribes a declaration before the appropriate officer to the effect that he is unable, for want of <sup>3</sup>[such information as is essential for submitting a bill of entry], then the said officer shall permit him, previous to the entry thereof, to examine the goods in the presence of an officer of customs or to deposit such goods in a public warehouse appointed under section 12 without warehousing the same, pending the production of such information.

<sup>4</sup>[(1A) The Commissioner of Customs may within the period specified in sub-section (2) require the owner who has delivered or transmitted a bill of entry in electronic form to submit to the appropriate officer a paper bill of entry duly signed by the owner or his authorized agent, containing such information and documents as the said Commissioner may specify;]

<sup>5</sup>[(2) A bill of entry under sub-section (1) may be presented and the goods be cleared at any time within <sup>20</sup>[thirty] days of the date of unloading thereof at a customs-port or a land customs-station or customs-inland container depot or <sup>21</sup>[within twenty one days of] the date of unloading thereof at a customs-airport or within such extended period as the <sup>6</sup>[Commissioner of Customs] may deem fit:

<sup>7</sup>[Provided that the Commissioner of Customs may permit a bill of entry to be presented even before the delivery of the manifest if the vessel or the aircraft by which the goods have been shipped for importation into Bangladesh is expected to arrive within thirty days from the date of such presentation.]

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<sup>3</sup> Subs. by Ord. No. XXIII of 1977, s. 14(2), for "full information, to make a complete entry of any goods" w.e.f. 1st July 1977.

<sup>4</sup> sub-section (1A) was inserted by Act No. 15 of -2000, s.20(ka)w.e.f.----

<sup>5</sup> Subs. by Act XXI of 1992, s. 6(16), for sub-section (2), w.e.f. 1st July, 1992.

<sup>20</sup> The words "forty five" were subs. by by Act 16 of 2005, section 4, w.e.f. 1st July 05.

<sup>21</sup> The words "within thirty days of" were subs. by by Act 16 of 2005, section 4, w.e.f. 1st July 05.

<sup>6</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st. July 1995.

<sup>7</sup> This proviso was subs. by Act No. 15 of 2000, s.20(kha),w.e.f. 1<sup>st</sup> July,2000.

(3) If the <sup>6</sup>[Commissioner of Customs] is satisfied that the rate of customs-duty is not adversely affected and that there was no intention to defraud, he may in exceptional circumstances and for reasons to be recorded in writing permit substitution of a bill of entry for home-consumption for a bill of entry for warehousing or *vice versa*.

**<sup>1</sup>[79A. Acceptance of electronically transmitted bills of entry and documents.-** The Board may, by notification in the official Gazette, declare that electronically transmitted bills of entry and related documents may be acceptable subject to such conditions as are specified in that notification.]

**<sup>2</sup>[79B. Access to <sup>3</sup>[Customs computer] systems.-** No person shall transmit to, or receive information from, a <sup>3</sup>[Customs computer] system unless that person is registered by the Commissioner of Customs as a user of that <sup>3</sup>[Customs computer] system.

**79C. Registered users.-** (1) A person who wishes to be registered as a user of a <sup>3</sup>[Customs computer] system may apply in writing to the Commissioner of Customs in the prescribed form and shall provide such information in relation to the application as required by the Commissioner.

(2) The said Commissioner may require an applicant for registration to give such additional information as the said Commissioner considers necessary for the purpose of the application.

(3) The said Commissioner may-

- (a) grant the application subject to such conditions and limitations as the said Commissioner thinks fit; or
- (b) refuse the application.

(4) The said Commissioner shall give notice in writing to the applicant of his decision.

**79D. Registered users to be allocated unique user identifier.-** (1) A person who is registered as a user of a <sup>3</sup>[Customs computer] system shall be allocated a unique user identifier for use in relation to that <sup>3</sup>[Customs computer] system by the Commissioner of Customs, in such form or of such a nature as the Commissioner of Customs may determine.

(2) The unique user identifier allocated pursuant to sub-section (1) of this section shall be used by the registered user for the purpose of transmitting

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<sup>1</sup> This clause "(79A)" was inserted by Act 16 of 1999, s. 4 (5), w.e.f. 1st July 1999

<sup>2</sup> Section 79B,79C, 79D, 79E, 79F and 79G were inserted by Act No. 15 of 2000, s.21,w.e.f -----

<sup>3</sup> The words "Customs computer" were subs. by Act of 2001, s. 19, w.e.f. 1st July 2001.

information to or receiving information from that <sup>3</sup>[Customs computer] system.

(3) The Commissioner of Customs may, by notice in writing, impose conditions and limitations on a particular registered user, or on registered users generally, relating to the use and security of unique user identifiers.

**79E. Use of unique user identifier.-** (1) Where information is transmitted to a <sup>3</sup>[Customs computer] system using a unique user identifier issued to a registered user by the Commissioner of Customs for that purpose, the transmission of that information shall, in the absence of proof to the contrary, be sufficient evidence that the registered user to whom the unique user identifier has been issued has transmitted that information.

(2) Where a unique user identifier is used by an individual who is not entitled to use it, sub-section (1) of this section does not apply if the registered user to whom the unique user identifier was issued has, prior to the unauthorized use of the unique user identifier, notified the Commissioner of Customs in writing that the unique user identifier is no longer secure.

**79F. Cancellation of registration of registered user.-** (1) Where at any time the Commissioner of Customs having jurisdiction is satisfied that a person who is a registered user of a <sup>1</sup>[Customs computer] system has-

- (a) failed to comply with a condition of registration imposed by the said Commissioner under section 79C (3) of this Act; or
- (b) failed to comply with, or acted in contravention of, any conditions imposed by the said Commissioner under section 79D(3) of this Act in relation to the use and security of the registered user's unique user identifier; or
- (c) has been convicted of an offence under this Act in relation to improper access to or interference with a <sup>1</sup>[Customs computer] system,-

the said Commissioner may cancel the registration of that individual as a registered user by giving notice in writing to that person setting out the reasons for the cancellation.

**79G. Customs to keep records of transmission.-** (1) The Customs must keep a record of every transmission sent to or received from a registered user using a <sup>1</sup>[Customs computer] system.

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<sup>1</sup> The words "Customs computer" were subs. by Act of 2001, s. 19, w.e.f. 1st. July 2001.

(2) The record described in sub-section (1) of this section must be kept for a period of five years from the date of the sending of or the receipt of the transmission, or for such other period as may be prescribed.

**80. Assessment of duty.-** (1) On the delivery <sup>2</sup>[or electronic transmission] of such bill, the goods or such part thereof as may be necessary may, without undue delay, be examined or tasted <sup>3</sup>[in the presence of the owner or his agent, unless due to any exceptional circumstance such presence cannot be allowed,] and thereafter the goods shall be assessed to duty, if any, and the owner of such goods may then proceed to clear the same for home-consumption or warehouse them, subject to the provisions hereinafter contained.

(2) Notwithstanding anything contained in sub-section (1), imported goods prior to examination or testing thereof may be permitted by the appropriate officer to be assessed to duty on the basis of the statements made in the bill relating thereto and the information furnished under the rules and the documents produced under section 26; but if it is found subsequently on examination or testing of the goods or otherwise that any statement in such bill or document or any information so furnished is not correct in respect of any matter relating to the assessment, the goods shall, without prejudice to any other action which may be taken under this Act, be re-assessed to duty.

<sup>4</sup>[(3) The Board may by notification in the official gazette, exempt in the public interest any goods or class of goods imported by an importer or a class of importer from the requirement of examination and testing of the goods under sub-section (1).

(4) Upon delivery or transmission of the bill of entry for the goods exempted under sub-section (3) the duty shall be deemed to have been duly assessed for the purposes of this section:

Provided that where the appropriate officer has reason to believe that in case of any bill of entry re-assessment is necessary, he may, by recording reasons in writing, re-assess the duty payable for the goods and take such other actions as he may deem fit under this Act.]

**81. Provisional assessment of duty.-** (1) Where it is not possible immediately to assess the customs-duty that may be payable on any imported goods entered for home-consumption or for warehousing or for clearance from a

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<sup>2</sup> This words were inserted by Act No. of 2001, s. 20(Ka), w.e.f. 1st July, 2001.

<sup>3</sup> The words were inserted by Act No. 15 of 2000, s. 22, w.e.f. 1st July, 2000.

<sup>4</sup> This sub-section (3) & (4) were inserted by Act No. of 2001, s. 20(Kha), w.e.f. 1st July, 2001.

warehouse for home-consumption or on any goods entered for exportation, for the reason that the goods require chemical or other test <sup>1</sup>[or a further enquiry] for purposes of assessment, or that all the documents or complete documents or full information pertaining to those goods have not been furnished, an officer not below the rank of <sup>2</sup>[Assistant Commissioner of Customs] may order that the duty payable on such goods be assessed provisionally:

Provided that the importer (same in the case of goods entered for warehousing) or the exporter pays such additional amount as security or furnishes such guarantee of a scheduled bank for the payment thereof as the said officer deems sufficient to meet the excess of the final assessment of duty over the provisional assessment.

[2) Where any goods are allowed to be cleared or delivered on the basis of such provisional assessment, the amount of duty actually payable on those goods shall, within a period of one hundred and twenty working days from the date of the provisional assessment, where there is a case pending at any court, tribunal or appellate authority, from the date of receipt of the final disposal order of that case, be finally assessed and on completion of such assessment the appropriate officer shall order that the amount already guaranteed be adjusted against the amount payable on the basis of final assessment, and the difference between them shall be paid forthwith to or by the importer or exporter as the case may be:

Provided that the Board may, under exceptional circumstances recorded in writing, extend the period of final assessment specified under this sub-section.]

**<sup>5</sup>[82. Procedure in case of goods not cleared or warehoused or transhipped after unloading within a specified period.-** <sup>6</sup>[(1)] If any goods are not entered and cleared for home-consumption or warehoused or transhipped within <sup>22</sup>[thirty] days of the date of unloading thereof at a customs-port or a land customs-station <sup>23</sup>[or customs-inland container depot], or within <sup>24</sup>[twenty one] days of the date of unloading thereof at a customs-airport or within such extended period as the appropriate officer may allow, such goods may, after due notice given to the owner, if his address could be ascertained, or published in the

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<sup>1</sup> The words "or a further enquiry" were inserted by Ordinance XVI of 1969, s. 4, w.e.f. 1st July, 1969.

<sup>2</sup> The words "Assistant Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

<sup>5</sup> Subs. by Act XXII of 1980, s. 11 (9), for section 82, w.e.f. 1st July 1980.

<sup>6</sup> Renumbered as (1) by Act 27 of 1987, s. 5 (4), w.e.f. 1st July, 1987.

<sup>22</sup> The words "forty five" were subs. by Act 16 of 2005, s. 6, w.e.f. 1st July, 2005.

<sup>23</sup> The words were added by Act 16 of 2005, section 6, w.e.f. 1st July, 2005.

<sup>24</sup> The words "thirty" were subs. by Act 16 of 2005, s. 6, w.e.f. 1st July, 2005.

newspaper, if his address could not be ascertained, be sold under the orders of the appropriate officer:

Provided that -

- (a) animals and perishable and hazardous goods may, with the permission of the appropriate officer, be sold at any time;
- (b) arms, ammunition or military stores may be sold or otherwise disposed of at such time and place and in such manner as the Board may, with the approval of the Government, direct:

Provided further that nothing in this section shall authorise removal for home-consumption of any dutiable goods without payment of customs-duties thereon.]

<sup>1</sup>[(2) Where any goods are sold under sub-section (1) pending adjudication, appeal, revision or decision of a court, the proceeds of such sale shall be deposited into the Government treasury; and, if on such adjudication or in such appeal or revision it is found or if the court finds that the goods so sold are not liable to confiscation, the proceeds of the sale shall, after necessary deduction of dues, taxes or duties as provided in section 201, be refunded to the owner.]

<sup>2</sup>**[82A. Procedure in case of goods not assessed or out-passed by Customs after presentation of the related bill of entry within a specified period.-** If any goods, other than goods detained, seized, confiscated, under adjudication or appeal under the provisions of this Act, for which a bill of entry has duly been presented, are not assessed and out-passed within seven working days the owner of such goods may serve a notice upon the Commissioner to finalize the Customs formalities within three working days enabling him to pay duty and taxes and clear the goods, and the said Commissioner or any officer authorized on his behalf shall do so, if the import is in order, or issue a show cause notice if the import is not in order.

*Explanation.- For the purpose of this section "detained goods" include goods detained for chemical examination, radiation test, reference for resolution disputes on of classification, value, ITC aspect or any other legal disputes.]*

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<sup>1</sup> This new sub-section (2) is inserted after sub-section (1) by Act 27 of 1987, s. 5 (4), w.e.f. 1st July, 1987.  
<sup>2</sup> This new Section 82A is inserted after section 82 by Act No. 15 of 2000, s 23, w.e.f -----

## CHAPTER X

### CLEARANCE OF GOODS FOR HOME-CONSUMPTION

**83. Clearance for home-consumption.**-<sup>3</sup>[1] When the owner of any goods entered for home-consumption and assessed under section 80 has paid the import duty and other charges, if any in respect of the same, the appropriate officer, if he is satisfied that the import of the goods is not prohibited or in breach of any restrictions or conditions applying to the importer of such goods, may make an order for the clearance of the same.

<sup>3</sup>[(2) Notwithstanding anything contained in sub-section (1) the importer or a class of importers for any goods, notified under section 80(3), shall be allowed clearance without any formal order under sub-section(1) of this section and such goods shall be deemed to have been duly allowed to pass.]

<sup>25</sup>[(3) The Board may, by special order, in the public interest, allow any government or semi-government organization or statutory public authority to take clearance of goods without paying the import duty and other charges on submission of a guarantee that such duty and charges shall be paid within specific period to be determined by the Board.]

**<sup>1</sup>83A. Amendment of assessment.** - (1) An officer of Customs not below the rank of an Assistant Commissioner of Customs may from time to time make or cause to be made such amendments to an assessment of duty or to the value taken for the purpose of assessment of duty as he thinks necessary in order to ensure the correctness of the assessment even though the goods to which the value or the duty relates have already passed out of Customs control or the duty originally assessed has been paid.

(2) If the amendment has the effect of imposing a fresh liability or enhancing an existing liability, a demand notice in writing shall be given by the officer of Customs to the person liable for the duty.

(3) Unless otherwise specified in this Act, the due date for payment against the aforesaid demand notice shall be thirty working days from the date of issue of such a written demand notice by the officer of Customs.

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<sup>3</sup> Renumbered and sub-section (2) were inserted by Act No. of 2001, s 21, w.e.f 1<sup>st</sup> July, 2001

<sup>25</sup> This new sub-section was inserted by Act No. 33 of 2010, s. 8, w.e.f, 1<sup>st</sup> July, 2010.

<sup>1</sup> New section 83A, 83B and 83C was inserted after section 83 by Act----2000, s 24,w.e.f -----

**83B. Limitation of time for amendment assessments.-** (1) Where an assessment of duty has been made under this Act, the officer of Customs is not entitled to increase the amount of the assessment after the expiration of three years from the date on which the original assessment was made.

(2) Notwithstanding sub-section (1) of this section, in any case where the entry or any declaration made in relation to the goods was fraudulent or willfully misleading, the officer of Customs may amend the assessment at any time <sup>26</sup>[\*\*\*] so as to increase the amount of the assessment.

**83C. Audit or examination of records.-** (1) An officer of Customs may at any time enter any premises or place where records are kept pursuant to section 211 of this Act and audit and examine those records either in relation to specific transactions or to the adequacy or integrity of the manual or electronic system or systems by which such records are created and stored.

(2) For the purposes of sub-section (1) of this section, an officer of Custom shall have full and free access to all lands, buildings and places and to all books, records and documents, whether in the custody or under the control of the licensee, importer, exporter or any other person, for the purpose of inspecting any books, records, and documents and any property, process, or matter that the officer considers.-

- (a) necessary or relevant for the purpose of collecting any duty under the Act or for the purpose of carrying out any other function lawfully conferred on the officer, or
- (b) likely to provide any information otherwise required for the purposes of this Act or for the discharge of any functions under this Act.

(3) The officer of Customs may make extracts from or copies of any such books, documents or records.

(4) Notwithstanding sub-section (2) and (3) of this section, an officer of Customs shall not enter any private dwelling except with the consent of an occupier or owner thereof or pursuant to a warrant issued under this Act.]

**<sup>3</sup>83D. Power to appoint auditor, etc.-** Board may, by issuance of special order, appoint, on such terms and conditions as it may deem appropriate, professional auditor or audit firm for carrying out audit on any

<sup>26</sup> These words were omitted by Act No. 33 of 2010, s. 9, w.e.f. 1<sup>st</sup> July, 2010.

<sup>3</sup> New section 83D was inserted after section 83C by Act 14, 2002, s 13, w.e.f 1<sup>st</sup> July, 2002

Customs matter; and such auditor or audit firm shall be deemed to be an officer of Customs for the purpose of this section.]

## CHAPTER XI

### WAREHOUSING

**84. Application to warehouse.-** When any dutiable goods have been entered for warehousing and assessed under section 80, the owner of such goods may apply for leave to deposit the same in any warehouse appointed or licensed under this Act.

**85. Form of application.-** Every such application shall be in writing signed by the applicant, and shall be in such form as may be prescribed by the Board.

**86. Warehousing bond.-** (1) When any such application has been made in respect of any goods, the owner of the goods to which it relates shall execute a bond, binding himself in a penalty of twice the amount of the duty assessed under section 80 or section 81<sup>1</sup>[\* \*] on such goods,-

- (a) to observe all provisions of this Act and the rules in respect of such goods;
- (b) to pay on or before a date specified in a notice of demand all duties, rent and charges payable in respect of such goods together with interest on the same from the date so specified at the rate<sup>2</sup>[to be determined by the Board, being a rate not less than the bank rate fixed by the Bangladesh Bank and not more than double the Bank rate so fixed]; and
- (c) to discharge all penalties incurred for violation of the provisions of this Act and the rules in respect of such goods.

(2) Every such bond shall be in such form as is from time to time prescribed by the Board, and shall relate to the goods or portion of goods of one conveyance only.

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<sup>1</sup> The words were dropped by Act of 2001, s. 23(Ka), w.e.f. 1st. July 2001.

<sup>2</sup> The words "of eight percent.....fixed by the Board" were subs. by Act of 1998, s. 4 (1), w.e.f. 1st. July 1998.

(3) Notwithstanding anything in sub-section (2), for the purposes of sub-section (1), the <sup>3</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board] may permit any importer to entry into a general bond in such amount and subject to such conditions, limitations or restrictions as the <sup>3</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board] may determine in respect of the warehousing of goods to be imported by such importer within a specified period.

(4) A bond executed under this section by an importer in respect of any goods shall continue in force notwithstanding the transfer of the goods to any other person or the removal of the goods to another warehouse or warehousing station:

Provided that, where the whole of the goods or any part thereof are transferred to another person, the appropriate officer may accept a fresh bond from the transferee in a sum equal to twice the amount of the duty assessed on the goods transferred and thereupon the bond executed by the transferer shall be deemed to be discharged to the extent to which the fresh bond has been executed by the transferee.

<sup>1</sup>["**86A. Warehousing bank guarantee.-** Notwithstanding anything contained in this Act regarding execution of a bond in relation to clearance of goods for warehousing, the Board or a Commissioner of Customs authorised in this behalf by the Board, may, in addition to requiring execution of bond, direct that a bank guarantee, for an amount not exceeding the duties leivable on the goods, be furnished in such manner as may be prescribed."]

<sup>27</sup>**[87. Forwarding of goods to warehouse.-** (1) When the provisions of section 85 and 86 have been complied with in respect of any goods, such goods shall be delivered to the owner of such goods or his authorized representative for onward transportation to the warehouse in which they are to be deposited.

(2) A pass shall be sent with the goods specifying the name of the owner of such goods and the name or number of the importing conveyance, the marks, numbers and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited.

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<sup>3</sup> The words were subs. by Act of 2001, s. 23(Kha), w.e.f. 1st July 2001.

<sup>1</sup> This section 86A was Substituted by Act 17 of 2003, s. 9, w.e.f. .

<sup>27</sup> This section 87 was Substituted by Act 22 of 2006, s.2, w.e.f. .

(3) After depositing such goods mentioned in sub-section (1) the owner of such goods shall inform the concerned Commissioner of Customs regarding the warehousing of the goods.”]

**88. Receipt of goods at warehouse.-** (1) On receipt of the goods, the pass shall be examined by the warehouse-keeper, and shall be returned to the appropriate officer.

(2) No package, but, cask or other container shall be admitted into any warehouse unless it bears the marks and numbers specified in, and otherwise corresponds with, the pass for its admission.

(3) If the goods be found to correspond with the pass, the warehouse-keeper shall certify to that effect on the pass, and the warehousing of such goods shall be deemed to have been completed.

(4) If the goods do not so correspond, the fact shall be reported by the warehouse-keeper for the orders of the appropriate officer, and the goods shall either be returned to the custom-house in charge of an officer of customs or kept in deposit pending such orders as the warehouse-keeper deems most convenient.

(5) If the quantity or value of any goods has been incorrectly stated in the bill of entry, due to inadvertence or *bona fide* error, the error may be rectified at any time before the warehousing of the goods is completed, and not subsequently.

**89. Goods how warehoused.-** Except as provided in section 94, all goods shall be warehoused in the packages, butts, casks or other containers in which they have been imported.

**90. Warrant to be given when goods are warehoused.-** (1) Whenever any goods are lodged in a public warehouse or a licensed private warehouse, the warehouse-keeper shall deliver a warrant signed by him as such to the person lodging the goods.

(2) Such warrant shall be in such form as the Board may from time to time prescribed, and shall be transferable by the endorsement; and the endorsee shall be entitled to receive the goods specified in such warrant on the same terms as those on which the person who originally lodged the goods would have been entitled to receive the same.

(3) The Board may, by notification in the official Gazette, exempt any class of goods from the operation of this section.

**2[91. Control over warehoused goods.-** (1) All warehoused goods shall be subject to the control of the appropriate officer.

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<sup>2</sup> This section 91 was subs. by Act 14 of 2002, s. 15, w.e.f. 1st. July 2002.

(2) The appropriate officer may cause any warehouse, except a special bonded warehouse, to be locked.

(3) No person shall, without the written permission of the appropriate officer,-

- (a) enter into a warehouse or remove any goods therefrom;
- (b) unlock the warehouse which is locked under sub-section (2).

(4) Notwithstanding sub-section (1) any other officer of customs Inspection Directorate, Intelligence and Investigation Directorate, authorised in this behalf by an officer not below the rank of an Assistant Commissioner of Customs, shall have access to any part of a warehouse and power to examine the goods, records, accounts and documents therein and ask any question as may be deemed necessary.

**92. Power to cause packages lodged in warehouse to be opened and examined.-** (1) The appropriate officer may at any time by order in writing direct that any goods or packages lodged in any warehouse shall be opened, weighed or otherwise examined; and after any goods have been so opened, weighed or examined, may cause the same to be sealed or marked in such manner as he thinks fit.

(2) When any goods have been so sealed and marked after examination, they shall not be again opened without the permission of the appropriate officer; and, when any such goods have been opened with such permission, the packages shall, if he thinks fit, be again sealed or marked.

**93. Access of owners to warehoused goods.-** (1) Any owner of goods lodged in a warehouse shall, at any time within the hours of business, have access to his goods in the presence of an officer of customs, and an officer of customs shall, upon application for the purpose being made in writing to the appropriate officer, be deputed to accompany such owner.

(2) When an officer of customs is specially employed to accompany such owner, a sum sufficient to meet the expense thereby incurred shall, subject to rules, be paid by such owner to the appropriate officer, and such sum shall, if the appropriate officer so directs, be paid in advance.

**94. Owner's power to deal with warehouse goods.-** (1) With the sanction of the appropriate officer and on payment of such fees as may be prescribed by rules, the owner of any goods may, either before or after warehousing the same,

- (a) separate damaged or deteriorated goods from the rest;
- (b) sort the goods or change their containers for the purpose of preservation, sale, export or disposal of the goods;

- (c) deal with the goods and their containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;
- (d) show the goods for sale; or
- (e) take such samples of goods as may be allowed by the appropriate officer with or without entry for home-consumption, and with or without payment of duty, except such as may eventually become payable on a deficiency of the original quantity.

(2) After any such goods have been so separated and repacked in proper or approved packages, the appropriate officer may, at the request of the owner of such goods, cause or permit any refuse, damaged or surplus goods remaining after such separation or repacking (or at the like request, any goods which may not be worth the duty) to be destroyed, and may remit the duty payable thereon.

**95. Manufacture and other operations in relation to goods in a warehouse.-** (1) Subject to rules, the owner of any warehoused goods may,<sup>1</sup>[by giving fifteen days prior notice in writing to the<sup>2</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board]], carry on any manufacturing process or other operations in the warehouse in relation to such goods.

(2) Where in the course of any such operation or process there is any waste or refuse the following provisions shall apply, namely:-

(a) If the whole or any part of the goods produced by such operation or process are exported, no duty shall be charged on the quantity of the warehoused goods wasted or turned into refuse in the course of the operation or processing carried on in relation to the goods exported:

Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into<sup>1</sup>[Bangladesh] in that form.

<sup>2</sup>[(b) If the whole or any part of the goods produced by such operation or process are cleared from the warehouse for home-consumption, duty and other taxes shall be charged on the quantity of such goods cleared for home-consumption and also on the warehoused goods wasted or turned into refuse in the course of the

<sup>1</sup> These words were substituted by Act No. 15 of 2000, s.25, w.e.f 1<sup>st</sup> July 2000.

<sup>2</sup> These words were substituted by Act No. of 2001, s. 24(Ka), w.e.f 1<sup>st</sup> July 2001.

<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July 1980.

<sup>2</sup> Clause (b) was substituted by Act 12 of 1995, s. 5 (10), w.e.f. 1st July 1995.

operation or processing carried on the relation to such goods cleared for home-consumption in a manner to be prescribed by rules:

Provided that the value for assessment purposes under this clause shall, notwithstanding any other provisions of this Act, be determined by the <sup>3</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board].]

<sup>4</sup>**[96. Payment of rent and warehouse dues.-** (1) The owner of any warehoused goods shall pay to the warehouse-keeper rent and other charges at the rates fixed under any law for the time being in force or where no rates are so fixed, at such rates as may be fixed by the Commissioner of Customs (Bond) or any other Commissioner of Customs or by agreement between the owner of the warehouse and the owner of warehoused goods.

(2) A table of the rates of rent and other charges fixed under sub-section (1) shall be displayed in a conspicuous part of such warehouse.

(3) If any rent or other charges are not paid within ten days from the date when they become due, the warehouse-keeper may, after due notice to the owner of the warehoused goods and with the permission of the appropriate officer, cause to be sold (any transfer of the warehoused goods notwithstanding) such portion of the goods as may be sufficient to realise the unpaid rent and other charges.

**97. Goods not to be taken out of warehouse except as provided by this Act.-** No warehoused goods shall be taken out of any warehouse, except on clearance for home-consumption or export or for removal to another warehouse, or as otherwise provided in this Act.

<sup>28</sup>**[98. Period for which goods may remain warehoused. -** (1) Goods imported for and warehoused in any special bonded warehouse or in any hundred percent export oriented industry, may remain in such warehouse or industry for a period not exceeding twenty four months from the date of warehousing :

(2) The Commissioner of Customs (Bond) or any other Commissioner of Customs authorized by the Board in this behalf may extend the period of warehousing mentioned in sub-section (1) for further period of six months if the goods specified in sub-section (1) are not likely to deteriorate.

<sup>3</sup> These words were substituted by Act No. of 2001, s. 24(Kha). w.e.f 1<sup>st</sup> July 2001.

<sup>4</sup> This section 96 was substituted by Act No. 14 of 2002, s. 16. w.e.f 1<sup>st</sup> July 2002.

<sup>28</sup> This section 98 was amended by Ordinance 10 of 2007, w.e. f 1<sup>st</sup> July 2007.

[(2A) Notwithstanding anything contained in sub-section (1) and (2), goods imported and warehoused by a hundred percent export oriented ship building industry, may remain in such warehouse for a period not exceeding forty eight months from the date of warehousing.]

(3) Goods imported for and warehoused in any diplomatic bonded warehouse, may remain in the warehouse for a period not exceeding twelve months from the date of warehousing.

(4) Warehoused goods other than the goods mentioned in sub-sections (1) and (3) may remain in the warehouse for a period not exceeding six months following the date of execution of the bond under section 86 in respect of such goods.

(5) In the case of any goods specified in sub-sections (3) and (4) which are not likely to deteriorate, the period for warehousing of such goods may, with reasons in writing, be extended by the Commissioner of Customs (Bond) or any other Commissioner of Customs authorized by the Board in this behalf for a period not exceeding three months and subsequently by the Board for a further period not exceeding three months.

(6) The Commissioner of Customs (Bond) or any other Commissioner of Customs authorized by the Board in this behalf may reduce the period for warehousing mentioned in sub-sections (1), (3), and (4) to such reasonable period as he deems fit in each case, if the goods mentioned in such sub-sections are likely to deteriorate.]

**<sup>29</sup>[“98A. Goods to be removed if licence is cancelled.-** When the licence of any private warehouse is cancelled, the owner of any goods warehoused therein shall, within ten days of the date on which notice of such cancellation is given or within such extended period, as the appropriate officer may allow, remove the goods from that warehouse to another warehouse or clear them for home-consumption or exportation.”]

**99. Power to remove goods from one warehouse to another in the same customs-station.-** (1) Any owner of goods warehoused under this Act may, within the period of their warehousing under section 98, and with the permission of the <sup>2</sup>[Commissioner of Customs (Bond) or any other

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<sup>29</sup> This section was inserted by Act 16 of 2004, w.e.f 10<sup>th</sup> June 2004.

<sup>2</sup> The words were subs. by Act of 2001, s. 27(Ka), w.e.f. 1st July 2001.

Commissioner of Customs authorised by the Board]<sup>3</sup>[or any officer authorised for the purpose by the<sup>2</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board,] on such conditions and after giving such security, if any, as<sup>4</sup>[that commissioner] directs, remove goods from one warehouse to another warehouse in the same warehousing station.

(2) When any owner desires to remove any goods, he shall apply for permission to do so in such form as the Board may prescribe.

**100. Power to remove goods from one warehousing station to another.-**(1) Any owner of goods warehoused at any warehousing station may, within the period of their warehousing under section 98, remove the same for the purpose of warehousing them at any other warehousing station.

(2) When any owner desires to remove any goods for such purpose, he shall apply to the<sup>5</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board] in such form and manner as the Board may prescribe stating therein the particulars of the goods to be removed, and the name of the customs-station to which they are to be removed.

**101. Transmission of account of goods to officers at warehousing station of destination.-**(1) When permission is granted for the removal of any goods from one warehousing station to another under section 100, an account containing the particulars thereof shall be transmitted by the appropriate officer of the customs-station of removal to the appropriate officer of the customs-station of destination.

(2) The person requiring the removal shall before such removal enter into a bond with one sufficient surety, in a sum equal at least to the duty chargeable on such goods, for the due arrival and re-warehousing thereof at the customs-station of destination, within such time, as the<sup>1</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board] directs.

(3) Such bond may be taken by the appropriate officer either at the customs-station of removal or at the customs-station of destination as best suits the convenience of the owner.

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<sup>3</sup> These word was subs. by Act No. 15 of 2000, s.26, w.e.f. 1<sup>st</sup> July 2000.

<sup>4</sup> The word “that commissioner” were subs. by Act No. of 2001, s. 27(Kha), w.e.f. 1st. July 2001.

<sup>5</sup> The words were subs. by Act of 2001, s. 28, w.e.f. 1st. July 2001.

<sup>1</sup> The words were subs. by Act of 2001, s. 29(Ka), w.e.f. 1st. July 2001.

(4) If such bond is taken at customs-station of destination, a certificate thereof signed by the appropriate officer of such station shall at the time of the removal of such goods be produced to the appropriate officer at the customs-station of removal; and such bond shall not be discharged unless such goods are produced to the appropriate officer, and duly re-warehoused at the customs-station of destination within the time allowed for such removal or are otherwise accounted for to the satisfaction of such officer; nor until the full duty due upon any deficiency of such goods, not so accounted for, has been paid.

<sup>2</sup>[(5) Notwithstanding anything contained in the aforesaid sub-sections, the <sup>3</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board] may prescribe such conditions as he deems fit for the removal of warehoused goods from special bonded warehouse.]

**102. Remover may enter into a general bond.-** The <sup>4</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board] may permit any person desirous of removing warehoused goods to enter into a general bond, with such sureties, in such amount and under such conditions as <sup>5</sup>[that Commissioner] approves, for the removal, from time to time, of any goods from one warehouse to another, either in the same or in a different warehousing station and for the due arrival and re-warehousing of such goods at the destination within such time as <sup>5</sup>[that Commissioner] directs.

**103. Goods on arrival at customs-station of destination to be subject to same laws as goods on first importation.-** Upon the arrival of warehoused goods at the customs-station of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules are applicable, which regulate the entry and warehousing of such last mentioned goods.

**104. Clearance of bonded goods for home-consumption.-** Any owner of warehoused goods may, at any time within the period of their warehousing under section 98, clear such goods for home-consumption by paying-

- (a) the duty assessed on such goods under the provisions of this Act; and

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<sup>2</sup> Sub-section (5) was inserted after sub-section (4) by Act No. 15 of 2000, s.27, w.e.f. 1<sup>st</sup> July 2000.

<sup>3</sup> The words were subs. by Act ... of 2001, s. 29(Kha), w.e.f. 1st. July 2001.

<sup>4</sup> The words were subs. by Act ... of 2001, s. 30(Ka), w.e.f. 1st. July 2001.

<sup>5</sup> The word "that Commissioner" were subs. by Act ... of 2001, s. 30(Kha), w.e.f. 1st. July 2001.

(b) all rent, penalties, interest and other charges payable in respect of such goods<sup>6</sup>[:

Provided that necessary permission will have to be taken from<sup>1</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board] fifteen days in advance in case of Special Bonded Warehouse for special purposes to be determined by the<sup>1</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board].]

**105. Clearance of warehoused goods for export.**- Any owner of warehoused goods may, at any time within the period of their warehousing under section 98, clear such goods for export out of<sup>2</sup>[Bangladesh] on payment of all rent, penalties, interest and other charges payable as aforesaid but without paying any import duty thereon:

Provide that, if the<sup>3</sup>[Government] is of the opinion that warehoused goods of any specified description are likely to be smuggled back into<sup>2</sup>[Bangladesh], it may, by notification in the official Gazette, direct that such goods shall not be exported to any place outside<sup>2</sup>[Bangladesh] without payment of duty or allow them to be exported subject to such restrictions and conditions as may be specified in the notification.

**106. Clearance of warehoused goods for export as provisions, on a conveyance proceeding to foreign destination.**- Any warehoused provisions and stores may be exported within the period of their warehousing under section 98 without payment of import duty for use on board any conveyance proceeding to a foreign territory.

**107. Application for clearance of goods.**- (1) An application to clear goods from any warehouse for home-consumption or for export shall be made in such form as the Board may prescribe.

(2) Such application shall ordinarily be made to the appropriate officer at least twenty-four hours before it is intended to clear such goods<sup>4</sup>[:

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<sup>6</sup> This "colon" and proviso was inserted by Act No. 15 of 2000, s.28, w.e.f. 1<sup>st</sup> July,2000.

<sup>1</sup> The words were subs. by Act of 2001, s. 31, w.e.f. 1st. July 2001.

<sup>2</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan" w.e.f. 1st July 1980.

<sup>3</sup> Subs. by *ibid.* s. 11 (1) (b), for the words "Central Government".

<sup>4</sup> This "Colon" and Proviso was inserted by Act No. 15 of 2000, s. 29, w.e.f. 1<sup>st</sup> July 2000.

Provided that in the case of Special Bonded Warehouses, the procedure to be followed will be determined by <sup>5</sup>[that <sup>6</sup>[Commissioner] of Customs (Bond) or any other Commissioner of Customs authorised by the Board.]

**108. Re-assessment of warehoused goods when damaged or deteriorated.**- If any goods upon which duties are levied *ad valorem* are damaged or deteriorated due to an unavoidable accident or cause after they have been entered for warehousing and assessed under section 80 and before they are cleared for home-consumption, their value in the damaged or deteriorated state may be appraised, if the owner so desires, by an officer of customs and the duty leivable thereon shall be diminished in proportion to the diminution of their value and a new bond for twice the amount of the diminished duty may, at the option of the owner, be executed by him to replace the bond originally executed.

<sup>1</sup>[\*\*      \*\*      \*\*      \*\*      \*\*      \*\*      \*\*      \*\*      \*\*  
\*\*      \*\*]

**110. Allowance in case of volatile goods.**- When any warehoused goods of such class or description as the Board having regard to the volatility of such goods and the manner of their storage may, by notification in the official Gazette, specify are, at the time of delivery from a warehouse, found to be deficient in quantity and the <sup>2</sup>[Commissioner] of Customs (Bond) or any other Commissioner of Customs authorised by the Board] is satisfied that such deficiency is on account of natural loss, no duty shall be charged on such deficiency.

**111. Duty on goods improperly removed from warehouse or allowed to remain beyond fixed time or lost or destroyed or taken as sample.**- In respect of goods specified hereunder the appropriate officer may demand and upon such demand the owner of such goods shall forthwith pay the full amount of duty chargeable on such goods together with all rent, penalties, interest and other charges payable in respect of them, namely :-

- (a) Warehoused goods which are removed in contravention of section 97.
- (b) Goods which have not been removed from the warehouse within the time allowed for such removal under section 98.

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<sup>5</sup> The words "that Commissioner" were subs. by Act of 2001, s. 32, w.e.f. 1st July 2001.

<sup>6</sup> The words were subs. by Act of 2001, s. 32, w.e.f. 1st July 2001.

<sup>1</sup> Section 109 was dropped by Act No. of 2001, s 33, w.e.f. 1st July, 2001.

<sup>2</sup> The words were subs. by Act of 2001, s. 34, w.e.f. 1st July 2001.

- (c) Goods in respect of which a bond has been executed <sup>3</sup>[under section 86 or as prescribed by rules made under this Act ]and which have not been cleared for home-consumption or export or removed in accordance with the provisions of this Act and are lost or destroyed otherwise than as provided in sections 94 and 95 or as mentioned in section 115, or are not accounted for to the satisfaction of the appropriate officer.
- (d) Goods which have been taken under section 94 as samples without payment of duty.

**112. Procedure on failure to pay duty, etc.-** <sup>4</sup>[(1) If any owner fails to pay any sum demanded under section 111, the appropriate officer may either proceed upon the bond executed under 86 or as prescribed by rules made under this Act or cause such portion of the owners goods in the warehouse or any plant or machinery or equipment used for the manufacture of goods or any other goods and properties belonging to such persons to be detained as he may consider adequate to recover the demand, and the notice in writing for such detention, shall immediately be given to the owner.]

(2) In case the demand is not discharged within fifteen days of the date of such notice, the goods so detained may be sold.

(3) The net proceeds of any such sale shall be entered upon and adjusted against the bond and the surplus if any remaining after full satisfaction of the bond shall be disposed of in the manner provided in section 201.

(4) No transfer or assignment of the goods shall prevent the appropriate officer from proceeding against such goods in the manner above provided, for any amount due thereon.

**113. Noting removal of goods.-** (1) When any warehoused goods are taken out of any warehouse, the appropriate officer shall cause the fact to be noted on the back of the bond.

(2) Every note so made shall specify the quantity and description of such goods, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the bill of export under which they have taken away, if removed for

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<sup>3</sup> These word and number was subs. by Act No. 15 of 2000, s.30, w.e.f. 1<sup>st</sup> July 2000.

<sup>4</sup> Sub-section (1) was subs. by Act No. 15 of 2000, s.31,w.e.f. 1<sup>st</sup> July,2000.

exportation, or of the bill of entry, if removed for home-consumption and the amount of duty paid, if any.

<sup>1</sup>[(3) In case of Special Bonded warehouses, the procedure to be followed will be determined by the <sup>2</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board.]

**114. Register of bonds.-** (1) A register shall be kept of all bonds entered into for customs-duties on warehoused goods, and entry shall be made in such register of all particulars required by section 113 to be specified <sup>3</sup>[ , or in the case of Special Bonded warehouse entry shall be made in a register to be prescribed by the <sup>4</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board].]

(2) When such register shows that the whole of the goods covered by any bond have been cleared for home-consumption or export, or otherwise duly accounted for, and when all amounts due on account of such goods have been paid, the appropriate officer shall cancel such bond as discharged in full, and shall on demand deliver the cancelled bond to the person who executed it or who is entitled to receive it.

**115. Power to remit duties on warehoused goods lost or destroyed.-** If any warehoused goods, in respect of which a bond has been executed under section 86 and which have not been cleared for home-consumption are lost or destroyed by unavoidable accident or cause, the <sup>5</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board] may in his discretion remit the duties due thereon.

Provided that, if any such goods be so lost or destroyed in a private warehouse, <sup>6</sup>[notice thereof in writing shall] be given to the appropriate officer <sup>6</sup>[within two working days] after the discovery of such loss or destruction.

**116. Responsibility of warehouse-keeper.-** The warehouse-keeper in respect of goods lodged in a public warehouse, and the licensee in respect of goods lodged in a private warehouse, shall be responsible for their due receipt therein and delivery therefrom, and their safe custody while deposited therein, according to the quantity, weight or gauge reported by the officer of customs

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<sup>1</sup> Sub-section(3) was inserted by Act No. 15 of 2000, s.32,w.e.f. 1<sup>st</sup> July,2000.

<sup>2</sup> The words were subs. by Act of 2001, s. 35, w.e.f. 1st. July 2001.

<sup>3</sup> This "comma" subs., words and full stop was inserted by Act 2000, s.33,w.e.f.1<sup>st</sup> July,2000.

<sup>4</sup> The words were subs. by Act of 2001, s. 36, w.e.f. 1st. July 2001.

<sup>5</sup> The words were subs. by Act of 2001, s. 37, w.e.f. 1st. July 2001.

<sup>6</sup> The words "notice thereof" were subs. by Act No. 15 of 1998, s. 4 (3), w.e.f. 1st. July 1998.

who has assessed such goods, allowance being made, if necessary, for deficiency in quantity on account of natural loss as provided in section 110:

Provided that no owner of goods shall be entitled to claim from the appropriate officer or from any keeper of a public warehouse, compensation for any loss or damage occurring to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it be proved that such loss or damage was occasioned by the wilful act or neglect of the warehouse-keeper or of an officer of customs.

<sup>1</sup>[117 \*\* \*\* \*\*]

<sup>2</sup>[117A \*\* \*\* \*\*]

**118. Power to decide where goods may be deposited in <sup>3</sup>[warehouse], and on what terms.-** The <sup>4</sup>[Commissioner of Customs (Bond) or any other Commissioner of Customs authorised by the Board] may from time to time determine in what division of any <sup>5</sup>[warehouse], and in what manner, and on what terms, any goods may be deposited, and what sort of goods may be deposited in any such warehouse.

**119. Expenses of carriage, packing, etc., to be borne by owner.-** The expenses of carriage, packing and storage of goods on their receipt into or removal from a public warehouse shall, if paid by the appropriate officer or by the warehouse-keeper, be chargeable on the goods and be defrayed by, and recoverable from, the owner, in the manner provided in section 112.

**<sup>6</sup>[119A. Power to add, alter or relax the condition, etc.-]** The <sup>7</sup>[Board] may, by notification in the official Gazette, add or alter any condition or requirement contained in any provision of this chapter, and if it considers expedient, relax any provision thereof, to meet any special requirement.]

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<sup>1</sup> Section 117 was deleted by Act 14 of 2002, s. 17, w.e.f. 1st July 2002.

<sup>2</sup> Section 117A was deleted by Act 14 of 2002, s. 18, w.e.f. 1st July 2002.

<sup>3</sup> The words were subs. by Act 14 of 2002, s. 19(Ka), w.e.f. 1st July 2002.

<sup>4</sup> The words were subs. by Act 14 of 2002, s. 19(kha), w.e.f. 1st July 2002.

<sup>5</sup> The words were subs. by Act 14 of 2002, s. 19(kha), w.e.f. 1st July 2002.

<sup>6</sup> Section "119A." was inserted by Act 18 of 1996, s. 3(5), w.e.f. 1st July 1996.

<sup>7</sup> The word "Government" was subs. by Act 1997, s. 1, w.e.f. 1st July, 1997.

## CHAPTER XII

### TRANSHIPMENT

**120. Chapter not to apply to baggage or postal articles.-** The provisions of this Chapter shall not apply to (a) baggage, and (b) goods imported by post.

**121. Transhipment of goods without payment of duty.-** Subject to the provisions of section 15 and the rules, the appropriate officer may, on application by the owner of any goods imported at any customs-station and specially and distinctly manifested at the time of importation as for transhipment to some other customs-station or foreign destination, grant leave to tranship the same without payment of duty, if any, chargeable on such goods at the customs-station of transhipment and, in case of goods to be transhipped to some other customs-station, with or without any security or bond for the due arrival and entry of the goods thereat.

**122. Superintendence of transhipment.-** An officer of customs shall in every case, be deputed free of charge to superintend the removal of transhipped goods from one conveyance to another.

**123. Entry, etc., of transhipped goods.-** All goods transhipped under section 121 to any customs-station shall, on their arrival at such customs-station, be entered in the same manner as goods on their first importation and shall be dealt with like-wise.

**124. Transhipment of provisions and stores from one conveyance to another of the same owner without payment of duty.-** Any provisions and stores in use or being carried for use on board a conveyance may, at the discretion of the appropriate officer be transhipped to another conveyance belonging wholly or partly to the same owner and present simultaneously at the same customs-station, without payment of duty.

**125. Levy of transhipment fees.-** Subject to the rules, a transhipment fee on any goods or class of goods transhipped under this Act may be levied at such rates, according to weight, measurement, quantity, number, bale, package or container, as the Board may, by notification in the official Gazette, prescribe for any customs-station or class of customs-stations.

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## CHAPTER XIII

### TRANSIT TRADE

**126. Chapter not to apply to baggage and postal articles.-** The provisions of this Chapter shall not apply to (a) baggage, and (b) goods imported by post.

**127. Transit of goods in the same conveyance.-** (1) Subject to the provisions of section 15 and the rules any goods imported in a conveyance and mentioned in the import manifest as for transit in the same conveyance to a customs-station in <sup>1</sup>[Bangladesh] or to any destination outside <sup>1</sup>[Bangladesh] may be allowed to be so transited without payment of duty, if any, leviable on such goods at the customs-station of transit.

(2) Any stores and provisions imported on board a conveyance which is in transit through <sup>1</sup>[Bangladesh] to a destination outside <sup>1</sup>[Bangladesh], may subject to rules, be allowed to be consumed on board that conveyance without payment of the duties which would otherwise be chargeable on them.

**128. Transport of certain classes of goods subject to prescribed conditions.-** Any goods may be transported from one part of <sup>1</sup>[Bangladesh] to another through any foreign territory, subject to such conditions as to their due arrival at the destination as may be prescribed by rules.

**129. Transit of goods across <sup>1</sup>[Bangladesh] to a foreign territory.-** Where any goods are entered for transit across <sup>1</sup>[Bangladesh] to a destination outside <sup>1</sup>[Bangladesh], the appropriate officer may, subject to the provisions of the rules, allow the goods to be so transited without payment of the duties which would otherwise be chargeable on such goods.

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## CHAPTER XIV

### EXPORTATION OR SHIPMENT AND RELANDING

**130. No goods to be loaded on a conveyance, till entry outwards or permission granted.-** No goods other than passengers' baggage or mail bags or ballast urgently required for a vessel's safety shall be loaded or water-borne to be

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<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July 1980.

<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July 1980.

<sup>30</sup> This new section was inserted by Act No. 33 of 2010, w.e.f. 1<sup>st</sup> July, 2010.

loaded on a conveyance at a place in a customs-station approved for the purpose under clause (b) of section 10, until an order under section 50 in respect of the conveyance has been given or permission in this behalf in writing has been granted by the appropriate officer.

**131. Clearance for exportation.-** <sup>2[1]</sup> No goods shall be loaded for exportation until-

(a) in the case of goods other than passengers' baggage and mail bag-

<sup>3</sup>[(i) the owner has delivered to the appropriate officer or, if the owner is a registered user, he has transmitted to the Customs computer system, a bill of export in such form and manner and containing such particulars as the Board may, by order, direct from time to time <sup>4</sup>[:]

Provided that the Commissioner of Customs may within a period of six months require the owner who has electronically transmitted a bill of export to the Customs computer system to submit to the appropriate officer a paper bill of export duly signed by him or his authorized agent containing such information as the said Commissioner may specify;]

(ii) such owner has paid the duties payable on such goods;

(iii) such bill has been passed by the appropriate officer; and

(b) in the case of passengers' baggage or mail bags, the appropriate officer has permitted them to be exported :

Provided that the Board may in the case of any customs-station or wharf, by notification in the official Gazette, and subject to such restrictions and conditions, if any, as it thinks fit, exempt any specified goods or class of goods or any specified person or class of persons, from all or any of the provisions of this section<sup>5</sup>[:]

Provided further that where the appropriate officer, in a particular case, has reason to believe that exportation of any goods in respect of which exemption has been notified under the first proviso should be intervened before its loading for exportation, he may, upon recording reasons, examine the goods or the bill of export or both, and may take other necessary action under this Act.]

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<sup>2</sup> Renumbered by Act XXI of 1992, s. 6(18), w.e.f. 1st July 1992.

<sup>3</sup> This sub-clause (i) was replaced by Act No. of 2001, s. 40(Ka), w.e.f. 1st July 2001.

<sup>4</sup> This colon and proviso were inserted by Act No. 14 of 2002, s. 20, w.e.f. 1st July 2002.

<sup>5</sup> The colon and proviso were inserted by Act No. of 2001, s. 40(Kha), w.e.f. 1st July 2001.

<sup>1</sup>[(2) In a case where exemption has been allowed under the proviso to sub-section (1) and any goods have been exported subject of any conditions or under any guarantee or undertaking, the exporter shall forthwith fulfil such conditions or, as the case may be, the terms of the guarantee or undertaking and submit to the appropriate officer documents relating thereto, including proceeds realisation certificate or such other documentary evidence showing the remittance to Bangladesh of the sale proceeds of the goods exported as may be acceptable to the Board.]

**132. Bond required in certain cases before exportation.-** Before any warehoused goods subject to excise duties, or goods entitled to drawback or repayment of customs-duties on exportation, or goods exportable only under particular rules or restrictions, are permitted to be exported, the owner shall, if required so to do, give security by bond in such sum not exceeding twice the duty leviable on such goods as the appropriate officer directs , with one sufficient surety, that such goods shall be exported and landed at the place for which they are entered outwards or shall be otherwise accounted for to the satisfaction of such officer.

**133. Additional charge on goods cleared for export after port-clearance granted.-** Where the goods are cleared for shipment on a bill of export presented after port-clearance or permission to depart has been granted, the appropriate officer may, if he thinks fit, levy, in addition to any duty to which such goods are ordinarily liable, a charge not exceeding one percent of the value of the goods determined in accordance with the provisions of section 25.

**134. Notice of non-loading or relanding and return of duty thereon.-**  
(1) If any goods mentioned in a bill of export or manifest be not loaded or be loaded and afterwards relanded, the owner shall before the expiration of fifteen clear working days after the conveyance on which such goods were intended to be loaded or from which they were relanded has left the customs-station, give information of such short-loading or relanding to the appropriate officer save where the latter has occasioned the short-loading or relanding.

(2) Upon an application being made to the appropriate officer within one year of such short-loading or relanding any duty levied upon goods not loaded or upon goods loaded and afterwards relanded shall be refunded to the person on whose behalf such duty was paid:

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<sup>1</sup> This new sub-section (2) is inserted after sub-section (1) by Act XXI of 1992, s. 6(18), w.e.f. 1st July 1992.

Provided that, where the required information of short-loading or relanding is not given within the aforesaid period of fifteen days, the appropriate officer may make refund of duty contingent upon payment of such penalty, if any, as he may see fit to impose.

**135. Goods relanded or transhipped from a conveyance returning to a customs-station or putting into another customs-station.-** (1) If, after having cleared from any customs-station any conveyance without having discharged her cargo returns to such customs-station or puts into any other customs-station, any owner of goods in such conveyance, if he desires to land or tranship the same or any portion thereof for re-export, may, with the consent of the person-in-charge of the conveyance, apply to the appropriate officer in that behalf.

(2) The appropriate officer, if he grants the application, shall thereupon send an officer of customs to watch the conveyance and to take charge of such goods during such relanding or transhipment.

(3) Such goods shall not be allowed to be transhipped or re-exported free of duty by reason of the previous settlement of duty at the time of first export unless they are lodged and remain, until the time of re-export under the custody of an officer of customs, in a place appointed by the appropriate officer, or are transhipped under such custody.

(4) All expenses attending such custody shall be borne by the owner.

**136. Conveyance returning to customs-station may enter and land goods.-** (1) In either of the cases mentioned in section 135, the person-in-charge of the conveyance may enter such conveyance inwards and any owner of goods thereon may, with the consent of the person-in-charge of conveyance, land the same under the provisions of this Act and the rules.

(2) In every such case, any export duty paid shall be refunded on an application made by the owner of such goods within one year of their landing and any amount paid to owners as drawback or repayment of duty (whether of customs, excise or any other tax) shall be recovered from him or adjusted against the amount refundable.

**137. Landing of goods during repairs.-** (1) The appropriate officer may, on application by the person-in-charge of a conveyance which is obliged before completing her journey or voyage to put into any customs-station for repairs, permit him to land the goods or any portion thereof, and to place it in the

custody of an officer of customs during such repairs, and to load and export the same free of duty.

(2) All expenses attending such custody shall be borne by the person-in-charge of the conveyance.

**138. Frustrated cargo** <sup>31</sup>[**and other than frustrated cargo]** **how dealt with.-** (1) Where any goods are brought into a customs-station by reason of inadvertence, mis-direction or untraceability of the consignee, the <sup>1</sup>[Commissioner of Customs] may, on application by the person-in-charge of the conveyance which brought such goods or of the consignor of such goods and subject to rules, allow export of such goods without payment of any duties (whether of import or export) chargeable thereon, provided that such goods have remained and are exported under the custody of an officer of customs.

<sup>32</sup>[(1A) Where any goods are brought into a customs-station by a reason other than the reasons mentioned in sub-section (1), the Commissioner of Customs may, with prior approval of the Board, allow re-exportation of such goods without payment of any duties chargeable thereon.]

(2) All expenses attending to such custody shall be borne by the applicant.

## CHAPTER XV SPECIAL PROVISIONS REGARDING BAGGAGE AND GOODS IMPORTED OR EXPORTED BY POST

**139. Declaration by passenger or crew of baggage.-** The owner of any baggage whether a passenger or a member of the crew shall, for the purpose of clearing it, make a verbal or written declaration of its contents in such manner as may be prescribed by rules to the appropriate officer and shall answer such questions as the said officer may put to him with respect to his baggage and any article contained therein or carried with him and shall produce such baggage and any such article for examination.

**140. Determination of rate of duty in respect of baggage.-** The rate of duty if any, applicable to baggage shall be the rate in force on the date on which a declaration is made in respect of such baggage under section 139.

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<sup>31</sup> Words are inserted by Act No. 33 of 2010, s. 11, w.e.f 1<sup>st</sup> July, 2010.

<sup>1</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st. July 1995.

<sup>32</sup> These sub-section was subs. by Act No. 33 of 2010, s. 11, w.e.f. 1<sup>st</sup> July, 2010.

**141. *Bona fide* baggage exempt from duty.-** The appropriate officer may, subject to the limitations, conditions and restriction specified in the rules, pass free of duty any article in the baggage of a passenger or a member of the crew in respect of which the said officer is satisfied that it is *bona fide* meant for the use of such passenger or for making gift.

**142. Temporary detention of baggage.-** Where the baggage of passenger contains any article which is dutiable or the import of which is prohibited or restricted and in respect of which a true declaration has been made under section 139, the appropriate officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving<sup>1</sup> [Bangladesh].

**143. Treatment of baggage of passengers or crew in transit.-** Baggage of passengers and members of the crew in transit in respect of which a declaration has been made under section 139, may be permitted by the appropriate officer, subject to such limitations, conditions and restrictions as may be specified in the rules, to be so transited without payment of duty.

**144. Label or declaration in respect of goods imported or exported by post to be treated as entry.-** In the case of goods imported or exported by post, any label or declaration which contains the description, quantity and value thereof shall be deemed to be an entry for import or export, as the case may be, for the purposes of this Act.

**145. Rate of duty in respect of goods imported or exported by post.-**

(1) The rate of duty, if any, applicable to any goods imported by post shall be the rate in force on the date on which the postal authorities present to the appropriate officer the declaration or label referred to in section 144 for the purpose of assessing the duty thereon.

(2) The rate of duty, if any, applicable to any goods exported by the post shall be the rate in force on the date on which the exporter delivers such goods to the postal authorities for exportation.

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<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July 1980.

## CHAPTER XVI

### PROVISIONS RELATING TO COASTAL GOODS AND VESSELS

**146. Chapter not to apply to baggage.**- The provisions of this Chapter shall not apply to baggage.

**147. Entry of coastal goods.**- (1) The consignor of any coastal goods shall present to the appropriate officer a bill of coastal goods in the form prescribed by the Board.

(2) Every such consignor shall make a declaration on the bill of coastal goods presented by him as to the truth of the contents thereof.

**148. Coastal goods not to be loaded until bill relating thereto is passed.**- No vessel shall take on board any coastal goods until the bill relating to such goods has been passed by the appropriate officer and delivered to the master of the vessel by the consignor:

Provided that the appropriate officer may, in circumstances of exceptional nature, on a written application by the master of the vessel, permit loading of coastal goods pending the presentation and passing of bills relating to such goods.

**149. Clearance of coastal goods at destination.**- (1) The master of a vessel carrying any coastal goods shall carry on board the vessel all bills delivered to him under section 148 and shall, within twenty-four hours of arrival of the vessel at any customs-port or coastal port, deliver to the appropriate officer all bills relating to the goods which are to be unloaded at that port.

(2) Where any coastal goods are unloaded at any port, the appropriate officer shall permit their clearance if he is satisfied that they are entered in a bill delivered to him under sub-section (1).

**150. Declaration concerning coasting vessel which has touched foreign post.**- The master of a vessel carrying coastal goods which has touched at any foreign port immediately before its arrival at a port of<sup>1</sup>[Bangladesh] shall deliver, along with the bills referred to in section 149, a declaration stating that

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<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (a), for "Pakistan" w.e.f. 1st July 1980.

fact and indicating the particulars and specifications of the cargo, if any, discharged or taken on board at such foreign port.

**151. Cargo book.-** (1) There shall be kept on board every coasting vessel a cargo book stating the name of the vessel, the port at which she is registered and the name of the master.

(2) It shall be the duty of the master of every coasting vessel to enter or cause to be entered in the cargo book-

- (a) the port to which and each voyage on which the vessel is bound ;
- (b) the respective times of departure from every port of lading and of arrival at every port of discharge ;
- (c) the name of every port of lading and an account of all goods taken on board at that port with a description of the packages and the quantities and description of the goods contained therein or stowed loose and the names of the respective shippers and the consignees in so far as such particulars be ascertainable;
- (d) the name of every port of discharge and the respective days on which such goods or any of them are delivered out of such vessel.

(3) The entries relating to the loading and discharge of goods shall be made respectively at the ports of lading and discharge.

(4) Every such master shall on demand produce the cargo book for the inspection of the appropriate officer and such officer may make such note or remark therein as he considers necessary.

**152. Coastal goods not to be loaded or unloaded except at customs-port or coastal port.-** No coastal goods shall be loaded on, or unloaded from, any vessel at any port other than a customs-port or a coastal port declared under section 9.

**153. Coasting vessel to obtain written orders before departure.-** (1) No coasting vessel which has brought or loaded any coastal goods at a customs-port or coastal port shall depart from such port until a written order to that effect has been given by the appropriate officer.

(2) No such order shall be given until -

- (a) the master of the vessel has answered the questions, if any, put to him;
- (b) all charges and penalties, if any, payable in respect of that vessel or by its master have been paid or the payment secured by such guarantee as the appropriate officer may direct.

**154. Application of certain provisions of this Act to coastal goods.-**

(1) Sections 64, 65 and 66 shall, so far as may be, apply to coastal goods as they apply to imported goods or goods for export.

(2) Section 48 and 60 shall, so far as may be, apply to vessels carrying coastal goods as they apply to vessels carrying imported goods or goods for export.

(3) The <sup>1</sup>[Government] may, by notification in the official Gazette, direct that all or any of the other provisions of Chapter VII and the provisions of section 78 shall apply to coastal goods or vessels carrying coastal goods with such exceptions and modifications, if any, as may be specified in the notification.

**155. Prohibition of the coastal trade of certain goods.-** No goods shall be carried coastwise or shipped as stores in a coasting vessel contrary to any prohibition or restriction imposed by or under any law, nor shall such goods or stores be brought to any place in <sup>1</sup>[Bangladesh] for the purpose of being so carried or shipped.

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**CHAPTER XVII**

**OFFENCES AND PENALTIES**

**156. Punishment for offences.-** (1) Whoever commits any offence described in column 1 of the Table below shall, in addition to and not in derogation of any punishment to which he may be liable under any other law, be liable to the punishment mentioned against that offence in column 2 thereof :-

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<sup>1</sup> Subs. by Act XXII of 1980, s. 11 (1) (b), for "Central Government" w.e.f. 1st July 1980.

<sup>1</sup> Subs. by *ibid.* s. 11 (1) (a), for "Pakistan".

TABLE

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
1.	If any person contravenes any provision of this Act or any rule made thereunder, or abets any such contravention or fails to comply with any provision of this Act or any such rule with which it was his duty to comply, where no express penalty has been provided elsewhere for such contravention or failure.	such person shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka].	General
2.	(i) If any goods imported by sea or air be un-loaded or attempted to be unloaded at any place other than a customs-port or customs airport declared under section 9 for unloading of such goods; or  (ii) if any goods be imported by land or inland water through any route other than a route declared under clause (c) of section 9 for the import of such good; or  (iii) if any goods be attempted to be exported by sea or air from any place other than a customs-port or customs-airport appointed for the loading of such good; or  (iv) if any goods be attempted to be exported by land or inland water through any route other than a route declared under clause (c) of section 9 for the export of such goods; or	<sup>2</sup> [such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding ten times the value of the goods; and upon conviction by a Magistrate he shall further be liable to imprisonment for a term not exceeding six years and to fine not exceeding ten times the value of such goods.]	9 &10

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7 (2) (b) for "five thousand taka" (w.e.f. 1st July, 1986).

<sup>2</sup> Subs. by Act 18 of 1993, s. 5 (5).

	Offences	Penalties	Section of this Act to which offences has reference
			(1) (2) (3)
	(v) if any imported goods be brought into any bay, gulf, creek or river for the purpose of being landed at a place other than a customs-port; or (vi) if any goods be brought near the land frontier of the coast of <sup>1</sup> [Bangladesh] or near any bay, gulf, creek or river for the purpose of being exported from a place other than a customs-station or where any place has been approved under clause (b) of section 10 for the loading of such goods, from any place other than the place so approved,		
3.	(i) if any person exports or lands goods, or aids in the export or landing of goods, or knowingly keeps or conceals or knowingly permits or procures to be kept or concealed, any goods exported or landed, or intended to be exported or landed, contrary to the provisions of this Act; or (ii) if any person be found to have been on board any conveyance liable to confiscation on account of the commission of the offence under clause 4 of this Table, while such conveyance is within any place which is not a customs-station for the export and landing of goods,	such person shall be liable to a General penalty not exceeding <sup>2</sup> [fifty thousand taka].	9 & 10
4.	If any conveyance which has been within the limits of any customs-station in <sup>1</sup> [Bangladesh] with goods	the duty in respect of goods so lost or deficient shall be payable by the person-in-charge of the	9 & 10

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan".

<sup>2</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>1</sup> Subs. by Act XXIII of 1980 s. 11 (1) (a), for "Pakistan".

Offences	Penalties	Section of this Act to which offences has reference
(1)	(2)	(3)
on board, be afterwards found anywhere in <sup>1</sup> [Bangladesh] with the whole or any portion of such goods missing, unless the person-in-charge of the conveyance be able to account for the loss of, or deficiency in, the goods,	conveyance; and such conveyance shall also be liable to confiscation.	
5. (i) If any goods are unloaded from any conveyance inward bound, without the authority of the appropriate officer into any other conveyance at any place other than a place declared under section 9 for the unloading of goods; or if any goods are loaded into any conveyance outward bound from any other conveyance, without such authority, from or at any place other than a place declared under section 9 for the loading of goods; or (ii) if any goods on which drawback has been granted are put, without such authority, on board any conveyance for the purpose of being relanded,	the person-in-charge of every such conveyance used for irregular import or export of goods shall be liable to a penalty not exceeding <sup>2</sup> [fifty thousand taka]; and the goods and the conveyance shall be also be liable to confiscation	9 & 10
6. If any vessel arriving at, or departing from, any customs-port fails, when so required under section 14 to bring to at any such station as has been appointed by the <sup>3</sup> [Commissioner of Customs] for the boar-ding or landing of an officer of customs,	the master of such vessel shall be liable to a penalty not exceeding <sup>4</sup> [twenty thousand taka]	14
7. (i) If any vessel arriving at any customs-port, after having come to its proper place of mooring or unloading, removes from such place, except with	the master of such vessel shall be liable to a penalty not exceeding <sup>1</sup> [twenty thousand taka], and the vessel, if not entered, shall not be allowed to enter until the penalty	14

<sup>2</sup> Subs. by Ord. No. XLV of 1986, s. 7(2) (b), for "five thousand taka".

<sup>3</sup> Subs. by Act 12 of 1995, s. 5 (3), for "Collector of Customs".

<sup>4</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "two thousand taka" ( w.e.f. 1st July, 1986).

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "two thousand taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	the authority of the Conservator, obtained in accordance with the provisions of the Ports Act, 1908 (XV of 1908) or other lawful authority, to some other place of mooring or unloading; or	is paid.	
	(ii) if any vessel not brought into port by a pilot be not anchored or moored in accordance with any direction of the <sup>2</sup> [Commissioner of Customs] under section 14,		
8.	If any goods be smuggled into or out of <sup>3</sup> [Bangladesh],	such goods shall be liable to confiscation and any person concerned in the offence shall be liable to a penalty not exceeding ten times the value of the goods; and upon conviction by a Magistrate he shall further be liable to imprisonment for a term not exceeding six years and to fine not exceeding ten times the value of such goods, <sup>4*</sup> *.	General
9	(i) If any goods, not being goods referred to in clause 8, are imported into or exported from <sup>3</sup> [Bangladesh] evading payment of leviable customs-duties or in violation of any prohibition or restriction on the importation or exportation of such goods imposed by or under this Act or any other law; or  (ii) if any attempt be made so to import or export any such goods; or  (iii) if any goods be found in any	such goods shall be liable to confiscation; and any person concerned in the offence shall also be liable to a penalty not exceeding two times the value of the goods.	15&16

<sup>2</sup> Subs. by Act 12 of 1995, s. 5(3), for "Collector of Customs".

<sup>3</sup> Subs. by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan".

<sup>4</sup> The words and commas "and, if the Magistrate in his discretion so orders, also to whipping" were omitted by Act 21 of 1992, s. 6(19)(a) (w.e.f. 1st July, 1992).

Offences	Penalties	Section of this Act to which offences has reference
(1)	(2)	(3)
package produced before any officer of customs as containing no such goods; or		
(iv) if any such goods be found either before or after landing or shipment to have been concealed in any manner on board any conveyance within the limits of any seaport, airport, railway station or other place where railway station or other place where conveyances are ordinarily loaded or unloaded; or		
(v) if any such goods, the exportation of which is prohibited or restricted as aforesaid be brought within a customs-area or to a wharf, with the intention of loading them on a conveyance for exportation in violation of such prohibition or restriction.		
10. If, upon an application to pass any goods through the customs-house, any person not being the owner of such goods, and not having proper and sufficient authority from the owner, subscribes or attests any document relating to any goods on behalf of such owner,	such person shall be liable to a General penalty not exceeding <sup>1</sup> [fifty thousand taka].	
<sup>1</sup> [10A] If any person contravenes the conditions, limitations or restrictions, if any, imposed under section 19 or section 20 in respect of any goods which have been exempted from the payment of the customs-duties, under that section,	such person shall be liable to a penalty not exceeding [two times] the duty chargeable on such goods; and such goods shall also be liable to confiscation and	19&20]
11. If any goods which have been	any person who sells, transfers or	21

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>1</sup> Ins. by Ord. No. XLV of 1976, s. 10.

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	allowed temporary admission under section 21 without payment of duty subject to the condition of subsequent export be not exported, or any goods duty on which has not been paid or having been paid has been refunded be sold or transferred or otherwise disposed of in contravention of the rules or a special order made under that section,	otherwise disposes of such goods, or aids or abets the sale, transfer or disposal of such goods, and any person in whose possession such goods are found shall be liable to a penalty not exceeding five times the duty chargeable on such goods; and such goods shall also be liable to confiscation.	
<sup>33</sup> [11A]	If any person wilfully or negligently imports such goods without pre-shipment inspection which is not exempted from mandatory pre-shipment inspection	Such person shall be liable to pay Pre-shipment Inspection service charge at the rate as determined by the Government by the Notification published in the official Gazette and a penalty not exceeding the value of the goods, but not less than ten percent of the value of the goods.	25B]
12.	If any person who without any reasonable excuse fails to comply with any requisition made under section 26 or to furnish any information as required by or under the rules to be furnished,	such person shall be liable to a penalty such person shall be liable to a penalty not exceeding <sup>1</sup> [twenty thousand taka].	26
13.	If any person wilfully contravenes any rule relatable to section 28 with respect to any spirits,	such person shall be liable to a penalty not exceeding <sup>1</sup> [twenty thousand taka]; and all such spirit shall be liable to confiscation.	28
14.	If any person commits an offence under section 32,	<sup>2</sup> [such person shall be liable to a penalty not exceeding three times the value of the goods in respect of which such offence is committed and such goods shall also be liable to confiscation; and upon conviction by a Magistrate such person shall further be liable to rigorous imprisonment	32

<sup>33</sup> 11A item amended by Ordinance No. 10 of 2007, w.e. f 1<sup>st</sup> July 2007.

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "two thousand taka".

<sup>2</sup> Subs. by Act 15 of 2000 , s. 35.

Offences	Penalties	Section of this Act to which offences has reference
(1)	(2)	(3)
	for a term not exceeding five years or to a fine not exceeding taka fifty thousand or to both.]	
15. If any goods in respect of which drawback has been paid or any warehoused goods cleared for exportation are not duly exported or after being exported are unloaded or relanded at any other place in <sup>3</sup> [Bangladesh] otherwise than in accordance with the provisions of this Act and the rules,	any person who fails to export such or who unloads or relands the goods or any person who aids or abets the evasion of export or such unloading or relanding shall be liable  to a penalty not exceeding three times the value of such goods [.....]and the goods which are not so exported or which are so unloaded or relanded together with the conveyance from which they are unloaded or relanded shall also be liable to confiscation.	35 & 105
16. If any provisions or stores on which drawback has been paid or on which duty has not been paid for reason of their being provisions or stores meant to be exported for use on board are not loaded on board or after being loaded are subsequently unloaded without the permission or the appropriate officer,	Such provisions or stores shall be liable to confiscation.	24&35
17. If any person fraudulently claims drawback on any goods on which drawback is disallowed under section 39 or includes any such goods in his claim for drawback,	such goods shall be liable to confiscation.	39
18. If, in any river or port wherein a place has been fixed under section 43 by the Board, any vessel arriving passes beyond such place, before delivery of a manifest to the pilot, officer of customs, or other person	the master of such vessel shall be liable to a penalty not exceeding [fifty thousand taka].	43

<sup>3</sup> Subs. by Act XXIII of 1980, s. 11, for "Pakistan".

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

Offences	Penalties	Section of this Act to which offences has reference
(1)	(2)	(3)
duly authorised to receive the same,		
19. If the master of any vessel arriving, which remains outside or below any place fixed, under section 43, wilfully omits, for twenty four hours after anchoring, to deliver a manifest as required by this Act,	such master shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka].	43
20. If, after any vessel has entered any customs-port in which a place has not been fixed under section 43, the master of such vessel wilfully omits, for twenty four hours, after anchoring, to deliver a manifest as required by this Act,	such master shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka].	43
21. If, after any conveyance other than a vessel has entered any land customs-station or customs-airport, the person-in-charge of such conveyance wilfully omits, for twenty four hours after arrival, to deliver a manifest as required by this Act,	such person shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka].	44
22. If any person required by this Act to receive an import manifest from the person-in-charge of a conveyance refuses to do so, or fails to countersign the same or to enter thereon the particulars referred to in section 46,	such person shall be liable to a penalty not exceeding <sup>2</sup> [twenty thousand taka].	43&46
23. (i) If, any import or export manifest delivered under any provision of this Act is not signed by the person delivering the same or is not in the form prescribed under this Act or does not contain the particulars of the conveyance, goods and journey required to be stated in such manifest by or under	the person delivering such manifest shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka].	45&53

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>2</sup> Subs. *ibid.*, for "two thousand taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	this Act; or		
24.	(ii) if any manifest so delivered does not contain a specification true to the best of such person's knowledge of all goods imported or to be exported in such conveyance,		
24.	(i) If any goods entered in the import manifest of a conveyance are not found in that conveyance; or	the person-in-charge of such conveyance shall be liable to a penalty not exceeding twice the amount of duty chargeable on the goods not found on the conveyance or, if such goods are not dutiable or the duty thereon cannot be ascertained, to a penalty not exceeding <sup>1</sup> [twenty five thousand taka] for every missing or deficient package or separate article, and in the case of bulk goods to a penalty not exceeding the value of the goods, or <sup>2</sup> [fifty thousand taka], whichever be higher.	45,53&55
	(ii) if the quantity found in the conveyance is short, and the shortage is not accounted for to the satisfaction of the officer-in-charge of the custom-house,		
25.	If any bulk is broken on a vessel in contravention of section 47 or without a special pass granted under section 49,	the master of such vessel shall be liable to a penalty not exceeding <sup>2</sup> [fifty thousand taka].	47 & 49
26.	(i) any bill of lading or copy required under section 8, is false and the person-in-charge of the conveyance is unable to satisfy the appropriate officer that he was not aware of the fact; or if any such bill or copy	the person-in-charge of such conveyance shall be liable to a penalty not exceeding <sup>2</sup> [fifty thousand taka].	48

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "two thousand five hundred taka".

<sup>2</sup> Subs. *ibid.*, for "five thousand taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	has been altered with fraudulent intent; or		
(ii)	if the goods mentioned in any such bill or copy have not been <i>bona fide</i> shipped or loaded as shown therein; or if any such bill of lading or any bill of lading of which a copy is delivered has not been made previously to the departure of the conveyance from the place where the goods referred to in such bill of lading were shipped or loaded; or		
(iii)	if any part of the cargo or goods has been stayed, destroyed or thrown overboard, or if any package has been opened and any part of the cargo or goods be not accounted for to the satisfaction of the appropriate officer,		
27.	If the person-in-charge of a conveyance attempts to depart from the customs-station without a port-clearance or written permission of the appropriate officer, granted under section 51 or section 52, as the case may be,	such person shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka]	51&52
28.	If any conveyance actually departs from a customs-station without obtaining the port-clearance or the written permission of the appropriate officer, as the case may be,	the person-in-charge of such conveyance shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka].	51 & 52
29.	If any pilot takes charge of any vessel proceeding out of <sup>2</sup> [Bangladesh] notwithstanding that the master of the vessel does not produce a port clearance,	such pilot shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka].	51

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>2</sup> Subs. by Act XXIII of 1980, s. 5(3), for "Pakistan".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
30.	If the person-in-charge of a conveyance refuses to receive on board any officer of customs deputed under section 60,	such person shall be liable to a penalty not exceeding <sup>3</sup> [twenty thousand taka] for each day during which such officer is not received on board the conveyance, and the conveyance if not entered shall not be allowed to enter until such penalty is paid.	61
31.	If the master of a vessel or the person-in-charge of a conveyance other than a vessel or an aircraft refuses to provide such officer with suitable accommodation and adequate quantity of fresh water,	such master or person shall, in each such case, be liable to a penalty not exceeding <sup>1</sup> [twenty thousand taka].	61
32.	(i) If the person-in-charge of any conveyance refuses to allow such conveyance or any box, place or close receptacle therein to be searched when so required by an officer of customs bearing a written order to search; or (ii) if an officer of customs places any lock, mark or seal upon any goods in any conveyance, and such lock, mark or seal is wilfully opened, altered or broken, before due delivery of such goods; or (iii) if any such goods are secretly conveyed away; or (iv) if any hatchway or entrance to the hold of a conveyance after having been fastened down by an officer of customs is opened without his permission,	such person shall be liable to a penalty not exceeding <sup>2</sup> [fifty thousand taka].	62
33.	If the person-in-charge of a such person shall be liable to a		64

<sup>3</sup> Subs. by Ord. No. XLV of 1986, s.7(2), for "two thousand taka".

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2), for "two thousand taka".

<sup>2</sup> Subs. *ibid.*, for "five thousand taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	conveyance laid up by the withdrawal of the officer of customs shall, before application is made by him for an officer of customs to superintendent the receipt of goods, causes or suffers to be put on board such conveyance any goods whatever in contravention of section 64,	penalty not exceeding <sup>2</sup> [fifty thousand taka] and the goods if protected by a pass or written order shall be liable to be relanded for examination at the expense of the person-in-charge and, if not protected by a pass or written order, shall be liable to confiscation.	
34.	If the person-in-charge of a conveyance, in any case other than that provided for in clause 33 of this Table, causes or suffers any goods to be discharged, put on board the conveyance or water-borne contrary to the provisions of section 64 or section 65 or any rules relating to baggage,	such person shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka] and all goods so discharged, put on board the conveyance or water-borne shall be liable to confiscation.	64, 65 & 141
35.	(i) If, when a boat-note is required section 68, any goods water-borne for the purpose of being landed from any vessel and warehoused or passed for importation, or of being shipped for exportation, be found without such note; or  (ii) if any goods, are found on board any boat in excess of such boat-note, whether such goods are intended to be landed, from, or to be shipped on board any vessel,	the person by whose authority the goods are being landed or shipped, and the person-in-charge of the boat, shall each be liable to a penalty not exceeding twice the amount of duty leaviable on the goods, or, if such goods be non-dutiable to a penalty not exceeding <sup>2</sup> [five thousand taka]; and such goods shall also be liable to confiscation.	68
36.	If any person refuses to receive, or fails to sign, or to note the prescribed	such person, master or officer shall be liable to a penalty not	68

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>2</sup> Subs. *ibid.*, for "five hundred taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	particulars upon, any boat-note, as required by section 68, or if any master or officer of a vessel receiving the same fails to deliver it when required so to do by any officer of customs authorised to make such requisition,	exceeding <sup>1</sup> [twenty thousand taka].	
37.	(i) If any goods are, without permission, shipped or loaded on board a conveyance proceeding out of <sup>2</sup> [Bangladesh] or are water-borne to be so shipped or loaded or are landed except from or at a wharf or other place duly appointed for the purpose; or (ii) if any goods water-borne for the purpose of being landed or shipped or loaded are not landed, shipped or loaded without unnecessary delay; or (iii) if the boat containing such goods be found out of the proper track between the vessel and the wharf or other proper place of landing or shipping or loading and such deviation be not accounted for to the satisfaction of the appropriate officer; or (iv) if any goods are transhipped contrary to the provisions of section 70,	the person by whose authority the goods are shipped, loaded, landed, water-borne or transhipped and the person-in-charge of the conveyance employed in conveying them, shall each be liable to a penalty not exceeding five times the value of the goods; and such goods shall also be liable to confiscation.	66,69&70
38.	If, after the issue of a notification under section 71 with regard to any port, any goods are found within the limits of such port on board any boat not duly licensed and registered,	the owner or the person-in-charge of the boat shall be liable to a penalty not exceeding <sup>1</sup> [five thousand taka]; and such goods shall also be liable to confiscation unless they are covered by a special permit of the	71

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s. 7 (2) (b), for "two thousand taka".

<sup>2</sup> Subs. by Act XXIII of 1980, s. 11, for "Pakistan".

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five hundred taka".

	Offences	Penalties	Section of this Act to which offences has reference
			(1) (2) (3)
		<sup>2</sup> [Commissioner of Customs].	
39.	If any boat or vessel not exceeding one hundred tons does not comply with the rules relatable to section 72,	such boat or such vessel shall be liable to confiscation.	72
40.	If any person-in-charge of any conveyance unloads or suffers to be unloaded any goods not duly entered in the manifest of such conveyance,	such person shall be liable to a penalty not exceeding <sup>3</sup> [fifty thousand taka].	45 & 75
41.	If any goods are found concealed in any place, box or close receptacle in any conveyance and are not duly accounted for to the satisfaction of the office-in-charge of the customs-house,	such goods shall be liable to confiscation.	General
42.	If any goods are found on board any conveyance in excess of those entered in the manifest, or not corresponding with the specification therein contained,	such goods shall be liable to confiscation.	45 & 75
43.	If after any goods have been landed and before they have been passed through the custom-house, the owner removes or attempts to remove them, with the intention of defrauding the revenue,	if the goods cannot be recovered, the owner shall be liable, in addition to full duty, to a penalty not exceeding five times the amount of such duty, or, if such goods are not dutiable or duty thereon cannot be ascertained, to a penalty not exceeding <sup>1</sup> [fifty thousand taka for every missing or deficient package or separate article, and in the case of bulk goods to a penalty not exceeding <sup>1</sup> [fifty thousand taka], or the value of the goods, whichever be higher.	75 & 80
<sup>2</sup> [43A]	If any person or agent receiving goods or any portion into his	<sup>3</sup> * * * the person or the agent concerned shall be liable, in	78

<sup>2</sup> Subs. by Act 12 of 1995, s. 5 (3), for "Collector of Customs".

<sup>3</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>2</sup> Ins. by Ord. No. XLV of 1986, s.7(2) (a).

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
44.	custody, removes or attempts to remove them from the port area with the intention of defrauding the revenue,	addition to full duty, to a penalty not exceeding ten times the amount of such duty, or, if such goods are not dutiable or duty thereon cannot be ascertained, to a penalty not exceeding fifty thousand taka for every missing or deficient package or separate article, and in the case of bulk goods, to a penalty not exceeding fifty thousand taka, or ten times the value of the goods, whichever is higher; and upon conviction by a Magistrate he shall further be liable to imprisonment for a term not exceeding <sup>4</sup> [ten years].]	79 & 131
45.	If, in relation to any goods in respect of which a declaration is required on a bill of entry or a bill of export, as the case may be, it be found that the goods have apparently been packed so as to deceive the officer of customs,	the owner of the goods and every person who aids or abets such packing shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka]; and such goods shall also be liable to confiscation.	79 & 131
46.	If any goods have been declared on a bill of entry or bill of export, as the case may be, and it is found that goods not so declared have been concealed in, or mixed with, the goods so declared,	the owner of such goods and every person who aids or abets such concealment or mixing of goods shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka]; and both the goods so declared and the goods not so declared shall be liable to confiscation.	79 & 88

<sup>3</sup> The words and comma "if such goods can not be recovered," were omitted by Act 21 of 1992, s. 6(19) (c).

<sup>4</sup> Subs. *ibid.*, for "six years".

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

	Offences (1)	Penalties (2)	Section of this Act to which offences has reference
			(3)
		satisfaction of the officer-in-charge of the custom-house that the variance was accidental.	
47.	If without entry duly made, any goods are taken or passed out of any customs station,	the person so taking or passing such goods, shall, in every such case, be liable to a penalty not exceeding five times the value of goods; and such goods shall also be liable to confiscation.	79
<sup>1</sup> [47A]	If any person-		
	(i) without lawful authority gains access to, or attempts to gain access to, any Customs computerized entry processing system; or	such person shall, be liable to a penalty not exceeding twice the amount of duty taxes involved or [five lakh taka]; whichever is higher and on conviction before a Magistrate, shall be further liable to imprisonment for a term not exceeding two years, or to a fine not exceeding [five lakh taka], or to both.	79B
	(ii) without lawful authority gains access to, or attempts to gain access to, any Customs computerized entry processing system, uses or discloses information obtained from such a computer system for a purpose that is not authorized; or	such person shall, be liable to a penalty not exceeding five lakh taka; and on conviction before a Magistrate, shall be further liable to imprisonment for a term not exceeding two years, or to a fine not exceeding five lakh taka, or to both.	79B
	(iii) having lawful access to any Customs computerized entry processing system, uses or discloses information obtained from such a computer system for a purpose that is not authorized; or	such person shall, be liable to a penalty not exceeding two lakh taka; and on conviction before a Magistrate, shall be further liable to	79B
		imprisonment for a term not exceeding two years, or to a fine not exceeding two lakh taka, or	

<sup>1</sup> Ins. by Act 15 of 2000, s. 35 (w.e.f. the date of notification in the official Gazette).

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
		to both.	
	(iv) who is not authorized to do so, receives information obtained from any Customs computerized entry processing system, and uses, discloses, publishes or authorizes dissemination of such information.	such person shall, be liable to a penalty not exceeding two lakh taka; and on conviction before a Magistrate, shall be further liable to imprisonment for a term not exceeding two years, or to a fine not exceeding two lakh taka, or to both.	79B
47B. If any person-			
	(i) falsifies any record or information stored in any Customs computerized entry processing system, or	such person shall be liable to a penalty not exceeding five lakh taka; and on conviction before a magistrate, shall be further liable to imprisonment for a term not exceeding three years or to a fine not exceeding five lakh taka, or to both.	79B to 79G
	(ii) damages or impairs any Customs computerized entry processing system, or		
	(iii) damages or impairs any duplicate tape or disc or other medium on which any information obtained from Customs computerized entry processing system is held or stored otherwise than with the permission of the Board,		
47C. If any person-			
	(i) not being a registered user, uses a unique identifier to authenticate a transmission of information to the Customs computerized entry processing system; or	such person shall be liable to a penalty not exceeding five lakh taka; and on conviction before a magistrate, shall be further liable to imprisonment for a term not exceeding two years or to a fine not exceeding five lakh taka, or to both.	79B to 72G]
	(ii) being a registered user, uses the unique user identifier of any other registered user, to authenticate a transmission of information to the Customs computerized entry		

	Offences (1)	Penalties (2)	Section of this Act to which offences has reference
			(3)
	processing system,		
48.	If any prohibited or dutiable goods are found, either before or after landing, concealed in any passenger's baggage,	the passenger shall be liable to a penalty not exceeding five times the value of the goods; and such goods shall also be liable to confiscation.	General
49.	If any goods entered to be warehoused are carried into the warehouse, unless with the authority, or under the care, of the appropriate officer, and in such manner, by such persons, within such time, and by such roads or ways, as such officer directs,	any person so carrying them shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka] and such goods shall also be liable to confiscation.	87
50.	If any goods entered to be warehoused are not duly warehoused in pursuance of such entry, or are withheld, or removed from any proper place of examination before they have been examined and certified by the appropriate officer,	such goods shall be deemed not to have been duly warehoused, and shall be liable to confiscation.	88
51.	If any warehoused goods be not warehoused in accordance with the provisions of Chapter XI,	<sup>1</sup> [such goods shall be liable to confiscation and a penalty twice the value of the goods shall also be imposed; and upon conviction by a Magistrate such keeper shall further be liable to rigorous imprisonment for a term not less than three months but not exceeding two years.]	Chapter XI
<sup>2</sup> [51 A.	If any person misuses warehouse facilities for evading payment of customs duties and taxes leviable thereon.	A penalty twice the amount of duty and tax evaded shall be imposed on such person; and he shall also be liable to rigorous imprisonment for a term not exceeding five years by a Magistrate.	Chapter XI'
52.	If the licensee of any private warehouse licensed under this Act	such licensee shall be liable to a penalty not exceeding <sup>3</sup> <sup>4</sup> [one	91

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>1</sup> Subs. by Act 16 of 1999, s. 4 (6) (b), for column (2).

<sup>2</sup> Inserted by Act 14 of 2002, s. 21.

Offences	Penalties	Section of this Act to which offences has reference
(1)	(2)	(3)
53. does not open the same when required so to do by any officer entitled to have access thereto, or, upon demand made by any such officer, refuses access to any such officer,	lac] taka], and shall further be liable to have his licence forthwith cancelled.	
54. If the keeper of any public warehouse, or licensee of any private warehouse, neglects to show the goods ware-housed therein, so that easy access may be had to every package <sup>5</sup> [parcel thereof, or the records, accounts or documents, relating to such package or parcel, or refuses to answer questions put to him by an officer of customs.]	such keeper or licensee shall, for every such neglect, be liable to a penalty not exceeding <sup>6</sup> [ <sup>7</sup> [one lac] taka].	Chapter XI
55. If the owner of any warehoused goods, or any person in the employ of such owner, clandestinely opens any warehouse, or, except in the presence of the appropriate officer, gains access to his goods,	such owner of person shall in every such case, be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka].	93
(i) If any warehoused goods are opened in contravention of the provisions of section 92; or (ii) if any alteration be made in such goods or in package thereof, except as provided in section 94,	such goods shall be liable to 92 & 94 confiscation.	
56. If any warehoused goods that have been delivered as stores and provisions for use on board a conveyance under the authority of this Act are relanded, sold or disposed of in <sup>2</sup> [Bangladesh]	the person-in-charge of the conveyance shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka] and such goods shall also be liable to confiscation.	106

<sup>3</sup> Subs. by Ord. No. XLV of 1986, s.7 (2) (b), for "five thousand taka".

<sup>4</sup> Subs. by Act 30 of 2001, s. 41. for, "fifty thousand".

<sup>5</sup> Subs. by Act 30 of 2001, s. 41. for, "and parcel thereof".

<sup>6</sup> Subs. *ibid.*, for "two hundred and fifty taka".

<sup>7</sup> Subs. by Act 30 of 2001, s. 41. for, "two thousand five hundred".

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7 (2) (b), for "five thousand taka".

<sup>2</sup> Subs. by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan".

	Offences (1)	Penalties (2)	Section of this Act to which offences has reference
			(3)
57.	without due entry and payment of duty,	the licensee of such warehouse shall, unless the deficiency be accounted for to the satisfaction of the appropriate officer, be liable to a penalty equal to five times the duty chargeable on the goods so deficient.	116
58.	If any goods lodged in a private warehouse are found at the time of delivery therefrom to be deficient, and such deficiency is not due solely to natural loss, as allowed under section 110,	such keeper or licensee shall, for every such failure, be liable to pay the duties due on such goods, and also a penalty not exceeding <sup>3</sup> [two thousand five hundred taka] in respect of every package or parcel so missing or deficient.	116
59.	If the keeper of any public warehouse, or the licensee of any private warehouse, fails, on the requisition of any officer of customs, to produce any goods which have been deposited in such warehouse, and which have not been duly cleared and delivered therefrom, and is unable to account for such failure to the satisfaction of the appropriate officer,	any person guilty of such removal, concealment, abstraction or transference and every person aiding or abetting him shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka].	Chapter XI
60.	If any goods, after being duly warehoused, are fraudulently concealed in, or removed from the warehouse, or abstracted from any package or transferred from one package to another, or otherwise, for the purpose of illegal removal or concealment,	[such excess, unless accounted for to the satisfaction of the officer-in-charge, shall be charged with not exceeding three times the duty leivable thereon.]	Chapter XI
61.	If any goods be removed from the warehouse in which they were originally deposited, except in the presence, or with the sanction, of the appropriate officer, or under the proper authority for their	any person so removing them shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka], and such goods shall also be liable to confiscation.	Chapter XI

<sup>3</sup> Subs. *ibid.*, for "two hundred and fifty taka".

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

	Offences (1)	Penalties (2)	Section of this Act to which offences has reference
			(3)
	delivery,		
62.	If any person illegally takes any goods out of any warehouse without payment of duty, or aids, assists or is otherwise concerned therein,	<sup>2</sup> [such person shall be liable to a penalty not exceeding twice the value of the goods, and upon conviction by a magistrate shall further be liable to rigorous imprisonment for a term not less than three months but not exceeding two years.]	Chapter XI
63.	If any person contravenes any rule relating to transhipment or tranships goods not allowed to be transhipped,	such person shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka] and any goods in respect of which such offence has been committed shall also be liable to confiscation.	121
64.	If any person contravenes any rules or condition relatable to section 128 or section 129,	such person shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka]; and any goods in respect of which such offence has been committed shall also be liable to confiscation.	128 & 129
65.	If any goods be taken on board any conveyance at any customs-station in contravention of section 130,	the person-in-charge of such conveyance shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka].	130
66.	If any goods not specified in a duly passed bill of export or not permitted to be exported are taken on board any conveyance, contrary to the provisions of section 131,	the person-in-charge of such conveyance shall be liable to a penalty not exceeding <sup>2</sup> [two thousand five hundred taka] for every package of such goods.	131
<sup>3</sup> [66AA]	If an exporter refuses or fails to fulfil the conditions or, as the case may be, the terms of guarantee or undertaking or to submit the documents or documentary evidences required to be fulfilled	he shall be liable to a fine not exceeding one hundred thousand taka for every month or part thereof during which the default has continued and to pay to the appropriate officer an	131]

<sup>2</sup> Subs. by Act 16 of 1999, s. 4 (6) (c), for column (2).

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>2</sup> Subs. *ibid.*, for "two hundred and fifty taka".

<sup>3</sup> Ins. by Act 21 of 1992, s. 6(19).

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	or submitted under section 131,	amount equal to the amount of the sale proceeds of the goods exported if such proceeds are not remitted to Bangladesh within a period of six months from the date of the export of the goods, and the amount so paid shall be liable to confiscation.	
67.	If any goods specified in the manifest of any conveyance or in any bill of export are not duly put on board before the departure of such conveyance, or are relanded and notice of such short loading or relanding be not given as required by section 134,	the owner of such goods shall be liable to penalty not exceeding [five thousand taka], and such goods shall also be liable to confiscation.	134
68.	If any goods duly put on board any conveyance be landed, except under section 135, 136 or 137, at any place other than that for which they have been cleared,	the person-in-charge of such conveyance shall, unless the landing be accounted for to the satisfaction of the appropriate officer, be liable to a penalty not exceeding three times the value of the goods so	135, 136 & 137
69.	If any goods on account of which drawback has been paid be not found on board any conveyance referred to in section 136,	the person-in-charge of such conveyance shall, unless the fact be accounted for to the satisfaction of the appropriate officer, be liable to a penalty not exceeding the value of such goods.	136
70.	If the owner of any baggage fails to make a correct declaration of its contents or refuses to answer any questions put to him by the appropriate officer with respect to his baggage or any of its contents including articles carried with him or fails to produce the baggage or any such article for examination,	such owner shall be liable to a penalty not exceeding three times the value of the goods in respect of which no declaration or incorrect declaration has been made or in respect of which he refuses or fails to answer any question, or which he fails to produce for	139

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five hundred taka".

Offences	Penalties	Section of this Act to which offences has reference
(1)	(2)	(3)
	examination; and such goods shall also be liable to confiscation.	
71. If any consignor in relation to coastal goods fails to make an entry thereof in the prescribed bill as required under section 147, or while presenting such bill fails to make and subscribe to declaration as to the truth of the contents of such bill,	such consignor shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka].	147
72. If in the case of any coasting vessel the provisions of sections 148, 149, 150, 151, 152 and 153 are not complied with,	the master of the vessel shall in each case be liable to a penalty not exceeding <sup>2</sup> [twenty five thousand taka].	148 to 153
73. (i) If the master of any coasting vessel fails correctly to keep, or to cause to be kept the cargo book, or to produce the same on demand; or  (ii) if at any time there be found on board any such vessel any goods not entered in such book as laden, or any goods noted as delivered; or  (iii) if any goods entered as laden, and not noted as delivered, be not on board,	the master shall be liable to a penalty not exceeding <sup>3</sup> [twenty thousand taka].	151
74. If any person contravenes the provision of section 155 or aids in or abets such contravention,	such person shall, except where any fine has been expressly provided for the violation of the prohibition or restriction in the law that imposes it, be liable to a penalty not exceeding <sup>1</sup> [twenty thousand taka], and the goods in respect of	155

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>2</sup> Subs. *ibid.*, for "two thousand five hundred taka".

<sup>3</sup> Subs. *ibid.*, for "two thousand taka".

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "two thousand taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
75.	If any rule which prevents or regulates the taking of any coastal goods out of <sup>2</sup> [Bangladesh] is contravened,	which such contravention is committed shall also be liable to confiscation.	155
76.	(i) If, contrary to the provisions of this Act or any other law for the time being in force, any goods are laden on board any vessel in any customs-port or carried coast-wise; or (ii) if any goods which have been brought coast-wise are so unladen in any such port; or (iii) if any goods are found on board any coasting vessel without being entered in the manifest or cargo book, as the case may be, of such vessel,	the master of the vessel carrying such goods shall be liable to a penalty not exceeding <sup>3</sup> [fifty thousand taka], and where such contravention results in the loss of any customs-duty he shall further be liable to a penalty not exceeding three times such duty; and the goods in respect of which such contravention is committed shall also be liable to confiscation. the master of such vessel shall be liable to a penalty not exceeding <sup>1</sup> [twenty thousand taka]; and such goods shall also be liable to confiscation.	Chapter XVI
77.	(i) If any person makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document in the transaction of any business relating to the customs, knowing or having reason to believe that such declaration, statement or document is false in any material particular, or counterfeits, falsifies or	such person shall, on conviction of any such offence before a Magistrate, be liable to imprisonment for a term not exceeding <sup>1</sup> [five years], or to fine or to both.	General

<sup>2</sup> Subs. by Act XXIII of 1980, s. 11, for "Pakistan".

<sup>3</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>1</sup> Subs. by Act 21 of 1992, s. 6(19) (e), for "three years".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	<p>fraudulently alters or destroys any such document, or any seal, signature, initials or other mark made or impressed by any officer of customs in the transaction of any business relating to the customs; or</p> <p>(ii) being required under this Act to produce any document, refuses or neglects to produce such document; or</p> <p>(iii) being required under this Act to answer any question put to him by an officer of customs, does not correctly answer such question,</p>		
78.	If any person on board any conveyance in any customs-station or who has landed from any such conveyance, upon being asked by an officer of customs whether he has dutiable or prohibited goods about his per-son or in his possession, declares that he has not, and if any such goods are, after such denial found about his person or in has possession,	such person shall be liable to a penalty not exceeding three times the value of such goods; and such goods shall also be liable to confiscation	General
79.	<p>(i) If any officer of customs requires any person to be searched for dutiable or prohibited goods, or any documents connected with such goods, or to be detained, without having reasonable ground to believe that he has such goods or documents about his person; or</p> <p>(ii) arrests any person without having rea-sonable ground to believe that he has been guilty of an offence relating to customs,</p>	such officer shall, on conviction before a Magistrate, be liable to a fine not exceeding <sup>1</sup> [fifty thousand taka].	158

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
80.	If, save for good and sufficient cause, any conveyance having been summoned under section 164 to stop fails to do so,	the person-in-charge of such conveyance shall be liable to a penalty not exceeding <sup>1</sup> [fifty thousand taka]; and such conveyance shall also be liable to confiscation.	164
81.	If any officer of customs, or other person duly employed for the prevention of smuggling, is guilty of a wilful breach of the provisions of this Act,	such officer or person shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding three years, or to fine, or to both.	General
82.	If any officer of customs, or other person duly employed for the prevention of smuggling, practises, or attempts to practise, any fraud for the purpose of injuring the customs-revenue, or abets or connives at any such fraud, or any attempt to practise any such fraud,	such officer or person shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding three years, or to fine, or to both.	General
83.	If any police-officer, whose duty it is, under section 170, to send a written notice or cause goods to be conveyed to a custom house, neglects so to do,	such officer shall, on conviction before a Magistrate, be liable to a penalty not exceeding <sup>1</sup> [five thousand taka].	170
84.	If, in relation to any goods imported or intended to be exported by land, an order permitting clearance under section 83 or section 131 is not produced,	the person concerned shall be liable to a penalty not exceeding <sup>2</sup> [fifty thousand taka], and such goods shall also be liable to confiscation.	83 & 131
85.	If any person knowingly-	such person shall, on conviction before a Magistrate, be liable to a fine of <sup>2</sup> [fifty thousand taka], and to imprisonment for a term not exceeding two years.	General
	(a) obstructs, hinders, molests or assaults any person duly engaged in the discharge of any duty or the exercise of any power imposed or conferred on him by or under any of the provisions of this Act or any person acting in his aid; or		

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five hundred taka".

<sup>2</sup> Subs. *ibid.*, for "five thousand taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	(b) does anything which impedes, or is calculated to impede, the carrying out of any search for anything liable to confiscation under this Act, or the detention, seizure or removal of any such thing; or		
	(c) rescues, damages or destroys anything so liable to confiscation or does anything calculated to prevent the procuring or giving of evidence as to whether or not anything is so liable to confiscation; or		
	(d) prevents the detention of any person by a person duly engaged or acting as aforesaid, or rescues any person so detained; or		
	(e) attempts to do any of the aforementioned acts or things, or who aids or abets, or attempts to aid or abet, the doing of any of them,		
86.	If any person, having knowledge of the commission of any offence under this Act or of an attempt or likely attempt to commit any such offence, fails to give information in writing to the officer-in-charge of the nearest custom-house or customs-station, or if there be no customs-house or custom-station at a reasonably convenient distance to the officer-in-charge of the nearest police station,	such person shall, on conviction before a Magistrate, be liable to imprisonment for a term which may extend to one year, or to a fine not exceeding <sup>1</sup> [fifty thousand taka] or to both.	192
87.	(i) If any officer of customs, except in the discharge in good faith of his duty as such officer, discloses any particulars learnt by him in	such officer shall, on conviction before a Magistrate, be liable to a fine not exceeding <sup>1</sup> [fifty thousand taka].	199

<sup>1</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	his official capacity in respect of any goods; or		
	(ii) if any officer of customs, except as permitted by this Act, parts with the possession of any samples delivered to him in his official capacity,		
88.	If any person not holding a licence granted under section 207 acts as an agent for the transaction of business as therein mention,	such person shall be liable to a penalty not exceeding <sup>2</sup> [twenty thousand taka].	207
89.	If any person without lawful excuse, the proof of which shall be on such person, acquires possession of, or is in any way concerned in carrying, removing, depositing, harbouring, keeping or concealing, or in any manner dealing with smuggled goods or any goods with respect to which there may be reasonable suspicion that they are smuggled goods;	if the value of such goods does not exceed <sup>1</sup> [fifty thousand taka], such goods shall be liable to confiscation and any	General
	Provided that if the smuggled goods be gold bullion or silver bullion the onus of proving the plea that such bullion was obtained by processing or other means employed in <sup>1</sup> [Bangladesh] and not smuggling shall be upon the person taking that plea,	person concerned in the offence shall be liable to a penalty not exceeding ten times the value of the goods; and if the value of such goods exceeds <sup>2</sup> [fifty thousand taka] he shall further be liable, upon conviction by a Magistrate, to imprisonment for a term not exceeding <sup>3</sup> [ten years] and to fine not exceeding ten times the value of such goods <sup>4*</sup> * * *.	
90.	If any person, without lawful excuse, the proof of which shall be on such person, acquires	such goods shall be liable to General confiscation and any person concerned shall also be liable to	General

<sup>2</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "two thousand taka".

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan".

<sup>2</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

<sup>3</sup> Subs. by Act 21 of 1992, s. 6(19) (f), for "six years".

<sup>4</sup> The words "and if the Magistrate in his discretion so orders also to whipping" were omitted *ibid.*

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	<p>possession of, or is in any way concerned in carrying, removing, depositing, harbouring, keeping or concealing, or in any manner dealing with any goods, not being goods referred to in clause 89, which have been unlawfully removed from a warehouse, or which are chargeable with a duty which has not been paid, or with respect to the importation or exportation of which there is a reasonable suspicion that any prohibition or restriction for the time being in force under or by virtue of this Act has been contravened, or if any person is in relation to any such goods in any way, without lawful excuse, the proof of which shall be on such person, 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 Act applicable to those goods,</p>	a penalty not exceeding [five times] the value of the goods.	
91.	If any person, without lawful excuse, the proof of which shall be on such person, brings into <sup>1</sup> [Bangladesh], or is in any way concerned with the bringing into <sup>1</sup> [Bangladesh], or who has in his possession, any bill-heading, or other paper appearing to be a heading or blank, capable of being filled up and used as an invoice, purporting to be made out by or on behalf of a person or firm other than the one from whose possession the bill-heading or other paper has been recovered, or who has brought in into <sup>1</sup> [Bangladesh], or on whose behalf it has been brought into	such person shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding one year, or to a fine not exceeding <sup>2</sup> [fifty thousand taka] or to both.	General

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan".

<sup>2</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "five thousand taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	<sup>1</sup> [Bangladesh],		
92.	<p>Any person who bears himself in disguise or, being armed with an offensive weapon, intimidates any person duly engaged in the discharge of any duty or the exercise of any power imposed or conferred on him by or under any of the provisions of this Act or any person acting in his aid or uses such weapon against any person-</p> <ul style="list-style-type: none"> <li>(a) while he is concerned in the movement, carriage or concealment of any goods with the intent of violating any prohibition or restriction on the importation or exportation thereof imposed by this or any other Act or with the intent of passing such goods without paying the duty chargeable thereon or without giving security for its payment; or</li> <li>(b) while in possession of any goods liable to confiscation under this Act,</li> </ul>	<p>such person shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding <sup>3</sup>[five years] <sup>4*</sup> * * *.</p>	General
93.	If any person, by any means, makes any signal or transmits any message from any part of <sup>1</sup> [Bangladesh] or from any ship or aircraft for the information of a person in any ship or aircraft, or across the frontier, being a signal or message connected with the smuggling or intended smuggling of goods into or out of <sup>1</sup> [Bangladesh] whether or not the person for whom the signal or	such person shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding <sup>2</sup> [five years], or to a fine not exceeding <sup>3</sup> [fifty thousand taka], or to both; and any equipment or apparatus used for sending the signal or message shall also be liable to confiscation.	General

<sup>3</sup> Subs. by Act 21 of 1992, s. 6(19), for "three years".

<sup>4</sup> The words and commas "and, if the Magistrate, in his discretion so orders, to whipping" were omitted *ibid*.

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11, for "Pakistan".

<sup>2</sup> Subs. by Act 21 of 1992, s. 6(19), for "three years".

<sup>3</sup> Subs. by Ord. No. XLV of 1986, s.7(2), for "five thousand taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	message intended is in a position to receive it or is actually engaged at the time in smuggling goods,  <i>Explanation.- If in any proceedings under this clause, any question arises as to whether any signal or message was such a signal or message as aforesaid, the burden of proof shall lie upon the defendant</i>		
94.	If within the limits of <sup>1</sup> [Bangladesh] any person deposits, places or carries, or causes to be deposited, placed or carried in, through or into any building within one mile of the frontier between <sup>1</sup> [Bangladesh] and any foreign country, or in, through or into any premises connected with any such building, any dutiable goods on which duty has not been paid, or any goods imported in contravention of any of the provisions of this Act or any other law,	such person shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding <sup>2</sup> [five years], or to a fine not exceeding <sup>4</sup> [fifty thousand taka] or to both.	General
95.	If, within one mile of the frontier between <sup>1</sup> [Bangladesh] and any foreign country, any building is generally used for storage of imported goods and any such goods are seized from such building and confiscated according to law,	such building shall be liable to General confiscation.	
96.	If any person, being an importer or exporter of goods, other than for <i>bona fide</i> private or personal purposes, fails to maintain accounts in such form as may be notified by the Board, or for the period specified in section 211,	such person shall be liable to a penalty not exceeding <sup>2</sup> [one hundred thousand taka].	211
97.	If any person contravenes any of the provisions of a notification under	such person shall, on conviction before a Magistrate, be liable to	212

<sup>4</sup> Subs. by Act 21 of 1992, s. 6(19), for "five thousand".

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11, for "Pakistan".

<sup>2</sup> Subs. by Ord. No. XLV of 1986, s.7(2) (b), for "ten thousand taka".

	Offences	Penalties	Section of this Act to which offences has reference
	(1)	(2)	(3)
	section 212 or of the rules regulating business connected with gold or silver or precious stones or ornaments made of gold or silver or precious stones within fifteen miles of the frontier of <sup>1</sup> [Bangladesh],	imprisonment for a term not exceeding three years, and to a fine not exceeding <sup>2</sup> [one hundred thousand taka].	
98.	If any person obstructs an officer acting in the exercise of the powers conferred by subsection (2) of section 189,	such person shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding two years, or to fine, or to both	189

Nothing in column 3 of the above Table shall be deemed to have the force of law.

*Explanation.- For the purposes of any penal provisions of this Act, the offence of contravening, in respect of any goods, any of the provisions of this Act or the rules or any other law for the time being in force, shall be deemed to have been committed when, in the case of import, any vessel containing such goods arrives within twelve nautical miles of the sea coast of <sup>1</sup>[Bangladesh], (each nautical mile measuring six thousand and eighty feet) or when, in the case of export, such goods have been loaded on any conveyance for transport to any destination outside <sup>1</sup>[Bangladesh] or when, in either case, the connected customs documents have been presented to the appropriate officer.*

(2) Where currency, gold, silver, precious stones, ornaments or other manufactures of gold, silver or precious stones, or any other goods which the <sup>2</sup>[Government] may, by notification in the official Gazette, specify are seized under this Act in the reasonable behalf that an act to defraud the Government of any duty payable thereon or to evade any prohibition or restriction for the time being in force by or under this Act has been committed in respect of such goods, or that there is intent to commit such act, the burden of proving that no such act has been committed or there was no such intent shall be on the person from whose possession the goods were seized.

<sup>3</sup>[(3) Where there is provision in sub-section (1) for conviction and sentence by a court for any offence, the Customs Authorities shall be competent to dispose of the goods as per the provisions of the Act, and the

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July, 1980.

<sup>2</sup> Subs. *ibid.* s. 11 (1) (b), for "Central Government".

<sup>3</sup> These sub-section (3) and (4) was added by Act 2000, s. 36, w.e.f

jurisdiction of the Court shall be limited only to the criminal proceedings instituted in relations to the goods.

<sup>34</sup>[(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) or in any other law for the time being in force, the customs authorities may sell or otherwise dispense of the seized goods during pendency of the court proceedings, if any, after keeping samples, where practicable with proper identification marks and if it is decided by the court that no offence or proper claimant is available, return the goods or the sale proceeds of the goods or the proceeds if they are not otherwise liable to be confiscated.]

<sup>4</sup>[\* \* \* \* \*].

**157. Extent of confiscation.-** (1) Confiscation of any goods under this Act includes any package in which they are found, and all other contents thereof.

(2) Every conveyance of whatever kind used in the removal of any goods liable to confiscation under this Act shall also be liable to confiscation;

<sup>5</sup>[Provided that, where a conveyance liable to confiscation has been seized by an officer of customs, <sup>6</sup>[<sup>7</sup>an officer not below the rank of Assistant Commissioner of Customs] may, in such circumstances as may be prescribed by rules, order its release, pending the adjudication of the case involving its confiscation, if the owner of the conveyance furnishes him,-

- (a) in the case of the conveyance being a bus, minibus or truck or any other motor vehicle, with a personal undertaking properly attested and duly stamped by the concerned associations of vehicle owners recognised by the Government and registered with any authority specified by the Government in this behalf;
- (b) in the case of any other conveyance, with such bank guarantee from a scheduled bank as may be acceptable to <sup>1</sup>[<sup>2</sup>an officer not below the rank of Assistant Commissioner of Customs], for the due production of the conveyance at any time and place it is

<sup>34</sup> This sub-section was substituted by Act 17 of 2003, s.11, w.e.f

<sup>4</sup> Sub-section (3) of section 156 was omitted by Ordinance No. XVI of 1969, s. 4. w.e.f. 1st July, 1969.

<sup>5</sup> Subs. by Act XXI of 1992, s. 6(20), w.e.f. 1st July 1992.

<sup>6</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s.5(3), w.e.f. 1st. July 1995.

<sup>7</sup> The words "the Commissioner of Customs" were subs. by Act 15 of 1997, s. , w.e.f. 1st. July 1997.

<sup>1</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s.5(3), w.e.f. 1st. July 1995.

<sup>2</sup> The words "the Commissioner of Customs" were subs. by Act 15 of 1997, s. , w.e.f. 1st. July 1997.

required by <sup>1</sup>[<sup>2</sup>[an officer not below the rank of Assistant Commissioner of Customs] to be produced; and upon such order the conveyance to which the order relates shall be released within seventy two hours of such undertaking or guarantee, as the case may be.]

(3) Confiscation of any vessel under this Act includes her tackle, apparel and furniture.

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## CHAPTER XVIII

### PREVENTION OF SMUGGLING-POWER OF SEARCH, SEIZURE AND ARREST- ADJUDICATION OF OFFENCES

**158. Power to search on reasonable ground.-** (1) The appropriate officer, if he has reason to believe that any person is carrying about himself goods liable to confiscation or any documents relating thereto, may search such person, if he has landed from or is on board or is about to board a vessel within the <sup>3</sup>[Bangladesh] customs-waters, or if he has alighted from or is about to get into or is in any other conveyance arriving in or proceeding from <sup>3</sup>[Bangladesh] or if he is entering or about to leave <sup>3</sup>[Bangladesh] or if he is within the limits of any customs-area.

(2) Without prejudice to the provisions of sub-section (1) the appropriate officer may search a person, if he has reason to believe that such person is carrying about himself smuggled Platinum, any radio active mineral, gold, silver, precious stones, manufactures of Platinum, any radio active mineral, gold, silver or precious stones, or currency, or any other goods or class of goods notified by the <sup>4</sup>[Government] in the official Gazette, or any documents relating to any one or more of the aforementioned goods.

**<sup>5</sup>[158A. Conferring certain Powers of Magistrate 1<sup>st</sup> Class on Customs officers.-** For the purposes of entry search, seizure and arrest under this Act, the Government may, by notification in the official Gazette, confer the powers of a Magistrate of the First Class described in the Schedule III of the Code of Criminal Procedure, 1898 (Act V of 1898) on an officer of customs not below the rank of Assistant Commissioner.]

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<sup>3</sup> Subs. by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July, 1980.

<sup>4</sup> Subs. *ibid.* s. 11 (1) (b), for "Central Government".

<sup>5</sup> Sub-section 158A inserted by Act 15 2000, s.37,w.e.f 1<sup>st</sup> July,2000.

**159. Persons to be searched may desire to be taken before gazetted officer of customs or Magistrate.-** (1) When any officer of customs is about to search any person under the provisions of section 158, the officer of customs shall inform such person about his right to be taken to a gazetted officer of customs or Magistrate, and if such person so desires take him without unnecessary delay to the nearest Gazetted officer of customs or Magistrate before searching him, and may detain him until he can be so taken.

(2) The gazetted officer of customs or the Magistrate before whom such person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person and record reasons for doing so, or else direct search to be made.

(3) Before making a search under section 158, the officer of customs shall call upon two or more persons to attend and witness the search and may issue an order in writing to them or any of them so to do, and the search shall be made in the presence of such persons and a list of all things seized in the course of such search shall be prepared by such officer or other person and signed by such witnesses.

(4) A female shall not be searched except by a female<sup>1</sup>[:

Provided that where practicable samples of such things with proper identification marks may be kept for the purpose of any legal proceeding or for any other purpose of this Act.]

**160. Power to screen or X-Ray bodies of suspected persons for detecting secreted goods.-** (1) Where the appropriate officer has reason to believe that any person liable to search under section 158 has any goods liable to confiscation secreted inside his body, he may detain such person and produce him without unnecessary delay before an officer of customs not below the rank of an<sup>2</sup>[Assistant Commissioner of Customs].

(2) The aforesaid officer, if he has reasonable grounds for believing that such person has any such goods secreted inside his body and that it is necessary to have the body of such person screened or X-Rayed, may make an order to that effect, or else discharge such person forthwith, except where he is held on any other grounds.

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<sup>1</sup> This "colon" subs. and proviso inserted by Act 15 2000, s.38, w.e.f 1<sup>st</sup> July, 2000.

<sup>2</sup> The words "Assistant Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st. July 1995.

(3) Where the aforesaid officer orders such person to be screened or X-Rayed, the appropriate officer shall, as soon as practicable, take him to a radiologist possessing such qualifications as may be recognised by the<sup>3</sup>[Government] for that purpose and such person shall allow the radiologist to screen or X-Ray his body.

(4) The radiologist shall screen or X-Ray the body of such person and forward his report thereon, together with any X-Ray pictures taken by him to the aforesaid officer without unnecessary delay.

(5) Where on the basis of a report from a radiologist or otherwise, the aforesaid officer is satisfied that any person has any goods liable to confiscation secreted inside his body , he may direct that suitable action for bringing such goods out of his body be taken on the advice and under the supervision of a registered medical practitioner and such person shall be bound to comply with such direction:

Provided that in the case of a female no such action shall be taken except on the advice and under the supervision of a female registered medical practitioner.

(6) Where any person is brought before an officer of customs not below the rank of an<sup>1</sup>[Assistant Commissioner of Customs] as aforesaid, he may direct that pending completion of all action under this section such person be detained.

(7) No person shall be subjected to screening or X-Ray if he confesses that goods liable to confiscation are secreted inside his body and of his own consent agrees to suitable steps being taken to bring out such goods.

**161. Power to arrest.-** (1) Any officer of customs authorised in this behalf who has reason to believe that any person has committed an offence under this Act may arrest such person.

(2) Any person duly empowered for the prevention of smuggling who has reason to believe that any person who has committed an offence of smuggling under this Act may arrest such person.

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<sup>3</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Central Government" w.e.f. 1st July, 1980.

<sup>1</sup> The words "Assistant Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

(3) Every person arrested under this Act shall be taken forthwith before the nearest officer of customs authorised by the <sup>2</sup>[Commissioner of Customs] to deal with such cases, or, if there is no such

officer of customs within a reasonable distance, to the officer-in-charge of the nearest police-station.

(4) The officer of customs or the officer-in-charge of a police-station before whom any person is taken under this section shall, if the offence be bailable, either admit him to bail to appear before the Magistrate having jurisdiction or have him taken in custody before such Magistrate.

(5) When any person is taken under sub-section (4) before an officer of customs as aforesaid, such officer shall proceed to inquire into the charge against such person.

(6) For the purpose of an inquiry under sub-section (5), the officer of customs may exercise the same powers and shall be subject to the same provisions, as an officer-in-charge of a police-station may exercise and is subject to under the Code of Criminal Procedure, 1898 (Act V of 1898), when investigating a cognizable offence:

Provided that, if the officer of customs is of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall if the offence be bailable, either admit him to bail to appear before a Magistrate having jurisdiction, or have him taken in custody before such Magistrate.

(7) If it appears to the officer of customs that there is no sufficient evidence or reasonable ground of suspicion against the accused person, he shall, release the accused person on his executing a bond, with or without sureties as the officer may direct, to appear, if and when so required, before the Magistrate having jurisdiction and shall make a full report of the case to his immediate superior.

**162. Power to issue search warrant.-** (1) Any Magistrate may, on application by a gazetted officer of customs stating the grounds of his belief that goods liable to confiscation or documents or things which in his opinion will be useful as evidence in any proceeding under this Act are secreted in any place

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<sup>2</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

within the local limits of the jurisdiction of such Magistrate, issue a warrant to search for such goods, documents or things.

(2) Such warrant shall be executed in the same way, and shall have the same effect, as a search-warrant issued under the Code of Criminal Procedure, 1898 (Act V of 1898).

**163. Power to search and arrest without warrant.-** (1) Whenever any officer or customs not below the rank of an <sup>1</sup>[Assistant Commissioner of Customs] or any other officer <sup>2</sup>[\* \* \* \*] employed for the prevention of smuggling has reasonable grounds for believing that any goods liable to confiscation or any documents or things which in his opinion will be useful for or relevant to any proceeding under this Act are concealed or kept in any place and that there is a danger that they may be removed before a search can be effected under section 162, he may, after preparing a statement in writing of the grounds of his belief and of the goods, documents or things for which search is to be made, search or cause of search to be made for such goods, documents or things in that place.

(2) Any officer or person who makes a search or causes a search to be made under sub-section (1) shall leave a signed copy of the aforementioned statement in or about the place searched and shall, at the time the search is made or as soon as is practicable thereafter, deliver furthermore a signed copy of such statement to the occupier of the place at his last known address.

(3) All searches made under this section shall be carried out *mutatis mutandis* in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898).

(4) Notwithstanding anything contained in the foregoing sub-sections and subject to previous authorization by an officer of customs not below the rank of an <sup>1</sup>[Assistant Commissioner of Customs], any officer of customs or any person duly empowered as such may, with respect to an offence <sup>3</sup>[of smuggling]-

- (a) arrest without warrant any person concerned in such offence or against whom reasonable suspicion exists that he is about to be concerned in such offence;

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<sup>1</sup> The words "Assistant Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

<sup>2</sup> This words "of like rank duly" were omitted by P.O. No. 122 of 1972, Art, 2(a).

<sup>3</sup> The words "related to exportation of such goods as the Central Government may, by notification in the official Gazette, specify in this behalf" were substituted by P.O. No. 122 of 1972, Art 2(b).

- (b) enter and search without warrant any premises to make an arrest under clause (a), or to seize any goods which are reasonable suspected to be intended for <sup>4</sup>[smuggling] contrary to any prohibition or restriction for the time being in force, and all documents or things which in his opinion will be useful for or relevant to any proceeding under this Act; and
- (c) for the purpose of arresting, detaining or taking into custody or preventing the escape of any person concerned or likely to be concerned in such offence, or for the purpose of seizing or preventing the removal of any goods in respect of which any such offence has occurred or is likely to occur, use or cause to be used such force to the extent of causing death as may be necessary.

(5) The provisions of sub-section (4) shall apply only to the areas within five miles of the land frontier of <sup>1</sup>[Bangladesh], and within a five mile belt running along the sea coast of <sup>1</sup>[Bangladesh].

(6) No suit, prosecution or other legal proceeding shall be instituted, except with the previous sanction in writing of the <sup>2</sup>[Government], against any person in respect of anything done or purporting to be done in exercise of the powers conferred by sub-section (1) or sub-section (2) or, in the areas specified in sub-section (3), by sub-section (4).

**164. Power to stop and search conveyances.-** (1) Where the appropriate officer has reason to believe that within the territories of <sup>1</sup>[Bangladesh] (including territorial waters) any conveyance has been, is being, or is about to be used in the smuggling of any goods or in the carriage of any smuggled goods, he may at any time stop any such conveyance or, in the case of an aircraft, competent it to land, and-

- (a) rummage and search any part of the conveyance ;
- (b) examine and search any goods thereon ; and
- (c) break open the lock of any door, fixture or package for making search.

(2) Where in the circumstances referred to in sub-section (1)-

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<sup>4</sup> The word "exportation" was substituted by *ibid.*, Art. 2(c).

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July, 1980.

<sup>2</sup> Subs. *ibid.* s. 11 (1) (b), for "Central Government".

- (a) it becomes necessary to stop any vessel or compel any aircraft to land, it shall be lawful for any vessel or aircraft in the service of the Government while flying her proper flag or bearing flag marks and any authority authorised in this behalf by the <sup>3</sup>[Government] to summon such vessel to stop or the aircraft to land, by means of an international signal, code or other recognised means, and thereupon such vessel shall forthwith stop or such aircraft shall forthwith land, and it fails to do so, chase may be given there to by any vessel or aircraft as aforesaid and if after a gun is fired as a signal the vessel fails to stop or the aircraft fails to land, it may be fired upon;
- (b) it becomes necessary to stop any conveyance other than a vessel or aircraft, the appropriate officer may use or cause to be used all lawful means for stopping it or preventing it escape including, if all other means fail, firing upon it.

**165. Power to examine persons.-** (1) The appropriate officer may, during the course of an inquiry in connection with the smuggling of any goods,-

- (a) require any person to produce or deliver any document or thing to such officer,
- (b) examine any person acquainted with the facts and circumstances of the case.

(2) The appropriate officer shall exercise the powers in sub-section (1) only in relation to a person who is readily available or present before him and shall be subject to the same provisions as an officer-in-charge of a police-station is subject to under the Code of Criminal Procedure, 1898 (Act V of 1898), when investigating a offence.

**166. Power to summon persons to give evidence and produce documents or things.-** (1) Any gazetted officer of customs shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making in connection with the smuggling of any goods.

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<sup>3</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Central Government", w.e.f. 1st July, 1980.

(2) A summon to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(3) All persons so summoned shall be bound to attend either in person or by an authorised agent, as such officer may direct; and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statement and produce such documents and other things as may be required :

Provided that the exemption under section 132 of the Code of Civil Procedure, 1908 (Act V of 1908), shall be applicable to any requisition for attendance under this section.

(4) Every such inquiry as aforesaid shall be deemed to be judicial proceeding within the meaning of section 193 and section 228 of the <sup>1</sup>[Penal Code], (Act XLV of 1860).

**167. Persons escaping may be afterwards arrested.-** If any person liable to be arrested under this Act is not arrested at the time of committing the offence for which he is so liable, or after arrest makes his escape, he may at any time afterwards be arrested and dealt with in accordance with the provisions of sub-sections (3) to (7) section 161 as if he had been arrested at the time of committing such offence.

**168. Seizure of things liable to confiscation.-** (1) The appropriate officer may seize any goods liable to confiscation under this Act, and where it is not practicable to seize any such goods, he may serve on the owner of the goods or any person holding them in his possession or charge an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(2) Where any goods are seized under sub-section (1) and no show cause notice in respect thereof is given under section 180 within two months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

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<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (1) (d), for "Pakistan Penal Code", w.e.f. 1st July, 1980.

Provided that the aforesaid period of two months may, for reasons to be recorded in writing, be extended by the <sup>1</sup>[Commissioner of Customs] by a period not exceeding two months.

(3) The appropriate officer may seize any documents or things which in his opinion will be useful as evidence in any proceedings under this Act.

(4) The person from whose custody any documents are seized under sub-section (3) shall be entitled to make copies thereof or take extracts therefrom in the presence of an officer of customs.

**169. Things seized how dealt with.-** (1) All things seized on the ground that they are liable to confiscation under this Act shall, without unnecessary delay, be delivered into the care of the officer of customs authorised to receive the same.

(2) If there be no such officer at hand, at hand, all such things shall be carried to and deposited at the custom-house nearest to the place of seizure.

(3) If there be no custom-house within a convenient distance, such things shall be deposited at the nearest place appointed by the <sup>2</sup>[Commissioner of Customs] for the deposit of things so seized.

(4) If the <sup>2</sup>[Commissioner of Customs] or any other officer of customs authorised by him in this behalf considers that any such things is perishable or liable to rapid deterioration, he shall immediately cause it to be sold in accordance with the provisions of section 201 and have the proceeds kept in deposit pending adjudication of the case:

<sup>3</sup>[Provided that where practicable samples of such things with proper identification marks may be kept for the purpose of any legal proceeding or for any other purpose of this Act.]

(5) If on such adjudication the thing so sold is found not to have been liable to such confiscation, the entire sale proceeds, after necessary deduction of duties, taxes or dues as provided in section 201, shall be handed over to the owner.

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<sup>1</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st. July 1995.

<sup>2</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st. July 1995.

<sup>3</sup> This proviso was added by Act No. 15 of 2000 s. 38, w.e.f.

**170. Procedure in respect of things seized on suspicion by the police.-**

(1) When any things liable to confiscation under this Act are seized by any police-officer on suspicion that they had been stolen, he may carry them to any police-station or Court at which a complaint connected with the stealing or receiving of such things has been made, or any inquiry connected with such stealing or receiving of such things has been made, or an inquiry connected with such stealing or receiving is in progress, and there detain such things until the dismissal of such complaint or the conclusion of such inquiry or of any trial thence resulting.

(2) In every such case the police-officer seizing the things shall send written notice of their seizure and detention to the nearest custom-house and immediately after the dismissal of the complaint or the conclusion of the inquiry or trial he shall cause such things to be conveyed to and deposited at, the nearest custom-house, to be there proceeded against according to law.

**<sup>1</sup>[171. When seizure or arrest is made, reason in writing including inventory to be given.-** When anything is seized or any person is arrested under this Act, the officer or any other person making such seizure or arrest shall, at the time of making the seizure or arrest, inform in writing the person so arrested or the person from whose possession the things are seized of the grounds of such seizure or arrest; and shall, in the case of seizure of anything, also deliver to the person from whose possession they have been seized an inventory relating thereto;

Provided that where it is not practicable to deliver such inventory at the time of seizure, it shall be delivered within a period of seven working days from the date of the seizure.]

**172. Power to detain packages containing certain publications imported in <sup>2</sup>[Bangladesh].-** (1) Any officer of customs duly authorised by the <sup>3</sup>[Commissioner of Customs] or any other officer authorised by the <sup>4</sup>[Government] in this behalf may detain any package, brought whether by land, air or sea into <sup>2</sup>[Bangladesh] which he suspects to contain-

<sup>5</sup>[(a) any newspaper or book as defined in the Printing Presses and Publications (Declaration and Registration) Act, 1973 (XXIII of 1973), or]

(b) any document,

<sup>1</sup> Subs. by Act XXI of 1992, s. 6(21), for section 171, w.e.f. 1st July 1992.

<sup>2</sup> Subs. by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July, 1980.

<sup>3</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

<sup>4</sup> Subs. by *ibid.* s. 11 (1) (b), for "Provincial Government".

<sup>5</sup> Subs. by Act XXIII of 1980, s. 11 (11) (a), for clause (a) of sub-section (1) of section 172, w.e.f. 1st July, 1980.

containing any treasonable or seditious matter, that is to say, any matter, the publication of which is punishable under section 123A or section 124A, as the case may be, of the <sup>6</sup>[Penal Code] (Act XLV of 1860), and shall forward such package to such officer as the <sup>4</sup>[Government] may appoint in this behalf.

(2) Any officer detaining a package under sub-section (1) shall, where practicable, forthwith send by post to the addressee or consignee of such package notice of the fact of such detention.

(3) The <sup>4</sup>[Government] shall cause the contents of such package to be examined, and if it appears to the <sup>4</sup>[Government] that the package contains any such newspaper, book or other document, as aforesaid, it may pass such order as to the disposal of the package and its contents as it may deem proper, and, if it does not so appear, shall release the package and its contents unless the same be otherwise liable to seizure under any law for the time being in force:

Provided that any person interested in any package detained under the provisions of this section, may, within two months of the date of such detention, apply to the <sup>4</sup>[Government] for release of the same, and the <sup>4</sup>[Government] shall consider such application and pass such order thereon as it may deem to be proper:

Provided further that, if such application is rejected, the applicant may, within two months of the date of the order rejecting the application, apply to the <sup>1</sup>[High Court Division] for release of the package or its contents on the ground that the package or the contents do not contain any such newspaper, book or other document.

(4) No order passed or action taken under this section shall be called in question in any court save as provided in the second proviso to sub-section (3).

*Explanation.- In this section "document" includes any writing, painting, engraving, drawing or photograph or other visible representation.*

**173. Procedure for disposal by <sup>1</sup>[High Court Division] of applications for release of packages so detained.-** Every application under the second proviso to sub-section (3) of section 172 shall be heard and determined, in the manner provided by sections 99D to 99F of the Code of Criminal Procedure,

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<sup>6</sup> Subs. by *ibid.* s. 11 (1) (d), for "Pakistan Penal Code".

<sup>1</sup> Subs. by *ibid.* s. 11 (1) (e), for "High Court".

1898 (Act V of 1898), by a special bench of the <sup>1</sup>[High Court Division] constituted in the manner provided by section 99C of that Code.

**174. Power to require production of order permitting clearance of goods imported or exported by land.**- The appropriate officer may require any person in charge of any goods which such officer has reason to believe to have been imported, or to be about to be exported by land from, or to, any foreign territory to produce the order made under section 83, permitting inward clearance of the goods or the order passing the bill of export made under section 131 permitting export of the goods:

Provided that nothing in this section shall apply to any imported goods passing from a foreign frontier to any inland customs-station by a route prescribed under clause (c) of section 9:

Provided further that the Board may, by notification in the official Gazette, direct that the provisions of this section shall not apply to any particular area adjoining foreign territory in relation to goods of any specified description or value.

**175. Power to prevent making or transmission of certain signals or messages.**- If an officer of customs or police or any member of the armed forces of <sup>2</sup>[Bangladesh] has reasonable grounds for suspecting that any signal or message connected with smuggling or intention or designs of smuggling any goods into or out of <sup>2</sup>[Bangladesh] is being or is about to be made or transmitted from any conveyance, house or place, he may board or enter such conveyance, house or place, and take such steps as are reasonably necessary to stop or prevent the making or transmission of the signal or message.

**176. Power to station officers in certain factories.**- An officer of customs not below the rank of an <sup>3</sup>[Assistant Commissioner of Customs] may, if he so deems fit, station an officer of customs in any factory or building used for commercial purposes and situated within five miles of the frontier of <sup>2</sup>[Bangladesh] with the object of ensuring that the factory or building is not used in any way for the unlawful or irregular importation or exportation of goods and the officer so stationed shall have the power to inspect at all reasonable times the records of the factory or business carried on in the building and such other powers as may be prescribed by rules.

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<sup>2</sup> Subs. by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July, 1980.

<sup>3</sup> The words "Assistant Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

**177. Restriction or the possession of goods in certain areas.-** (1) This section shall apply to such areas adjacent to the frontier of<sup>1</sup>[Bangladesh] as may, from time to time, be notified by the Board in the official Gazette.

<sup>2</sup>[(2) In any area to which this section for the time being applies, no person shall have in his possession or control any such goods or class of goods in excess of such quantity or value as may from time to time be notified by the Government in the official Gazette, except under a permit granted by the Government in respect of the particular goods or class of goods, or by an officer authorised by the Government.]

**178. Punishment of persons accompanying a person possessing goods liable to confiscation.-** If any two or more persons in company o found together and they or any of them, have goods liable to confiscation under this Act, every such person having knowledge of this fact is guilty of an offence and punishable in accordance with the provisions of this Act as if goods were found on such person.

<sup>1</sup>**[179. Power of adjudication.-** (1) In cases involving confiscation of goods or imposition of penalty under this Act, the jurisdiction and powers of the officers of customs shall be as shown in the Table below:-

[<sup>35</sup>TABLE

Type of cases (1)	Designation of Officer (2)	Jurisdiction and powers (3)
I. Adjudication of cases involving confiscation of goods or imposition of penalty or both	(1) Commissioner of Customs or Commissioner of Customs (Bond) or Director General (Duty Exemption and Drawback).  (2) Additional Commissioner of Customs  (3) Joint Commissioner	(1) Value of goods exceeding Taka 20,00,000.00  (2) Value of goods not exceeding Taka 20,00,000.00  (3)Value of goods

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (1) (a), for "Pakistan", w.e.f. 1st July, 1980.

<sup>2</sup> Subs. by Act XXIII of 1980, s. 11 (12), for sub-section (2) of section 177 w.e.f. 1st July 1980.

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (13), for section 179, w.e.f. 1st July, 1980.

<sup>35</sup> This Table was substitute by Act 22, 2006 section 3, w.e.f.

Type of cases (1)	Designation of Officer (2)	Jurisdiction and powers (3)
	of Customs (4) Deputy Commissioner of Customs (5) Assistant Commissioner of Customs (6) Revenue Officer	not exceeding Taka 15,00,000.00 (4) Value of goods not exceeding Taka 10,00,000.00 (5) Value of goods not exceeding Taka 5,00,000.00 (6) Value of goods not exceeding Taka 2,00,000.00
II. Adjudication of cases relating to Manifest clearance in custom-houses and customs-stations involving only imposition of penalty under item 24 of the Table under sub-section (1) of section 156.	II. Deputy Commissioner of Customs or Assistant Commissioner of Customs in charge of Manifest clearance in custom-houses or customs-stations, as the case may be.	Value of goods without limit. " <sup>1</sup>

Provided that the Board may, by notification in the official Gazette, reduce or extend the jurisdiction and powers of any particular officer or class of officers.]

<sup>36</sup>[(2) The Board may, by notification in the official Gazette, fix jurisdiction and confer powers upon any officers of customs to adjudicate cases where jurisdiction and powers are not shown in the Table of the sub-section (1)."]]

**180. Issue of show-cause notice before confiscation of goods or imposition of penalty.-** No order under this Act shall be passed for the

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<sup>36</sup> This sub-section was added by Act 17 of 2003 s. 12; w.e.f.

confiscation of any goods or for imposition of any penalty on any person, unless the owner of the goods, if any or such person-

- (a) is informed in writing ( or if the person concerned consents in writing orally ) of the grounds on which it is proposed to confiscate the goods or to impose the penalty;
- (b) is given an opportunity of making a representation in writing (or if the person concerned indicates in writing his preference for it orally) within such reasonable time as the appropriate officer may specify, against the proposed action; and
- (c) is given a reasonable opportunity of being heard personally or through a counsel or duly authorised agent <sup>1</sup>[;

Provided that the provisions of this section shall not apply to an order of confiscation of any goods or imposition of any penalty on any person passed in consequence of a request in writing of the owner of such goods or the person concerned to the effect that the offence is admitted and that the owner of such goods or the person concerned consents in writing to accept the order passed without issuing any show cause notice to him and without prejudice to his right of appeal against such order.]

**181. Option to pay fine in lieu of confiscated goods.-** <sup>2</sup>[(1)] Whenever an order for the confiscation of goods is passed under this Act, the officer passing the order may give the owner of the goods an option to pay in lieu of the confiscation of the goods such fine as the officer thinks fit.

*Explanation.- Any fine in lieu of confiscation of goods imposed under this section shall be in addition to any duty and charges payable in respect of such goods, and of any penalty that might have been imposed in addition to the confiscation of goods.*

<sup>3</sup>[(2) Nothing in this section shall apply to any goods the import of which is prohibited by or under any law.]

**182. Vesting of confiscated property in the <sup>4</sup>[Government].-** When any goods are confiscated under this Act they shall forthwith vest in the

<sup>1</sup> Semi-colon was substituted for the full-stop at the end and thereafter this paragraph was inserted by Ordinance No. XLV of 1986, s. 7(3), w.e.f. 1st July, 1986.

<sup>2</sup> Renumbered as (1) by Ordinance No. XI of 1985, s. .... w.e.f. 3rd March, 1985.

<sup>3</sup> This new sub-section (2) is inserted after sub-section (1) by *ibid*.

<sup>4</sup>[Government], and the officer who orders confiscation shall take and hold possession of the confiscated goods.

**183. Levy of penalty for departure without authority or failure to bring-to.-** (1) If any conveyance actually departs without a port clearance or permission in writing or, in the case of a vessel, after having failed to bring-to when required at any station appointed under section 14, the penalty to which the person-in-charge of such conveyance is liable may be adjudged by the appropriate officer of any customs-station, to which such conveyance proceeds, or in which it for the time being is.

(2) A certificate in respect of such departure or failure to bring-to when required, purporting to be signed by the appropriate officer of the customs-station from which the conveyance is stated to have so departed, shall be *prima facie* proof of the fact so stated.

**184. Power to try summarily.-** Any Magistrate for the time being empowered to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898 ( Act V of 1898) may , if he thinks fit, on application in this behalf by the prosecution, try an offence under this Act except when the value of goods involved in such offences exceeds <sup>1</sup>[Taka five thousand] in accordance with the provisions of sub-section (1) of section 262 and sections 263, 264 and 265 of the Code.

**185. Special power for Magistrates.-** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 ( Act V of 1898 ) and subject to the other provisions of this Act, any Magistrate of the first class specially empowered by the <sup>2</sup>[Government] in this behalf may pass a sentence of imprisonment for a term exceeding <sup>3</sup>[five years] and of fine exceeding <sup>4</sup>[ten thousand taka] for an offence under this Act.

**186. Detention of goods pending payment of fine or penalty.-** (1) When any fine or penalty has been imposed, or while imposition of any fine or penalty is under consideration, in respect of any goods, such goods shall not be remove by the owner until such fine or penalty has been paid.

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<sup>4</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Central Government", w.e.f. 1st July, 1980.

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (14), for "five hundred rupees", w.e.f. 1st July, 1980.

<sup>2</sup> Subs. by *ibid.* s. 11 (1) (b), for "Provincial Government".

<sup>3</sup> Subs. by Ordinance No. XLV of 1986, s. 7(4), for "three years", w.e.f. 1st July, 1986 in 1980 this words "two years" were subs. by *ibid.*.

<sup>4</sup> Subs. by *ibid.*, for "Taka five thousand" 1980 this words "tk. one thousand" were subs. by Act XXIII of 1980.

(2) When any fine or penalty has been imposed in respect of any goods, the appropriate officer may detain any other goods belonging to the same owner pending payment of such fine or penalty.

**187. Burden of proof as to lawful authority, etc.-** (1) When any person is alleged to have committed an offence under this Act and any question arises whether he did any act or was in possession of anything with lawful authority or under a permit, licence or other document prescribed by or under any law for the time being in force, the burden of proving that he had such authority, permit, licence or other document shall lie on him.

**188. Presumption as to documents in certain cases.-** Where any document is produced by any person under this Act or has been seized under this Act from the custody or control of any person, and such document is tendered by the prosecution in evidence against him, the Magistrate shall,-

- (a) unless the contrary is proved by any such person, presume-
  - (i) the truth of the contents of such document ;
  - (ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the Magistrate may reasonable assume to have been signed by or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested that it was executed or attested by the person by whom purports to have been so executed or attested;
- (b) admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

**189. Notice of conviction to be displayed.-** (1) Upon the conviction of any person for the offence of smuggling, the <sup>1</sup>[Government] may require him to exhibit in or outside, or both in and outside, his place of business, if any notices of such number, size and lettering, and placed in such positions and containing such particulars relating to the conviction as it may determine, and to keep them

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<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Central Government" w.e.f. 1st July, 1980.

so exhibited continuously for a period not less than three months from the date of conviction; and if he fails to comply fully with the requirement he shall be deemed to have committed a further offence under this Act of the nature of the original offence for which he was convicted.

(2) If any person so convicted refuses or fails to comply fully with any such requirement, any officer authorised in that behalf by an order of the <sup>1</sup>[Government] in writing may, without prejudice to any proceedings which may be brought in respect of any such refusal or failure, affix the notices in or outside, or both in and outside, the place of business of such person in accordance with the requirement of the <sup>1</sup>[Government] in pursuance of sub-section (1).

(3) If, in any case the <sup>1</sup>[Government] is satisfied that the exhibition of notices in accordance with the requirements of the provisions of sub-section (1) or sub-section (2) will not effectively bring the conviction to the notice of persons dealing with the convicted person, the <sup>1</sup>[Government] may, in lieu of, or in addition to any such requirement, require the convicted person to exhibit for such period, not being a period less than three months, on such stationery used in his business as may be specified in the requirement, a notice placed in such position and printed in type of such size and form and containing such particulars relating to the conviction as may be specified in the requirement; and, if he fails to comply fully with the requirement, he shall be deemed to have committed a further offence under this Act of the nature of the original offence for which he was convicted.

**190. Power to publish conviction.-** If the <sup>1</sup>[Government] is satisfied that it is necessary so to do, the conviction and the particulars relating to the conviction of any person for the offence of smuggling may be published in the official Gazette.

**191. Imprisonment may be of either description.-** Imprisonment for any offence under this Act may, in the discretion of the Magistrate, be either simple or rigorous.

**192. Duty of certain person to give information.-** (1) Any person who comes to know of the commission of any offence under this Act, or any attempt or likely attempt to commit any such offence, shall, as soon as may be, give information thereof in writing to the officer-in-charge of the nearest custom-house or customs-station, or if there is no such custom-house or customs-station, to the officer-in-charge of the nearest police-station.

(2) The officer-in-charge of a police-station who receives any information mentioned in sub-section (1) shall as soon as possible communicate it to the officer-in-charge of the nearest customs-house or customs-station.

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### **Chapter XVIII A**

#### Alternative Dispute Resolution

192 A. Alternative Dispute Resolution.- Notwithstanding anything contained in this Act regarding adjudication or disposal of any dispute as defined and mentioned in section 192C which may or may not be pending with concerned customs authority or customs and VAT appellate authorities, any importer or exporter or Pre-shipment Inspection Agency concerned in such disputes may apply to the concerned authorities for the resolution of the dispute through the Alternative Dispute Resolution (hereinafter ADR) process in the manner as laid down in the following sections and rules made hereunder and resort to ADR must precede the completion of the procedures under adjudication or appeal provisions of the Act.

192 B. Commencement.-The ADR process as mentioned in this chapter shall come into force on such date and in such custom house or Customs-station or Commissionerate as the Board may determined by notification in the official Gazette.

192C. Definition and Scope of Disputes for ADR.- (1) For the purposes of this chapter, "dispute" means any case or proceeding pending before any customs authority or any court including Supreme Court of Bangladesh in respect of the levy, assessment, **classification** collection or refund of duty and taxes and/or, for imposition of fine and/or, penalty, it also includes an assessment objected to in writing to the concerned commissioner by the concerned importer in relation to the determination of customs valuation of that assessment.

(2) The following disputes may be dealt with ADR,-

- (a) Subject to the provision of section 25 sub-section (1),(2),(4),(5) and(6) customs valuation related disputes, falling under the pre-shipment inspection system or otherwise, arising out of customs assessment and disputes pending with any customs or

appellate authority or before any court including the Supreme Court of Bangladesh shall fall under this category; and

- (b) Any other disputes, arising out of submission of Bill of Entry or Bill of Export in case of import or export, as the case may be, or issuance of Demand Notice or show cause Notice in relation to any Bill of Entry or Bill of Export by the concerned customs authorities and pending with any customs or Appellate authority or court including the Supreme Court of Bangladesh falling under this Act, excluding the following-
  - (i) fraud or criminal cases and disputes;
  - (ii) disputes involving seizure and confiscation of prohibited, restricted, smuggled goods;
  - (iii) disputes involving allegations of money laundering;
  - []
  - (v) disputes on alleged evasion of duties and taxes through the resort to misdeclaration of [] name and quantity of goods, fraud of documents, violation of import and export policy or violations of customs bonded warehouse related licensing and/or bond related conditions; and
- (C) penalty related pending disputes of pre-shipment inspection agency.

192D. Type of ADR Mechanism and Duties of the Parties Concerned.

- (1) ADR mechanism provided in this chapter is based on facilitation and a facilitator, appointed as per provisions of this chapter will act as a neutral between the disputing parties.
- (2) For ADR under this chapter the selection or appointment, fees, duties and responsibilities of the facilitator will be as provided in the rules made for this purpose.
- (3) The duties and responsibilities of the applicant importer or exporter [or Pre-shipment Inspection Agency] for ADR will be as provided in the rules.
- (4) Selection of officer for representing customs authorities in the ADR negotiation and his duties and responsibilities will be as provided in the rules.

192 E. Application for ADR.- For seeking Alternative Resolution of a dispute, referred to in section 192C, the concerned importer, or exporter [or

Pre-shipment Inspection Agency], as the case may be, shall apply to the following authorities:

- (a) for a dispute which was created and not already been adjudicated or settled before the commencement of the ADR System, the application is to be submitted in such form and manner as may be prescribed in the rules, to the concerned Customs Commissioner or Adjudicating officer or Appellate authorities, as the case may be;
- (b) for a dispute which arises after the commencement of the ADR System, the application is to be made before seeking or trying for settlement of the said dispute under sections 179, 193 or 196 as the case may be, of this Act, to the concerned customs commissioner or Adjudicating officer, as the case may be, in the manner prescribed in the rules, within ten working days from the date of issue of the concerned show cause notice or assessment order, or demand notice, as the case may be.
- (c) for an application on a matter suitable for ADR which is pending before the Supreme Court of Bangladesh, the concerned petitioner, if he so desires, may apply to the concerned Customs Commissioner for Alternative Resolution, after obtaining permission from the said court, and upon granting of such permission by the court the matter shall remain in abeyance for the duration of the ADR process:

Provided that, if the court disposes any such Writ Petition with directions to any of the above authorities to settle the matter through ADR, therefore the authority shall settle the case accordingly, if not otherwise barred by law.

192 F. Processing and Disposal of Applications for ADR.- Applications received from the aggrieved or disputant importer or exporter [or Pre-shipment Inspection Agency] for ADR within this chapter, is to be processed and disposed of, according to the rules.

192 G. Duration of Negotiation and Resolution.- (1) Whether pending or new dispute if the application submitted for ADR relates to the same Customs House or Station, all formalities mentioned in this chapter including the negotiation and agreement or disagreement or resolution, as the case may be, of the dispute, are to be completed in a period of maximum thirty working days from the date of submission of the application.

(2) For a pending dispute for which application is submitted to the Commissioner Appeal or Customs and VAT Appellate Tribunal or any Court, the duration for the above purposes will be sixty working days from the date of submission of the application.

192H. Decision of the ADR.- (1) A dispute may be resolved by an [agreement, including commitment to pay the duty and taxes or refund the same, as the case may be, in the agreed time limit], and may be concluded either wholly or in part where both the parties to the dispute accept the points for determination of the facts or laws applicable to the facts in the dispute, and agree on a settlement.

(2) Where an agreement is concluded, either wholly or in part, between the applicant importer or exporter [or Pre-shipment Inspection Agency] and the customs commissioner's representative, the facilitator shall record, in writing, the details of the agreement in the manner as prescribed by rules and shall communicate the same to the applicant, the concerned commissioner and the Board, within seven working days of the conclusion of the thirty or sixty days period, as the case may be.

(3) The recording of every such agreement shall provide for the terms of the agreement including any duty and tax payable or subject to refund, and such other matters as the facilitator may think fit to make the agreement effective.

(4) The agreement shall be signed by the applicant importer or exporter, commissioners representative and the facilitator.

(5) The agreement shall be void if it is subsequently found that it has been concluded by fraud or misrepresentation of facts.

(6) Where no agreement, whether wholly or in part, is reached, the facilitator shall communicate about such unsuccessful dispute resolution in writing to the applicant, the concerned commissioner and the Board within such period and in such manner as may be prescribed by rules.

(7) Upon an agreement being reached and communicated as provided herein, the usual process of recovery of dues, if any, payable to the Government or refund of money to the importer or exporter [or Pre-shipment Inspection Agency] or any other necessary action shall proceed in accordance with the normally applicable provisions of the applicable laws.

192 I. Effects of Agreement or Resolution .- (1) Notwithstanding anything contained in any other provisions of this Act where an agreement is concluded for ADR under this chapter, it shall be binding for both the parties and cannot be challenged in any appellate forum or court either by the applicant or by the customs authorities.

(2) Every order of agreement, passed under this chapter shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

(3) If the dues, payable to either party as per agreement, are not paid and if the same including any penalty or interest for default in making payment of such sum, if not paid within one year, such sum may either be recovered or refunded with annually 10 percent interest, or as sums due to the Government under section 202 or the applicant under section 33 of this Act.

**192 J. Limitation for Appeal where Agreement is not concluded.- (1)**

Notwithstanding any thing contained in any other provisions of this Act, where an agreement is not concluded fully or in part, the concerned importer or exporter [or Pre-shipment Inspection Agency] may, after completion of adjudication process, if pending, prefer an appeal to the respective appellate authorities on the unresolved issue.

(2) Where a dispute under appeal, an application for ADR is made but agreement could not have been concluded within the period mentioned in section 192G or negotiation ended in disagreement, the ADR process shall automatically stand terminated and the original appeal shall be deemed to have been revived before the concerned appellate authority including any court from the day immediately after the date the ADR process stands terminated and provisions contained in respective sections of the respective law shall, so far as may be, apply accordingly.

(3) In computing the period of limitations for filing appeal, the time elapsed between the filing of the application and the communication of the decision or order of the ADR by the facilitators to all the parties shall be excluded.

**192 K. Reservation of Rights.-** No person shall be issued a written order or notice, to attend the court as a witness to give evidence and no person shall be involved in the ADR proceedings in whatever capacity to compel disclosure of any representation made or document tendered in the course of the proceedings or the facilitator of the ADR proceedings to compel disclosure of any representation made or document tendered in the course of proceedings.

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## CHAPTER XIX

### APPEALS AND REVISION

**<sup>1</sup>[193. Appeals to Commissioner (Appeal).- (1) Any person aggrieved by any decision or order passed under this Act, not being a decision or order passed under section 82 or section 98, by an officer of customs lower in rank than a Commissioner of Customs, may appeal to the Commissioner (Appeal) within three months from the date of communication to him of such decision or order:**

Provided that the Commissioner (Appeal) may, if he is satisfied that the appellant was prevented by sufficient causes from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of two months.

(2) Every appeal under this section, shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf.]

**<sup>2</sup>[193A. Procedure in appeal.- (1) The Commissioner (Appeal) shall give an opportunity to the appellant to be heard if he so desires.**

(2) The Commissioner (Appeal) may, at the hearing of an appeal, allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the Commissioner (Appeal) is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(3) The Commissioner (Appeal) may, after making such further inquiry as may be necessary, pass such order as he thinks fit conforming, modifying or annulling the decision or order appealed against:

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

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<sup>1</sup> Section "193" was substituted by Act 12 of 1995, s. 5 (13), w.e.f. 1st October 1995.

<sup>2</sup> Section "193A" was inserted after section 193 by ordinance No. XXI of 1978, s. 11, w.e.f. 1st July 1978.

<sup>3</sup> Section "193A" was renumbered as "193B" by Act 12 of 1995, s. 5(14), w.e.f. 1st Oct, 1995 and section "193A" was subs. by Act 12 of 1995, s. 5(13), w.e.f. 1st Oct, 1995.

Provided further that where the Commissioner (Appeal) is of opinion that any duty has not been levied or has been short levied or erroneously refunded, no order requiring the appellant to pay any duty not levied, short-levied or erroneously refunded shall be passed unless the appellant is given notice within the time-limit specified in section 168 to show cause against the proposed order.

(4) The order of the Commissioner (Appeal) disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for the decision.

(5) On the disposal of the appeal, the Commissioner (Appeal) shall communicate the order passed by him to the appellant, the adjudicating authority and the Commissioner of Customs.]

**<sup>1</sup> [193B]. Power of the Board to rectify any mistake, error, etc.-** The Board may on its own motion or on an application made by any person within one year of the passing of an order, rectify any mistake or error which is apparent from the record in any order passed by it under any provision of this Act or the rules made thereunder:

Provided that no such rectification which has the effect of enhancing any penalty or fine or requiring the payment of a greater amount of duty shall be made unless the person affected by such rectification has been given an opportunity of being heard in person or through a counsel or other person duly authorized by him.]

**<sup>2</sup> [<sup>3</sup> [193C, Review Committee.—<sup>4</sup>](1)]** There shall be a Review Committee consisting of such number of members as the Board may determine for the purposes of reviewing any matter related to the Clean Report of Findings (CRF) issued by the pre-shipment inspection agencies appointed by the Government under section 25A.]

(2) Any person aggrieved by any decision of the Review Committee may prefer an appeal to the Appellate Tribunal constituted under section 196.

(3) The Appellate Tribunal may, after making such enquiry as it considers necessary and after giving the Commissioner or his authorised

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<sup>1</sup> Section “193A” was renumbered as “193B” by Act 12 of 1995, s. 5 (14), w.e.f. 1st October 1995.

<sup>2</sup> Section 193C was subs. by Act 18 of 1996, w.e.f. form 1st July, 1996.

<sup>3</sup> Section 193C was subs. by Act 15 of 1997, w.e.f. form 1st July, 1997.

<sup>4</sup> Sub-section (1) was subs. by Act 2001, s 42, w.e.f. 1st July, 2001.

representative, the local representative of the concerned pre-shipment inspection agency, and the importer an opportunity of being heard, if they so desire, pass such order as it thinks fit, including fixing the price of the subject goods for the purpose of final assessment.

(4) No fee shall be payable for an appeal under this section.]

**194. Deposit, pending appeal, of duty demanded or penalty levied.-**

(1) Any person desirous of appealing under section 193<sup>5</sup>[or section 196A] against any decision or order relating to any duty demanded in respect of goods which have ceased to be under the control of customs authorities or to any penalty levied under this Act shall, at the time of filing his appeal or if he is so permitted by the appellate authority at any later stage before the consideration of the appeal, deposit with the appropriate officer<sup>37</sup>[fifty per cent of the duty demanded or fifty per cent of the penalty imposed, or both, as the case may be]:

Provided that such person may, instead of depositing<sup>38</sup>[the amount of the penalty as aforesaid] deposit only fifty per cent thereof and furnish a guarantee from a scheduled bank for the due payment of the balance:

Provided further that where, in any particular case, the appellate authority is of the opinion that the deposit of duty demanded or<sup>39</sup>[penalty imposed] will cause undue hardship to the appellant, it may dispense with such deposit, either unconditionally or subject to such conditions as it may deem fit to impose.

(2) If, upon an appeal it is decided that the whole or any portion of the aforesaid duty or penalty was not leviable, the appropriate officer shall return to the appellant such amount or portion as the case may be.

**195. Power of the Board to call for and examine records, etc.-** (1) The Board may of its own motion call for and examine the records of any proceedings under this Act for the purpose of satisfying itself as to the legality or propriety of any decision or order passed therein by an officer subordinate to it and may pass such orders as it thinks fit:

Provided that no order confiscating goods of greater value, or enhancing any fine in lieu of confiscation, or imposing or enhancing any penalty, or

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<sup>5</sup> These words "or section 196A" were inserted by Act 12 of 1995, s. 5 (15), w.e.f. 1st October 1995.

<sup>37</sup> These words were subs. By Act 16 of 2004, w.e.f. 10<sup>th</sup> June 2004.

<sup>38</sup> These words were subs. By Act 16 of 2004, w.e.f. 10<sup>th</sup> June 2004.

<sup>39</sup> These words were subs. By Act 16 of 2004, w.e.f. 10<sup>th</sup> June 2004.

requiring payment of any duty not levied or short-levied shall be passed unless the person affected thereby has been given any opportunity of showing cause against it and of being heard in person or through a counsel or other person duly authorised by him.

(2) No record of any proceedings relating to any decision or order passed by an officer of customs shall be called for and examined under sub-section(1) after the expiry of two years from the date of such decision or order.

**<sup>1</sup>196. Appellate Tribunal.-** (1) The Government shall constitute an Appellate Tribunal to be called the Customs, Excise and মূল্য সংযোজন কর Appellate Tribunal which shall consist of as many technical and judicial members as it thinks fit to exercise the powers and discharge the functions conferred on the Appellate Tribunal by this Act.

(2) A technical member shall be a person who has held <sup>2</sup> [or is holding] the post of Member of the Board or has held <sup>2</sup> [or is holding] the post of Commissioner of Customs and Excise or any equivalent post for <sup>40</sup>[at least one year].

(3) A judicial member shall be a person who has for at least ten years held a judicial office in the capacity of a District and Sessions Judge in the territory of Bangladesh or who has been a member of Bangladesh Civil Service (Judicial) and has held a judicial post for at least three years having earned pay in the selection grade of the scale of pay, or who has been an advocate for at least ten years in a court, not lower than that of a Court of District and Sessions Judge.

(4) The Government shall appoint one of the members of the Appellate Tribunal to be the President thereof.

**<sup>1</sup>196A. Appeals to the Appellate Tribunal.-** (1) Any person aggrieved by any of the following orders may appeal to the Appellate Tribunal against such order:-

- (a) a decision or order passed by the Commissioner of Customs as an adjudicating authority, not being decision or order passed under section 82 or section 98; or

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<sup>1</sup> Section “196” was substituted by Act 12 of 1995, s. 5 (16), w.e.f. 1st October 1995.

<sup>2</sup> The words were inserted after “has held” by Act 15 of 1997, s. , w.e.f. 1st July, 1997.

<sup>40</sup> These words were subs. by Act No. 33 of 2010, s. (13), w.e.f 1<sup>st</sup> July, 2010

<sup>1</sup> Section “196A” was inserted by Act 12 of 1995, s. 5 (16), w.e.f. 1st October 1995..

(b) an order passed by the Commissioner (Appeal) under section 193 as it stood immediately before the appointed day or under section 193A.

(2) The Commissioner of Customs may, if he is of the opinion that an order passed by the Commissioner (Appeal) under section 193 as it stood immediately before the appointed day or under section 193A is not legal or proper, direct the proper officer to appeal on his behalf to the Appellate Tribunal against such order.

(3) Every appeal under this section shall be filed within three months from the date on which the order sought to be appealed against is communicated to the Commissioner of Customs or, as the case may be, the other party preferring appeal.

(4) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of the notice, a memorandum of cross-objections verified in such manner as may be specified by rules made on this behalf against any party of the order appeals against and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (3).

(5) The Appellate Tribunal may admit an appeal or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (3) or sub-section (4), if it is satisfied that there was sufficient cause for not presenting it within that period.

(6) An appeal to the Appellate Tribunal shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf and shall, in the case of an appeal made on or after the appointed day, irrespective of the date of demand or duty and interest or of levy of penalty in relation to which the appeal is made, be accompanied by a fee of,

(a) where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is one lakh taka or less, [three hundred taka';

(b) where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than one lakh taka, [one thousand two taka];

(7) The Appellate Tribunal shall dispose of the appeal [within four years] from the date of its receipt.

(8) If the appeal is not disposed of within the time specified in sub-section (7), the appeal shall be deemed to have been allowed by the Appellate Tribunal.

Provided that no such fee shall be payable in the case of an appeal referred to in sub-section (2) or a memorandum of cross-objections referred to in sub-section (4).

**<sup>1</sup>196B. Orders of Appellate Tribunal.-** (1) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order<sup>41</sup>[or may refer the case back to the authority which passed such decision or order with such directions as the Appellate Tribunal may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary]

(2) The Appellate Tribunal may, at any time within four years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (1) and shall make such amendments if the mistake is brought to its notice by the Commissioner of Customs or the other party to the appeal:

Provided that an amendment which has the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the other party shall not be made under this sub-section, unless the Appellate Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

(3) The Appellate Tribunal shall send a copy of every orders passed under this section to the Commissioner of Customs and the other party to the appeal.

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<sup>1</sup> Section “196B” was inserted by Act 12 of 1995, s. 5 (16), w.e.f. 1st October 1995.  
<sup>41</sup> These words were substitute by act 22 of 2006, section 4, w.e.f.

(4) Save as otherwise provided in section 196D, order passed by the Appellate Tribunal on appeal shall be final.

**<sup>2</sup>196C. Procedure of Appellate Tribunal.-** (1) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted by the President from amongst the members thereof.

(2) Subject to the provisions contained in sub-section (3) and (4), a Bench shall consist of one technical member and one judicial member.

(3) Every appeal against a decision or order relating, among other things, to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment shall be heard by a special Bench constituted by the President for hearing such appeals and such Bench shall consist of not less than two members and shall include at least one technical member and one judicial member.

(4) The President or any other member of the Appellate Tribunal authorised in this behalf by the President may, sitting singly, dispose of any case which has been allotted to the Bench of which he is a member where-

- (a) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 181; or
- (b) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purpose of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or
- (c) the amount of fine or penalty involved;

does not exceed one lakh taka.

(5) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority; but if the members are equally divided, they shall state the point or points on which they differ and make a reference to the President who shall either hear the point or points by one or more of the other members of the Appellate Tribunal and such point or points shall be decided according to the opinion of the majority of these members of the Appellate Tribunal who have heard the case, including those who first heard it.

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<sup>2</sup> Section "196C" was inserted by *ibid.*

(6) Subject to the provisions of this Act, the Appellate Tribunal shall have power to regulate its own procedure and the procedure of the Benches thereof in all matters arising out of the exercise of its powers or of the discharge of its functions, including the places at which the Benches shall hold their sittings.

(7) The Appellate Tribunal shall, for the purposes of discharging its functions, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect of the following matters, namely-

- (a) discovery and inspection;
- (b) enforcing the attendance of any person and examining him on oath;
- (c) compelling the production of books of account and other documents; and
- (d) issuing commissions.

(8) Any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 and for the purposes of section 196 of the Penal Code (Act XLV of 1860) and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1898 (Act V of 1898).

<sup>1</sup>[<sup>2</sup>**196D. Appeal to the High Court Division.-** The Commissioner of Customs or the other party may, within <sup>3</sup>[ninety] days of the date upon which he is served with notice of an order under section 196B, by an application, prefer an appeal to the High Court Division against such order.]

<sup>4</sup>[\*\*    \*\*    \*\*    \*\*    ]

<sup>5</sup>**[196F. Case before High Court Division to be heard by not less than two judges.-** (1) <sup>6</sup>[Where an appeal has been preferred to the High Court Division under section 196D], it shall be heard by a Bench of not less than two judges of the High Court Division and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges.

<sup>1</sup> Section "196D" was inserted by Act 12 of 1995, s. 5 (16), w.e.f. 1st October 1995.

<sup>2</sup> This section was substitute by Act 2000, s. 39,

<sup>3</sup> This words were substitute by Act of 2001, s. 43, w.e.f 1<sup>st</sup> July, 2001.

<sup>4</sup> Section "196E" omitted by Act 15 2000, s.40, w.e.f. 1<sup>st</sup> July, 2000.

<sup>5</sup> Section "196F" was inserted by *ibid*.

<sup>6</sup> These words were substitute by Act 15 2000, s.41, w.e.f

(2) Where there is no such majority, the judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of the other judges of the High Court Division, and such point shall be decided according to the majority of the judges who have heard the case including those who first heard it.

**<sup>1</sup>[<sup>2</sup>196G. Decision of the High Court Division on the appeal.- (1)**

Where an appeal is preferred under section 196D, the High Court Division shall decide the points raised therein and such other points incidental thereto as are deemed necessary and shall deliver its judgement thereon,

(2) The High Court Division, in its judgement, may award any costs upon any party to the appeal.

(3) A copy of the judgement delivered under sub-section (1) shall, under the seal and signature of an officer of that Division, be sent to the Appellate Tribunal.]

**<sup>3</sup>[196H. Sums due to be paid notwithstanding reference, etc.-**

Notwithstanding that a reference has been made to the High Court Division, sums due to the Government as a result of an order passed under sub-section (1) of section 196B shall be payable in accordance with the order so passed.]

**<sup>4</sup>[196I. Exclusion of the time taken for copy.-** In computing the period of limitation specified for an appeal or application under this Chapter, the day on which the notice of the order complained of was served, and if the party preferring the appeal or making the application was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order shall be excluded.]

**<sup>5</sup>[196J. Transfer of certain pending proceedings and transitional provisions.-** (1) Every appeal which is pending immediately before the appointed day before the Board under section 193 as it stood immediately before that day, and any matter arising out of or connected with such appeal and which is so pending shall stand transferred on that day to the Appellate Tribunal and the

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<sup>1</sup> This section was substitute by Act No. 15 of 2000, s. 42, w.e.f.

<sup>2</sup> Section "196G" was inserted by *ibid*.

<sup>3</sup> Section "196H" was inserted by Act 12 of 1995, s. 5 (16), w.e.f. 1st October 1995.

<sup>4</sup> Section "196I" was inserted by *ibid*.

<sup>5</sup> Section "196J" was inserted by *ibid*.

Appellate Tribunal may proceed with such appeal or matter from the stage at which it was on that day:

Provided that the appellant may demand that before proceeding further with that appeal or matter, he may be re-heard.

(2) Every proceeding which is pending immediately before the appointed day before the Government under section 196 as it stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall stand transferred on that day to the Appellate Tribunal and the Appellate Tribunal may proceed with such proceeding or matter from the stage at which it was on that day as if such proceeding or matter were an appeal filed before it:

Provided that if any such proceeding or matter relates to an order where-

- (a) the value of the goods confiscated without option having been given to the owner of the goods to pay a fine in lieu of confiscation under section 181(1); or
- (b) in any disputed case, other than a case where the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment is in issue or is one of the points in issue, the difference in duty involved or the duty involved; or
- (c) the amount of fine or penalty determined by such order;

does not exceed ten thousand taka such proceeding or matter shall continue to be dealt with by the Government as if the said section 196 had not been substituted:

Provided further that the applicant or the other party may make a demand to the Appellate Tribunal that before proceeding further with that proceeding or matter, he may be re-heard.

(3) Every proceeding which is pending immediately before the appointed day before the Board under section 193A or before the Government under section 196B as they stood immediately before that day, and any matter arising out of or connected with such proceeding and which is so pending shall continue to be dealt with by the Board or the Government, as the case may be, as if the said sections had not been substituted.

(4) Any person who immediately before the appointed day was authorised to appear in any appeal or proceeding transferred under sub-section (1) or sub-section (2) shall, notwithstanding anything contained in section 196K, have the right to appear before the Appellate Tribunal in relation to such appeal or proceeding.]

**<sup>1</sup>[<sup>2</sup>196K]. Appearance by the authorised representative.-**

Notwithstanding anything contained in this Act, any person, who is entitled or required to attend before any officer of customs, an appellate authority, the Board or the Government in any proceedings under this Act or any, rules made thereunder, otherwise than when required under law to attend personally, may attend in such proceedings by a person authorised by him in writing in this behalf, being a relative of, or a person regularly employed by, the aggrieved person, or an advocate who is entitled to plead in any Court of Law, or a Customs Consultant as defined and licensed under rules prescribed in this behalf, and not being disqualified under sub-section (2).

(2) No person who has been dismissed from Government service shall be qualified to represent a person under sub-section (1); and if any advocate or Customs Consultant is found guilty of misconduct in connection with any customs proceedings by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the <sup>3</sup>[Commissioner of Customs], the <sup>3</sup>[Commissioner of Customs] may direct that he shall be thence forward disqualified to represent a person under sub-section (1) :

Provided that-

- (a) no such direction shall be issued in respect of any person unless he is given a reasonable opportunity of being heard;
- (b) any person against whom such direction is issued may, within one month from the date of receipt of the direction, appeal to the Board to have the direction cancelled; and
- (c) no such direction shall take effect until one month from the date of receipt thereof by the person concerned or, when an appeal is preferred; until the disposal of the appeal.]

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<sup>1</sup> This new section 196A was added by Ordinance No. XXIII of 1977, s. 14(6), after section 196, w.e.f. 1st July, 1977.

<sup>2</sup> Section 196A was renumbered as 196K by Act 12 of 1995, s. 5 (17), w.e.f. 1st October 1995.

<sup>3</sup> The words "Collector of Customs" were subs. by *ibid*.

**<sup>1</sup>[<sup>2</sup>[196L]. Power of the Government to call for and examine records.-**

The Government may, on its own motion <sup>3</sup>[\* \*], within one year of the passing of an order under this Act or the rules made thereunder, call for and examine the records of the proceedings relating to such order for the purpose of satisfying itself as to the legality or propriety of the order and may pass such orders as it thinks fit, rectifying any mistake or error which becomes apparent from such examination:

Provided that no such order which has the effect of confiscating goods of greater value or, enhancing any fine in lieu of confiscation or enhancing any penalty or requiring the payment of a greater amount of duty shall be made unless the person affected by such order has been given an opportunity of being heard in person or through a counsel or other person duly authorised by him.]

**<sup>4</sup>196M. Bar to the jurisdiction of the Courts.-** No appeal shall lie to any civil court by any person, aggrieved by any decision or order, passed by an officer of customs before appealing to and getting decision or order thereon from the Commissioner (Appeal) or the Appellate Tribunal, as the case may be.

**<sup>5</sup>196N. Definitions.- In this Chapter,-**

- (a) “appointed day” means the 1st day of October, 1995;
- (b) “President” means the President of the Appellate Tribunal.

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<sup>1</sup> Section 196B was inserted after section 196A by Ordinance No. XXI of 1978, s. 11, w.e.f. 1st July, 1978. and was subs. by Act XXVII of 1987, s. 5(5), w.e.f. 1st July, 1987.

<sup>2</sup> Section 196B [inserted by Act 27 of 1987 s. 5 (5)] was renumbered as 196L by Act 12 of 1995, s. 5 (18), w.e.f. 1st October 1995.

<sup>3</sup> This words “or on an application made by any person” were deleted by *ibid.*

<sup>4</sup> Section “196M” was inserted by *ibid.*, s. 5 (18).

<sup>5</sup> Section “196N” was inserted by *ibid.*

## CHAPTER XX

### MISCELLANEOUS

**197. Customs control over conveyances and goods.-** The appropriate officer shall, for the purposes of this Act, have control over all conveyances and goods in a customs-area.

**198. Power to open packages and examine, weight or measure goods.-** <sup>1</sup>[(1)] The appropriate officer may open any package or container and examine, weight or measure any goods brought to the customs-station for importation or exportation and may for that purpose unload any such goods from the conveyance on which they have been imported or are to be exported.

<sup>1</sup>[(2) The owner of such goods or his authorized representative may be allowed to inspect such goods before the presentation or transmission of the bill of entry or the bill of export thereof, as the case may be, subject to the conditions laid down by an officer of customs not below the rank of Assistant Commissioner.]

**199. Power to take sample of goods.-** (1) The appropriate officer may, on the entry or clearance of any goods or at any time while such goods are being passed through the customs-area, take samples of such goods in the presence of the owner thereof or his agent, for examination or testing or for ascertaining the value thereof or for any other necessary purpose.

(2) After the purpose for which a sample was taken is carried out, such sample shall, if practicable, be restored to the owner, but if the owner fails to take delivery of the sample within one month of the date on which he is asked in writing to take its delivery, it may be disposed of in such manner as the <sup>2</sup>[Commissioner of Customs] may direct.

(3) In the case of goods which consist of drugs or articles intended for consumption as food, and in respect of which the taking of samples for the purposes of this sub-section may have been authorised by a general or special order of the <sup>3</sup>[Government], the appropriate officer may also in like circumstances take samples thereof for submission to, and examination by such officer of Government or of a local authority as may be specified in such order.

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<sup>1</sup> This numbering and sub-section was inserted by Act No. 15 of 2000, s. 43, w.e.f

<sup>2</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st October 1995.

<sup>3</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Provincial Government", w.e.f. 1st July, 1980.

<sup>4</sup>[(4) The owner of any imported or exportable goods or his authorized representative may draw samples before presentation or transmission of bill of entry or bill of export thereof, as the case may be, subject to the conditions laid down by an officer of customs not below the rank of Assistant Commissioner.]

**200. Owner to make all arrangements and bear all expenses.**- Any opening, un-packing, waiving, measuring, re-packing, bulking, sorting, letting, marking numbering, loading, unloading, carrying or lading of goods or their containers for the purposes of, or incidental to, the <sup>5</sup>[examination, including any investigation, scientific or chemical test or draft survey, by an officer of Customs, removal or warehousing thereof shall be done, and any facilities or assistance required for any such examination, investigation, test or survey shall be provided, by or at the expense of the owner of goods].

**201. Procedure for sale of goods and application of sale proceeds.**- (1) Where any goods, other than confiscated goods, are to be sold under any provision of this Act, they shall be sold after due notice to the owner by public auction or by tender or by private offer or, with the consent of the owner in writing in any other manner.

(2) The sale proceeds shall be applied to the following purposes in their respective order, namely-

- (a) first to pay the expenses of the sale;
- (b) then to pay the freight or other charges, if any, payable in respect of the goods, if notice of such charges has been given to the person holding the goods in custody;
- (c) then to pay the customs-duty, other taxes and dues payable to the <sup>1</sup>[Government] in respect of such goods;
- (d) then to pay the charges due to the person holding such goods in custody.

(3) The balance, if any, shall be paid to the owner of the goods, provided he applies for it within six months of the sale of the goods or shows sufficient cause for not doing so.

**<sup>2</sup>[202. Recovery of Government dues.]**- (1) When, under this Act, any duty or regulatory duty is payable to the Government by any person or a penalty

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<sup>4</sup> This sub-section was added by Act of 2000. s. 44, w.e.f

<sup>5</sup> Subs. by Act 11 of 1994, s. 4 (2), w.e.f. 1st July 1994.

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Central Government", w.e.f. 1st July, 1980.

is adjudged against any person or a notice or demand is served upon any person calling for the payment of any amount unpaid which may be payable by way of duty, regulatory duty, penalty or under any bond, security, guarantee or any other instrument executed under this Act or the rules or orders and such duty, regulatory duty, penalty or other sums due are not paid within the time it was required or ordered to be paid, the appropriate officer may at any time-

- (a) deduct, or require any other officer of customs to deduct, the amount so payable from any money owing to such person or due which may be in the hands or at the disposal of, or under the control of, the customs authorities or of such officer or of the Government;
- (b) stop clearance of any goods belonging to such person from customs control in the sea port, airport, any other customs-station or from bonded warehouse till such amount is paid or recovered in full;
- (c) require, by a notice in writing, any person owing any money to the person from whom such duty or regulatory duty or penalty or any other sum is recoverable or due, to pay to such officer the amount specified in the notice, or the whole of such money if it is less than the amount so recoverable or due, within seven days of the receipt of the notice or within such longer time as may be allowed by such officer;
- (d) require the proper Excise Officer <sup>3</sup>[and Value Added Tax Officer] to recover such amount by attachment and sale of exciseable <sup>42</sup>[or Value Added Taxable] goods or any plant, machinery and equipment used for the manufacture of goods or any other goods in the factory or bonded warehouse belonging to such person;
- (e) recover, or require any other officer of customs to recover, such amount by detaining and selling any goods belonging to such person, which are under the control of the customs authorities <sup>1</sup>[;
- (f) require, by a notice in writing, any Scheduled Bank having deposit of money of the person from whom such duty or regulatory duty or penalty or any other sum is recoverable or due to freeze the account or make the account inoperative on respect of the notice.]

(2) If the amount is not recovered from such person in the manner provided in sub-section (1), the appropriate officer may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and send it to the Collector <sup>2</sup>[of the district or to a certificate officer appointed under sub-section (3) in whose jurisdiction] such person resides or owns any

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<sup>2</sup> Subs. by Ordinance No. XLV of 1986, s. 7(5), for section 202, w.e.f. 1st July, 1986.

<sup>3</sup> This words were inserted by Act 18 of 1996, s. 3(7)(a), w.e.f. 1st July 1996.

<sup>42</sup> The words were added by Act 16 of 2005, section 6, w.e.f. 1st July, 2005.

<sup>1</sup> Full stop was substituted by semicolon and after that this new paragraph was inserted by *ibid.*, s. 3(7)(b).

<sup>2</sup> This words "of the district in which" was subs. by Act of 1999, s 4(7)(a)(i), w.e.f 1st July, 1999.

property or conducts his business and such Collector <sup>3</sup>[or certificate officer] shall, on receiving the certificate, proceed to recover the amount specified in the certificate as a public demand or an arrear of land revenue.]

<sup>4</sup>[(3) The Government may appoint one or more officers to perform the functions of a certificate officer under the Public Demands Recovery Act, 1913 (Bengal Act III of 1913) for the purpose of recovering the amount specified in a certificate prepared under subsection (2); and when more than one certificate officers are so appointed the Government may also specify their territorial or other jurisdiction.]

<sup>5</sup>**[202A. Power to write off sums due to Government.-** When under this Act or the rules made thereunder a duty or any other money is payable to the Government by any person or a penalty is adjudged against any person and such duty, penalty or other sum has not been paid within the time it was required to be paid and the sum could not be recovered nor is recoverable from such person in the manner provided in section 202 due to bankruptcy or untraceability of such person or for any other reason, the Government may write-off such duty, penalty or other sum, wholly or partially as it deems fit in the manner prescribed by rules.]

**203. Wharfage or storage fees.-** The <sup>6</sup> [Commissioner of Customs] may, from time to time, fix the period after the expiration of which goods left <sup>7</sup> [or detained] in any custom-house, customs-area, wharf or other authorised landing place or part of the custom-house premises, shall be subject to payment of fees, and the amount of such fees.

**204. Issue of certificate and duplicates of customs' document.-** A certificate or a duplicate of any certificate, manifest, bill or other customs' document may, <sup>43</sup>[on payment of such fee as the Board may determine for this purpose], be furnished, at the discretion of an officer of customs not below the rank of an <sup>10</sup>[Assistant Commissioner of Customs], to any person applying for the same, if the said officer is satisfied that no fraud has been committed or is intended to be committed by the applicant.

<sup>3</sup> This words " or certificate officer" was addad after "such collector" by Act of 1999, s 4(7)(a)(ii), w.e.f 1st July, 1999.

<sup>4</sup> Sub- section (3) was inserted after sub-section (2) by Act of 1999, s 4 (7) (b), w.e.f 1st July, 1999.

<sup>5</sup> Section "202A" was inserted by Act 15 of 1997, s. , w.e.f. 1st July 1997.

<sup>6</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

<sup>7</sup> These words were inserted by Act XXI of 1992, s. 6(23), w.e.f. 1st July, 1992.

<sup>43</sup> These words were subs. by Act 22 of 2006, section 5, w.e.f.

<sup>10</sup> The words "Assistant Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

<sup>1</sup>[**204A. Supply of information pertaining to customs law, etc.**- On an application by any interested person the Board may, within a reasonable period and on payment of such fee as the Board may determine for this purpose, provide him with information pertaining to including in electronic form of upto date Customs Laws including Rules, notifications, circulars, orders and other instruments issued for general use under this Act.]

<sup>44</sup>**[205. Amendment of documents.**- Except in the case provided for by sections 29, 45, 53 and 88, an officer of customs not below the rank of an Assistant Commissioner of Customs may, in his discretion, on payment of such fee as the Board may determined for this purpose, authorize any document, after it has been presented at the customs house, to be amended.]

**206. Correction of clerical errors, etc.**- Clerical or arithmetical errors in any decision or order passed by the <sup>5</sup> [Government], the Board or any officer of customs under this Act, or errors arising therein from accidental slip or omission may, at any time, be corrected by the <sup>8</sup> [Government], the Board or such officer of customs or his successor in office, as the case may be.

**207. Custom-house agents to be licensed.**- No person shall act as an agent for the transaction of any business relating to the entrance or departure of any conveyance or the import or export of goods or baggage at any customs-station unless such person holds a licence granted in this behalf in accordance with the rules.

**208. Agent to produce authority if required.**- (1) When any person applies to any officer of customs for permission to transact any specified business with him on behalf of any other person, such officer may require the applicant to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority refuse such permission.(2) The clerk, servant or agent of any person or mercantile firm may transact business generally at the customs-house on behalf of such person or firm :

Provided that the appropriate officer may refuse to recognize such clerk, servant or agent unless such person or a member of such firm identifies such clerk, servant or agent to the appropriate officer as empowered to transact such business, and deposits with the said officer an authority in writing duly signed,

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<sup>1</sup> This section was added by Act No. 15 of 2000, s. 45, w.e.f.

<sup>44</sup> This section was substitute by Act 22 of 2006, section 6. w.e.f.

<sup>5</sup> Subs. Act XXIII of 1980, s. 11 (1) (b), for ""Central Government", w.e.f. 1st July, 1980.

authorising such clerk, servant or agent to transact such business on behalf of such person or firm.

**209. Liability of principal and agent.-** (1) Subject to the provisions of sections 207 and 208, anything which the owner of any goods is required or empowered to do under this Act may be done by any person expressly or impliedly authorised by the owner for the purpose.

(2) Where this Act requires anything to be done by the owner, importer or exporter of any goods, any such thing done by an agent, clerk or servant of the owner, importer or exporter of any goods shall, unless the contrary is proved, be deemed to have been done with the knowledge and consent of such owner, importer or exporter so that in any proceedings under this Act, the owner, importer or exporter of the goods shall also be liable as if the thing had been done by himself.

(3) When any person is expressly or impliedly authorised by the owner, importer or exporter of any goods to be his agent in respect of such goods for all or any of the purposes of this Act, such person shall, without prejudice to the liability of the owner, importer or exporter, be deemed to be the owner, importer or exporter of such goods for such purposes:

Provided that where any duty is not levied or is short-levied or erroneously refunded on account of any reason other than wilful act, negligence or default of the agent, such duty shall not be recovered from the agent.

**210. Liability of agent appointment by the person-in-charge of a conveyance.-** (1) Anything which the person-in-charge of a conveyance is required or empowered to do under this Act may, with the express or implied consent of the person-in-charge and the approval of the appropriate officer, be done by his agent.

(2) An agent appointed by the person-in-charge of a conveyance, and any person who represents himself to any officer of customs as an agent of any such person-in-charge and is accepted as such by that officer, shall be liable for the fulfilment in respect of the matter in question of all obligations imposed on such person-in-charge by or under this Act or any law for the time being in force, and to penalties (including confiscation) which may be incurred in respect of that matter.

**<sup>1</sup>[211. Keeping of business record.-** <sup>2</sup>[(1) Every licensee, importer, exporter or their agents shall keep or cause to be kept such records as may be specified by the Board, for a period of three years.]

(2) Every such person must, as and when required by an officer of Customs.-

- (a) make the records and accounts available to Customs;
- (b) provide copies of the records and accounts as required; and
- (c) answer any question relevant to the matters arising under this Act asked by any officer of Customs in respect of them.

(3) Where for the purpose of complying with sub-section (2) of this section, information is recorded or stored by means of an electronic or other device, the licensee, importer, exporter, or its agent, shall, at the request of an officer of Customs, operate the device, or cause it to be operated, to fulfil the requirements of sub-sections (2).]

<sup>3</sup>[(4) For the purposes of sub-section (2) and (3) the audit agencies appointed by the Government under section 25A and an employee of that agency shall be deemed to be the officers of Customs.]

**212. Regulation of business of gold, etc.-** The <sup>4</sup>[Government] may, by notification in the official Gazette, regulate business in, or connected with, gold or silver or precious stones or ornaments made of gold or silver or precious stones, within fifteen miles of the frontier or cost-line of <sup>1</sup>[Bangladesh].

**213. Recovery of money upon certain documents.-** If any person knowingly makes or brings into <sup>1</sup>[Bangladesh] or causes or authorises or is otherwise concerned in the making or bringing into <sup>1</sup>[Bangladesh] of any invoice or paper used or intended to be used as an invoice for the purposes of customs, in which any goods are entered or charged at a price or value higher or lower than that actually paid or intended to be paid for them, or in which goods are falsely described, no sum of money shall be recoverable by such person, his representatives or assigns, for the price of such goods or any part thereof, nor shall any sum of money be recoverable upon any bill of exchange, note or other security made, given or executed for the whole or part of the price of such goods unless such bill of exchange, note or other security is in the hands of a *bona fide* holder for consideration without notice.

<sup>1</sup> This section was replaced by Act 15 of 2000, s.46, w.e.f

<sup>2</sup> This sub-section (1) was replaced by Act of 2001, s. 44(Ka), w.e.f 1<sup>st</sup> July, 2001.

<sup>3</sup> This sub-section (4) was inserted by Act of 2001, s. 44(Kha), w.e.f 1<sup>st</sup> July, 2001.

<sup>4</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Central Government", w.e.f. 1st July, 1980.

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Pakistan", w.e.f. 1st July, 1980.

**214. Remission of duty and payment of compensation to the owner in certain cases.-** Where, on prosecution by the owner of any goods, an officer of customs is convicted of an offence connected with the removal of such goods from the warehouse without payment of duty, the whole of the duty on such goods shall be remitted, and, the <sup>2</sup> [Commissioner of Customs] shall, in accordance with the rules, pay to the owner due compensation for the damage caused to the owner by such offence.

**215. Service of order, decision, etc.-** Any order or decision passed or any summons or notice issued under this Act shall be served-

- (a) by tendering the order, decision, summons or notice or sending it by registered post acknowledgement due to the person for whom it is intended or to his agent; or
- (b) if the order, decision, summons or notice cannot be served in any manner provided in clause (a), by affixing it on the notice board of the customs-house.

**<sup>3</sup>[215A. Supply of information and copy of decisions.-** (1) Upon an application of a person directly interested in a decision taken by a customs officer under this Act, the Commissioner of Customs or an officer authorised by him shall, subject to payment by the applicant of a fee specified by the Board, deliver within 15 (fifteen) days of the application, a true copy of that decision with a certificate that it is a true copy :

Provided that a copy or other copy or reproduction of the certified copy shall not be admissible as evidence or otherwise accepted in any court of law.

(2) Upon an application of a person directly interested in a decision taken or omitted to have been taken by a customs officer, the Commissioner of Customs shall inform that person in writing within a period of 60 days of the application the reasons for such decision or omission.]

**216. No compensation for loss or injury except on proof of neglect or wilful act.-** No owner of goods shall be entitled to claim from any officer of customs compensation for the loss of such goods or for damage done to them at any time while they remain or are lawfully detained in any customs-house, customs-area, wharf or landing place under the charge of any officer of customs, unless it be proved that such loss or damage was occasioned by gross negligence or wilful act of such officer.

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<sup>2</sup> The words "Collector of Customs" were subs. by Act 12 of 1995, s. 5 (3), w.e.f. 1st July 1995.

<sup>3</sup> This section was replaced by Act of 2001, s. 44Ka. w.e.f 1<sup>st</sup> July, 2001.

<sup>1</sup>[**216A. Bar to filing of cases in civil courts.**- No suit, case or any application shall lie to any civil court, except the courts, tribunals and authorities authorized by or under this Act, for the purpose of determination of the legality or propriety of an order or decision, as the case may be, regarding levy, imposition, exemption, assessment or realisation of customs duties or taxes made by an officer of customs or by the Board or the Government.]

**217. Protection of action taken under the Act.**- No suit, prosecution or other legal proceeding shall lie against the <sup>2</sup>[Government] or any public servant for anything which is done or intended to be done in good faith in pursuance of this Act or the rules.

<sup>3</sup>[**217A. Reward for detection etc. of evasion of duties or violation of laws.**- Notwithstanding anything contained to the contrary in this Act or any other law for time being in force, the Board may, in such manner and in such circumstances and to such extent as may be prescribed by rules, grant reward to the following persons :-

- (a) a person giving information to Customs Authorities with regard to evasion or attempted evasion of customs duties or violation of any provision of this Act or any other law for the time being in force under which a customs officer is authorised to collect tax or other revenue;
- (b) <sup>45</sup>[an officer or employee of Customs] or an officer or employee of any other government agency or of a local authority who detects or unearths the evasion or attempted evasion of customs duties or violation of this Act or that other law;

if such supply of information, the act of detection of or unearthing the evasion or attempted evasion of customs duty or violation of law leads to :-

- (i) the seizure and confiscation of goods or other things in relation to which the evasion or attempted evasion or violation takes place; or
- (ii) the realisation of customs duty or other revenue leviable under this Act or that other law for the time being in force or the

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<sup>1</sup> This Section 216A was added by Act of 2001, s. 45. w.e.f 1<sup>st</sup> July, 2001.

<sup>2</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Central Government", w.e.f. 1st July, 1980.

<sup>3</sup> This section was added by Act No. 15 of 2000, s. 48, w.e.f

<sup>45</sup> These words were subs. by Act No. 33 of 2010, s. (15), w.e.f 1<sup>st</sup> July, 2010

realisation of a penalty or fine imposed under the relevant law;  
or  
(iii) conviction of and sentence imposed on the person liable for  
such evasion,  
attempted evasion or violation.]

<sup>46</sup>[217B. **Award of financial incentives to Customs Officers and employees** – Notwithstanding anything contained to the contrary in this Act or any other law the Board may, in such manner and in such circumstances and to such extent as may be prescribed by rules, award an amount of the surplus collection of revenue at import stage as financial incentives to all Customs Officers and employees and officers and employees of the Board;

Provided that the collection of revenue at import stage for a given financial year exceeds the target of collection fixed by the Government for that financial year.]

**218. Notice of proceedings.**– No proceeding in a court other than a suit shall be commenced against any officer of customs or any other person exercising any powers conferred or discharging any duties imposed by or under this Act for anything purporting to be done in pursuance of the provisions of this Act or the rules without giving to such officer or person a months previous notice in writing of the intended proceeding and of the cause thereof; or after the expiration of one year from the actual of such cause.

**219. Power to make rules.**– (1) The Board may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, rules may be made on matters enumerated in the <sup>1</sup>[Third Schedule].

(3) No rules relating to matters enumerated at items 19 and 22 of the <sup>1</sup>[Third Schedule] shall be made without previous approval of the <sup>2</sup>[Government] in writing.

(4) All rules made under this section shall, as soon as may be, be laid at the table of the <sup>3</sup>[Parliament].

(5) All such rules for the time being in force shall be collected, arranged, and published at intervals not exceeding two years, and shall be sold to the public at a reasonable price.

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<sup>46</sup> These clause (217B) was inserted by Act No. 33 of 2010, s. (16), w.e.f 1<sup>st</sup> July, 2010

<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (17) (a), for "First schedule", w.e.f. 1st July, 1980.

<sup>2</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Central Government", w.e.f. 1st July, 1980.

<sup>3</sup> Subs. by *ibid.*, for "National Assembly".

**<sup>4</sup>[219A. Power to make customs rulings.]** (1) On an application by any person or on a reference by an officer of customs not below the rank of Commissioner or of its own motion, the Board may make customs rulings in respect of any matter specified in the application or reference, as the case may be, if the point raised in the application or reference relates to application of any provision of this Act or the rules to a specific situation or if such point relates to any tariff classification or duty rates or valuation of any goods for customs assessment purpose.

(2) A customs ruling may be made within thirty working days of the receipt of the application or the reference, as the case may be.

(3) The Board may decline to make a customs ruling on the ground of insufficient information furnished or in the absence of conclusive evidence provided in support of the contentions in the application or the reference.

(4) The rulings made by the Board shall be binding upon the concerned persons and officers.

(5) The Board may from time to time review and amend a customs ruling to correct any error contained in that ruling.]

**<sup>5</sup>[219B. Power to issue Orders, Notices, Explanations or Circulars.]** The Board or, as the case may be, the Commissioner of Customs (Bond), or Commissioner of Customs (Valuation and internal audit), or any other Commissioner of Customs or any Director General may issue orders, notices, explanations or circulars within their respective jurisdiction not inconsistent with the provisions of this Act and the rules made thereunder.]

**220. Repeals and amendments.**— The enactments specified in the <sup>6</sup>[Fourth Schedule] are repealed or amended to the extent specified respectively in columns three and four thereof.

**221. Savings.**— (1) Notwithstanding anything contained in section 6 of the General Clauses Act, 1897 (X of 1897), anything done or any action taken under the repealed enactments in so far as it is not inconsistent with the provisions of this Act shall without prejudice to anything already done or any action already taken be deemed to have been done or taken under this Act:

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<sup>4</sup> This section was added by Act No. 15 of 2000, s. 49, w.e.f

<sup>5</sup> This section was added by Act No. 14 of 2002, s. 22, w.e.f 1st July, 2002

<sup>6</sup> Subs. by *ibid.*, for "Second schedule".

Provided that nothing in this Act shall be so construed as to have the effect of enhancing the punishment of an offence committed before the commencement of this Act:

Provided further that where the period of limitations for the submission of an application or the filing of an appeal or revision prescribed under any of the repealed enactments had expired or had begun to run before the commencement of this Act the provisions of those enactments shall continue to apply to such limitation.

(2) The provisions of the General Clauses Act, 1897 (X of 1897), in particular, section 6, section 8 and section 24 thereof, shall apply to the repeal and re-enactment of the said enactments by this Act, subject to the provision of sub-section (1).

(3) Nothing in this Act shall affect any law for the time being in force relating to the constitution and powers of the trustees of any port or other port authority.

**222. Removal of difficulties.**- If any difficulty arises in giving effect to the provisions of this Act, particularly in relation to the transition from the enactments repealed by this Act to the provisions of this Act the <sup>1</sup>[Government] may, by general or special order made during the period of one year from the commencement of this Act direct such action to be taken as it considers necessary or expedient for the purpose of removing the difficulty.

<sup>47</sup>[223.. **Authentic Bangla Text.**- There shall be an authentic Bangla text of this original Act:

Provided that in the event of conflict between the two texts, the original text shall prevail.]

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<sup>1</sup> Subs. by Act XXIII of 1980, s. 11 (1) (b), for "Central Government", w.e.f. 1st July, 1980.  
<sup>47</sup> These clause (223) was inserted by Act No. 33 of 2010, s. (17), w.e.f 1<sup>st</sup> July, 2010

<sup>48</sup>[ THE THIRD SCHEDULE ]

1. Regulation of proceedings for the detention and confiscation of the prohibited goods imported and intended to be exported, including verification of information relating to such goods, notices to be given to the owner or other parties, security for the custody or release of such goods, examination of evidence, reimbursement by the informant of expenses and damages caused by incorrect information supplied by him.
2. Cases in which the goods or material imported with a view to subsequent exportation or to be used in the production, manufacture, processing, repair or refitting to goods specified in the rule may be delivered without payment of the whole or part of the duty; and repayment of duty on such goods and material.
3. Valuation of the goods imported or intended to be exported; submission by the importer or exporter of information necessary for the proper valuation of the goods. and production of the relevant books and document by him; furnishing of information by the importer or relating to the sources, nature and amount of the funds or assets by which the goods were acquired or the consideration for which and the manner in which it was disposed of.
4. Determining denature spirit, and testing and denaturing of spirit.
5. Matters pertaining to draw back : drawback in respect of used goods, the amount of duty which shall be repaid as drawback on such goods, prohibition of drawback on any specified goods or class of goods; condition for the payment of drawback; limiting the period during which such goods must be exported; limiting the time during which drawback may be claimed.
6. The extent to which and the conditions subject to which drawback may be allowed on the imported material used in the manufacture of goods in<sup>49</sup>[Bangladesh] which are exported.
7. Matters relating to port clearance or to departure of conveyances; grant of special pass permitting bulk to be broken; conditions relating to the grant of port clearance to the master of a vessel when the agent

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<sup>1</sup> The existing First Schedule was re-numbered as Third Schedule by Act XXIII of 1980, s. 11(9).  
<sup>49</sup> Subs. *ibid*, s. 11(1) for "Pakistan".

furnishes security for the delivery of export manifest and other documents.

8. Sealing of conveyances carrying transit goods and in other cases.
9. Marking of boats belonging to <sup>50</sup>[Bangladeshi] ships and of other vessels not exceeding one hundred tons; prohibition, regulation and restriction of the playing of such boats and vessels; fees for licenses and registration of cargo boats.
10. Expenses to be charged when customs officer is specially employed to accompany the owner to the warehouse under section 93; Fees to be charged for permitting the owner of any goods to deal with them as provided in section 94.
11. Matters pertaining to the manufacturing and other operation carried on in the warehouse.
12. Transshipment and prohibition and regulation and restriction of transshipment of goods without payment of duty; power of officers of customs in that behalf ; and the fees for transshipment.
13. Export of frustrated cargo under section 138.
14. Transport of goods from one port of <sup>51</sup>[Bangladesh] to another through foreign territory; condition as to the due arrival of such goods at the destination.
15. Conditions and restrictions applying to the transit of goods to a foreign territory without payment of duty;
16. Bill of Export.
17. Baggage of passengers and the crew; definition. declaration, custody, examinations, assessment and clearance of such baggage ; transit and transshipment of each baggage; circumstances and conditions under which such baggage or any specified class of goods included in such baggage would be exempt from duty; extent of such exemption.

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<sup>50</sup> Subs. by Ord. No. XVI of 1982, s. 11(5), for "Pakistan".

<sup>51</sup> Subs. by Act XXIII of 1980, s. 11(1), s. 11(1) for "Pakistan".

18. Matter pertaining to the import or export of goods by post; examination, assessment, clearance, transit of transshipment of the goods so imported or to be exported.
  19. Prevention of the taking out of <sup>2</sup>[Bangladesh] of any coastal goods the export of which is dutiable or prohibited under this Act or any other law; prevention of the substitution of imported goods or export goods by coastal goods on board a vessel; prohibiting the conveyance of any specified class of goods generally, or to or between specified ports in a coastal vessel.
  20. Power to be exercised by an officer stationed at a factory or building under section 176.
  21. Licensing of agents: the form of the licence and fee payable therefor; the authority competent to grant the licence. the period of validity of the licence; qualifications of the licence; conditions and restrictions applying to the licence including furnishing of security; <sup>52</sup>[circumstances in which penalty may be imposed on the licensee or licence may be suspended or revoked; appeals against the penalty or suspension or revocation of the licence.]
  22. Matters pertaining to any business for the regulation of which a notification may be issued under section 212; the accounts and records to be maintained, and the information to be furnished, by persons engaged in such business.
- <sup>53</sup>[22A.Reward under section217A.]
23. Any other matter necessary for giving effect to the provisions of this Act.

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<sup>52</sup> Subs. by Ord. XIV of 1986, s. 7(7) w.e.f. 1<sup>st</sup> July, 1986..  
<sup>53</sup> Inserted by Act 15 of 2000, s. 51, w.e.f. 1<sup>st</sup> July, 1986..

<sup>54</sup>[ THE FOURTH SCHEDULE

S. No.	Name and No. of enactment	Extent of repeal	Amendments
1	2	3	4
1.	The Sea Customs Act, 1878 (VIII of 1878)	The whole	-
2.	The inland Bonded Warehouses Act, 1896 (VIII of 1896)	The whole	-
3.	The Land Customs Act, 1924 (XIX of 1924)	The whole	-
4.	The Tariff Act, 1934 (XXXII of 1934).	<sup>55</sup> [The whole]	<sup>56</sup> [* * * * ]
5.	The Civil Aviation Ordnance, 1960 (XXXII of 1960).	Section 14	

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Last Correction : 04.07.2012.

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<sup>54</sup> The Second Schedule was renumbered as Fourth Schedule by Act XXIII of 1980, s. 1

<sup>55</sup> Subs. *ibid.*, for "Section 5 and 6".

<sup>56</sup> The entries in column 4 were omitted, *ibid.*