

DEPOTS

CUSTOMS ACT

16. Customs control of goods.

- (1) Goods are subject to the control of the Customs as follows:—
 - (a) imported goods—from the time of importation until—
 - (i) delivery for home consumption; or
 - (ii) exportation,whichever first happens; and
 - (b) goods under drawback—from the time of the claim for drawback until they are exported; and
 - (c) goods subject to export duty—from the time when the goods are brought to any port or place for export until payment of the duty; and
 - (d) goods for export the exportation of which is subject to compliance with any condition or restriction under any Act—from the time when the goods are made or prepared in, or are brought into, any prescribed place for export until they are exported; and
 - (e) goods on board any conveyance from a place outside Papua New Guinea at all times the conveyance is in Papua New Guinea.
- (2) Goods imported through the post are subject to the control of the Customs in the same manner as goods otherwise imported.
- (3) A person who, otherwise than by authority and in accordance with this Act, moves, alters or interferes with goods, or directs or permits another person to move, alter or interfere with goods, subject to the control of the Customs, is guilty of an offence.
- (4) The owner or operator of a place holding goods subject to the control of Customs, must when requested by an authorised officer, account for those goods to the satisfaction of the Collector.
- (5) An owner or operator failing to account for goods when requested to do so, is guilty of an offence.

Penalty: Subject to sections 163, 164 and 165, a fine not less than K5000.00 and not exceeding K50,000.00.”

16A. Access to a Customs Controlled Area

- (1) The owner or operator of a facility containing a customs controlled area shall not grant or allow to be granted to any person, access to that area, unless that person—
 - (a) has been authorised by the Commissioner-General in accordance with any section of this act or its regulations; or
 - (b) is a prescribed person or a member of a prescribed class of persons as described in the regulations.
- (2) A person who-

- (a) grants access to a Customs Controlled Area to another person in contravention of subsection (1); or
- (b) who intentionally directs or permits another person to grant access to a Customs controlled Area to a person in contravention of subsection (1); commits an offence against this Act.

Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K1,500.00 and not exceeding K5,000.00.

(3) Any person found to be in a restricted area who is not authorized to be in that area, commits an offence and shall be liable upon conviction to a fine not exceeding K10,000.00 for the first offence and a fine to be calculated in increments of up to K5,000.00 for each subsequent offence.

(4) It is a defence to a prosecution of a person for a contravention of subsection (1), if that person took reasonable precautions and exercised due diligence, to prevent the grant of access by the employee who is alleged to have granted a person such access to a Customs Controlled Area in contravention of the Section.

16B. Power to question persons in a Customs Controlled Area

(1) In this section “*appropriate identification*” means:

- (a) if a person is a member of the crew of an international ship or aircraft:
 - (i) a current passport; or
 - (ii) a document issued by the shipping or airline company having control of the ship or aircraft concerned setting out the full name and nationality of the person and the passport number or other official identification number of the person; and
- (b) if the person is not a member of the crew of such a ship or aircraft
 - (i) a document issued by the employer of the person providing photographic identification of the employee and setting out the person’s full name; or
 - (ii) a document issued by, or by an instrumentality of, the State providing photographic identification of the person and setting out the person’s full name; or
 - (iii) a document, being a temporary visitors pass, issued by the owner or operator of the facility setting out the person’s full name and details of their driver’s licence or other photographic identification document as proof of identity of the person.

(2) An officer may question any person found in or on a Customs Controlled Area and may -

- (a) request that person to produce appropriate identification for the officer’s inspection, in order to establish:
 - (i) the persons name;
 - (ii) the person’s reason for being there;
 - (iii) evidence of the person’s identity; and
 - (iv) whether any offence against any customs related law is being committed.

- (b) request the person to leave the area forthwith, if the person, being other than a crew member of an international ship or aircraft, is unable to establish his or her identity or to explain his or her presence in the customs controlled area.
- (c) remove them, using only as much force is necessary in the circumstances, if that person refuses or fails to produce appropriate identification or refuses or fails to leave the area as directed.
- (d) return a person to a ship or aircraft forthwith to obtain identification if he claims to be a member of the crew of an international ship or aircraft and refuses or fails to produce appropriate identification on request.

(3) A person who refuses or fails to answer questions truthfully or to produce on demand appropriate identification to a Customs officer, commits an offence.

Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K1,500.00 and not exceeding K5,000.00.

16C. Providing Customs with Information About People Issued with Security Identification Cards

(1) A person who issues a security identification card to another person in respect of a Customs Controlled Area must provide to an authorised officer, on written request, the required identity information in respect of the person if the authorised officer suspects on reasonable grounds that the other person has committed, or is likely to commit, an offence against Customs-related law.

(2) The person on whom the request is made does not comply with an obligation under subsection (1) to provide the information unless the person provides it:

- (a) in writing; or
- (b) in such other form as the authorized officer directs in writing; and
- (c) within 5-days after receiving the request.

(3) A person who fails to comply with such a request from an authorized officer commits an offence against this Act

Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K1,500.00 and not exceeding K5,000.00.

16D. Power To Search And Seize Goods

(1) An officer may detain

- (a) any person or conveyance in a Customs Controlled Area; or
- (b) within a reasonable time after that person or conveyance leaves the area, any person or conveyance who that had access to a Customs Controlled Area; and
- (c) search that person or conveyance if the officer suspects, on reasonable grounds, that the person has secreted on or about his person or the conveyance has on it -
 - (i) anything in respect of which any Customs-related law has been or might be contravened; or
 - (ii) anything that would afford evidence with respect to a contravention of any Customs-related law; or

- (iii) any goods the importation or exportation of which is prohibited, controlled or regulated under this or any other Act of Parliament.

(2) An officer may seize any thing found on the person or in the conveyance as a result of a search conducted under subsection (1) that -

- (a) would afford evidence with respect to a contravention of any Customs-related law; and/or
- (b) are any goods the importation or exportation of which is prohibited, controlled or regulated under this or any other Act of Parliament.”

16E. Requirement To Display Signs At A Customs Controlled Area

(1) The operator of a place containing a Customs Controlled Area is required to display signs, as prescribed, identifying the place and stating that entry into it by unauthorised persons is prohibited by this Act.

(2) A person who fails to comply with subsection (1) commits an offence against this Act

Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K1,500.00 and not exceeding K5,000.00.

17. Power To Examine Goods.

An officer may-

- (a) at any time up to the time of release from a Customs Controlled Area, examine any goods that have been imported and open or cause to be opened any package or container of imported goods and take samples of imported goods in reasonable amounts;
- (b) at any time up to the time of exportation, examine any goods that have been delivered to a Customs Controlled Area and open or cause to be opened any package or container of such goods and take samples of such goods in reasonable amounts;
- (c) examine any goods in the custody or possession of a person found in or on, or leaving, a customs controlled area and open or cause to be opened any baggage, package or container and take samples of the goods in reasonable amounts, if the officer suspects on reasonable grounds that this Act or any other Act of Parliament administered or enforced by the officer or any regulations made under it have been or might be contravened in respect of the goods.
- (d) The power to examine goods extends to items imported and exported through the mail.

17A. [Repealed]

18. Compensation for loss.

The State is not liable for any loss or damage occasioned, otherwise than by the neglect or wilful act of an officer, to any goods subject to the control of the Customs.

21A. Depots

(1) Where goods are subject to Customs control, application may be made to Customs, by document or by computer, for permission to move those goods to a place specified in the application.

(2) Subject to this section, a Collector may on application, grant an approval in writing to be known as a depot approval, to use the place described in the approval, to be known as a depot, for any one or more of the following purposes:

- (a) the holding of imported goods that are subject to the control of customs;
- (b) the unpacking of goods subject to customs control from containers;
- (c) the holding of goods for export that are subject to the control of customs;
- (d) the packing of goods subject to customs control into containers;
- (e) the examination of goods subject to customs control by officers of Customs.

(3) When an application is communicated to Customs under subsection (1), a Collector must, in a form approved by the Commissioner-General:

- (a) give the applicant permission to move the goods either absolutely or subject to such conditions as are specified in the approval or
- (b) refuse the application and set out in the notice the reasons for that refusal.

(4) A Collector may refuse to grant a depot approval if, in the Collector's opinion:

- (a) the applicant is not a fit and proper person to hold a depot approval; or
- (b) the applicant would not be in a position to occupy and control the proposed depot if the approval were granted; or
- (c) the physical security of the proposed depot is not adequate having regard to:
 - (i) the nature of the place; or
 - (ii) the procedures and methods that would be adopted by the applicant to ensure the security of the goods in the proposed depot were not suitable; or
- (d) the records that would be kept in relation to the proposed depot would not be suitable to enable customs to adequately audit those records; or

(e) the place in relation to which the approval is sought would be too remote from the nearest place where officers of Customs regularly perform their functions for Customs to be able to conveniently check whether the Customs Act or any Customs related law is being complied with at the place.

(5) Where a person moves goods otherwise than in accordance with an approval issued under subsection (3), the goods are deemed to have been moved without authority.

(6) If goods moved in accordance with an approval issued under subsection (3) have not been entered for home consumption or further dealt with according to law within 30 days of their removal to a depot, they may be detained by Customs, and subsequently sold.

(7) An extension to the time prescribed in Section 21A(6) may be granted by the Commissioner if reasonable grounds exist, which may prevent the goods being dealt with as required within the prescribed time.

(8) Where a Collector has arranged for goods to be detained, Customs has a lien on the goods for any expenses incurred in connection with their detention and for any rent and charges incurred in relation to the goods.

(9) An approval for a depot comes into force on the date the approval is granted, and remains valid until the end of the calendar year in which it was granted.

(10) If the holder of a depot approval fails to renew that approval during its period of validity, a Collector may refuse to permit goods that are subject to the control of Customs to be received into the depot.

(11) A Collector may give notice of intention to revoke a depot approval if the Collector is satisfied that the revocation is necessary for the protection of the revenue or for the purpose of ensuring compliance with any Customs related law.

84. Goods in manifest but not produced, etc.

Where dutiable goods that are included in the report of a conveyance are not produced to an officer, the owner of those goods while under Customs Control, shall, on demand by the Collector, pay the duty on the goods as estimated by the Collector, unless the goods are accounted for to the satisfaction of the Collector.