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Customs Regulation [Contains all amendments up to and including the *Customs (consequential amendments) Act 2010*.]

# Customs Regulation 1951

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## PART I — PRELIMINARY

### 1. Interpretation.

In this Regulation, unless the contrary intention appears—

*"working day"* means a day prescribed as a working day by Section 3;

*"working hours"* means the hours in a working day prescribed as working hours by Section 3.

*"approved form"* means a form approved by the Commissioner-General for use in connection with a requirement of the Customs Act and Regulations

*"commercial conveyance"* means a conveyance that is used for hire or reward to transport goods or persons, and includes a private motor vehicle when used to transport commercial goods, or persons for hire or reward.

*"non-commercial conveyance"* means a conveyance that is used to transport persons or non-commercial goods not being for hire or reward.

*"non-commercial goods"* has the same meaning as that contained in the *Customs (Personal Effects) Regulation 1995*.

## PART II — ADMINISTRATION OF THE CUSTOMS

### *Division 1—General*

### 2. CUSTOMS FLAG

The Customs flag is the National Flag, with the addition in the fly of a white ball with the letter "P.N.G.C." in black in bold characters.

### 3. WORKING DAYS AND HOURS OF THE CUSTOMS

(1) The working days and hours of the Customs are—

(a) in places where the ordinary working week of officers of the Public Service is a five-day working week—the hours of 7.45 a.m. to 12 noon and 1.0 p.m. to 4.06 p.m. on Mondays to Fridays; and

(b) in all other places—the hours of 8.0 a.m. to 12 noon and 1.30 p.m. to 4.03 p.m. on Mondays to Fridays, and 8.0 a.m. to 12 noon on Saturdays.

(2) For the purposes of Subsection (1), a holiday declared by or under the *Public Services (Management) Act 1995* is not a working day.

(3) A Collector may permit work to be performed outside the prescribed working hours or days, subject to such conditions (if any) as he approves in any case.

- (4) The Collector may by order require, in regard to any particular port, that the discharge of cargo entered for warehousing shall cease at any time during prescribed working hours in order to enable the goods discharged to be received before 5.00 p.m. into the warehouses for which they are entered.
- (5) The Collector may grant a permit in an approved form to load, discharge, deliver or receive goods before or after working hours on any working day.

#### **4. OVERTIME RATES**

- (1) . . . [Repealed].
- (2) Where work is permitted outside the prescribed working hours or days, a charge shall be made being the total of—
  - (a) the amount per hour or part of an hour for work performed by an officer calculated in accordance with the rate prescribed under the General Orders made under the *Public Services (Management) Act 1995*; and
  - (b) an amount of 10% of the sum calculated under Paragraph (a).
- (3) Where an officer is required to proceed on duty away from his ordinary station, the rate of charge to be made in respect of his services is as fixed by the Commissioner General.

#### **5. SECURITIES IN RESPECT OF WHARFS**

- (1) The owner, or the person in control, of a wharf declared under Section 7 or 8 of the Act in respect of which security has not been furnished must, when required by the Commissioner General, furnish security in an approved form, as the case requires, for the protection of the revenue.
- (2) The security to be given in respect of a wharf referred to in Subsection (1) is such amount as the Commissioner General thinks necessary.
- (3) The owner, or the person in control, of a wharf referred to in Subsection (1) who fails to comply with the preceding provisions of this section, is guilty of an offence.  
Penalty: A fine not exceeding K200.00.
- (4) Failure to comply with this section is a good ground for the revocation of the declaration of the wharf

#### ***Division 2—Carriage, Boat and Lighter Licences [Repealed]***

#### **6. LICENCES [REPEALED]**

#### **7. LICENCE FEES [REPEALED]**

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**9. NUMBERING, ETC., OF LICENSED CARRIAGES, ETC. [REPEALED]**

**10. SALE, LOSS, ETC., OF LICENSED CARRIAGE, ETC. [REPEALED]**

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**12. REVOCATION OF LICENCE [REPEALED]**

**PART III —CUSTOMS SECURITIES**

**13. FORM OF SECURITY**

The prescribed form of security referred to in Section 14(2) of the Act is a security in an approved form.

**14. DEPOSITS BY WAY OF SECURITY, ETC.**

- (1) A subscriber to a Customs security may deposit with the Collector cash, Papua New Guinea Government securities or negotiable instruments approved by the Collector, to a value equal to the full amount of the liability stated in the security.
- (2) Where, under Section 133 of the Act, the Collector has required from the owner of any goods proof that the goods—
  - (a) are owned as claimed; and
  - (b) are properly described and valued, or rated for duty,the Collector may, before delivering the goods or passing an entry in relation to the goods, require and take security—
  - (c) for compliance with the Act; and
  - (d) for the protection of the revenue of the Customs,by a cash deposit in accordance with this section of such amount as he thinks necessary, accompanied by a memorandum in an approved form.
- (3) If the Collector obtains a judgement against the subscriber in a suit on the Customs security, the Collector may—
  - (a) appropriate so much of the deposit as is sufficient to satisfy the judgement and costs; and
  - (b) if the deposit is not sufficient to satisfy fully the judgement and costs—exercise all powers of enforcing the judgement, by execution or otherwise, to obtain payment of the balance remaining due under the judgement.



- (4) Where the right to appropriate a deposit arises under this section—
  - (a) the Collector may dispose of any deposited Government securities or negotiable instruments, by auction or private sale or otherwise, in such manner as in his opinion is most favourable to the subscriber; and
  - (b) the net proceeds of the disposition shall for all the purposes of this section be deemed to have been a deposit of cash by the subscriber, and may be wholly or partly appropriated accordingly.
- (5) A certificate signed by the Collector stating—
  - (a) the Government securities or negotiable instruments disposed of; and
  - (b) the net proceeds of the disposition,is proof of the matters stated.
- (6) Any portion of a deposit appropriated under this section is the property of the State.
- (7) When a Customs security expires or is cancelled, discharged, released or satisfied, the subscriber is entitled to a return of so much (if any) of any deposit under this section as has not been appropriated under this section.
- (8) When Government securities or negotiable instruments bearing interest are deposited under this section, the subscriber is entitled to collect as it falls due, and retain, any interest payable on the securities or instruments before they are disposed of by the Collector under this section.
- (9) If any Government securities or negotiable instruments deposited under this section are not payable to bearer, the subscriber shall—
  - (a) at the time of the deposit, lodge with the Collector duly executed transfers or assignments in such form as will enable the Collector to dispose of the securities or instruments effectually; and
  - (b) at the request of the Collector, execute any transfers or assignments that the Collector from time to time thinks necessary or convenient to enable him to dispose of them effectually.

#### **PART IV — CUSTOMS CONTROL, ETC.**

##### **15. LANDING OF PASSENGERS' BAGGAGE**

- (1) In this section, "*personal effects*" means such articles as are determined by the Commissioner General to be personal effects.
- (2) Passengers' personal baggage, not being dutiable goods—
  - (a) shall be unshipped only by authority; and
  - (b) shall be landed only at a legal landing place; and
  - (c) shall not be removed from the place of examination except by authority.

- (3) The personal baggage of a passenger—
- (a) shall be landed immediately on the arrival of the vessel at the port of destination of that passenger; and
  - (b) shall not be permitted to remain on board pending the convenience of the passenger.
- (4) Subject to Subsections (5) and (6), each passenger arriving from a port outside the country shall make a declaration, in a form approved by the Head of State, acting on advice, setting out—
- (a) the number and description of the packages comprising his baggage; and
  - (b) the nature of their contents; and
  - (c) particulars in detail regarding all goods that—
    - (i) are intended for gift, sale, exchange or trade; or
    - (ii) are landed for any other person; or
    - (iii) are his own property but are not his *bona fide* personal effects.
- (5) A married woman travelling with her husband and disembarking at the same port, or a child under the age of 18 years travelling with its parent or guardian, are not required to make a separate declaration under Subsection (4), but particulars relating to the baggage of the married woman or child shall be included in the declaration made by the husband, parent or guardian, as the case may be.
- (6) A person who is—
- (a) under the age of 18 years; or
  - (b) exempted by the Collector on account of illiteracy or for any other sufficient reason, is not required to make a declaration under Subsection (4).

### **15A. AUTHORISED OR PRESCRIBED PERSONS**

The following persons are authorised or prescribed persons for the purposes of Section 16A –

#### Authorised Persons

1. an officer of the Customs;

#### Prescribed person or class of persons

- (a) a member of an authority that has the management or control of a wharf or airport or a port of entry or is employed in connection with the management of a wharf or airport or a port of entry;
- (b) the owner or operator, or an employee of the owner or operator of a facility licensed or approved to operate as a Customs Controlled Area;
- (c) an officer of an agency, being an instrumentality of the State, appointed under a Customs related law and who is authorised by law to enter a wharf or airport or port of entry;
- (d) a police officer or a member of the Defence Force on duty and authorised by law to enter a place;

- (e) a visitor, to the facility housing a Customs Controlled Area who has been issued with an identification pass by the owner or operator of the facility and who is accompanied by an authorised officer or prescribed person;
- (f) a passenger or member of the crew of a conveyance entering into, or departing from, Papua New Guinea, who is required to enter a Customs Controlled Area consequent on that entry or departure;
- (g) an employee of a third party who has been issued with an identification pass by the owner of the facility and who is required to enter a Customs Controlled Area as part of their employment;

## **PART V —THE IMPORTATION OF GOODS**

### *Division 1—General*

#### **16. NOTICE OF E.T.A.**

The master of a ship and the pilot of an aircraft arriving from a place outside the country shall give to the Customs officer in charge of the port or aerodrome three hours' notice of his expected time of arrival at the first stopping place in Papua New Guinea.

#### **17. SIGNAL REQUIRING CUSTOMS SERVICES**

The master of a ship who requires the services of a Customs officer on board his ship, shall hoist at the fore—

- (a) the British Union Jack; or
- (b) if that flag is not on board, the Code Flag "D", in the International Code of Signals (formerly Marryat No. 2).

#### **18. INWARDS REPORTS**

- (1) The reports required by Section 30 of the Act shall be—
  - (a) in the case of a commercial conveyance – in an approved form; or
  - (b) in the case of a non-commercial conveyance – in an approved form; and
  - (c) be communicated to Customs by sending, transmitting or giving it to an officer doing duty in relation to the reporting of conveyances at the port, airport or port of entry at which the conveyance is expected to arrive; and
  - (d) in the case of a vessel shall be given to Customs not less than 48 hours before its arrival, unless the voyage time from its last port is less than 48 hours in which case not later than 24 hours before its arrival; and
  - (e) in the case of an aircraft shall be given to Customs not less than 3 hours before its arrival, unless the flight time is less than 3 hours in which case not later than 1 hour before its arrival; and
  - (f) in the case of a vehicle shall be given to Customs at the time of its arrival at the port of entry.
- (2) An application to amend an inward manifest report of a conveyance shall be in an approved form.

- (3) In the case of a ship a list of stores shall be shown on an approved form.
- (4) In the case of an aircraft, a list of aircraft stores shall be shown on an approved form.
- (5) A list of dutiable articles owned by the person in charge of a conveyance or any member of its crew —
  - (a) shall accompany the approved form, as the case requires; and
  - (b) shall be shown on an approved form.
- (6) Where stores are consumed—
  - (a) in ports in Papua New Guinea; or
  - (b) in Papua New Guinea waters; or
  - (c) between aerodromes in Papua New Guinea,particulars of all stores so consumed shall, where required, be furnished by the person in charge of the conveyance in an approved form or in such form as the Collector directs.

## **19. PRODUCTION OF COMMERCIAL INVOICE AND VALUATION DECLARATION, ETC.**

- (1) Subject to Subsection (3), where a person makes an entry of imported goods he shall, in respect of those goods—
  - (a) produce to an officer, when requested to do so, the commercial invoice prepared and issued by the vendor of the goods; and
  - (b) make a declaration of the value of the goods in a form approved by the Commissioner-General, and produce it to an officer when requested to do so;
  - (c) retain such documents for a period of 5 years from the time when the goods were imported into Papua New Guinea.
- (2) [Repealed]
- (3) [Repealed].
- (4) A Valuation declaration is not required where—
  - (a) where the total Customs value of the goods does not exceed K1,000.00; or
  - (b) where *bona fide* personal baggage and household effects, excluding goods for commercial purposes, are claimed duty free; or
  - (c) where, with the prior approval of the Commissioner General, goods of a reasonable value are imported in a reasonable quantity for free distribution; or
  - (d) where goods are not subject to any Customs duty; or
  - (e) where goods are subject to specific rates of duty based on volume or weight or quantity or measurement; or
  - (f) where goods are specifically exempt from the payment of Customs duty under any exemption notified in the National Gazette; or

(g) such other circumstances as the Commissioner General may specify and subject to such conditions as he may specify.

(5) In this section "*commercial invoice*" has the meaning given to it in Section 1 of the *Customs (Ad Valorem Duties) Regulation 1987*.

## **20. SIGHT ENTRY [REPEALED]**

### **21. ENTRY FOR HOME CONSUMPTION**

(1) Entries for home consumption or warehousing or transshipment, by document or computer, shall be in a form approved by the Commissioner- General.

(2) A requirement to enter goods subject to section 19(1) of the Customs Act does not apply to goods that, for a total shipment:

(a) have a value for duty not exceeding 1000 Kina; or

(b) are accompanied or unaccompanied personal or household effects of a passenger, or a member of a crew, of a ship or aircraft.

(3) Goods that have a value for duty not exceeding 1000 Kina and would, but for these regulations, otherwise require an entry to be made, shall be reported to Customs and duty paid in an approved form.

(4) Goods that have a value for duty not exceeding 250 Kina shall be deemed to have a 'free' rate of duty.

### **22. WAREHOUSING**

(1) Entries for warehousing shall be in an approved form, and the total number of packages shall be stated in words on the declared copy of the entry.

(2) Goods sent to a warehouse shall be accompanied by a cart-note in triplicate in an approved form, and one copy shall be returned, duly receipted, by the receiving officer to the officer by whom it was issued.

### **23. TRANSHIPMENT**

(1) Transshipment entries shall be in an approved form, and the total number of packages shall be stated in words.

(2) In the case of transshipment a security in an approved form shall be given, in such amount as the Collector requires, unless the transaction is covered by a security already given in an approved form.

### **24. GOODS ENTERED "SUBJECT TO SECURITY", ETC., UNDER DEPARTMENTAL BYLAWS**

(1) In this section—

*"Departmental By-law"* means a Departmental By-law made under the *Customs Tariff Act 1990*;

**"Tariff Item"** means an item in Schedule 2 to the *Customs Tariff Act 1990*;  
**"Tariff Item"** means an item in Schedule 2 to the *Customs Tariff Act 1990*.

- (2) Where any goods are entered for home consumption "under security" or "subject to security" under a Departmental By-law made for the purposes of a Tariff Item, the person who entered the goods must—
- (a) at all times keep, use, deal with and dispose of the goods solely for the purpose stated in the entry and in accordance with the By-law; and
  - (b) keep and, when so required by an officer, produce for inspection accounts and records of the goods properly written up in such form and containing such particulars as the Collector requires; and
  - (c) when so required by an officer—
    - (i) produce for inspection the goods, and any articles in connection with the manufacture of which the goods have been used; or
    - (ii) account for the goods or any such articles to the satisfaction of the Collector; and
  - (d) produce to, and to the satisfaction of the Collector, within six months from the date of the entry or such further time as the Collector allows in writing, evidence that the goods have been kept, used, dealt with or disposed of in accordance with the By-law and the entry; and
  - (e) in the event of an alteration in the name or address or ownership or control of his business, or if he ceases to carry on business, give to the Collector written notice of the fact within seven days after the date on which the alteration or cessation takes place; and
  - (f) give security to the satisfaction of the Collector in an approved form in such amount as the Collector requires.

Penalty: A fine not exceeding K100.00.

- (3) The goods referred to in Subsection (2) continue to be subject to the control of the Customs until every obligation, provision and condition in or imposed by the Act, this Regulation, the Departmental By-law referred to in that subsection, the entry and the security that is applicable to the goods is observed, performed and complied with to the satisfaction of the Collector.
- (4) A security under this section may be given—
- (a) in respect of the goods specified in a particular entry; or
  - (b) generally in respect of all goods entered within a period specified in the security.
- (5) The Collector may release the goods or a portion of the goods, and the owner of the goods, from the obligations imposed by this section, the Departmental By-law referred to in Subsection (2), the entry and the security on receipt of the full amount of the duty and surcharge that would have been payable on the importation of the goods, or the portion of the goods, if they or it, as the case may be, had not been entered in accordance with the Tariff Item under which the By-law was made.

## **25. DELIVERY UNDER TRANSIT PERMIT [REPEALED]**

## **26. TIME FOR MAKING ENTRIES**

Entries pursuant to Section 35(1) of this Act shall be made by the owner or agent at anytime within five clear working days before the intended arrival at the port or airport or port of entry of a conveyance carrying the goods and not later than five clear working days from the date of the inwards report of the conveyance, or within such extended time as the Collector directs.

## **27. REMOVAL OF GOODS TO GOVERNMENT WAREHOUSE**

Where goods are removed to a Government warehouse, a cart-note in an approved form shall be used.

### *Division 2—Unshipment without Entry*

## **28. PERMIT TO UNSHIP BEFORE ENTRY**

The Collector's permit to unship goods before entry is made shall be in an approved form.

## **29. TRANSIT PERMITS [REPEALED]**

## **PART VI —EXPORTATION**

## **30. STIFFENING PERMITS**

The permission of the Collector to stiffen a ship shall be in an approved form.

## **31. ENTRY OUTWARDS**

The entry outwards of—

- (a) a commercial conveyance – in an approved form; and
- (b) a non-commercial conveyance – in an approved form.

## **32. ENTRY FOR EXPORT**

The entry of goods (including ship's stores) for export shall be in an approved form.

## **33. OUTWARD MANIFESTS**

The outward manifest of a conveyance shall be in an approved form.

## **34. CERTIFICATES OF CLEARANCE**

(1) Permission for the clearance of a ship or aircraft before the production to the officer of all the goods included in the inward report of the ship or aircraft, may be granted by the Collector on application in an approved form.

- (2) The certificate of clearance to be granted to the master of a ship shall be in an approved form.
- (3) When stamped with an official stamp and signed by the Customs Officer the approved form constitutes the certificate of clearance of the pilot of an aircraft.

### **35. TRANSIRES [REPEALED]**

### **36. LANDING CERTIFICATES**

The certificate referred to in Section 52 of the Act shall be in an approved form, and may be given by—

- (a) an officer of the Customs at the port where the goods are landed; or
- (b) by a Papua New Guinea Consul or other Papua New Guinea official; or
- (c) a British Consul or other British official; or
- (d) in places where there is no such officer, Consul or official, a Papua New Guinea or British resident.

## **PART VII —WAREHOUSING**

### *Division 1 —General*

### **37. SECURITY**

Before a licence for a warehouse is granted, security in an approved form shall be given to the satisfaction of the Collector.

### **38. LICENCE FEES**

- (1) The annual fee for a licence for a warehouse is K2,000.00.
- (2) The licence fee payable per Subsection (1) shall be paid in one sum each year, payable on or by the 10<sup>th</sup> working day of Customs that year.
- (3) Where an application for a new warehouse license is made during a year, the licence fee is payable in advance and may, at the discretion of the Commissioner, be charged at the pro-rata rate of K166.67 for each month or part thereof remaining for the balance of the year.

### **39. FALSE CLAIMS TO BEING LICENSED, ETC.**

- (1) A person, other than the holder of a licence under Section 54 or an approval issued under Section 21A of the Act, who assumes or uses, in connection with his trade, business, calling or profession, any words that would reasonably lead to the belief that his trade, business, calling or profession is being carried on under such a licence is guilty of an offence.



Penalty: Subject to Sections 163, 164 and 165 of the Act, a fine of not less than K5,000.00 and not exceeding K25,000.00.

- (2) Without limiting Subsection (1), a person who, not being the holder of a licence referred to in that subsection—
- (a) places, or permits to be placed, on the building in which he carried on his trade, business, calling or profession; or
  - (b) uses in an advertisement or sign published or displayed in connection with his trade, business, calling or profession; or
  - (c) uses on a document, as a description of his trade, business, calling or profession; or
  - (d) uses as the name, or part of the name, of a firm or company registered in the country,
- the words "Bonded Warehouse", "Bonded Store" or "Bond", or a "Customs Depot", or any words so nearly resembling them as to be likely to deceive, whether alone or in conjunction with any other words, is guilty of an offence against Subsection (1).

#### **40. SORTING, PACKING, RE-PACKING, ETC., IN WAREHOUSES**

- (1) The goods specified in Schedule 2 may be sorted, bottled, packed or re-packed, as the case requires, in a warehouse, into packages containing not less than the quantities set out in that Schedule.
- (2) Goods entered for export, or for ships' stores, may be packed or re-packed into packages of sizes approved by the Collector.
- (3) For travellers' samples tobacco may be re-packed in packages of not less than 0.454kg net and cigars into boxes of not less than 25 in number.
- (4) Ad valorem goods may be re-packed into packages if the duty on the goods in each package is not less than K2.00.
- (5) The Commissioner General may, by notice in the National Gazette, permit any goods not provided for in this Regulation to be sorted, bottled, packed or re-packed on such conditions and under such restrictions as are specified in the notice.
- (6) Goods sorted, bottled, packed or re-packed in a warehouse—
- (a) may be labelled or marked in such manner as the Collector approves, but so that no misleading label or mark is placed on them; and
  - (b) may be delivered from the warehouse in the quantities specified in this section or Schedule 3, as the case may be.
- (7) Applications for permission to sort, bottle, pack or re-pack any goods in a warehouse shall be in an approved form.

#### **41. RE-MEASURING, ETC., IN WAREHOUSES**

- (1) On application in an approved form and on payment of any expense in connection with the application, an owner may obtain a re-gauge, re-measure, re-weigh or re-examination of any goods in a licensed warehouse.
- (2) The Collector may at any time cause a re-gauge, re-measure, re-weigh or re-examination of any goods in a licensed warehouse to be made at the expense of the Customs.

#### **42. DELIVERY FROM WAREHOUSE FOR HOME CONSUMPTION**

- (1) An entry for home consumption shall be in an approved form.
- (2) The total number of packages shall be stated in words on two copies of the entry, one copy of which shall be forwarded to the locker as an authority for the delivery of the goods.
- (3) Subject to Section 65 of the Act, warehoused goods dutiable at fixed rates may be cleared and delivered, if the owner so desires, at original quantities and strength.

#### **43. DELIVERY FROM WAREHOUSE FOR EXPORTATION**

- (1) An entry for exportation, ex warehouse, shall be in an approved form.
- (2) Goods sent from a warehouse to a wharf or station for exportation shall be accompanied by a cart-note in an approved form, which shall be returned, duly receipted by the receiving officer, to the officer by whom it was issued.
- (3) If thought necessary by the Collector, warehoused goods entered for exportation shall, at the expense of the owner, be re-gauged, re-measured, re-weighed or re-examined as the case requires, immediately before delivery from the warehouse.
- (4) Unless the transaction is covered by security already given in an approved form, the owner of any warehoused goods entered for exportation shall give security in an approved form to such amount as the Collector requires.
- (5) Where, after delivery for shipment, any goods are not shipped, they shall be placed in a warehouse.
- (6) Where—
  - (a) any goods removed for shipment at another port are not produced or shipped; and
  - (b) a satisfactory explanation for their non-production or non-shipment is not made to the Collector,duty shall be paid on them by the owner.

#### **44. REMOVAL FROM WAREHOUSE**

- (1) The entry for removal shall be in an approved form, as the case requires.

- (2) Goods sent from a warehouse to a wharf or station for removal or transfer shall be accompanied by a cart-note in an approved form which shall be returned, duly receipted by the receiving officer, to the officer by whom it was issued.
- (3) Unless the transaction is covered by security already given in an approved form, where goods are entered for removal or transfer, the owner shall, before their removal, give security in an approved form, in a sum equal to the amount of duty payable on them.
- (4) Before the removal of goods from one warehouse to another the goods shall be re-gauged, re-measured or re-weighed as the case requires, at the expense of the owner, and the owner shall, on demand, pay the duty on any deficiency found.
- (5) Where goods are removed coastwise or inland a despatch note, in an approved form, shall be made out, in duplicate, and action taken as prescribed in Section 29(3)-(8).

#### **45. MANUFACTURING IN WAREHOUSES GENERALLY**

Manufacturing may be carried on in a manufacturing warehouse under the following conditions:—

- (a) both imported and Papua New Guinea goods may be used in the manufacture;
- (b) until used, imported and Papua New Guinea goods shall be kept separate from each other;
- (c) all operations shall, subject to this Regulation, be conducted in such manner as the Commissioner General directs;
- (d) the manufacturer shall—
  - (i) keep such books and accounts; and
  - (ii) render such returns,as the Commissioner General directs;
- (e) the labelling and marking of the goods manufactured is subject to the approval of the Commissioner General;
- (f) the Collector may make such allowances for waste as he thinks just, subject to the approval of the Commissioner General;
- (g) the goods manufactured are subject to the control of the Customs until—
  - (i) delivery for home consumption; or
  - (ii) exportation.

#### **46. MANUFACTURE FOR HOME CONSUMPTION**

- (1) Warehoused goods in a manufacturing warehouse may be utilized for the manufacture for home consumption of any of the following goods:—
  - (a) cordials;
  - (b) enamels;
  - (c) insecticide oil;
  - (d) lacquers;

- (e) paints;
  - (f) thinners for use with enamels and lacquers.
- (2) Where the manufactured article would, if imported, be free of duty, it may be delivered for home consumption free of duty.
- (3) Where—
- (a) the manufactured article would, if imported, be liable to Customs duty; and
  - (b) the amount of the Customs duty that would be payable on the goods used in the manufacture if they were imported, after due allowance for waste, totals less than the amount of the Customs duty that would be payable on the article if it were imported,
- the manufactured article may be delivered for home consumption on payment of duty of that first-mentioned amount.
- (4) Where the residue of goods left after manufacture would be liable to an amount of Customs duty if it were imported, it may be delivered for home consumption on the payment of that amount.
- (5) Where—
- (a) an article is delivered for home consumption free of duty, or on payment of an amount of duty less than the amount that would be payable on the article if it were imported; and
  - (b) delivery is subject to a condition that the article will be used for a particular purpose,
- the Collector may require the manufacturer to give security—
- (c) that it will be used for that purpose; and
  - (d) to produce evidence that it has been so used.
- (6) A provision in this section that a manufactured article or residue may be delivered for home consumption, either on payment of duty or free of duty, does not, where the article or residue is liable to duty under the *Excise Tariff Act 1956* or any other law, enable the article or residue to be delivered for home consumption by virtue of this section only.

#### **47. MANUFACTURE FOR EXPORT**

- (1) Warehoused goods in a manufacturing warehouse may be utilized for the manufacture for export of the following goods:—
- (a) cigarettes;
  - (b) cigars;
  - (c) cordials;
  - (d) enamels;
  - (e) insecticide oil;
  - (f) lacquers;
  - (g) paints;
  - (h) paper and paper pulp;

- (i) plywood and veneers from logs, stumps and flitches;
- (j) preserved fruit;
- (k) thinners for use with enamels and lacquers;
- (l) tobacco;
- (m) any other goods approved by the Commissioner General and subject to any conditions as he deems fit.

- (2) The following special provisions apply to the manufacture for export of tobacco, cigars, cigarettes and snuff:—
- (a) the warehouse where the manufacture is carried on shall be licensed as a factory under the *Excise Act 1956*;
  - (b) an entry of the leaf tobacco shall be made specifying—
    - (i) that it is for the manufacture of tobacco, cigars, cigarettes or snuff, for export; and
    - (ii) the name of the factory where the manufacture is to be carried on;
  - (c) before an entry advice is given, security shall be given to the satisfaction of the Collector that all tobacco, cigars, cigarettes and snuff manufactured from the leaf tobacco will be exported;
  - (d) after the entry advice has been given, the leaf tobacco shall immediately be conveyed—
    - (i) in a licensed carriage; or
    - (ii) under the personal supervision of an officer, to the factory specified in the entry;
  - (e) subject to Subsection (3), the leaf tobacco shall—
    - (i) be kept at the factory separate from all other leaf tobacco; and
    - (ii) be separately manufactured into tobacco, cigars, cigarettes or snuff,
 and all stems, refuse, clippings or waste arising from the manufacture shall be kept separate from all other stems, refuse, clippings or waste;
  - (f) all stems, refuse, clippings, and waste arising from the manufacture shall be weighed by an officer and then destroyed in such manner as the Collector directs;
  - (g) there shall be affixed to all vessels, trays, and machinery—
    - (i) used in the manufacture; or
    - (ii) on which the leaf tobacco is placed while undergoing manufacture, a notice containing the words "Under Customs Control. For Export Only";
  - (h) all tobacco manufactured from the leaf tobacco shall be put up in packages of such size and weight as the Commissioner General directs;
  - (i) the manufacturer shall mark on each external package of tobacco manufactured from leaf tobacco—
    - (i) his name and address; and
    - (ii) a consecutive number; and
    - (iii) the gross weight of the package; and
    - (iv) the net weight of the contents; and
    - (v) the words "For Export Only";

- (j) all cigars and cigarettes manufactured from the leaf tobacco shall be put into boxes of a size approved by the Commissioner General, and each box marked with—
  - (i) the factory number; and
  - (ii) the Papua New Guinea number; and
  - (iii) the words "For Export Only";
- (k) if any package or box containing tobacco, cigars, cigarettes or snuff manufactured from the leaf tobacco is enclosed in an outer cover—
  - (i) the manufacturer's name and address; and
  - (ii) the net weight of the contents; and
  - (iii) the words "For Export Only",
 shall be marked on the cover;
- (l) all tobacco, cigars, cigarettes and snuff manufactured from the leaf tobacco shall be kept—
  - (i) in a safe store-room approved by the Collector; and
  - (ii) separate from any other tobacco, cigars, cigarettes and snuff;
- (m) every door to the store-room referred to in Paragraph (l) shall be provided with a lock supplied, at the expense of the manufacturer, by the Collector, and the key shall be kept by an officer.

(3) Notwithstanding Subsection (2)(1), Papua New Guinea leaf tobacco may be used in conjunction with imported leaf, but in such cases all stems, refuse, clippings, or waste arising from the use of Papua New Guinea leaf shall be kept separate from those arising from the use of the imported leaf.

#### **48. DUTY-PAID OR DUTY-FREE GOODS IN WAREHOUSES**

- (1) No duty-paid or duty-free goods shall be received into a licensed warehouse without the special authority of the Collector.
- (2) Where goods remain in a warehouse after payment of duty—
  - (a) they remain at the risk of the owner; and
  - (b) the Customs is not liable to any claim in connection with the goods; and
  - (c) after due notice to the owner, the goods may be removed by the licensee on the order of the Collector.

#### **49. WAREHOUSING OF UNCLAIMED DUTIABLE POSTAL ARTICLES**

Dutiable postal articles unclaimed within three months may be removed to a Government warehouse and dealt with under Section 35 of the Act.

### *Division 2—Government Warehouses*

#### **50. Bond Certificates.**

- (1) The owner of goods warehoused in a Government warehouse shall, before any of the goods are cleared, make out and tender to the Collector, a Bond Certificate in an approved form.

- (2) Where he is satisfied as to the correctness of the particulars in the Bond Certificate—
  - (a) the Collector shall sign it and return it to the owner; and
  - (b) the owner shall sign a receipt in an approved form and hand it to the Collector.
- (3) The owner of the goods in respect of which a Bond Certificate has been issued, may endorse on the Bond Certificate authority for the delivery of the goods to some other person or firm, and further endorsements of a like nature may be made on the Bond Certificate by successive owners of the goods.
- (4) If it is desired to transfer a portion only of the goods in respect of which a Bond Certificate has been issued, the Bond Certificate shall be surrendered to the Collector for cancellation, and fresh Bond Certificates may be issued as required.
- (5) Goods for which a Bond Certificate has been issued shall not be delivered from a Government warehouse except—
  - (a) on an entry made by the person whose name appears on the Bond Certificate as owner of the goods, or by his duly accredited agent; and
  - (b) on production of the Bond Certificate issued in respect of the goods.

## **51. RENT AND CHARGES**

- (1) Subject to this section, the prescribed scale of rent and charges for the purposes of Section 72 of the Act is as set out in Schedule 3.
- (2) In addition to the charge prescribed by Subsection (1), the importer of any goods shall pay to the Collector, for receipt and delivery of the goods—
  - (a) where the Collector pays for the cartage of the goods—a charge equal to the amount of cartage so paid; and
  - (b) where the goods, being spirits or other liquids in bulk, are re-gauged or reweighed— a charge of 25t per vessel containing the goods; and
  - (c) where the goods are re-packed, re-examined or, not being spirits or other liquids in bulk, re-weighed—
    - (i) a charge calculated at the rate of 95t per hour or part of an hour during which the services of an officer are required during the re-packing, reexamination or re-weighing; and
    - (ii) a charge equal to the amount of the expenses (if any) of the officer in travelling to and from the warehouse for the purpose.
- (3) When goods are re-packed into smaller quantities, no extra charge for receipt and delivery shall be made on account of the re-packing.
- (4) Goods not otherwise specified shall be rated according to weight or measurement at the option of the Collector.

- (5) Where the importer of goods provides at his own expense the labour for receipt and delivery of the goods, the charge for the receipt and delivery of the goods is 50% of the charge for receipt and delivery specified in Schedule 3.
- (6) The minimum charge in respect of rent under this section is 5t.

## PART VIII — SHIPS' AND AIRCRAFT'S STORES

### 52. DUTIABLE STORES

- (1) In this section—

*"cruise ship"* means a ship declared by the Minister, by notice in the National Gazette, to be, during a period or on a voyage specified in the notice, a cruise ship for the purposes of this section, not being a ship—

- (a) engaged in the normal trade in or with Papua New Guinea; or
- (b) required to be licensed under the *Merchant Shipping Act 1975*; or
- (c) loading or unloading cargo in Papua New Guinea;

*"Papua New Guinea aircraft"* means a Papua New Guinea aircraft within the meaning of the *Civil Aviation Act 2000*.

- (2) The ships' stores to which Section 76 of the Act does not apply are—

- (a) spirituous liquors; and
- (b) tobacco, cigars, cigarettes, tobacco products and snuff; and
- (c) aerated waters; and
- (d) fuel, lubricating oils and paint,

other than such stores used by the passengers or crew, or for the service, of a cruise ship.

- (3) The aircraft's stores to which Section 76 of the Act does not apply are all aircraft's stores other than—

- (a) stores for consumption or use in an aircraft that is engaged on an international air service or flight conducted or operated by a person resident in Papua New Guinea; and
- (b) stores included in a class of stores to which an intergovernmental agreement applies for consumption or use in an aircraft that—
  - (i) is included in a class of aircraft to which the intergovernmental agreement applies; and
  - (ii) is engaged on an international air service or flight included in a class of international air services or flights to which the intergovernmental agreement applies, conducted or operated by a person included in a class of persons to which the intergovernmental agreement applies; and
- (c) stores on which the Commissioner General considers it would be uneconomical to collect duty.



- (4) For the purposes of Subsection (3)—  
*"an intergovernmental agreement"* means an agreement, being an agreement to which the State and the government of a country, or the governments of countries other than Papua New Guinea are parties, that provides for the exemption of duties of Customs that would otherwise be payable in Papua New Guinea and in that country or those countries on stores used by aircraft engaged on international air services or flights;  
*"a person resident in Papua New Guinea"* includes—  
(a) a corporation established by an Act of Papua New Guinea; and  
(b) a company incorporated under a law in force in Papua New Guinea, but does not include any other corporation or company.
- (5) For the purposes of Subsection (3), an aircraft that—  
(a) is being used for purposes connected with the operation of an international air service; or  
(b) is undergoing testing, maintenance or repairs for the purpose of being used in connection with the operation of an international air service, shall be deemed to be engaged on an international air service.

### **53. TAKING ON BOARD STORES**

- (1) An application under Section 78(1) of the Act shall be in an approved form.
- (2) The master or owner of a ship, and the pilot or owner of an aircraft, shall give a receipt for all ships' stores or aircraft's stores, as the case may be, received on board under a permission granted under Section 78(2) of the Act.

## **PART IX —THE DUTIES**

### **54. DELIVERY OF SAMPLES FREE OF DUTY**

- (1) Subject to Section 55, the following samples may be delivered free of duty:—  
(a) wines or spirits in bulk—85.239 ml from each cask irrespective of size, with a maximum of 9.092 l from any one shipment;  
(b) wines or spirits in bottle—subject to Subsection (2), one bottle from each shipment not exceeding 100 cases, and for every additional 100 cases in each shipment one additional bottle, with a maximum of three bottles from any one shipment;  
(c) ale or stout in bulk—284.131 ml from each cask, with a maximum of 18.184 l from any one shipment;  
(d) ale or stout in bottle—subject to Subsection (3) one bottle from each brew, with a maximum of six bottles from any one shipment;  
(e) tobacco, manufactured—113.398 g for every 10 outside packages irrespective of size, with a maximum of 453.592 g from any one shipment;

- (f) tobacco, unmanufactured—113.398 g from each package containing under 50.802 kg net, and an additional 113.398 g for every 50.802 kg in any one package, with a maximum of 453.592 g from any one shipment;
  - (g) cigars and cigarettes—113.398 g from each package of not less than 18.144 kg net, with a maximum of 453.592 g from any one shipment;
  - (h) tea in bulk—453.592 g in respect of each line, with a maximum of 11.340 kg in respect of any one shipment.
- (2) In the case of wines or spirits in bottle, where a shipment consists of less than 10 cases, no samples shall be allowed free of duty.
  - (3) In the case of ale or stout in bottle, where a shipment consists of less than 10 cases no samples shall be allowed free of duty.
  - (4) Subject to Subsection (5), the total prescribed allowance for samples for a shipment may, at the option of the importer, be drawn from one package.
  - (5) Where wines and spirits are imported in bulk, no greater quantity than the prescribed allowance of 85.239 ml shall be drawn from any one cask of wine or spirits.
  - (6) Duty shall be paid on any quantities delivered as samples in excess of the quantities prescribed.
  - (7) No samples shall be delivered free of duty unless drawn.

## **55. GOODS AND SAMPLES RE-IMPORTED**

- (1) The conditions under which goods the produce of the country may be brought back to the country free of duty are that—
  - (a) the Commissioner General is satisfied that the re-importation or bringing back of the goods will not unfairly disturb the market for similar goods—
    - (i) in the country generally; or
    - (ii) in the place where the goods are proposed to be landed; and
  - (b) the goods are brought back to the country within two years, or such longer period as the Commissioner General allows, from the date of exportation; and
  - (c) the character of the goods has in no way been altered during the interval between the exportation and their return to the country; and
  - (d) if—
    - (i) drawback of duty was paid on the goods or on any dutiable materials used in their manufacture, repayment of the drawback is made; or
    - (ii) at the time of exportation the goods or certain materials used in their manufacture were subject to duty and that duty was not paid, adjustment is made by payment of an amount equivalent to the duty that would be payable on the same goods if, instead of having been exported they were—
      - (A) retained in the country; and

- (B) entered for home consumption on the date of entry of the reimported goods for home consumption; and
  - (e) if an export entry was made in respect of the goods, the Collector is satisfied that the goods re-imported or brought back to the country are the goods or part of the goods specified in the export entry; and
  - (f) if an export entry was not made in respect of the goods, the Collector is satisfied, by statutory declaration or otherwise, that the goods have been reimported into the country within two years, or such longer period as the Collector allows, from the date of exportation; and
  - (g) if free entry is claimed under the *Customs Tariff Act 1990*, the Collector is satisfied that—
    - (i) duty has once been paid on the goods; and
    - (ii) the conditions of the appropriate Tariff Item have been complied with.
- (2) The conditions under which samples of duty-paid goods sent out of the country may be re-imported or brought back to the country free of duty are that—
- (a) the goods were inspected by an officer before shipment; and
  - (b) an export entry in an approved form was made giving full particulars of the samples intended to be shipped; and
  - (c) drawback of duty has not been paid on the samples; and
  - (d) the goods are re-imported into the country within one year from the date of their exportation; and
  - (e) the goods are, on re-importation—
    - (i) entered as "Returned Samples"; and
    - (ii) verified with the original export entry by an officer.
- (3) Where—
- (a) services are performed by an officer under this section during prescribed working hours, the services shall be charged for at the rate of 95 t per hour; and
  - (b) work is performed outside the prescribed working hours, the rates charged are as prescribed in Section 4(2).

## 56. CONDENSED ARTICLES

For the purposes of Section 94 of the Act, in the calculation of duty the following standards shall be used:—

- (a) concentrated japan of a consistency that by the addition of an equal weight of turpentine produces a japan of ordinary consistency—one part by volume of concentrated japan shall be deemed to be equal to two parts by volume of the japan of ordinary consistency; and
- (b) condensed whole egg—340.957 ml shall be deemed to be equal to 12 eggs; and
- (c) extract of raspberry (non-spirituous)—
  - (i) 453.592 g of dry extract shall be deemed to be equal to 10.607 l of fresh raspberry juice; and

- (ii) 453.592 g of liquid extract shall be deemed to be equal to 8.182 l of fresh raspberry juice; and
- (d) fruit extracts and concentrated fruit juices (non-spirituous)—duty shall be charged—
  - (i) subject to Subparagraph (ii), on the quantity or equivalent of fresh fruit juices into which such fruit extracts and concentrated fruit juices can be converted as shown by chemical analysis; and
  - (ii) in cases where the manufacturer states a degree of concentration greater than that shown by chemical analysis—in accordance with the degree of concentration stated by the manufacturer; and
- (e) Solcof coffee—one part by weight of Solcof shall be deemed to be equal to three parts by weight of coffee.

## **57. METHODS OF PAYMENT OF DUTIES AND TAXES**

- (1) Payment for all duties and taxes payable to Customs, shall be paid in the following methods;
  - (a) Cash
  - (b) Bank Cheque
  - (c) Company Cheque
  - (d) Electronic transfer of funds; or
  - (e) As approved by the Commissioner General
- (2) The Collector on reasonable grounds may refuse a method of payment used by an owner to pay the duties and taxes payable to Customs.

## **58. ABANDONED GOODS**

- (1) The owner of goods making application under Section 104(2) of the Act to abandon goods to the State for destruction or other form of disposal shall do so not later than 5 clear working days after the inwards report of the conveyance.
- (2) Any person who abandons goods to the State under subsection (1) is liable for all reasonable expenses incurred by the State in the disposal of the goods where they are disposed of otherwise than by sale.
- (3) Evidence in support of any application under this section shall be:
  - (a) a written application by any carrier, any operator of a wharf, warehouse or depot or any competent authority having knowledge of the circumstances, time and place of the pillage, damage, loss, deterioration or destruction suffered of the goods, giving particulars; and
  - (b) a copy of any document indicating the amount granted to be compensated for the pillage, damage, deterioration or destruction of the goods; or
  - (c) a commitment of payment from the person in charge of the goods or that person's insurers given to the importer of the goods and showing the amount of compensation for the loss in value of the goods.

- (4) Where, under this section, merchantable scrap, waste or by-products result from the destruction or disposal of the goods, such scrap, waste or by-products shall be liable, if taken into home consumption or exported, to the duties and taxes that are applicable to such scrap or waste imported or exported in that state.
- (5) The amount of any refund, rebate or remission that is granted in respect of goods referred to in subsection (3) shall be an amount equal to the difference between duties and taxes due on such scrap, waste or by-products and the duties and taxes due on the original goods abandoned to the State.
- (6) Where the duties and taxes due on the resultant scrap, waste or by-products is greater than that due on the original goods abandoned to the State, the owner of the original goods shall be liable for difference.

## **59. REFUNDS, REBATES AND REMISSIONS OF DUTY**

- (1) The owner of goods making application for a refund, rebate or remission of duty under Section 104(1) of the Act in respect of goods that have not yet been released from Customs control may do so if the:
  - (a) goods have been damaged, destroyed, pillaged or lost, or have diminished in value or deteriorated in condition at any time from the time of shipment to Papua New Guinea to the time of application under this Section; or
  - (b) goods are of faulty manufacture or are of a quality inferior to that in respect of which duties were paid or are not the goods ordered, and which the owner has received a reduction or a refund, in whole or in part, of the price paid or to be paid for the goods; or
  - (c) duty has been paid through manifest error of fact or patent misconception of the law;
  - (d) the circumstances were reported to Customs at the time of detection; andan application for a refund, rebate or remission of duty under this subsection shall be made not later than 30 days after the report to Customs was made.
- (2) The owner of goods making application for the refund of duty under Section 104(1) of the Act in respect of goods that have been released from Customs control may do so if, on taking delivery of those goods from Customs control, finds that the:
  - (a) goods have been damaged, destroyed, pillaged or lost, or have diminished in value or deteriorated in condition at any time from the time of shipment to Papua New Guinea to the time of their release from Customs control; or
  - (b) goods are of a quantity, a faulty manufacture or are of a quality inferior to that in respect of which duties were paid or are not the goods ordered, and which the owner has received a reduction or a refund, in whole or in part, of the price paid or to be paid for the goods; and
  - (c) duty has been paid through manifest error of fact or patent misconception of the law,an application for a refund, rebate or remission of duty under this subsection shall be made not later than 30 days after the release of the goods from Customs control provided that the goods have not been unpacked from their original packaging,

worked, repaired or used unless such use was indispensable to discover the defects or other circumstances.

- (3) The minimum evidence in support of an application under this section shall consist of:
- (a) a written application by any carrier, any operator of a wharf, warehouse or depot or any competent authority having knowledge of the circumstances, time and place of the pillage, damage, loss, deterioration or destruction suffered of the goods, giving particulars; and
  - (b) a copy of any document indicating the amount granted to be compensated for the pillage, damage, deterioration or destruction of the goods; or
  - (c) a commitment of payment from the carrier or the carrier's insurers given to the importer of the goods and showing the amount of compensation for the loss in value of the goods.
- (4) The amount of refund, rebate or remission shall be an amount equal to the difference between the duties paid, or would have been payable, and the duties payable on the actual quantity of goods released into home consumption.
- (5) The fee for an application made in accordance with Subsection (2) shall be K250.00 in respect of each particular good or each particular matter (as the case may be) specified in the application and the minimum amount of duty that shall be refunded, rebated or remitted under this Section shall be K250.00.
- (6) Any refunds, rebates and remissions of duty made under this section shall be made using the provisions of section 194. The Collector may only make an exception in circumstances where he is satisfied that the provisions of Section 194 cannot be applied in respect of a particular owner, the burden of proof of which shall rest with the owner.
- (7) In application of this section Customs shall not be liable for any loss or damage occasioned by any delay in making any refunds, rebates or remissions of duty, otherwise through neglect or a wilful act of an officer, the burden of proof of which shall rest with the owner of the goods referred to in the application.

## **60. SECURITY, ETC., FOR RE-EXPORT**

- (1) The following goods are prescribed for the purposes of Section 107(1) of the Act:—
- (a) travellers' samples;
  - (b) goods imported for the purpose of public exhibition or entertainment, but not including:—
    - (i) theatrical costumes, scenery or property; or
    - (ii) cinematograph films or video tapes, ordinarily used for the purpose of profit;
  - (c) goods (including motor cars and motor cycles) owned by and for the personal use of tourists and temporary residents;
  - (d) goods imported into the country for the purpose of—
    - (i) being repaired or put together; or

- (ii) subject to the approval of the Collector, being used—
    - (A) for or in connection with any industry or commercial enterprise; or
    - (B) for any industrial, commercial or scientific purpose;
  - (e) goods—
    - (i) imported into the country on approval by residents; or
    - (ii) returned to the country on account of unsuitability.
- (2) The following provisions shall be completed in relation to goods in respect of which permission to take delivery has been given under Section 107(1) of the Act:—
- (a) the owner shall make application on an approved form to the Collector for permission to take delivery of the goods, and set out in the application—
    - (i) a description of the goods; and
    - (ii) the purpose for which they are imported;
  - (b) the goods shall be examined by an officer before delivery;
  - (c) notice of intention to pack for export shall be given to the Collector, and the goods shall be examined by an officer before shipment for export;
  - (d) the goods are exported within twelve months from the date of importation and an export entry on an approved form is made at the time of export.

## **61. DEPOSIT OF DUTY IN CASE OF PERISHABLES**

In anticipation of entry, an importer may deposit with the Collector a sum of money to cover the duty on any perishable goods imported in a ship or aircraft.

## **PART X —DRAWBACKS**

### **62. ALLOWANCE OF DRAWBACK**

- (1) Subject to this section, drawback on the full amount of duty paid shall be allowed under Section 108 of the Act on all imported goods (other than opium) that are exported—
- (a) in the original packages in which they were imported; or
  - (b) within three years of the date of payment of duty in packages (other than the original packages in which they were imported) packed in the presence of an officer.
- (2) Subject to Subsection (4) drawback of duty shall not be allowed on goods that have been used after first importation, other than articles (not being cinematograph films as ordinarily used for the purpose of profit) used temporarily only for the purpose of inspection or exhibition.
- (3) In the case of an article manufactured in the country, drawback shall be allowed—
- (a) on the actual quantity of imported material specified in a notice under Subsection (4) used in its manufacture; and
  - (b) under the conditions and restrictions set out in the notice; and

(c) to the extent of the duty paid on original importation.

- (4) The Minister may, by notice in the National Gazette, specify materials in respect of which drawback may be allowed under Subsection (3), and the conditions and restrictions under which it may be allowed.

### **63. PACKING OF GOODS SUBJECT TO DRAWBACK**

- (1) Where goods to be exported under drawback require to be packed for that purpose—
- (a) the owner shall, at least six working hours before packing, give to the Collector written notice, in an approved form of his intention to pack; and
  - (b) packing shall be done in the presence of an officer.
- (2) All goods entered for drawback shall be examined by the proper officer.
- (3) Every facility shall be given to the examining officer to enable him—
- (a) to superintend the examination and packing of goods entered for drawback; and
  - (b) to take a correct account of the goods.
- (4) On the completion of the packing—
- (a) the goods shall be secured to the satisfaction of the proper officer; and
  - (b) a distinctive mark or label shall be placed on each package.
- (5) When Subsection (4) has been complied with, each package shall—
- (a) be despatched in charge of a licensed carrier into a Customs shed; or
  - (b) be delivered to the custody of the export officer for shipment,
- and if they are not so dealt with without delay they shall be deposited in a secure room or other place approved by the Collector, under an official lock, or under seal, until removal for shipment.
- (6) Should the Collector desire, any goods already packed may be re-opened or reexamined after having been passed by the drawback officer and the unpacking or repacking shall be conducted by or at the expense of the exporter.
- (7) If the exporter is unable to specify the number of packages in the entry at the time of passing, the number may be inserted before the removal of the packages.

### **64. ENTRY FOR DRAWBACK**

- (1) An export entry shall be made, with the prescribed declaration on one copy of the entry, in an approved form, and a despatch note prepared in an approved form.
- (2) The entry shall specify any goods made in the country from imported duty-paid material, and the quantity and value of that material.



- (3) The amount of the drawback claimed, or to be claimed, on the goods shall not be included in the value for drawback.

#### **65. GOODS UNDER DRAWBACK TRANSFERRED FOR EXPORTATION**

Where goods entered for drawback are transferred to another port for exportation—

- (a) security for exportation of the goods in accordance with the entries made shall be given by the owner; and
- (b) export entries, in an approved form, and despatch notes, in an approved form, shall be made; and
- (c) the despatch notes shall be dealt with as prescribed in Section 29(3)-(8); and
- (d) the shipment shall be certified by—
  - (i) the examining officer; and
  - (ii) the officer of the vessel or aircraft that carries the goods to the port or aerodrome of exportation; and
- (e) the goods—
  - (i) shall be entered on the transire as "Under drawback"; and
  - (ii) until exportation are subject to the control of the Customs.

#### **66. EXPENSES OF DRAWBACK**

Exporters of goods for drawback shall pay to the Collector—

- (a) an amount for the services of any officer employed on their application—
  - (i) where services are performed by the officer during the prescribed working hours—at the rate of 95 t per hour or part of an hour; and
  - (ii) where services are performed by an officer outside the prescribed working hours—at the rates prescribed by Section 4(2); and
- (b) any expenses incurred on their behalf,

and no debenture shall be passed for payment until the charges and expenses have been paid.

### **PART XI — OFFICERS**

#### **67. SEIZURE OF SHIPS, AIRCRAFT, ETC.**

(1) Notice of the seizure of a ship, boat or aircraft, or of goods under Section 126 of the Act shall be in an approved form.

(2) The security to be furnished by the owner of seized goods with a view to their release under Section 127 of the Act shall be in an approved form.

#### **68. NOTICE TO PRODUCE DOCUMENTS, ETC.**

A notice under Section 131(1) of the Act to produce books and documents shall be in an approved form.

#### **69. OFFICIAL SAMPLES**

- (1) All samples taken under Section 135 of the Act shall be kept in the custody of the proper officer.
- (2) When no longer required by the Customs, the samples shall, on application, be returned to the owner.
- (3) If the samples are not taken away by the owner within 14 days after due notice has been given to him, they shall be sent to a Government warehouse and sold.
- (4) No unauthorized person shall have access to samples.
- (5) Only such samples shall be taken as the circumstances absolutely require, and an officer shall not consume or make use of them in any way otherwise than is necessary for the due performance of his official duties.

## **PART XII — APPEALS**

### **70. MANNER OF APPEAL**

- (1) An appeal against a decision of the Commissioner General under Section 178A shall be made in writing and accompanied with relevant information.
- (2) The appeal shall be communicated to the office of the Chairman.

### **70A. NOTICE OF REVIEW**

- (1) The Customs Review Tribunal shall cause notices to be served upon the Commissioner General and the applicant of the date the review is to take place.
- (2) Notice of the review shall be given no less than 14 days before the date on which the review is to take place.
- (3) A notice under this regulation may be served either personally or by post.

### **70B. ORDER, PLACE AND TIME OF REVIEW**

- (1) All appeals to the Customs Review Tribunal shall be numbered consecutively and unless the Tribunal otherwise directs, the reviews shall take place in the order in which the applications are received.
- (2) The sittings of the Tribunal for the purpose of reviews shall be held in such place or places and at such time or times as are fixed by the Tribunal.
- (3) The Tribunal is not required to sit on public holidays.

### **70C. CONDUCT OF REVIEW**

- (1) Subject to this Part, reviews by the Customs Review Tribunal shall be conducted as the Tribunal from time to time directs.
- (2) All reviews shall be in camera unless the applicant otherwise requires.
- (3) Where a review takes place in public the decision shall be given at a public meeting of the Tribunal.
- (4) Either party to a review may nominate a person to represent him at the review.
- (5) The Tribunal may adjourn a review from time to time as it thinks fit.

#### **70D. EVIDENCE**

- (1) Subject to the next succeeding subregulation, the Customs Review Tribunal—
  - (a) shall take all oral evidence on oath or affirmation and for that purpose the person constituting the Tribunal has power to administer oaths and affirmations; and
  - (b) may receive, without formal proof, a copy, duly certified as correct by a responsible officer of the State, of any government or of any public, municipal or other local body or authority within Papua New Guinea, or a document in the possession of the State or of that government, body or authority, as the case may be, and may take into consideration any statement or particular contained in the copy of that document; and
  - (c) may receive, without formal proof, any other document containing any statement or particular that, in the opinion of the Tribunal, is relevant to the question in issue in the review (not being a document that has been brought into existence solely for the purpose of the review) and may take into consideration any such statement or particular.
- (2) The Tribunal may, by notice in writing, require a person—
  - (a) to furnish the Tribunal with such information as, in the opinion of the Tribunal, is necessary for the purpose of a review by the Tribunal; or
  - (b) to attend and give evidence before the Tribunal, or before an officer authorized by the Tribunal to take evidence concerning the matter in review, and may require him to produce all books, documents and other papers in his custody or under his control relating to that matter in review;and the Tribunal may require the information or evidence to be given on oath, and either verbally or in writing, and for that purpose the person constituting the Tribunal or the officer authorized by him has power to administer oaths.
- (3) A person shall not, without just cause or excuse shown by him, refuse or neglect to comply with a requirement made on him under this regulation or to answer fully and truly any question put to him by the Tribunal, or by an officer authorized by the Tribunal to take evidence, in connection with a review.

#### **70E. DECISIONS OF THE CUSTOMS REVIEW TRIBUNAL**

(1) The Tribunal shall forward copies of its decision on a review to the Commissioner General and to the applicant, and the Commissioner General shall, unless the decision has been appealed from, give effect to the decision forthwith.

(2) The Tribunal may, from time to time, compile and publish summaries of its decisions.

#### **70F. COMMUNICATIONS TO THE CUSTOMS REVIEW TRIBUNAL**

Communications to the Tribunal may be addressed to the Chairman Customs Review Tribunal in the care of the office of the Commissioner General.

#### **70G. REVIEW LODGEMENT FEE**

The fee applicable is a non-refundable fee of K1000.00.

### **PART XIII —THE COASTING TRADE.**

#### **71. TRANSIRES AND DESPATCH NOTES**

(1) The master of a ship, or the pilot of an aircraft, trading only within the limits of Papua New Guinea—

- (a) shall take out a transire in an approved form for each voyage of his ship; or
- (b) at the discretion of the Collector, may be granted a general transire in an approved form.

(2) A general transire remains in force for a period of six months from the date of issue.

(3) Despatch notes shall—

- (a) be furnished for all goods carried subject to the control of the Customs; and
- (b) be dealt with in accordance with Section 29(3)-(8).

#### **72. GENERAL TRANSIRES**

(1) Before the issue of a general transire, the owner of the ship or aircraft in respect of which the transire is to be issued shall give security in an approved form, in a sum determined by the Collector.

(2) Where the master of a ship or the pilot of an aircraft has been granted a general transire under this Regulation—

- (a) he shall keep on board a cargo book, in an approved form, in which is entered—
  - (i) the name or identification of the ship or aircraft and her master or pilot; and
  - (ii) the port or aerodrome to which the ship or aircraft belongs; and
  - (iii) in regard to each voyage—
    - (A) the ports or aerodrome to which the ship or aircraft is bound; and
    - (B) a description of all goods shipped under Customs control; and

- (C) the names of shippers and consignees of goods under Customs control; and
  - (D) the date of delivery of goods under Customs control at each port or aerodrome of discharge; and
  - (E) a list of passengers for each port or aerodrome of call; and
  - (F) the times of arrival at and departure from each port or aerodrome of call; and
- (b) before departure from any port or aerodrome at which goods under Customs control have been received, he shall—
    - (i) enter particulars of the goods in the cargo book; and
    - (ii) produce the cargo book to an officer who, if satisfied that it is correct, shall sign the entry; and
  - (c) on arrival at any port or aerodrome for which goods under Customs control are being carried, he shall—
    - (i) deliver to the proper officer the despatch notes relating to the goods; and
    - (ii) deliver a copy, in duplicate, of the entries in his cargo book relating to the goods; and
  - (d) he shall, on demand, produce the cargo book for the inspection of any officer who may take extracts from, or make entries in, the cargo book; and
  - (e) he shall account, to the satisfaction of the Collector, for all goods subject to the control of the Customs carried by his ship or aircraft.

### **73. ORDINARY TRANSIRES**

- (1) Where the master of a ship or the pilot of an aircraft has not been granted a general transire under this Regulation the following conditions apply:—
  - (a) he shall, if required by the Collector, give security, in a sum determined by the Collector, to account to the satisfaction of the Collector for all goods subject to the control of the Customs carried by his ship or aircraft;
  - (b) before his ship or aircraft departs from any port or aerodrome, he shall make out, in duplicate—
    - (i) a transire in an approved form, containing full particulars of all goods subject to the control of the Customs on his ship or aircraft; and
    - (ii) a list of the passengers, and the transire, in duplicate, shall be presented to the Collector, who, if satisfied that it is correct, shall—
    - (iii) sign one of the duplicates and return it to the master or pilot, as the case may be; and
    - (iv) retain the other;
  - (c) his duplicate of the transire shall be carried on the ship in which the goods specified in the transire are carried;

- (d) after arrival at any port, he shall immediately report the ship by delivering to the Collector the transire, passenger list, and despatch notes relating to the goods under Customs control to be landed at that port;
- (e) if required by the Collector, the transire shall be delivered to him in duplicate;
- (f) where at any port there are no goods under Customs control to be landed, the transire shall be delivered in accordance with this section endorsed with the words "No under-bond goods".

(2) For the purposes of Subsection (1)(b), if goods subject to the control of the Customs are carried for more than one port, separate transires and lists of passengers shall be made out, in duplicate, in respect of each port.

#### **74. LOADING AND DISCHARGING CARGO**

Unless otherwise authorized by the Collector, the master of a coasting ship or the pilot of a coasting aircraft shall load and discharge cargo subject to Customs control—

- (a) at a port or aerodrome only; and
  - (b) only on the working days and during the working hours of the Customs,
- and shall permit an officer to examine the cargo of his ship or any part of it.

#### **75. TRANSFER OF DUTIABLE GOODS BY INLAND CARRIAGE**

(1) Where dutiable goods are transferred by inland carriage, the consignor shall present to the Collector a transire, in duplicate, in an approved form.

(2) One copy of the transire shall be retained by the Collector and the other forwarded by him to the officer at the place of destination of the goods.

### **PART XIV —CUSTOMS AGENTS.**

#### **76. INTERPRETATION OF PART XIV**

In this Part—

- “*Customs Agent*” means an agent within the meaning of Part XVII of the Act and includes an agent within the meaning of Regulation 78;
- “*Customs Broker*” has the same meaning as a customs agent
- “*Licence*” means a licence to act as a Customs Agent.

#### **77. LICENCES**

(1) The Commissioner General may, on application in an approved form, grant to a person a licence in an approved form.

(2) Where an application is made, the Commissioner General shall not grant a licence if, in his opinion:

- (a) the applicant is not a fit and proper person; or
- (b) the applicant is not qualified to be a customs agent;

- (3) The Commissioner General shall, in determining whether a person is a fit and proper person for the purposes of subsection (2)(a), have regard to:
  - (a) any conviction of the person for a offence involving dishonesty or any offence against the Customs Acts committed within the 10 years immediately preceding the making of the application;
  - (b) whether the person is an undischarged bankrupt;
  - (c) any misleading statement made in the application by or in relation to the person; and
  - (d) where any statement by the person in the application was false— whether the person knew that the statement was false.
- (4) For the purposes of subsection (2)(b), an applicant shall be taken to be qualified to be a customs agent if, and only if, he has completed a course of study or instruction and he has acquired experience that, in the opinion of the Commissioner General, fits him to be a customs agent.
- (5) Where the Commissioner General refuses to grant a person a licence he shall state the reasons in writing and serve notice of the decision to the applicant.
- (6) A person subject to a notice under this section may, within 30 days from the date of the notice, appeal in writing to the Customs Appeals Tribunal against the order stating the grounds of his appeal.
- (7) The Tribunal shall consider the appeal in accordance with the requirements of Division XV of the Act.
- (8) The fact that an appeal is pending does not in the meantime interfere with or affect the decision of the Commissioner General and it shall apply as if no appeal is pending.
- (9) Nothing in this section affects the rights of a person subject to a notice under this section to bring proceedings in a Court of competent jurisdiction against the Commissioner General for a judicial review of the decision, but proceedings do not lie under this section unless the administrative appeal processes described in Division XV of the Act have first been exhausted.

## **78. SUB-AGENTS AND HEAD AGENTS**

- (1) Where a licence is granted to a person who is, at the time when the licence is granted to him-
  - (a) an employee of a person, firm or company and is not an employee of any other person, firm or company: or
  - (b) an employee of a licenced Customs Agentthat person is, for the purposes of this part, a Customs Agent.

## **79. SUSPENSION, CANCELLATION OF OR IMPOSITION OF RESTRICTIONS ON A LICENCE**

- (1) The Commissioner General may, at any time, and from time to time, by notice, suspend, cancel or otherwise impose restrictions on a licence.
- (2) The Commissioner General may give notice in accordance with this section to a customs agent if he has reasonable grounds to believe that:
  - (a) the customs agent has been convicted of an offence involving dishonesty;
  - (b) the customs agent, being a natural person, is an undischarged bankrupt;
  - (c) the customs agent, being a company, is in liquidation;
  - (d) the customs agent has ceased to perform the duties of a customs agent in a satisfactory and responsible manner;
  - (e) the customs agent is guilty of conduct that is an abuse of the rights and privileges arising from his licence;
  - (f) the customs agent has not, within 30 days after the day prescribed for the payment of any fees, paid those fees;
  - (g) the customs agent made a false or misleading statement in the application for the licence;
  - (h) the customs agent has not complied with a condition or restriction imposed on the licence; orit otherwise appears to him to be necessary for the protection of the revenue or otherwise in the public interest to give the notice.
- (3) Without limiting the generality of paragraph (1)(d), a customs agent shall be taken, for the purposes of that paragraph, to have ceased to perform the duties of a customs agent in a satisfactory and responsible manner if the documents prepared by the customs agent for the purposes of this Act contain errors that are unreasonable having regard to the nature or frequency of those errors.
- (4) A notice under Subsection(1) shall specify the grounds on which the licence is suspended, cancelled or otherwise subject to imposed restrictions.
- (5) A copy of the notice to the licensee pursuant to Subsection (1) shall be—
  - (a) delivered to the licensee; or
  - (b) left at his usual place of abode or business.
- (6) A person commits an offence if he fails or refuses to comply with the terms of a restriction placed on the licence by the Commissioner General under this section.

Penalty: Subject to Sections 163, 164 and 165 of the Act, a fine of not less than K5,000.00 and not exceeding K25,000.00
- (7) A person subject to an order under this section may, within 30 days from the date of the order, appeal in writing to the Customs Appeals Tribunal against the order stating the grounds of his appeal.



- (8) The Tribunal shall consider the appeal in accordance with the requirements of Division XV of the Act.
- (9) The fact that an appeal is pending does not in the meantime interfere with or affect the decision of the Commissioner General and it shall apply as if no appeal is pending.
- (10) Nothing in this section affects the rights of a person subject to a notice under this section to bring proceedings in a Court of competent jurisdiction against the Commissioner General for a judicial review of the decision, but proceedings do not lie under this section unless the administrative appeal processes described in Division XV of the Act have first been exhausted.

#### **80. LICENCE FEE**

- (1) A Customs Agent shall pay an annual licence fee of K1,000.00 in one sum each year, payable on or by the 10<sup>th</sup> working day of Customs that year.
- (2) Where an application for a new Customs Agent's license is made during a year, the licence fee is payable in advance and may, at the discretion of the Commissioner, be charged at the pro-rata rate of K83.33 for each month or part thereof remaining for the balance of the year.
- (3) Notwithstanding subsection (1), the Commissioner General, may by publication in the National Gazette, apply to a group, or groups of persons, a lesser amount payable in respect of a licence fee and in deciding that lesser amount, the Commissioner General may take into consideration any matter and impose any condition on the payment of the licence fee as the Commissioner General thinks fit.
- (4) Where a licence has been issued under subsection (3), a refusal or failure to comply with any conditions imposed on the payment of the licence fee will result in the licence being suspended or cancelled forthwith by the Commissioner General.

#### **81. SECURITY FOR LICENCE**

- (1) Before a licence is granted to any person, security for the amount prescribed under Subsection (2), to the satisfaction of the Commissioner General, shall be furnished by that person.
- (2) The amount of security to be furnished under Subsection (1) to the Commissioner General shall be K50,000.00.
- (3) The security to be furnished under this Regulation may, at the discretion of the Commissioner General, be given by way of-
  - (a) an unconditional bank guarantee; or
  - (b) a Customs security as prescribed in an approved form.

- (4) The terms and conditions of the security shall be determined by the Commissioner General of the Internal Revenue Commission.

## **82. PAYMENT OF DUTY BY CUSTOMS AGENTS**

On furnishing of a guarantee approved by the Commissioner General a customs agent may be permitted to pay the duties of Customs on goods entered by him, at or before the closing time for receipt of cash at the Customs office on the day when the goods were entered, instead of at the time of making the entry.

## **83. UNLAWFULLY ACTING AS AGENT**

- (1) A Customs agent, or any person in the employ or acting under the instructions of a Customs agent, must not act as the agent of the owner of any goods unless he is duly authorized by the owner.

Penalty: Subject to Sections 163, 164 and 165 of the Act, a fine not less than exceeding K5,000.00 and not exceeding K25,000.00.

## **84. PRETENDING TO BE CUSTOMS AGENT**

- (1) Unless he is the holder of a licence, a person who assumes or uses in connection with his trade, business, calling or profession any words that would reasonably lead to the belief that it is being carried on under such a licence is guilty of an offence.

Penalty: Subject to Sections 163, 164 and 165 of the Act, a fine of not less than K5,000.00 and not exceeding K25,000.00

- (2) Without limiting Subsection (1), a person who, not being the holder of a licence—
- (a) places, or permits to be placed, on the building in which he carries on his trade, business, calling or profession; or
  - (b) uses in any advertisement or sign published or displayed in connection with his trade, business, calling or profession; or
  - (c) uses on any document, as a description of his trade, business, calling or profession; or
  - (d) uses as the name or part of the name of any firm or company registered in Papua New Guinea;
- the words "Customs Agent" or "Customs Broker" or any words so nearly resembling them as to be likely to deceive, whether alone or in conjunction with other words, is guilty of an offence against that subsection.
- (3) Unless he is the holder of a licence, a person shall not:
- (a) do any act or thing in relation to the goods that is required or permitted to be done by the owner of the goods under the Customs Acts; or
  - (b) represent that he is able to do, or able to arrange to be done, any act or thing in relation to the goods that is required or permitted to be done by the owner under the Customs Acts;
- and a person who contravenes this subsection is guilty of an offence.

Penalty: Subject to Sections 163, 164 and 165 of the Act, a fine of not less than K5,000.00 and not exceeding K25,000.00

## **PART XV — MISCELLANEOUS.**

### **85. COLLECTOR'S SALES**

- (1) Public notice shall be given of all sales on account of the Customs, by advertisement in—
  - (a) the local newspapers (if any); and
  - (b) the National Gazette,and by a notice posted in a conspicuous place at the Customs House.
- (2) Sales, other than sales of perishable goods or living animals, shall not be held until after two weeks, or such longer period as the Collector determines, from the first notification of the sale.
- (3) The conditions of sale for all sales by the Collector are—
  - (a) the goods shall be sold by public auction; and
  - (b) no bidding will necessarily be accepted, and the goods may be re-offered until sold at a price satisfactory to the Collector; and
  - (c) the Collector reserves to himself the right to refuse the bidding of any person who has not satisfactorily complied with the conditions of previous sales; and
  - (d) the highest bidder is the purchaser, but if a dispute arises as to the last or best bidder the lot shall be put up again and resold; and
  - (e) the purchase money shall be paid in cash on the acceptance of the bid, and if it is not so paid—
    - (i) the lot may be again offered; and
    - (ii) the person whose bid was accepted is liable to pay to the Collector any loss sustained by reason of his failure to comply with this condition; and
  - (f) the goods are sold—
    - (i) subject to duty, unless the Collector otherwise directs; and
    - (ii) free of all charges up to the date of sale; and
    - (iii) with all faults; and
  - (g) should there be any discrepancy between the quantity stated in the sale list and the actual quantity available for delivery, the Collector is not bound to deliver more than the quantity available for delivery; and
  - (h) the goods shall be removed from the warehouse within seven days after the sale, and if they are not so removed the purchaser is liable for rent and charges on them from the date of the sale up to the date of delivery, at the rates prescribed by Section 51 in respect of goods warehoused in a Government warehouse; and

- (i) all goods remaining in the warehouse after the sale are at the purchaser's risk and expense; and
- (j) if goods referred to in Paragraph (i) are not removed within 14 days after purchase—
  - (i) they may be again offered for sale by the Collector; and
  - (ii) the original purchaser is not entitled to a refund of any moneys paid by him.

## **86. RECEIPTING OF GOODS**

Where goods are delivered for exportation, transshipment, transfer or removal, the necessary forms accompanying them shall be duly receipted—

- (a) by the Chief Officer of the receiving ship or aircraft; or
- (b) by such other person in the employ of, and authorized by, the owner or agent of the ship or aircraft as is approved by the Collector.

## **87. UNAUTHORIZED ALTERATIONS, ETC., TO CUSTOMS DOCUMENTS**

(1) In this section, "*Customs document*" includes any receipt, certificate, account, book, manifest, declaration, entry, invoice, licence, security, notice, permit, debenture, report, authority, consent or other document given, issued, or kept by or produced or delivered to the Customs or an officer of Customs.

(2) A person who, without the authority of the Collector (proof of which is on the person charged), makes any alteration, addition or erasure to or in any Customs document is guilty of an offence.

(3) A person who uses, puts off or has in his possession a Customs document to or in which any alteration, addition or erasure has been made without the authority of the Collector (proof of which is on the person charged) is guilty of an offence.

Penalty: Subject to Sections 163, 164 and 165 of the Act, a fine not exceeding K500.00.

## **88. FORMS**

(1) Where a form prescribed by this Regulation contains, by way of note or otherwise, a clear direction or indication of any requirement of the Customs as to—

- (a) the number of copies of the document to be tendered; or
- (b) the nature or form of the information to be furnished to the Customs; or
- (c) any action, either by way of signing a form of declaration or otherwise, to be taken by the person concerned in the transaction in which the document is used, or by his authorized agent; or
- (d) receipts to be signed by officers of ships or aircraft, or other persons, in proof that the goods described in the form have been received for carriage or otherwise,

the requirement so indicated shall be deemed to be prescribed by this Regulation.

(2) The Collector may require copies of any prescribed form to be tendered in addition to the number indicated on the form.

### **89. COMPUTERISED ENTRY**

Where the Commissioner General is satisfied that facilities exist for processing computerised entries in respect of any customs transaction, he may authorize the use of an entry form.

### **90. TRADITIONAL INHABITANTS**

(1) For the purposes of section 22AB of the Act:

- (a) "*traditional inhabitants*" has the same meaning as that given in any agreement or Treaty between Papua New Guinea and a third Country in relation to border controls between Papua New Guinea and that third Country.
- (b) "*traditional activities*" means activities performed by the traditional inhabitants in accordance with local tradition, and includes, when so performed—
  - (i) activities on land, including gardening, collection of food and hunting; and
  - (ii) activities on water, including traditional fishing; and
  - (iii) religious and secular ceremonies or gatherings for social purposes, for example, marriage celebrations and settlement of disputes; and
  - (iv) barter and market trade,and in the application of this definition, except in relation to activities of a commercial nature, "*traditional*" shall be interpreted liberally and in the light of prevailing custom;

### **91. SIZE OF ADMINISTRATIVE PENALTY**

For the purposes of section 147D the penalty to be applied under the Administrative Penalties Scheme shall be not less than 20% and not more than 100% of the minimum fine available for the principal offence under the Act.

## **PART XVI. RULINGS**

### **92. FEE FOR APPLICATION FOR RULING**

The fee for application for a ruling shall be as approved by the Commissioner General in respect of each particular good or each particular matter, as the case may be, specified in the application.

### **93. TIME FOR MAKING A RULING**

(1) The time prescribed for the purposes of the Section 176B(2) of the Act within which a Customs ruling must be made is 15 working days.

- (2) Where a ruling cannot be made within the specified period Customs shall advise the applicant in writing of the reasons and shall inform the applicant of the expected date in which a ruling will be made.
- (3) In application of this section Customs shall not be liable for any loss or damage occasioned by any delay in making the ruling otherwise through neglect or wilful act of an officer, the burden of proof of which shall rest with the applicant.

#### **94. FORM OF APPLICATION AND NOTICE OF RULING**

The application for a ruling and the notice of a ruling shall be in an approved form.