

POST CLEARANCE AUDIT

CUSTOMS ACT

131A. Owner Or Importer Of Goods To Keep Records

- (1) A person who imports or exports goods shall keep sufficient records to enable an authorised officer to inspect, audit, examine the documents, property or processes of that person to obtain or verify the information on which a determination of the amount of the duties paid, payable, deferred or relieved was made, and shall retain these records for a period of 5-years after the completion of the transactions, acts or operations to which they relate.
- (2) This Section does not require the preservation of any records—
 - (a) in respect of which the Commissioner has notified the owner of the goods that their preservation is not required; or
 - (b) of a company that has gone into liquidation and which has been finally dissolved.
- (3) A person who causes goods to be imported or exported; or receives goods that have been imported or are to be exported; must retain all the relevant commercial documents and records that come into the person's possession or control at any time and relate to the goods concerned or to their carriage to enable an authorised officer to inspect, audit, examine the documents, property or processes of a person to determine-
 - (a) whether the person is complying with a Customs-related law; or
 - (b) as to the correctness of information communicated by, or on behalf of, the person to Customs (whether in documentary or other form);and shall retain these records for a period of 5 years from the time when the goods were imported into, or exported from, Papua New Guinea.
- (4) A person who is required by this section to retain a commercial document or records relating to particular goods may keep the document at any place within Papua New Guinea, must keep the document in its original form and must store it in a manner that will ensure access, reliability and readability of the information recorded.
- (5) A person who:
 - (a) destroys, or renders incapable of identification, a document or thing; or
 - (b) renders illegible or indecipherable such document or thing; or
 - (c) alters or defaces a document, other than to merely make a notation or marking on it in accordance with ordinary commercial practice; or
 - (c) places or conceals on his or her body, or in any clothing worn by the person, such a document or thing;

so as to prevent it from being inspected, audited, examined, copied or seized by an authorised officer in the exercise of the officer's powers under this section commits an offence against this Act.

Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K5000.00 and not exceeding K50,000.00 or a term of imprisonment not exceeding 3 years, or both.

- (6) A person who fails to keep records as specified by this Act, to make them available for inspection, audit or examination or to comply with a request to produce documents or information, is guilty of an offence.

Penalty: Subject to Sections 163, 164 and 165, a fine of not less than K5000.00 and not exceeding K50,000.00 or a term of imprisonment not exceeding 3 years, or both.

- (7) Without limiting the types of documents or records required to be retained, this section relates to traditional books and records, including supporting source documents produced and retained in paper format; working papers and other supporting documents whether in writing or any other form that assist in the determination of duty or GST obligations and entitlements; and records retained in an electronically readable format that can be related back to the source documents and that are supported by a system capable of producing accessible and usable copy.

- (8) A person who keeps documents or records whether in writing or any other form is not relieved of any of the record keeping, readability, retention, and access responsibilities because the person contracts out the record keeping function to a third party such as a book keeper, accountant, service bureau, or other such arrangements. The person must ensure that the requirements continue to be met in the event of third party changes such as software and/or hardware conversions and upgrades, bankruptcy or migration to/from a third party. The person is responsible for keeping the records and for providing access to authorised persons.

131B. Authorised Officer May Require Person to Produce Documents.

- (1) Where a person required to keep records under Section 131A fails to comply with any of the provisions of that section, an authorised officer may, by notice in writing, require a person to furnish him with such information as he may require within a period specified in the notice-
- (a) where the document is in writing, the document, or
 - (b) where the information is stored in magnetic tapes or computer disks or other information or storage devices, a production of the information in a document setting out the information in a form the authorised officer can understand.
- (2) Failure to produce such information following a requirement made under Subsection (1) is an offence and subject to a penalty of a fine not less than K5,000.00 and not exceeding K25,000.00 or imprisonment for a period not exceeding 3 years, or both.

- (3) The period that may be specified in a notice given under Subsection (1) shall be not less than 14 working days after the notice is given but may be extended for up to an additional 14 days by the Commissioner upon request.

131C. Access, etc, to books, etc

(1) Subject to this section, an authorised officer, shall at all times have full and free access to all buildings, places, computers, books, documents, records, papers and other information storage devices for any of the purposes of this Act, and for that purpose may inspect, audit, examine the documents, property or processes of a person that may be relevant in determining the obligations of that or any other person, or to ensure compliance of that or any other person with the Act. In so doing, an officer may seize, retain and remove for inspection or make extracts from or copies of any such computer, book, documentary or paper records.

(2) A person who, on demand, fails to make available to an authorised officer any documents or records necessary for that officer to conduct an inspection, audit or examination at a premises commits an offence against this Act.

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

(3) An authorised officer may request a person with knowledge of a computer or a computer system to assist access by providing any information or assistance that is reasonable to allow the officer to do one or more of the following:-

- (a) access the data held in, or accessible from, a computer that is on the audit premises;
- (b) copy the data to a data storage device;
- (c) convert the data into documentary form
- (d) in this Subsection, '*accessible data*' includes data held on premises other than the audit premises, but that can be accessed via a computer on the audit premises.

(4) A person who fails to provide such information or assistance to an authorised officer as detailed in subsection (3) above commits an offence against this Act.

Penalty: Subject to Sections 163, 164 and 165, a fine not less than K5,000.00 and not exceeding K25,000.000.

(5) An officer is not entitled to remain on or in any building or place under this section if, on being requested by the occupier of the building or place for proof of authority, the officer does not produce an authority in writing signed by the Commissioner of Customs stating that the officer is authorised to exercise powers under this section.

(6) The occupier of a building or place entered or proposed to be entered by an authorised officer under Subsection (1), shall provide the officer with all reasonable facilities and assistance for the effective exercise of powers under this section.”.

(7) A person who contravenes subsection (6) above commits an offence against this Act.

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

131D. Certified Copies of Documents

(1) Where, in accordance with the requirement of any law of the State or with ordinary commercial practice, a document that would be required to be kept in accordance with Section 131A is required by that law or practice to be surrendered to another person, this section shall be taken to be complied with if a true copy of the document, certified in accordance with subsection (2), is kept in its stead.

(2) For the purposes of subsection (1) a person must make and retain a true copy of that document and attach to the copy a certificate, signed by that person, stating that:

- (a) the copy is a true copy of the original document, together with the time and date the copy was made and name of the person making the copy; and
 - (b) the name of the department or organisation that the original document has been surrendered to; and
 - (c) particulars of the reason for that surrender, the time and date of the surrender and the name of the person surrendering the document; and
- the certified copy shall be treated by the Commissioner of Customs or an authorised officer and shall be admissible in all courts, as if it were the original document.

132. Impounding of documents.

(1) The Collector may impound or retain any document that is—

- (a) presented in connection with any entry; or
- (b) required to be produced under this Act,

and the person otherwise entitled to the document is entitled, in place of it, to a copy certified as correct by the Collector.

(2) A certified copy referred to in Subsection (1) shall be received in all courts as evidence, and as of equal validity with the original.

133. Further proof of proper entry.

(1) The Collector may require from the owner of any goods proof, by declaration or the production of documents, that the goods—

- (a) are owned as claimed; and
- (b) are properly described, valued or rated for duty.

(2) The Collector may refuse to deliver any goods or to pass any entry relating to any goods pending the receipt of the proof required under Subsection (1).

134. Translation of foreign documents.

If a document in a foreign language is presented to an officer for any purpose connected with Customs business, the Collector may require an English translation—

- (a) to be supplied at the expense of the owner by such person as the Collector approves; or
- (b) to be verified as the Collector requires.