ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER C169

CUSTOMS ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises and consolidates—

Act 6/2001, in force 1 November 2001
Act 16/2008, in force 1 November 2008
Act 5/2009, in force 18 March 2009
Act 6/2010, in force 1 November 2010
Act 15/2010, in force 30 September 2010
Act 6/2021, in force 11 February 2021

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CUSTOMS ACT

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CUSTOMS ACT

PART 1

PRELIMINARY

Interpretation

1. (1) In this Act, unless the context otherwise requires, the following expressions have the following meanings respectively—

"Act" includes Ordinance;

"agent" means any person appointed an agent under section 17;

"aircraft" includes any balloon (whether captive or free), kite, glider, airship, helicopter or other flying machine;

"airport" means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

"approved wharf" means any place approved under section 12(1);

"assigned matter" means any matter in relation to which the Comptroller is for the time being required in pursuance of any enactment, to perform any duty;

"A.T.A. Carnet" means a document issued by an internationally approved Chamber of Commerce covering the temporary import of goods and giving security for the re-export of the goods in an unchanged condition within the period therein prescribed;

"boarding station" means any place directed to be a boarding station under section 11(2);

"cargo" means any goods, other than stores, crew members' effects and passengers' accompanied baggage carried on board a vessel or aircraft;

"chargeable goods" means goods chargeable with any duty, tax or any other impost on importation;

"claimant", in relation to proceedings for the condemnation of anything as being liable to forfeiture, means any person claiming that that thing is not liable to forfeiture;

"coasting aircraft" and "coasting vessel" have the meaning given to them by section 42(1);

"commander", in relation to an aircraft, includes any person having or taking charge or command of that aircraft;

"Comptroller" means the Comptroller of Customs;

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"computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;

(Act 15/2010, s. 2)

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

"crew" means any person employed in duties on board any vessel or aircraft during a voyage or flight;

"Customs" means the Customs Department of the Ministry of Finance, and includes a reference to any officer;

(Act 15/2010, s. 2)

"customs airport" means any place prescribed as such or appointed under section 13;

"customs area" means any place approved under section 14(1);

"customs enactment" means the provisions of this Act, any subsidiary legislation made under it and any other enactment that relates to an assigned matter;

"customs port" means any place appointed by the Governor in Council under section 11;

"customs warehouse" means any place appointed as such under section 62;

"declaration" means any information delivered to customs, whether orally or in a document, by a person or their agent and includes an entry;

(Act 15/2010, s. 2)

"document" includes—

(a) a map, plan, graph, drawing or photograph;

(b) any information in writing relating directly or indirectly to goods which are imported, exported, in transit or transshipment;

(c) any declaration in writing required by the Comptroller;

(d) information that is inscribed, stored or otherwise maintained on a tangible medium or that is stored in an electronic or any other medium and is accessible in a perceivable form;

(e) anything from which sounds or data, other than visual images, are capable, with or without the aid of a device, of being reproduced;

(f) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced therefrom;

(g) any other device by means of which information is recorded or stored;

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(h) a copy, reproduction or duplicate of a document or part of such copy, reproduction or duplicate; and

(i) anything on which there is writing;

(Act 15/2010, s. 2)

"$" means the Eastern Caribbean dollar;

"drawback" means a refund of all or part of any duty of customs authorised by any enactment in respect of goods exported or used in any particular manner;

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

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

"duty" means a duty of customs chargeable on goods on importation or exportation and includes a surcharge on duty;

"electronic document" means a document processed and maintained by electronic means;

(Act 15/2010, s. 2)

"electronic signature" means anything in electronic form which—

(a) is incorporated into, or otherwise logically associated with, any electronic document;

(b) is generated by the signatory or other source of the electronic document; and

(c) is used for the purpose of facilitating, by means of a link between the signatory or other source and the electronic document, the establishment of the authenticity of the communication, document or data, the establishment of its integrity, or both;

(Act 15/2010, s. 2)

"entry", in relation to the importation or exportation of goods, means any document delivered to Customs in accordance with section 24(1) or section 34(1) respectively and, in relation to vessels or aircraft, means any document delivered to Customs in accordance with section 35(1);

(Act 15/2010, s. 2)

"entry by bill of sight" means an entry made in accordance with section 25(3);

"examination station" means any place approved under section 15(1);

"export" means to take out or cause to be taken out or attempt to take out of Anguilla;

"exporter", in relation to goods for exportation or for use as stores, includes the shipper of the goods and any person performing, in relation to any aircraft, functions corresponding with those of a shipper;

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"franchise" means an agreement between the Government of Anguilla and any person to operate a service or business on conditions mutually agreed between the Government and the holder of the franchise;

"goods" include merchandise stores, baggage and livestock;

"home use", with reference to imported goods, means goods intended for consumption, use or retention in Anguilla;

"ICT" means the integrated customs tariff as may be prescribed under section 76;

"import" means to bring or cause to be brought into Anguilla or the territorial sea of Anguilla;

"importer", in relation to any goods at any time between their importation and the time when they are delivered out of customs' charge, includes any owner or other person for the time being possessed of or beneficially interested in the goods;

"information" includes electronic records, data, text, images, sounds, codes, computer programs, software and databases;

(Act 15/2010, s. 2)

"key", in relation to any electronic document, means any key, code, password, algorithm or other data the use of which, with or without other keys—

(a) allows access to the electronic document; or

(b) facilitates the putting of the electronic document into an intelligible form;

(Act 15/2010, s. 2)

"land" and "landing", in relation to the landing of aircraft, includes alighting on water;

"letter" means an item transmitted at the letter rate of postage;

"master", in relation to a vessel, includes any person having or taking charge or command of the vessel;

"Minister" means the Minister charged with the responsibility of customs;

"net tonnage", in relation to the weight of a vessel, means the net tonnage as calculated by the Merchant Shipping (Tonnage) Regulations, 1982;

"night" means the interval between 7:00 p.m. of any day and 5:00 a.m. of the following day;

"occupier", in relation to any warehouse, means the person who has given security to the Comptroller in respect of those premises;

"officer" means—

(a) the Comptroller; and

(b) a person appointed under section 4(2);

(Act 15/2010, s. 2)

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"owner", in relation to a vessel or an aircraft, includes the operator of that vessel or aircraft;

"passenger" means any person travelling on or arriving from or departing from any vessel or aircraft, but does not include a crew member;

"passenger's accompanied baggage" means personal and household effects including currency, carried for a passenger on a vessel or aircraft whether in his personal possession or not, so long as it is not carried under a contract of carriage or other similar agreement and does not include any article intended for sale, exchange or use for commercial purposes;

"perfect entry" means any entry made in accordance with section 24 or 55;

"police officer" means any member of the Royal Anguilla Police Force;

"post" includes all postal communications by land, by water or by air;

"Postmaster" has the same meaning as in the Post Office Act;

"postal package" includes postal packets and postal parcels;

"postal packet" means all packages sent by post under one kilogram in weight;

"postal parcel" means all packages sent by post over one kilogram in weight;

"prohibited" or "restricted goods" means goods of a class or description of which the importation, exportation or carriage coastwise is for the time being prohibited or restricted under or by virtue of any enactment;

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

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

"same state", with reference to re-exported goods, means goods that after original import have not been used otherwise than by removal from a customs area to the importer's premises or changed otherwise than by assembly from a knocked-down state, cleaning, testing or the addition of identifiable accessories that do not change their basic form or character;

"shipment" includes loading into a vessel or an aircraft, and "shipped" and cognate expressions shall be construed accordingly;

"signature" includes an electronic signature and a key;
(Act 15/2010, s. 2)

"stores" means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles or equipment, whether or not for immediate fitting;

"territorial sea" means the area of sea within 3 nautical miles from the shoreline of Anguilla;

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

"transit shed" means any place approved under section 16(l);

"uncustomed goods" means imported goods or goods intended for export which have not been cleared from customs charge;

"vehicle" includes any conveyance or carriage or any cart or wagon and any trailer attached to any such vehicle;

"vessel" includes any ship, hovercraft or boat;

"warehouse", except in the expression "customs warehouse", means any place of security approved by the Comptroller under section 50(1) and "warehoused" and cognate expressions shall be construed accordingly;

"warehousing regulations" means any regulations made under section 51(l);

"warranty" means any form of guarantee or contractual promise whereby the supplier of the goods undertakes to replace free of charge or fully compensate for any defective parts arising within an agreed period of time from the date of sale or delivery to the buyer thereof;

"writing" includes electronically generated information or data which is accessible and capable of retention for subsequent reference.

(Act 15/2010, s. 2)

(2) Where a document is required or permitted to be in writing, or is described as being written, that requirement, permission or description may be met by information in the form of an electronic document.

(Act 15/2010, s. 2)

(3) Where a document is required or permitted to be delivered to Customs, that requirement or permission may be met by delivery of it in the form of an electronic document in the format and by means of delivery acceptable to the Comptroller.

(Act 15/2010, s. 2)

(4) In the case of an entry, the time of delivery of the entry is deemed to be the date on which a registration number is issued in respect of that entry.

(Act 15/2010, s. 2)

Time of importation and exportation

2. (1) This section shall have effect for the purposes of this Act and of any other enactment relating to customs.

(2) The time of importation of any goods, other than prohibited or restricted goods, is deemed to be—

(a) where the goods are brought by sea, the time when the vessel carrying them comes within the territorial sea; and

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(b) when the goods are brought by air, the time when the aircraft carrying them lands in Anguilla or the time when the goods are unloaded in Anguilla whichever is the earlier;

but, in the case of goods brought by sea of which entry is not required under section 24, the time of importation is deemed to be the time when the vessel carrying them came within the territorial sea at which the goods are discharged.

(3) The time of importation of prohibited or restricted goods is deemed to be—

(a) when the goods are brought by sea, the time when the vessel carrying them comes within the territorial sea; and

(b) when the goods are brought by air, the time when the aircraft carrying them lands in Anguilla or when the goods are unloaded or when the goods, if airdropped, land in Anguilla or in her territorial sea, whichever is earlier.

(4) The time of exportation of any goods from Anguilla is deemed to be, where the goods are exported by sea or air, the time when the goods are shipped for exportation; but, in the case of goods of a class or description, with respect to the exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment, that are exported by sea or by air, the time of exportation is deemed to be the time when the exporting vessel or aircraft departs from the last port or customs airport at which it is cleared before departing for a destination outside of Anguilla.

(5) A vessel is deemed to have arrived at or departed from a port at the time when the vessel comes within or leaves the limit of that port, as the case may be.

PART 2

ADMINISTRATION

Comptroller of Customs

3. (1) The Comptroller shall, subject to the general control of the Governor, be charged with the duty of collecting and accounting for and otherwise managing the revenue of customs.

(2) The Comptroller shall be responsible for the administration of this Act and for any other enactment relating to any assigned matter.

Delegation and appointment by Comptroller

4. (1) Any act required or authorised by any customs enactment to be done by the Comptroller may be done by any officer authorised generally or specifically in that behalf, in writing or otherwise, by the Comptroller, except that where, for any reason, the post of Comptroller for any time is unfilled, any authorisation given by a previous Comptroller which has not been revoked shall continue in force until revoked by any person subsequently appointed as Comptroller.

(2) Any person appointed by the order or with the concurrence of the Comptroller (whether previously or subsequently expressed) to perform any act or duty relating to an assigned matter which by law may or is required to be performed by an officer is deemed to be an officer.

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(3) Any person deemed by virtue of subsection (2) to be an officer shall have the powers of an officer in relation to the act or duty to be performed by him.

(4) If any officer or other person who has been authorised in writing by the Comptroller to do anything fails, when required to do so by the Comptroller, to return to him that written authority, he is guilty of an offence and is liable to a fine of $10,000.

(5) Where any act is required by an enactment to be done in any particular place, it shall be deemed to be done in such place if done in any other place authorised by the Comptroller for that purpose.

(6) The Comptroller may give directions specifying the forms in relation to any assigned matter as he thinks fit.

Obligation of secrecy

5. (l) Subject to subsection (2), any person appointed or employed in carrying out any requirement of, or any duty imposed or any power granted by, any customs enactment, who—

(a) discloses to an unauthorised person any document, information or confidential instruction which has come into his possession or to his knowledge in the course of his duties; or

(b) permits any unauthorised person to have access to any records in his possession or custody;

is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years, or to both and may be arrested.

(2) Nothing in subsection (1) shall prevent the disclosure by any person of any document, information or confidential instruction where that disclosure is authorised by or under any Act by the Comptroller.

Times of attendance of officers

6. (1) The days on which and the hours between which offices of Customs are to be opened or officers are to be available for the performance of particular duties shall be such as the Governor in Council may by regulation prescribe.

(2) Any request for an officer to perform any duty outside the normal hours of attendance of officers shall be made in writing to the Comptroller who may grant such request if he thinks fit.

(3) The fees payable for the performance of duties outside the hours prescribed by regulation under subsection (1) shall be such as the Governor in Council may by regulation prescribe.

Assistance to be rendered by the police

7. (1) It shall be the duty of every police officer to assist in the enforcement of the law relating to any assigned matter.

(2) In relation to any assigned matter, every officer shall have the same powers, authorities and privileges as are given by law to police officers.

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Officers to disclose interest in certain vessels, aircraft or merchandise

8. Any officer authorised by the Comptroller by virtue of section 4(1) who fails to disclose to the Comptroller that he—

(a) owns either in whole or in part any vessel or aircraft engaged in trade;

(b) acts on behalf of the owner of any vessel or aircraft engaged in trade;

(c) imports or is concerned in the importation of any merchandise for sale or re-exportation; or

(d) owns either in whole or in part or acts on behalf of the owner of any other business subject to customs control;

is guilty of an offence and is liable to a fine of $10,000.

Directions

9. Any direction by the Comptroller given under this Act or any regulation made under it—

(a) shall be published in the *Gazette*;

(b) may provide for different circumstances;

(c) may be varied or revoked by any subsequent direction; and

(d) unless varied or revoked by a subsequent direction, shall continue to apply notwithstanding that the person who gave the direction is no longer the Comptroller or an officer or, for any other reason, no longer has the authority to give such a direction.

Application to government vessels and aircraft

10. The requirements imposed by Parts 4, 6 and 7 do not apply—

(a) to any vessel or aircraft owned by or in the service of the Government of Anguilla when being used for the purpose of customs, police, fisheries, coastguard or the supervision and management of harbours and piers; and

(b) where the Comptroller so directs, and for such periods and subject to such conditions and restrictions as he may see fit to impose, to any vessel or aircraft owned by or in the service of the government of any other country.

PART 3

CUSTOMS CONTROLLED AREAS

Appointment of customs ports and boarding stations

11. (1) The Governor in Council may by regulation—

(a) appoint and name any area in Anguilla as a port for the purpose of customs;

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(b) alter the name or limits of any such port;

(c) revoke the appointment of any such port; and

(d) impose any condition or restriction on the use of an area in Anguilla as a port.

(2) The Comptroller may direct that any place in a port shall be a boarding station for the purpose of the boarding of or disembarkation from vessels by officers.

(3) Any person who contravenes or fails to comply with any condition or restriction imposed by the Governor in Council under subsection (1) is guilty of an offence and is liable to a fine of $10,000.

Approved wharves

12. (1) The Comptroller may approve, for such periods and subject to such conditions and restrictions as he may see fit to impose, any place in Anguilla for the embarkation and disembarkation of passengers onto and from vessels and for the loading and the unloading of goods or any class or description of goods onto or from vessels, and any place so approved shall be referred to in this Act as an "approved wharf".

(2) The Comptroller may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(3) An officer may at any time enter an approved wharf and inspect it and any goods for the time being at the wharf.

(4) Any person who contravenes or fails to comply with any condition or restriction imposed by the Comptroller under subsection (1) is guilty of an offence and is liable to a fine of $10,000.

Appointment of customs airports

13. (l) The Governor in Council may by regulation—

(a) appoint and name any area in Anguilla as a customs airport;

(b) alter the name or limits of any customs airport;

(c) revoke the appointment of any customs airport; and

(d) impose any condition or restriction on the use of any area in Anguilla as a customs airport.

(2) Any person in control of any part of any customs airport shall—

(a) permit an officer at any time to enter upon and inspect that airport and all buildings and goods on it; and

(b) if so required by the Comptroller—

(i) keep a record, in such form and manner and containing such particulars as the Comptroller may direct, of all aircraft arriving at or departing from that airport,

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(ii) keep that record available and produce it on demand to any officer, together with all other documents kept at the airport that relate to the movement of aircraft, and

(iii) permit any officer to make copies of, take extracts from or remove for a reasonable period any such record or document.

(3) Any person who contravenes or fails to comply with—

(a) any condition or restriction imposed under subsection (1); or

(b) any requirement imposed under subsection (2);

is guilty of an offence and is liable to a fine of $10,000.

Customs areas

14. (1) The Comptroller may approve, for such periods and subject to such conditions and restrictions as he may see fit to impose, any place in Anguilla, not being a customs port, approved wharf or customs airport, as a "customs area".

(2) The Comptroller may at any time for reasonable cause, revoke or vary the terms of any approval given under subsection (1).

(3) Any person who contravenes or fails to comply with any condition or restriction imposed by the Comptroller under subsection (1) is guilty of an offence and is liable to a fine of $10,000.

Examination station

15. (1) The Comptroller may approve, for such periods and subject to such conditions and restrictions as he thinks fit to impose, any place at a customs port, approved wharf, customs airport or other customs area for the loading and unloading of goods and the embarkation and disembarkation of passengers, and any such place so approved shall be referred to in this Act as an "examination station".

(2) The Comptroller may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(3) Any person who contravenes or fails to comply with any condition or restriction imposed by the Comptroller is guilty of an offence and is liable to a fine of $10,000.

(4) Save as authorised by or under this Act or any other enactment, any person who, without the consent of the Comptroller, enters upon or remains upon any port, approved wharf, customs airport, customs area or examination station is guilty of an offence and is liable to a fine of $10,000 or to imprisonment for a term of 12 months or to both and may be arrested.

Transit sheds

16. (1) The Comptroller may approve for such periods and subject to such conditions and restrictions as he sees fit, places for the deposit of goods imported and not yet cleared from customs charge, including goods not yet reported and entered under this Act, and any place so approved is in this Act referred to as a "transit shed".

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(2) An officer may at any time enter a transit shed and inspect it and any goods for the time being in the transit shed.

(3) If at any time after any goods have been placed in a transit shed and before they are lawfully removed therefrom, any goods are found to be missing or deficient, and it is not shown to the Comptroller that their absence or deficiency can be accounted for by natural waste or other legitimate cause, then, without prejudice to any fine or forfeiture incurred under any other provision of this Act, the Comptroller may require the transit shed keeper to pay immediately in respect of the missing goods or of the whole or any part of the deficiency, as he sees fit, the duty on such goods.

(4) The Comptroller may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(5) Any person who contravenes or fails to comply with any condition or restriction imposed by the Comptroller under subsection (1) is guilty of an offence and is liable to a fine of $10,000.

Agents

17. (l) Subject to section 23(2), the master of any vessel or the commander of any aircraft may appoint as his agent any person duly authorised to perform any act required by any customs enactment to be performed by a master or a commander, and, if he does so, he shall in writing notify the Comptroller of the name and address of that person and if the Comptroller is satisfied that the person appointed is a fit and proper person to be such an agent, the Comptroller may, subject to such terms and conditions as he sees fit to impose, accept that person as the agent of that vessel or aircraft, but, if no such agent is appointed, the owner of the vessel or aircraft, if a resident or represented in Anguilla, is deemed to be the agent of the master or commander for all purposes of any assigned matter.

(2) If any agent appointed under subsection (1) wilfully or persistently neglects or refuses to comply with any requirement imposed by any customs enactment on a master of a vessel or a commander of an aircraft, the Comptroller may, by notice in writing, advise any master of that vessel or any commander of that aircraft that he no longer accepts the person appointed as the agent of that vessel or that aircraft, and that person shall upon such notification then cease to be the agent of the master of that vessel or the commander of that aircraft.

(3) Where any person, other than the master of a vessel or the commander of an aircraft, is required by any customs enactment to perform any act or duty, he may appoint as his agent any other person to perform that act or duty.

(4) Before accepting any request by an agent to act on behalf of a person in relation to an assigned matter, an officer may require that agent to produce to him written authority from the person whose agent he is, certifying that he is so authorised to act.

(5) The Comptroller may, if he sees fit, require any person appointed to act as an agent under subsection (1) to give security by bond or otherwise in such form and manner as the Comptroller may direct and such bond—

(a) shall be taken on behalf of the Government of Anguilla;

(b) shall be valid notwithstanding that it is entered into by a person under full age; and

(c) may be cancelled at any time by, or by the order of, the Comptroller.

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Control of pleasure craft

18. (1) The Governor in Council may make regulations with regard to the arrival, report and departure of pleasure craft.

(2) In this section, "pleasure craft" means—

(a) any vessel that, at the time of its arrival at a place in Anguilla from abroad, is being used for private recreational purposes only; or

(b) any vessel that the proper officer, after written application is made to Customs, permits to be treated as a pleasure craft.

(Act 15/2010, s. 3)

(3) Regulations under subsection (1) may allow the Comptroller to give such directions as he thinks fit and may provide for the imposition of a fine of $10,000 for any contravention of, or failure to comply with, any such regulation or any direction given under any such regulation and for the forfeiture of any vessel or goods involved in any such offence.

PART 4

IMPORTATION

Procedure on arrival of vessels

19. (1) Subject to this section and save as the Comptroller may otherwise permit—

(a) the master of any vessel arriving in the territorial sea of Anguilla from a place outside of Anguilla shall cause that vessel to proceed directly to a customs port; and

(b) no person importing or concerned in importing any goods into Anguilla in any vessel shall bring those goods into Anguilla at any place other than a port;

and any master or other person who contravenes or fails to comply with this subsection is guilty of an offence and is liable to a fine of $10,000, or 3 times the value of the goods, whichever is greater, and any goods imported in contravention of this subsection shall be liable to forfeiture.

(2) Subsection (1) shall not apply in relation to any vessel that is compelled by accident, stress of weather or other unavoidable cause to arrive at a place other than a customs port, but, subject to subsection (3)—

(a) the master of any such vessel—

(i) shall immediately report the arrival to an officer,

(ii) shall not without the consent of an officer permit any goods carried on the vessel to be unloaded therefrom, or any passenger or member of the crew to depart from the vicinity of the vessel, and

(iii) shall comply with any direction given by an officer in respect of such goods; and

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(b) no passenger or member of the crew shall, without the consent of an officer, leave the immediate vicinity of any such vessel;

and any master or any other person who contravenes or fails to comply with this subsection is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both and may be arrested.

(3) Nothing in subsection (2) prohibits—

(a) the departure of any passenger or member of the crew from the vicinity of a vessel; or

(b) the removal of goods from a vessel;

where that departure or removal is necessary for reasons of health, safety or the preservation of life or property.

Procedure on arrival of aircraft

20. (l) Subject to this section, and save as the Comptroller may otherwise permit—

(a) the commander of any aircraft arriving in Anguilla from a place outside of Anguilla shall not cause or permit that aircraft to land—

(i) for the first time on its arrival in Anguilla, or

(ii) at any time while it is carrying passengers or goods brought in that aircraft from a place outside Anguilla and not yet cleared,

at any place other than a customs airport; and

(b) no person importing or concerned in importing any goods in any aircraft shall bring those goods into Anguilla at any place other than a customs airport;

and any commander or other person who contravenes or fails to comply with this subsection is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of the goods whichever is the greater and any goods imported in contravention of this subsection shall be liable to forfeiture.

(2) Subsection (1) shall not apply in relation to any aircraft which is required by or under any enactment relating to air navigation, or is compelled by accident, stress of weather or other unavoidable cause, to land at a place other than a customs airport, but subject to subsection (3)—

(a) the commander of any such aircraft—

(i) shall immediately report the landing to an officer and shall on demand produce to him the journey log belonging to the aircraft,

(ii) shall not without the consent of an officer permit any goods carried on the aircraft to be unloaded from, or any passenger or member of the crew to depart from the vicinity of, the aircraft, and

(iii) shall comply with any direction given by an officer with respect to such goods; and

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(b) no passenger or member of the crew shall without the consent of an officer leave the immediate vicinity of any such aircraft;

and any commander or any other person who contravenes or fails to comply with this subsection is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both and may be arrested.

(3) Nothing in subsection (2) prohibits—

(a) the departure of any passenger or member of the crew from the vicinity of an aircraft; or

(b) the removal of goods from an aircraft;

where that departure or removal is necessary for reasons of health, safety or the preservation of life or property.

Power to make regulations as to arriving vessels and aircraft and the unloading of imported goods

21. (1) The Governor in Council may make regulations—

(a) prescribing the procedure to be followed by a vessel arriving at a customs port and an aircraft arriving at a customs airport;

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

(c) permitting the Comptroller to give directions and prescribe forms;

and different regulations may be made with respect to vessels and aircraft.

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection may provide for the imposition of a fine of $10,000 for any contravention of or failure to comply with any such regulation, or any direction given under any such regulation, and for the forfeiture of any goods involved in any such offence.

Notification of arrival of vessels

22. Save as the Comptroller may otherwise permit, the master of every vessel intended to come to Anguilla shall notify the Comptroller of the expected arrival of that vessel not less than one working day before the arrival of that vessel and any failure to so notify shall make the master guilty of an offence and liable to a fine of $1,000.

Report inwards

23. (l) The master of every vessel exceeding 100 net tonnes arriving at a customs port—

(a) from any place outside of Anguilla; or

(b) carrying goods brought in that vessel from a place outside of Anguilla and not yet cleared on importation;

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shall, within 24 hours before arrival, deliver to the Comptroller a report in such form and manner and containing such particulars as the Comptroller may direct, including the weight and measurements of all goods being transported by the vessel.

(Act 15/2010, s. 4 and Act 6/2021, s. 2(a))

(2) Notwithstanding section 17(1), the master of every vessel not exceeding 100 net tonnes arriving at a port—

(a) from any place outside of Anguilla; or

(b) carrying goods brought in that vessel from a place outside of Anguilla and not yet cleared on importation;

shall, within 24 hours of arrival, deliver to Customs a report in such form and manner and containing such particulars as the Comptroller may direct, including the weight and measurements of all goods being transported by the vessel, and shall sign such forms as directed by the Comptroller.

(Act 15/2010, s. 4 and Act 6/2021, s. 2(a))

(3) The commander of every aircraft arriving at a customs airport—

(a) from any place outside of Anguilla; or

(b) carrying goods or passengers taken on board that aircraft at a place outside of Anguilla, being goods or passengers either—

(i) bound for a destination in Anguilla and not yet cleared at a customs airport, or

(ii) bound for a destination outside Anguilla;

shall, upon arrival, deliver to the Comptroller a report in such form and manner and containing such particulars as the Comptroller may direct, including the weight and measurements of all goods being transported by the aircraft.

(Act 6/2021, s. 2(b))

(4) In respect of vessels exceeding 100 net tonnes, where any report made under this section is incorrect, the person who made it shall, within 12 hours of the making of it, or such longer period as the Comptroller may in any case permit, be allowed to amend it and, if the Comptroller is satisfied that the error was not made knowingly or recklessly, then, notwithstanding any other customs enactment, that person is not guilty of any offence and, where the error consisted of the omission or incorrect reporting of any goods, those goods are not liable to forfeiture.

(5) In respect of aircraft, where any report made under this section is incorrect, the person who made it shall within 6 hours of the making of it, or such longer period as the Comptroller may in any case permit, be allowed to amend it and, if the Comptroller is satisfied that the error was not made knowingly or recklessly, then, notwithstanding any other customs enactment, that person is not guilty of any offence and where the error consisted of the omission or incorrect reporting of any goods, those goods are not liable to forfeiture.

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(6) Where—

(a) a person by whom a report is required to be made by this section fails to make a report as required, he is guilty of an offence and is liable to a fine of $10,000; and

(b) any goods which appear on any clearance required to be produced by this section do not appear on the report, then, unless the report is amended under subsection (4) or (5), the master or commander—

(i) shall pay to the Comptroller the duty on such goods, and

(ii) is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of the goods, whichever is the greater.

(7) Any person making a report under this section shall, at the time of making it, or at any time thereafter—

(a) answer all such questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as may be put to him by the proper officer; and

(b) produce all books and documents in his custody or control relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as the proper officer may require;

and any failure to do so shall make that person guilty of an offence and liable to a fine of $10,000.

(8) If, without the consent of the Comptroller previously obtained, at any time after a vessel or aircraft carrying goods brought in that vessel or aircraft from a place outside of Anguilla arrives within the territorial sea of Anguilla or lands and, before a report has been made in accordance with this section—

(a) bulk is broken;

(b) goods are unloaded from or taken on board that vessel or aircraft;

(c) any alteration is made in the stowage of any goods carried; or

(d) any goods are staved, destroyed or thrown overboard, or any container is opened;

then, unless the matter is explained to the satisfaction of the Comptroller, the master or commander is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of the goods, whichever is greater, and any goods in respect of which the offence was committed are liable to forfeiture.

(9) The Comptroller may require any goods reported as stores on board any vessel or aircraft, or any portion of them, to be entered for warehousing under section 24 and for the purposes of this subsection the master or commander shall be deemed to be the importer of those goods.

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Entry of goods on importation

24. (1) The importer of any goods, other than goods which are exempt from the requirements of this section, shall within 7 days of their importation, deliver to Customs an entry of those goods in such form and manner and containing such particulars as the Comptroller may direct.

(Act 15/2010, s. 5)

(2) The Comptroller may, if he thinks fit—

(a) exempt any goods from the requirements of this section, subject to such conditions as he sees fit to impose; or

(b) authorise the destruction of any perishable goods.

(3) Passengers' accompanied baggage is exempt from the requirements of this section.

(4) Subject to subsection (5), goods may be entered under subsection (1)—

(a) for warehousing, if so eligible;

(b) for home use, if so eligible;

(c) for transit or transshipment; or

(d) in such cases as the Comptroller may permit, for temporary importation with a view to subsequent re-exportation.

(5) The Comptroller may refuse to accept any entry of goods if he is not satisfied that those goods were imported at the time of the delivery of the entry.

(6) Where, in the case of any goods that are not chargeable with any duty, any entry made under subsection (1) is incorrect, the importer shall, within 10 days after the delivery of the entry or such longer period as the Comptroller may in any case permit, be allowed to deliver to the Comptroller a full and accurate account of the goods and, if the Comptroller is satisfied that the error was not made knowingly or recklessly, then, notwithstanding any other provision of any customs enactment, the person making the entry is not guilty of any offence and the goods which were the subject of the error are not liable to forfeiture.

(7) The Comptroller may, notwithstanding that no entry has been made under subsection (1), permit the delivery to an importer of any bullion, currency notes or coins imported into Anguilla.

Entry by bill of sight

25. (1) Without prejudice to section 24, where on the importation of any goods the importer is unable for want of any document or information to make perfect entry of those goods, he shall make a signed declaration to Customs in such form and manner and containing such particulars as the Comptroller may direct.

(Act 15/2010, s. 6(a))

(2) Where a declaration under subsection (1) is made, the proper officer shall permit the importer to examine the goods imported in his presence.

(Act 15/2010, s. 6(b))

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(3) Where an importer has made a declaration under subsection (1), and submits to Customs an entry, not being a perfect entry, in such form and manner and containing such particulars as the Comptroller may direct, and the proper officer is satisfied that the description of the goods for tariff and statistical purposes is correct, and in the case of goods liable to duty according to number, weight, measurement or strength, such number, weight, measurement or strength is correct, the proper officer shall, on payment to him of the specified sum, accept that entry as an entry by bill of sight and allow the goods to be delivered for home use.

(Act 15/2010, s. 6(c))

(4) For the purposes of subsection (3), the specified sum shall be an amount estimated by the proper officer to be the duty payable on such goods.

(5) Within 3 months from the date of making an entry by bill of sight under subsection (3), or such longer time as the Comptroller may in any case permit, the importer shall make a perfect entry, and if that perfect entry shall show the amount of duty—

(a) to be less than the specified sum, the Comptroller shall authorise payment of the difference to the importer; or

(b) to be more than the specified sum, the importer shall pay the difference to the Comptroller.

(6) Where no perfect entry is made within the time limit laid down by subsection (5), the specified sum paid shall be deemed to be the amount of duty payable on the importation of the goods.

(7) Notwithstanding any other provision of this section, where at any time after the importation of goods the Comptroller is satisfied that in respect of such goods it is impossible for the importer to make perfect entry in respect of those goods, the Comptroller may, subject to such conditions and restrictions as he may see fit to impose, permit the goods to be entered at a value which, is in his opinion the correct value of the goods, and such entry shall be deemed to be perfect entry, but where any condition or restriction imposed under this subsection is contravened or not complied with, the goods shall become liable to forfeiture.

Failure to comply with provisions as to entry

26. Without prejudice to any liability under any other provision of this Act, any person making entry of goods on their importation who fails to comply with any of the requirements of this Part in connection with that entry is liable to a fine of $5,000 and the goods are liable to forfeiture.

Removal of uncleared goods to a customs warehouse

27. (1) Where in the case of any imported goods for which an entry is required—

(a) entry has not been made by the expiration of the relevant period;

(b) at the expiration of 21 clear days from the relevant date, entry having been made of the goods, they have not been unloaded from the importing vessel or aircraft, or in the case of goods that have been unloaded, they have not been produced for examination and clearance; or

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(c) the goods are contained in a small package or consignment;

then at any time after the relevant period or date the proper officer may cause the goods to be deposited in a customs warehouse.

(2) In this section—

(a) "relevant period" means a period of 7 days from the relevant date; and
(Act 15/2010, s. 7(a))

(b) "relevant date" means the date when—

(i) a report of the importing vessel or aircraft was delivered under section 23,

(ii) entry of the goods was delivered under section 24, or

(iii) where no such report or entry was delivered, the latest date when it could properly have been delivered.
(Act 15/2010, s. 7(b))

(3) Where any restriction is placed upon the unloading of goods from any vessel or aircraft by virtue of any enactment relating to the prevention of epidemic or infectious diseases then, in relation to those goods, the "relevant date" means the date of the removal of the restriction.

Control of movement of uncleared goods within or between port or airport and other places

28. (l) The Governor in Council may make regulations as to the manner in which, and the conditions under which, goods to which this section applies, or any class or description of such goods, may be moved within the limits of any port or customs airport or between any port or customs airport and any other place and may permit the Comptroller to give directions.

(2) This section applies to goods chargeable with any duty that has not been paid, to drawback goods and to any other goods that have not been cleared out of charge.

(3) Any regulations under subsection (1) may require that any goods to which this section applies shall be moved only—

(a) by persons licensed by the Comptroller for that purpose; or

(b) in such vessels, aircraft or vehicles or by such other means as may be approved by the Comptroller for that purpose;

and any such licence or approval may be granted for such period and subject to such conditions and restrictions as the Comptroller thinks fit and may be revoked at any time by the Comptroller.

(4) Any person who contravenes or fails to comply with any regulation made under subsection (1) or any condition or restriction imposed, or the terms of any licence granted by the Comptroller under this section, is guilty of an offence and is liable to a fine of $10,000.

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Control of movement of goods inland

29. (1) The Comptroller may by direction impose conditions and restrictions as respects—

(a) the movement of imported goods between the place of importation and a place approved by the Comptroller for the clearance out of charge of such goods or the place of exportation of such goods; and

(b) the movement of goods intended for export between a place approved by the Comptroller for the examination of such goods or a place designated by the proper officer and the place of exportation.

(2) Directions under subsection (1) may in particular—

(a) require the goods to be moved within such period and by such route as may be specified by or under the regulations;

(b) require the goods to be carried in a vehicle or container complying with such requirements and secured in such manner as may be so specified; or

(c) prohibit, except in such circumstances as may be so specified, any unloading or loading of the vehicle or container or any interference with its security.

(3) Any documents required to be made or produced as a result of directions made under subsection (1) shall be made or produced in such form and manner and contain such particulars as the Comptroller may direct, but the Comptroller may relax any requirement that any specific document be made or produced and, if he does so, may impose substituted requirements.

(4) Any person who contravenes or fails to comply with any direction made under subsection (1) or any requirement by or under any such direction, that person and the person then in charge of the goods are each guilty of an offence and are liable to a fine of $10,000 and any goods in respect of which the offence was committed are liable to forfeiture.

Goods improperly imported

30. (1) Without prejudice to any other customs enactment, where—

(a) except as expressly provided by such an enactment, any imported goods, being goods chargeable on their importation with any duty, are, without payment of that duty—

(i) unloaded at any port,

(ii) unloaded from any aircraft, or

(iii) removed from their place of importation or from any approved wharf, examination station, transit shed or other customs area;

(b) any goods are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect to them under or by virtue of any enactment;

(c) any goods, being goods chargeable with any duty or goods the importation of which is for the time being prohibited or restricted by or under any enactment, are found, whether

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before or after the unloading thereof, to have been concealed in any manner on board any vessel or aircraft;

(d) any goods are imported concealed in a container holding goods of a different description;

(e) any imported goods are found, whether before or after delivery, not to correspond with any entry made in respect of them; or

(f) any imported goods are concealed or packed in any manner appearing to be intended to deceive an officer;

these goods are, subject to subsection (2), liable to forfeiture.

(2) Where any goods, the importation of which is for the time being prohibited or restricted under or by virtue of any enactment, are on their importation either—

(a) reported as intended for exportation in the same vessel or aircraft;

(b) entered for transit or transshipment; or

(c) entered to be warehoused for exportation or for use as stores;

the Comptroller may, if he sees fit, permit those goods to be dealt with accordingly.

(3) If any person—

(a) imports or causes to be imported any goods—

(i) concealed in a container holding goods of a different description, or

(ii) packed in a manner appearing to be intended to deceive an officer; or

(b) directly or indirectly imports or causes to be imported or entered any goods found, whether before or after delivery, not to correspond with any entry made in respect of them;

he is guilty of an offence and is liable to a fine of $20,000 or 3 times the value of the goods, whichever is the greater, or to a term of imprisonment of 2 years or to both and may be arrested.

Offences in relation to importation

31. (1) If any person unships or lands in any port or unloads from any aircraft in Anguilla or removes from their place of importation or from any approved wharf, examination station, transit shed or customs area—

(a) any goods chargeable with a duty that has not been paid; or

(b) any goods imported, landed or unloaded contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods;

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or assists or is otherwise concerned in such unshipping, landing, unloading or removal, or if any person imports or is concerned in importing any goods contrary to any such prohibition or restriction whether or not the goods are unloaded then, if he does so with intent to defraud the Government of Anguilla of any such duty or to evade any such prohibition or restriction, he is guilty of an offence and, subject to subsection (2), is liable to a fine of $10,000 or 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 1 year or to both and may be arrested, and the goods are liable to forfeiture.

(2) Where the goods in respect of which the offences specified in subsection (1) were committed are controlled drugs as defined in the Drugs (Prevention of Misuse) Act, a person guilty of an offence under this section is liable—

(a) on summary conviction to a fine of $250,000 or to imprisonment for 5 years or to both; or

(b) on indictment to a fine of $500,000 or to imprisonment for 20 years or to both;

and the goods are liable to forfeiture.

PART 5

IMPORTATION AND EXPORTATION BY POST

Importation and exportation of goods by post

32. (1) Without prejudice to any other provision of this Act—

(a) all letters arriving in Anguilla from abroad shall be produced to the proper officer and, if in his opinion any such letter could contain other than written or printed material, he may require it to be opened in the presence of the Postmaster or any person authorised by him and, if any such letter is found to contain dutiable, restricted or prohibited goods, such goods are liable to forfeiture;

(b) all postal packages arriving in Anguilla from abroad shall be accompanied by a customs declaration and shall be produced to the proper officer, who may require them to be opened in the presence of the Postmaster or any person authorised by him, and where any goods contained in such package—

(i) do not correspond with any declaration of contents made in respect of them, or

(ii) are not accompanied by a customs declaration,

those goods are liable to forfeiture; and

(c) no goods imported into Anguilla by post shall be allowed to be removed from the control of the Postmaster until all duty chargeable on them has been paid.

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(2) Without prejudice to any other provision of this Act—

(a) all letters posted in Anguilla for transmission abroad shall be produced to the proper officer and, if in his opinion any such letter could contain other than written or printed material, he may require it to be opened in the presence of the Postmaster or any person authorised by him and, if any such letter is found to contain restricted or prohibited goods, such goods shall be liable to forfeiture;

(b) all postal packages posted in Anguilla for transmission abroad shall be accompanied by a customs declaration and shall be produced to the proper officer, who may require them to be opened in the presence of the Postmaster or any person authorised by him, and where any goods contained in such package—

(i) do not correspond with any declaration of contents made in respect of them, or

(ii) are not accompanied by a customs declaration,

those goods are liable to forfeiture.

(3) Without prejudice to subsection (1) or (2), any person who—

(a) claims a letter or postal package arriving in Anguilla; or

(b) posts a letter or postal package in Anguilla for transmission abroad;

which contains currency, cheques or monetary instruments, or any combination thereof, of or exceeding $27,000, or the equivalent in any currency or combination of currencies, shall declare and make a report of same in such form and manner and containing such particulars as the Comptroller may direct.

(Act 15/2010, s. 8)

(4) Any person failing to declare and make a report as required under subsection (3) is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of the currency, cheques or monetary instruments not declared or reported, whichever is greater.

(Act 15/2010, s. 8)

(5) Without prejudice to any other provision of this Act, the Governor in Council may make regulations prescribing the procedure on the importation and exportation of postal packets and may exempt such importation or exportation from such requirements of such sections of the Act as he thinks fit.

PART 6

EXPORTATION

Power to make regulations as to the loading of goods and departing vessels and aircraft

33. (1) The Governor in Council may make regulations—

(a) regulating the storage, putting alongside, making waterborne and loading of, goods intended for export or for use as stores;

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(b) prescribing the procedure to be followed by vessels intending to leave ports and aircraft intending to leave customs airports; and

(c) permitting the Comptroller to give directions;

and different regulations may be made with respect to vessels and aircraft.

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection may provide for the imposition of a fine of an amount of $10,000 for any contravention of or failure to comply with any such regulation, or any direction given under any such regulation, and for the forfeiture of any goods involved in any such offence.

Entry of goods for exportation

34. (1) Subject to subsection (2), the exporter of any goods, other than passengers' accompanied baggage, shall deliver to Customs an entry of those goods in such form and manner and containing such particulars as the Comptroller may direct.

(Act 15/2010, s. 9)

(2) The Comptroller may relax, subject to such conditions and restrictions as he may see fit, all or any of the requirements imposed under subsection (1) in relation to any goods, class or description of goods.

(3) Where, in the case of any goods that are not chargeable with any duty, any entry made under subsection (1) is incorrect, the exporter shall, within 10 days after the delivery of the entry or such longer period as the Comptroller may in any case permit, be allowed to deliver to the Comptroller a full and accurate account of the goods and, if the Comptroller is satisfied that the error was not made knowingly or recklessly, then, notwithstanding any other customs enactment, the person making the entry is not guilty of any offence and the goods which were the subject of the error are not liable to forfeiture.

(4) Where any goods that have been entered for exportation or for use as stores are not duly loaded onto the vessel or aircraft for which they are entered, then, unless within 24 hours of the departure of that vessel or aircraft the person who entered them notifies Customs of that short loading, those goods are liable to forfeiture.

(Act 15/2010, s. 9)

(5) If any goods for which entry is required under subsection (1) are put on board any vessel or aircraft for exportation or for use as stores or are waterborne for such purpose before entry in respect of them has been made, those goods are liable to forfeiture and, where the placing on board or making waterborne was done with fraudulent intent, any person concerned in that act with knowledge of that intent is guilty of an offence and is liable to a fine of $20,000 or 3 times the value of the goods, whichever is the greater, or to a term of imprisonment of 2 years or to both and may be arrested.

Entry outwards of vessels and aircraft

35. (l) Save as the Comptroller may otherwise permit—

(a) the master of any vessel not exceeding 100 net tonnes shall, before departure of that vessel, deliver to Customs an entry outwards, in such form and manner and containing such particulars as the Comptroller may direct, and shall sign such entry in the presence of the proper officer;

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(b) the master of any vessel exceeding 100 net tonnes shall, before departure of that vessel, deliver to Customs an entry outwards of that vessel in such form and manner and containing such particulars as the Comptroller may direct; and

(c) the commander of any aircraft shall, before departure of that aircraft, deliver to Customs an entry outwards of that aircraft in such form and manner and containing such particulars as the Comptroller may direct.

(Act 15/2010, s. 10)

(2) Where any entry made under paragraph (1)(a) or (b) is incorrect, the person who made it shall, within 24 hours of the making of it or such longer period as the Comptroller may in any case permit, be allowed to amend it, and if the Comptroller is satisfied that the error was not made knowingly or recklessly, then, notwithstanding any other customs enactment, that person is not guilty of an offence and any goods that were the subject of the error are not liable to forfeiture.

(3) Where any entry made under paragraph (1)(c) is incorrect, the person who made it shall, within 12 hours of the making of it or such longer period as the Comptroller may in any case permit, be allowed to amend it, and provided that the Comptroller is satisfied that the error was not made knowingly or recklessly, then, notwithstanding any other customs enactment, that person is not guilty of an offence and any goods that were the subject of the error are not liable to forfeiture.

(4) Where a person by whom an entry is required to be made under subsection (1) fails to make an entry as required, the goods are liable to forfeiture and the master of the vessel or the commander of the aircraft is guilty of an offence and is liable to a fine of $20,000.

Stores

36. (l) Upon an application being made in such form and manner and containing such particulars as the Comptroller may direct—

(a) subject to subsection (2), by the master of any vessel over 100 net tonnes; or

(b) by the commander of any aircraft;

that is about to leave Anguilla for a destination outside of Anguilla, the Comptroller may permit, subject to such conditions and restrictions as he may see fit to impose and having regard to the number of persons on board that vessel or aircraft, the likely destination of the voyage or flight, and the stores, if any, remaining on board that vessel or aircraft, such quantity of goods as he considers reasonable to be removed without payment of duty from any warehouse or on drawback, and loaded on to that vessel or aircraft for use as stores during that voyage or flight.

(2) Where the application under subsection (1) is in respect of fuel and lubricants only, that application may be made by the master of any vessel.

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

(4) If any goods shipped or carried as stores for use on a voyage or flight outside of Anguilla are, without the authority of the proper officer, landed or unloaded at any place in Anguilla or in any way consumed or offered for consumption in Anguilla, the goods are liable to forfeiture, and the master

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or commander and the owner of the vessel or aircraft are guilty of an offence and are liable on conviction to a fine of $5,000 or 3 times the value of the goods, whichever is the greater.

(5) If any vessel or aircraft, having left Anguilla for a destination outside Anguilla fails to reach that or any other destination outside of Anguilla, and returns to Anguilla, and in the opinion of the proper officer the deficiency in the stores of that vessel or aircraft is in excess of the quantity that might reasonably have been consumed having regard to the period between the departure and the discovery of the deficiency, the master or commander—

(a) shall pay to the Comptroller the duty on that deficiency; and

(b) is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of that deficiency, whichever is the greater.

Clearance

37. (l) Save as the Comptroller may otherwise permit—

(a) the master of any vessel intending to depart from any customs port or any other place in Anguilla; and

(b) the commander of any aircraft intending to depart from any airport or any other place in Anguilla;

to a destination outside Anguilla, shall obtain clearance from Customs in the prescribed form and manner or as the Comptroller otherwise directs.

(Act 15/2010, s. 11)

(2) Any person applying for clearance under subsection (1) shall—

(a) deliver to Customs in such form and manner and containing such particulars as the Comptroller may direct—

(i) an account of all cargo and stores taken on or remaining on board the vessel or aircraft in Anguilla, and

(ii) in respect of vessels, a certificate of clearance from the Superintendent of Ports;

(b) produce all such books and documents in his custody or control relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as the proper officer may require; and

(c) answer all such questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as may be put to him by the proper officer.

(Act 15/2010, s. 11)

(3) Where clearance is sought under subsection (1) for any vessel that is in ballast, or any vessel or aircraft that has on board no goods other than stores, passengers' accompanied baggage or empty containers upon which no freight or profit is earned, Customs shall, on the application of the master or commander, clear that vessel or aircraft as in ballast.

(Act 15/2010, s. 11)

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(4) Any officer may board any vessel that is cleared outwards from a port at any time while within the territorial sea of Anguilla, or any aircraft which is cleared outwards and is within Anguilla, and require the production of the clearance of such vessel or aircraft, and, if the master of the vessel or the commander of the aircraft refuses to produce or to answer such questions as the officer shall put to him concerning the vessel or aircraft, or its cargo or intended flight or voyage, as the case may be, he is guilty of an offence and is liable on conviction to a fine of $5,000.

(5) Where it appears to any officer that a vessel or aircraft intends or is likely to depart for a destination outside of Anguilla without clearance, he may give such instructions and take such steps by way of the detention of that vessel or aircraft as appear to him necessary to prevent that departure.

(6) If any vessel or aircraft required to be cleared under this section departs from any port or airport for a destination outside of Anguilla without a valid clearance, or after clearance calls at any port or airport without the permission of the proper officer, the master or commander is, except where the departure or call was caused by accident, stress of weather or other unavoidable cause, guilty of an offence and is liable to a fine of $10,000.

(7) If, 24 hours after the granting of a clearance under subsection (1), the vessel cleared has not left the limits of the port or the aircraft cleared has not taken off for a destination outside of Anguilla, that clearance is void.

(8) If, where any aircraft is required to obtain clearance from any customs airport under this section, any goods are loaded into that aircraft at that airport or port before application for clearance has been made, the goods are liable to forfeiture and where the loading or making waterborne is done with fraudulent intent, any person concerned therein with knowledge of that intent is guilty of an offence and is liable to a fine of $20,000 or to 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 2 years or to both and may be arrested.

Power to refuse or demand return of clearance

38. (1) For the purpose of securing the detention of any vessel or aircraft in pursuance of any power or duty conferred or imposed by any customs enactment, or for the purpose of securing compliance with any such enactment—

(a) Customs may at any time refuse clearance of any vessel or aircraft; and
(Act 15/2010, s. 12)

(b) where clearance has been granted to a vessel or aircraft, any officer may at any time while the vessel is within the territorial sea of Anguilla, or the aircraft is at a customs airport, demand that any clearance granted shall be returned to him.

(2) Any demand for the return of a clearance may be made orally or in writing to the master of the vessel or the commander of the aircraft, and if made in writing may be served—

(a) by delivering it to him personally;

(b) by leaving it at his last known place of abode or business in Anguilla; or

(c) by leaving it on board the vessel or aircraft with the person appearing to be in charge or command of it.

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(3) Where a demand for the return of a clearance is made under subsection (2)—

(a) the clearance shall forthwith become void; and

(b) if the demand is not complied with, the master or commander is guilty of an offence and is liable to a fine of $10,000.

Security for exportation of goods

39. Where—

(a) warehoused goods; or

(b) goods on drawback;

are to be exported, the Comptroller may require the exporter to give security in an amount of not less than the duty that would have been chargeable on those goods if they had been imported into Anguilla for home use and if, within 1 month of the exportation of those goods or such longer period as the Comptroller may in any case permit, the exporter does not produce to the Comptroller a certificate, signed by a customs officer in the country to which the goods were exported, certifying that the goods have been imported into that country, or otherwise account for those goods to the satisfaction of the Comptroller, that security is forfeited.

Offences in relation to exportation

40. (l) If any goods that have been loaded or retained on board any vessel or aircraft for exportation or for use as stores are not exported and discharged at a place outside of Anguilla or used as stores but are unloaded in Anguilla, then unless—

(a) the unloading was authorised by the proper officer; and

(b) except where that officer otherwise permits, any duty chargeable and unpaid on those goods is paid and any drawback or other allowance made in respect of those goods is repaid;

the master of the vessel or the commander of the aircraft and any person concerned in the unshipping, relanding, landing, unloading or carrying of the goods from the vessel or aircraft without such authority, payment or repayment is guilty of an offence under this section.

(2) The Comptroller may impose such conditions and restrictions as he may see fit with respect to any goods loaded or retained as mentioned in subsection (1) that are permitted to be unloaded in Anguilla and, if any person contravenes or fails to comply with, or is concerned in any contravention or failure to comply with, any condition or restriction imposed under this subsection, he is guilty of an offence under this section.

(3) If, after a vessel or aircraft has obtained clearance but before it has left Anguilla, it is discovered that any goods cleared for exportation or for use as stores are no longer on board, then, unless those goods have been unloaded with the permission of the proper officer, or are stores that could reasonably have been consumed since the granting of the clearance, the master or the commander—

(a) shall pay to the Comptroller the duty on that deficiency; and

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(b) is guilty of an offence under this section.

(4) If any person—

(a) exports, causes to be exported or attempts to export any goods—

(i) concealed in a container holding goods of a different description, or

(ii) packed in a manner appearing to be intended to deceive an officer;

(b) directly or indirectly exports or causes to be exported or entered any goods found not to correspond with the entry made in respect of them;

(c) exports or attempts to export any—

(i) warehoused goods,

(ii) goods chargeable with any duty that have been transferred from an importing vessel or aircraft, or

(iii) goods entitled to drawback on exportation;

he is guilty of an offence under this section.

(5) Where any person is guilty of offence under this section, he is liable to a fine of $20,000, or 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 2 years or to both, and may be arrested, and any goods in respect of which the offence was committed are liable to forfeiture.

Exportation of prohibited or restricted goods

41. (1) If any goods are—

(a) exported or shipped as stores; or

(b) brought to any place in Anguilla for the purpose of being exported or shipped as stores;

and the exportation or shipment is contrary to any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any enactment, the goods are liable to forfeiture and, subject to subsection (3), the exporter or intending exporter of the goods and any agent of his concerned in the exportation or shipment or intended exportation or shipment are guilty of an offence and are each liable to a fine of $10,000 or 3 times the value of the goods, whichever is the greater.

(2) Any person knowingly concerned in the exportation or shipment as stores, or in the attempted exportation or shipment as stores, of any goods with intent to evade any such prohibition or restriction is guilty of an offence and, subject to subsection (3), liable to a fine of $20,000 or 3 times the value of goods, whichever is the greater, or to imprisonment for a term of 2 years or to both and may be arrested.

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(3) Where the goods in respect of which any of the offences specified in subsections (1) and (2) above were committed are a controlled drug as defined in the Drugs (Prevention of Misuse) Act, a person guilty of an offence under this section is liable—

(a) on summary conviction to a fine of $250,000 or to imprisonment for 5 years or to both; or

(b) on indictment to a fine of $500,000 or to imprisonment for 20 years or to both.

PART 7

COASTING TRADE

Definition of coasting trade

42. (1) Subject to the provisions of this Part, the carriage of goods by sea or air from one part of Anguilla to another is coasting trade, and any vessel or aircraft whilst so employed is a coasting vessel or coasting aircraft.

(2) The Governor in Council may by order deem the carriage of any goods or any class or description of goods from any specified place in Anguilla to another specified place not to be coasting trade.

Power to make regulations as to coasting trade

43. (l) The Governor in Council may make regulations—

(a) regulating the loading, unloading or making waterborne for loading of goods carried or to be carried by way of coasting trade;

(b) prescribing the procedure to be followed by—

(i) coasting vessels on their arrival at or departure from any port, and

(ii) coasting aircraft on their arrival at or departure from any airport; and

(c) permitting the Comptroller to give directions;

and different regulations may be made in respect of coasting vessels and coasting aircraft.

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection may provide for the imposition of a fine of $10,000 for any contravention of or failure to comply with any such regulation or any direction given under any such regulation, and for the forfeiture of any goods involved in any such offence.

Limits on coasting trade

44. (1) Subject to subsection (2), no goods not yet entered on importation and no goods for exportation shall be carried by way of coasting trade in any vessel or aircraft used for that purpose.

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(2) The Comptroller may permit, subject to such conditions and restrictions as he may see fit to impose—

(a) any vessel or aircraft to carry goods by way of coasting trade notwithstanding that that vessel or aircraft is carrying goods brought therein from a place outside of Anguilla and not yet entered on their importation, if a vessel or aircraft so permitted to carry such unentered goods by way of coasting trade is not for the purposes of this Part a coasting vessel or a coasting aircraft;

(b) goods brought by another vessel or aircraft to a place in Anguilla from a place outside Anguilla that are consigned to and intended to be delivered to another place in Anguilla to be transshipped before due entry of the goods has been made to a coasting vessel or a coasting aircraft for carriage by way of coasting trade to that other place; and

(c) any vessel or aircraft that has begun to load goods for exportation or for use as stores on a voyage to a destination outside Anguilla to carry goods by way of coasting trade until that loading has been completed.

(3) If any goods are carried by way of coasting trade in contravention of subsection (1) or any goods are loaded, unloaded, carried or otherwise dealt with contrary to any condition or restriction imposed by the Comptroller under subsection (2), those goods are liable to forfeiture and the master of the vessel or the commander of the aircraft is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of the goods, whichever is the greater.

Clearance of coasting vessels and aircraft

45. (1) Subject to the provisions of this subsection and save as the Comptroller may otherwise permit, no coasting vessel or coasting aircraft shall depart from any customs port or customs airport in Anguilla before its master or commander has produced to Customs an account of the goods carried in that vessel or aircraft, in such form and manner and containing such particulars as the Comptroller may direct, and such account, when approved by Customs, shall be the clearance of that vessel or aircraft.

(Act 15/2010, s. 13(a))

(2) Where an account is required to be produced under subsection (1) and—

(a) the account is produced in the form of an electronic document and Customs has not responded at the expiry of one hour from the time the account was produced; or

(b) in any other case, where no officer is stationed at the place where the account is required to be produced;

the vessel or aircraft may depart from that place and, upon departure, shall proceed directly to an approved wharf or customs airport and the account be produced to the proper officer.

(Act 15/2010, s. 13(b))

(3) On the application of the master of any coasting vessel or the commander of any coasting aircraft, the Comptroller may grant, subject to such conditions and restrictions as he may see fit to impose, a general clearance for that vessel or aircraft, and any goods, class or description of goods to be carried in it.

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(4) Any general clearance granted under subsection (3) may be revoked at any time by the Comptroller by notice in writing delivered to the master or owner of the vessel or the commander or owner of the aircraft or to any member of the crew on board that vessel or aircraft.

(5) Except as provided by this section, if any coasting vessel or coasting aircraft carrying goods departs from any place in Anguilla without clearance, whether obtained before or after that departure, or in contravention of any condition or restriction imposed by the Comptroller upon a general clearance of that vessel or aircraft under subsection (3), the master of that vessel or the commander of that aircraft is guilty of an offence and is liable to a fine of $10,000, or 3 times the value of the goods, whichever is the greater, and any goods in respect of which the offence was committed are liable to forfeiture.

Cargo book

46. (1) The master of every coasting vessel and the commander of every coasting aircraft shall keep a cargo book in such form and manner and containing such particulars as the Comptroller may direct.

(2) The master of a coasting vessel or the commander of a coasting aircraft shall, upon demand made by the proper officer, produce for inspection the cargo book of that vessel or aircraft.

(3) Subject to subsection (4), where—

(a) goods have been loaded onto or unloaded from a coasting vessel or a coasting aircraft at a place in Anguilla, then before that vessel or aircraft departs from that place; or

(b) a coasting vessel or a coasting aircraft arrives at a place in Anguilla where goods are to be unloaded, then before any goods are unloaded;

the master of that vessel or the commander of that aircraft shall produce to the proper officer the cargo book of that vessel or aircraft.

(4) Where no officer is stationed at the place where a cargo book is required to be produced under subsection (3), the vessel or aircraft may depart from that place, or be unloaded, whereupon the cargo book shall be produced to an officer at the first place the vessel or aircraft arrives where an officer is stationed.

(5) Where the master of a coasting vessel or the commander of a coasting aircraft fails to keep or produce a cargo book as required by this section, he is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of the goods, whichever is the greater, and any goods unloaded in contravention of subsection (3) are liable to forfeiture.

Examination of goods on coasting vessels

47. (1) The proper officer may examine any goods carried or to be carried in a coasting vessel—

(a) at any time while they are on board the vessel; or

(b) at any place in Anguilla to which the goods have been brought for shipment in, or at which they have been unloaded from the vessel and for that purpose may require any container to be opened or unpacked, and any such opening or unpacking and any repacking shall be done by or at the expense of the proprietor of the goods.

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(2) The proper officer may at any time—

(a) board and search a coasting vessel; or

(b) require any document that should properly be on board a coasting vessel to be produced or brought to him for examination;

and, if the master of the vessel fails to allow the proper officer to board and search or fails to produce or bring any such document to the proper officer when required, he is guilty of an offence and is liable to a fine of $10,000.

Offences in relation to carriage of goods coastwise

48. (1) If in the case of any coasting vessel or coasting aircraft—

(a) goods are taken on board or unloaded at a place outside of Anguilla; or

(b) the vessel or aircraft touches at some place outside of Anguilla or deviates from its voyage or flight and the master of the vessel or the commander of the aircraft does not report that fact in writing to the proper officer at the first place in Anguilla at which the vessel or aircraft arrives where an officer is stationed;

then those goods are liable to forfeiture if they are still on board and the master or commander is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of the goods, whichever is the greater.

(2) If any goods—

(a) are carried by way of a coasting vessel or a coasting aircraft contrary to any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any enactment; or

(b) are brought to any place in Anguilla for the purpose of being so carried or shipped;

then those goods are liable to forfeiture and, subject to subsection (3), the shipper or intending shipper of the goods is guilty of an offence and is liable to a fine of $20,000 or 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 2 years or to both and may be arrested.

(3) Where the goods in respect of which any of the offences specified in subsection (2) were committed are a controlled drug as defined in the Drugs (Prevention of Misuse) Act, a person guilty of an offence under this section is liable—

(a) on summary conviction to a fine of $250,000 or to imprisonment for 5 years or to both; or

(b) on indictment to a fine of $500,000 or to imprisonment for 20 years or to both.

Power to regulate small craft

49. (l) The Governor in Council may make regulations with respect to vessels not exceeding 50 net tonnes and any such regulations may in particular make provision as to the purposes for which and

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the limits within which such vessels may be used, and different provisions may be made by such regulations for different classes or descriptions of such vessels.

(2) Any vessel that is used contrary to any regulation made under this section is liable to forfeiture.

PART 8

WAREHOUSING

Approval of warehouses

50. (1) The Comptroller may approve, for such periods and subject to such conditions and restrictions as he may see fit to impose, places of security for the deposit, keeping and securing of—

(a) any goods chargeable with a duty of customs without payment of that duty;

(b) any goods for exportation or for use as stores, being goods not eligible for home use; and

(c) any goods permitted by or under this Act to be warehoused on drawback;

and any place so approved shall be referred to in this Act as a "warehouse".

(2) Without prejudice to the generality of subsection (1), the Comptroller may give directions—

(a) restricting the goods that may be permitted to be warehoused in a particular warehouse to those goods owned by the occupier of that warehouse;

(b) making the approval of any warehouse conditional upon the warehousing of a minimum amount of goods during a specified period, and different amounts may be required in respect of warehouses restricted under paragraph (a) and warehouses not so restricted;

(c) as to goods that may or may not be deposited in any particular warehouse or class of warehouse; or

(d) as to the part of any warehouse in which any class or description of goods may be kept or secured.

(3) If, after the approval of a warehouse under subsection (1), the occupier of that warehouse contravenes or fails to comply with any condition or restriction imposed by the Comptroller under that subsection, he is guilty of an offence and is liable to a fine of $10,000.

(4) The Comptroller may at any time for reasonable cause revoke or vary the terms of any approval given under subsection (1).

(5) Where the Comptroller intends to revoke or not to renew any approval of a warehouse given under subsection (1), he shall, not later than 3 months before the date when the revocation is due to take effect or the approval is due to expire (hereinafter in this section referred to as the "date of cessation"), give notice of his intention in writing, and such notice is deemed to have been served on all persons interested in any goods then deposited in that warehouse, or permitted by or under this Act to be so

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deposited between the date of the giving of the notice and the date of cessation, if addressed to the occupier of, and left at, the warehouse.

(6) If, after the date of cessation or such later date as the Comptroller may in any case permit, uncleared goods remain in a place no longer approved under subsection (1), they may be taken by an officer to a customs warehouse and, without prejudice to any other power of earlier sale provided by this Act, if they are not cleared within 1 month, may be sold.

Power to make regulations as to warehouses and warehoused goods

51. (1) The Governor in Council may make regulations—

(a) for the control of the depositing, marking, keeping, securing and treatment of goods in, and the removal of goods from warehouses;

(b) providing for different provisions for different types of warehouses or parts of warehouses, or for goods of different classes or descriptions, or goods of the same class or description in different circumstances; and

(c) imposing fines in amounts of $10,000 for any contravention of, or failure to comply with, any regulation or any direction given or any requirement made under any regulation or direction and for the forfeiture of any goods involved in any such offence.

(2) The Comptroller may give such directions under this Act as he thinks fit and in particular for—

(a) the proper conduct and management of warehouses, including the imposition of conditions and restrictions subject to which goods may be carried to or from, deposited in, kept in or removed from warehouses, or made available to their owners for prescribed purposes;

(b) the attendance of officers at warehouses;

(c) the provision of facilities to officers;

(d) the minimum quantities of descriptions of goods that may be deposited in or removed from a warehouse at any one time; and

(e) goods to be destroyed or abandoned to the Comptroller without payment of duty, in such circumstances and subject to such conditions and restrictions as may be determined by the directions.

Warehousing of goods

52. (1) No goods, class or description of goods, prescribed in Schedule 1 may be warehoused.

(2) The Governor in Council may, by regulation, delete from, vary or add to the goods, class or description of goods prescribed in Schedule 1.

(3) No damaged goods or goods enclosed in any insecure or otherwise defective container or in a container from which any portion of the contents have been removed may be warehoused.

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(4) Save as the Comptroller may otherwise permit, and subject to such conditions and restrictions as he may see fit to impose, no warehoused goods may remain warehoused for longer than 2 years and any warehoused goods that remain warehoused after such time shall be entered for re-warehousing or for home use or shall be re-exported.

(5) The Governor in Council may, by regulation, specify any goods, class or description of goods which are required to be warehoused upon their importation.

(6) If any goods are warehoused or fail to be warehoused or re-warehoused or fail to be removed from warehouse contrary to this section, they are liable to forfeiture.

Production of goods in warehouse

53. (1) The occupier of a warehouse shall produce to any officer on request any goods deposited therein that have not been lawfully authorised to be removed therefrom and, if he fails so to produce any goods, he is guilty of an offence and is liable to a fine of $1,000 or 3 times the value of the goods, whichever is the greater.

(2) The occupier of a warehouse shall so stow every container or lot of goods warehoused therein that easy access may be had thereto, and for every container or lot not so stowed he is guilty of an offence and is liable to a fine of $1,000.

Proprietor to inspect and show goods for sale

54. (1) Without prejudice to any restrictions or conditions imposed by the occupier of the warehouse, the proprietor of any warehoused goods may with the authority of the proper officer—

(a) inspect the goods and their container and prevent any loss therefrom; and

(b) show the goods for sale.

(2) Where the proper officer requires that he shall be present at any such inspection or showing of goods, he shall so far as is practicable attend at any reasonable time requested, but is not obliged to attend for the purposes of this section more than once in any period of 24 hours at the request of the same person or in respect of the same goods.

(3) The proper officer may allow the proprietor of any warehoused goods to take such samples thereof subject to such conditions, and with or without entry or payment of duty, as he thinks fit.

(4) If any person does, without the permission of the proper officer, any act requiring such permission or contravenes or fails to comply with any condition or restriction imposed under this section, he is guilty of an offence and is liable on conviction to a fine of $5,000 and the goods are liable to forfeiture.

Entry, marking, etc. of goods for warehousing

55. (l) Imported goods which are on importation entered for warehousing are deemed to be duly warehoused as from the time when Customs certifies that the entry and warehousing of those goods is complete.

(Act 15/2010, s. 14)

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(2) Before any goods are warehoused, the proprietor of the goods shall deliver to Customs an entry thereof in such form and manner and containing such particulars as the Comptroller may direct.
(Act 15/2010, s. 14)

(3) Any goods brought to a warehouse for re-warehousing after removal for that purpose from another warehouse shall be dealt with in like manner as if they were goods being warehoused for the first time.

(4) Save as permitted by or under this Act, goods shall be warehoused in the containers or lots in which they were first entered for warehousing.

(5) The proprietor of any warehoused goods shall mark the containers or lots thereof in such manner as the proper officer may direct and shall, subject to any further such direction, keep them so marked while they are warehoused and, if any person fails to comply with the provisions of this subsection, he is guilty of an offence and is liable to a fine of $10,000.

(6) Where without the authority of the proper officer and save as permitted by or under this Act—

(a) any goods are warehoused in containers or lots other than those in which they were entered for warehousing; or

(b) any alteration is made in any goods in warehouse, or in the packing or marking of the containers or lots of any such goods, after the goods have been duly warehoused;

those goods are liable to forfeiture.

Re-entry of goods entered for warehousing

56. (1) Subject to subsection (2), any goods that have been entered for warehousing or that have been permitted to be removed from a warehouse for transport to another warehouse may, at any time before they have been warehoused or re-warehoused—

(a) be further entered by their proprietor for home use, if so eligible, for exportation or for use as stores, and shall then be dealt with as if they had been so entered from warehouse; or

(b) be removed for transport to another warehouse approved for the warehousing of such goods, and shall then be dealt with as if they had been duly warehoused.

(2) Where goods are held in containers, no part of those goods shall be further entered or removed under subsection (1) unless that part consists of one or more complete containers.

Operations on warehoused goods

57. (1) Without prejudice to any other provision of this or any other Act by or under which an operation on warehoused goods is or may be permitted, the Comptroller may, in the case of such goods and, subject to such conditions and restrictions as he may from time to time think fit, permit the sorting, separating, packing or repacking of goods in warehouse and the carrying out on warehoused goods of such other operations necessary for the preservation, sale, shipment or disposal of the goods as he sees fit, and may give directions as to the warehouse or the part of any warehouse in which any such operation on goods may be carried out.

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(2) Any person who on or before 1st November 2001 was permitted to carry out an operation on goods of any class or description in warehouse, not being such an operation as is or may be permitted by or under any such other provision as aforesaid, shall be deemed to have been granted similar permission by the Comptroller under the foregoing subsection.

(3) The Comptroller may at any time revoke or vary any permission granted or deemed to have been granted under this section.

(4) If any person carries out any operation on goods in warehouse otherwise than in accordance with permission granted or deemed to have been granted under this section, or otherwise than as permitted by or under such other provision as aforesaid, he is guilty of an offence and is liable to a fine of $10,000 and the goods are liable to forfeiture.

Deficiency in warehoused goods

58. (1) If, at any time after goods have been warehoused and before they have been lawfully removed, all or part of those goods are found to be missing then, without prejudice to any other fine or liability to forfeiture incurred by or under this Act, the occupier of the warehouse—

(a) shall pay to the Comptroller—

(i) the duty that such goods would have borne if they had been entered for home use on the date of the discovery of the deficiency, or

(ii) in the case of goods not eligible for home use, an amount that in the opinion of the proper officer was the value of the goods at the date of the deficiency; and

(b) is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of the goods, whichever is the greater.

(2) Where any goods have, without payment of duty, been lawfully removed from a warehouse for transport to some other warehouse or to some other place, and all or part of those goods fail to reach that other warehouse or place then, without prejudice to any other fine or liability to forfeiture incurred by or under this Act, the proprietor of the goods—

(a) shall pay to the Comptroller—

(i) the duty that such goods would have borne if they had been entered for home use on the date of the discovery of the deficiency, or

(ii) in the case of goods not eligible for home use, an amount which in the opinion of the proper officer was the value of the goods at the date of the discovery of the deficiency; and

(b) is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of the goods, whichever is the greater.

(3) Subject to subsection (4), no compensation shall be payable by, and no action shall lie against, the Comptroller for any loss or damage caused to any goods while in a warehouse or for any unlawful removal of goods from a warehouse.

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(4) Where warehoused goods are damaged, destroyed or unlawfully removed by or with the assistance or connivance of an officer, and that officer is convicted of an offence in relation to that damage, destruction or removal then, except where the occupier of the warehouse or the proprietor of the goods was a party to the offence, the Comptroller shall pay compensation for any loss caused by such damage, destruction or removal and, notwithstanding any other customs enactment, no duty shall be payable on the goods by the occupier or the proprietor and any sum paid by way of duty by him before the conviction shall be repaid.

Removal of goods from warehouse

59. (1) Before any goods are removed from warehouse the proprietor of the goods shall deliver to Customs an entry thereof in such form and manner and containing such particulars as the Comptroller may direct.

(Act 15/2010, s. 15)

(2) Subject to any provision of this or any other Act, or of any regulation made thereunder as to the purposes for which any goods may be warehoused, goods may be entered under this section for any of the following purposes—

(a) home use;

(b) exportation;

(c) use as stores;

(d) subject to such conditions and restrictions as the Comptroller sees fit to impose, removal to another warehouse approved for the warehousing of such goods;

(e) subject to such conditions and restrictions as aforesaid, removal for such other purposes, to such places and for such periods as the Comptroller may allow.

(3) Warehoused goods shall not be removed from the warehouse or loaded onto any vessel, aircraft or vehicle for removal or for exportation or use as stores except with the authority of and in accordance with any directions given by the proper officer.

Duty liability on warehoused goods

60. (l) Save as permitted under this Act—

(a) duty on warehoused goods shall be chargeable at the time of the removal of those goods from the warehouse; and

(b) no goods shall be removed from warehouse until all duty due on them has been paid.

(Act 15/2010, s. 16)

(2) The amount payable in respect of any duty is based on the value of the goods at the time of removal from the warehouse.

(3) Save as otherwise provided under this Act, the duties and rates chargeable on warehoused goods are those in force with respect to the goods of that class or description at the time of delivery of the entry to remove the goods from the warehouse.

(Act 15/2010, s. 16)

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(4) The rate of duties of customs on goods that have been lawfully removed from warehouse without payment of duty with the intention that they shall be re-warehoused, but that are entered for home use before being re-warehoused, is that in force with respect to goods of that class or description—

(a) where removal for home use is allowed under section 65 on the giving of security for the duty chargeable thereon, at the date of the giving of the security; or

(b) in any other case, at the date of payment.

(5) Subject to subsection (7), where under or by virtue of any enactment the amount payable in respect of any duty is based on the quantity of the goods, the quantity shall be taken as at the time of entry into a warehouse.

(6) Where the quantity of goods is ascertained by taking an account thereof, it shall be ascertained by reference to weight or measure, as the case may be.

(7) Where warehoused goods have deteriorated or have been damaged to such a degree that the Comptroller is satisfied that they have become unsaleable, he shall allow such abatement of the duty chargeable on them as he sees fit.

(8) Where any sum has been paid in respect of duty before the appropriate date under this Act, the difference, if any, between the sum so paid and the amount properly payable shall be paid or repaid as the case may be.

Removal of goods from warehouse without payment of duty

61. Without prejudice to any other provision of this Act authorising the removal of goods from warehouse without payment of duty, the Comptroller may permit warehoused goods entered for removal for any purpose, other than home use, to be removed for that purpose, subject to such conditions and restrictions as he may see fit to impose, without payment of duty, but where any condition or restriction imposed under this section is contravened or not complied with, the goods are liable to forfeiture.

Provisions as to goods to be deposited in a customs warehouse

62. (1) The following provisions of this section shall have effect in relation to any goods which are deposited in a customs warehouse under or by virtue of this Act.

(2) The Comptroller may appoint any place for the deposit of goods, for the security of those goods and of any duty chargeable on them and any place so appointed shall be referred to in this Act as a customs warehouse.

(3) Where, in respect of any goods that may or are required to be warehoused, the Comptroller is of the opinion that it would be undesirable or inconvenient to deposit such goods in a customs warehouse, he may deem those goods to be deposited in a customs warehouse, and this section shall then apply to those goods as if they were deposited in such a warehouse.

(4) Such rent shall be payable in respect of any goods deposited in a customs warehouse as the Governor in Council may by regulation prescribe.

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(5) The Comptroller may, in respect of any goods deposited in a customs warehouse, do all such acts as appear to him necessary for the custody and preservation of such goods, and the expenses of so doing shall be payable in addition to any other charges payable in respect of those goods, by the importer or owner of the goods.

(6) If any goods deposited in a customs warehouse are in the opinion of the Comptroller of such a character as to require special care or treatment, then—

(a) they shall, in addition to any other charges payable on them, be chargeable with such expenses for the securing, watching and guarding of them as the Comptroller may consider necessary; and

(b) the Comptroller shall not be liable to make good any damage that the goods may sustain.

(7) Save as permitted by or under this Act, no goods shall be removed from a customs warehouse until all duty chargeable on those goods, and any charges—

(a) in respect of the removal of the goods to the customs warehouse; and

(b) arising by virtue of subsections (4), (5) and (6);

have been paid and in the case of goods requiring entry and not yet entered, until entry of those goods has been made.

(8) If any goods deposited in a customs warehouse by the proper officer under this Act are not cleared within 10 weeks after they have been so deposited, or such longer time as the Comptroller may in any case allow, the Comptroller may, 7 days after giving notice of sale in the *Gazette*, or in the case of goods that are in the opinion of the Comptroller of a perishable nature forthwith, sell them at auction.

(9) All money arising from the sale of any goods at auction shall be used to pay—

(a) firstly, any duty chargeable on those goods;

(b) secondly, the expenses of sale;

(c) thirdly, sums due to the Comptroller in respect of the carriage, warehousing and other services performed and facilities provided in respect of the goods; and

(d) fourthly, freight and rent due and payable and any other claims due and payable of which notice has been given to the Comptroller;

and the balance, if any, shall be paid to the owner of such goods on his application for the balance, if such application be made within 6 months of the time of the sale of such goods, but otherwise shall be paid into the Consolidated Fund.

(10) When any goods are authorised to be sold under or by virtue of this Act, but cannot be sold or are in the opinion of the Comptroller of a perishable or hazardous nature, he may destroy them.

(11) Any officer having custody of goods in a customs warehouse may refuse to permit the goods to be removed until it is shown to his satisfaction that all freight charges due on those goods have been paid.

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Offences in relation to warehouses and warehoused goods

63. (1) Any person who, except with the authority of the proper officer or for just and sufficient cause, opens any door or lock of a warehouse or a customs warehouse or makes or obtains access to any such warehouse or to any goods in such a warehouse, he is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both and may be arrested.

(2) Where—

(a) any goods that have been entered for warehousing are taken into a warehouse without the authority of, or otherwise than in accordance with any direction given by, the proper officer;

(b) save as permitted by or under this Act, any goods that have been entered for warehousing are removed without being duly warehoused or are otherwise not duly warehoused;

(c) any goods that have been deposited in a warehouse or a customs warehouse are unlawfully removed or are unlawfully loaded into any vessel, aircraft or vehicle for removal or for exportation or for use as stores;

(d) any goods entered for warehousing are concealed, either before or after they have been warehoused; or

(e) any goods that have been lawfully permitted to be removed from a warehouse or a customs warehouse without payment of duty for any purpose are not duly delivered at the destination to which they should have been taken in accordance with that permission;

such goods are liable to forfeiture.

(3) Where any person is in any way concerned with the taking, removal, loading, concealing or non-delivery of goods, as described in subsection (2), he is guilty of an offence and is liable to a fine of $10,000.

(4) Where any person is in any way concerned with the taking, removal, loading, concealing or non-delivery of goods as described in subsection (2), with intent to defraud the Government of Anguilla of any duty chargeable on those goods or to evade any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any enactment, he is guilty of an offence and, subject to subsection (5), is liable to a fine of $20,000 or to 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 2 years or to both and may be arrested.

(5) Where the goods in respect of which the offences specified in subsection (4) were committed are a controlled drug as defined in the Drugs (Prevention of Misuse) Act, a person guilty of an offence under this section is liable—

(a) on summary conviction to a fine of $250,000 or to imprisonment for 5 years or to both; or

(b) on indictment to a fine of $500,000 or to imprisonment for 20 years or to both.

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PART 9

DUTIES, DRAWBACK, PROHIBITIONS AND RESTRICTIONS

Duty on Imported Goods

Duty on imported goods other than goods entered for warehousing

64. (1) Save as permitted under this Act or Regulations or any other Act or Regulations relating to customs, there shall be raised, levied, collected and paid into the Consolidated Fund of Anguilla duty on all imported goods , which is chargeable at the rates set forth in the ICT—

(a) when an entry is required in relation to those goods, at the time of delivery of the entry; or

(b) in any other case, at the time of the importation of the goods.

(Act 15/2010, s. 17(a))

(2) The duty referred to in subsection (1) shall be chargeable at the following time—

(a) where an entry for home use is delivered in respect of goods imported into Anguilla, or an entry is delivered in respect of goods to be exported out of Anguilla, at the time of the delivery of the entry in respect of those goods to Customs;

(b) where an entry is required in respect of the importation of goods into or the exportation of goods out of Anguilla but no entry is delivered to Customs, at the time of the importation or exportation of the goods;

(c) where goods are removed from any vessel, aircraft or transit shed under any bond or other security, at the time of the delivery of the goods;

(d) in any other case, at the time of the importation of the goods.

(Act 15/2010, s. 17)

(3) Goods subject to duty shall be deemed to be proper to that class under which they fall in the section and chapter of the ICT and shall be chargeable thereunder.

(4) Duty shall be paid—

(a) in the currency of the East Caribbean currency authority;

(b) in the currency of the United States of America; or

(c) by a draft issued by, or a cheque drawn on and guaranteed by, a licensed domestic bank.

(5) Where any amount shown on any invoice or other document is expressed in a foreign currency, the value of those goods shall be calculated according to the appropriate rate of exchange for that currency quoted by Government bankers on the day in which the duty becomes chargeable.

(Act 15/2010, s. 17)

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Delivery of imported goods on giving of security

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

(2) Where goods are allowed to be delivered under this section, the Comptroller shall, when he has determined the amount of duty that in his opinion is payable, give to the importer a notice specifying that amount.

(3) On the giving of a notice under subsection (2), the amount specified in the notice or, where any amount has been deposited under subsection (1), any difference between those amounts shall forthwith be paid or repaid, as the case may require.

Goods to be warehoused without payment of duty

66. Any goods that are on their importation permitted to be entered for warehousing are allowed to be warehoused without payment of duty.

Relief from duty of goods entered for transit or transshipment

67. Where goods are entered for transit or transshipment, the Comptroller may, subject to such conditions and restrictions as he sees fit, allow the goods to be removed for that purpose without payment of duty.

Calculation of duty

68. (1) Without prejudice to any other provision of this Act, any amount due by way of customs duty shall be recoverable as a debt due to the Government of Anguilla.

(2) Any duty, drawback, allowance or rebate the rate of which is expressed by reference to a specified quantity or weight of any goods shall be chargeable or allowable on any fraction of that quantity or weight of the goods, and the amount payable or allowable on any such fraction shall be calculated proportionately, but the Comptroller may determine the fractions to be taken into account in the case of any weight or quantity.

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

Special provisions

69. (1) If any goods, being goods chargeable with any duty on their importation into or exportation out of Anguilla—

(a) are imported or exported in any package intended for sale, or of a kind normally sold with those goods, and the package is marked or labelled or commonly sold as, or reputed as containing a specified quantity of those goods, then the package is deemed to contain not less than that specified quantity of those goods;

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(b) are imported or exported in any package intended for sale, or of a kind normally sold with those goods, but the package is not marked or labelled, or commonly sold as, or reputed as containing a specified quantity of those goods, then, unless the importer or exporter is able to satisfy the Comptroller as to the net weight of the goods, the duty shall be calculated on the gross weight of the package and the goods;

(c) are imported or exported in any package or covering that, in the opinion of the Comptroller—

(i) is not the usual or proper package or covering for such goods, or

(ii) is designed for separate use, other than as a package or covering for the same or similar goods, subsequent to the importation or exportation,

that package or covering shall be deemed to be a separate article; or

(d) are brought or come into Anguilla as derelict jetsam, flotsam or as a wreck or part of a wreck, and are sold in Anguilla, they are liable to the same duty as goods of that class or description would be subject to at the time of their discovery or sale.

(2) The Governor in Council may by regulation specify standard capacities for containers of liquid goods, and where goods liable to duty by liquid volume are, or are reputed to be, sold in a container of the size specified in the order, the quantity of goods in that container is deemed to be the specified quantity.

Relief from duty on re-imported goods and other relief

70. (l) Where any goods, being goods previously entered for home use in Anguilla, are imported into Anguilla after exportation from Anguilla and it is shown to the satisfaction of the Comptroller that—

(a) no duty was due on those goods on any previous importation into Anguilla or that, if any duty was so due, it has been paid;

(b) no drawback has been paid or duty refunded on their exportation or that any drawback so paid or duty so refunded has been repaid; and

(c) the goods have not undergone any process outside Anguilla since their exportation;

those goods may be permitted to be imported, subject to such conditions and restrictions as the Comptroller may see fit to impose, without payment of duty.

(2) No repayment of sums overpaid in error shall be made unless the claim thereto is made and evidence in support thereof is submitted to the Comptroller within 1 year of the overpayment, and the claim is established to the satisfaction of the Comptroller.

Offences and forfeiture for breach of conditions

71. (1) Where under any customs enactment, any goods that are relieved or exempted from any duty due on them subject to—

(a) any condition or restriction; or

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(b) the condition that they will not be sold, lent or otherwise disposed of or any like condition within a period of 10 years or such lesser period as is provided for under a customs enactment;

and that condition or restriction is contravened or not complied with, the duty relieved or exempted shall become payable by the person who, but for that relief or exemption, would have had to pay the amount of such duty, he and any person knowingly concerned in such contravention or non-compliance is guilty of an offence and is liable to a fine of $20,000 or 3 times the duty relieved, whichever is the greater, or to imprisonment for a term of 2 years or to both and may be arrested and the goods in respect of which the relief or exemption was granted are liable to forfeiture.

(Act 16/2008 s. 1)

(2) Any goods relieved or exempted from duty shall, upon demand made by an officer, be produced or otherwise accounted for to him, and if any person fails to produce or account for such goods, he and any person knowingly concerned in such failure are guilty of an offence and are liable to a fine of $20,000 or 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 2 years or to both and may be arrested, and, if any goods not produced or accounted for are subsequently found, they are liable to forfeiture.

Abatement of duty

72. (1) Subject to subsection (2), where the Comptroller is satisfied in respect of any imported goods that before or upon their importation they have deteriorated or have been damaged, or that they or some of them have been lost or destroyed, and, in the case of lost goods, that they have not entered or will not enter into home use in Anguilla, the Comptroller shall allow such abatement of the duty chargeable on those goods as in his opinion the amount of the deterioration, damage, loss or destruction bears to the original value of the goods.

(2) Where duty has already been paid on goods in respect of which an abatement would be allowable under subsection (1), no repayment of the amount of the abatement shall be made unless the claim is made within 6 months of the date of the payment of the duty.

Goods temporarily imported for re-export

73. (1) The Governor in Council may by regulation prescribe, where he is satisfied that goods are imported only temporarily with a view to subsequent re-exportation, that the goods be delivered on importation subject to such conditions and to the payment of such proportion of duty thereon as he may specify in the regulation and may impose different conditions for different classes of goods.

(2) Regulations under subsection (1) may provide for the imposition of a fine for an amount of $10,000 or 3 times the value of the goods, whichever is the greater, for any contravention of, or failure to comply with, any such regulation, and for the forfeiture of any goods.

Goods imported other than as cargo, stores or baggage

74. Any goods brought or coming into Anguilla by sea otherwise than as cargo, stores or baggage carried in a vessel are liable to the like duty, if any, as would be applicable to those goods if they had been imported as merchandise, and if any question arises as to the origin of the goods they are deemed to be the produce of such country as the Comptroller may on investigation determine.

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Relief from duty on re-imported goods locally produced

75. Without prejudice to any other enactment relating to customs, notwithstanding section 70, if it is shown to the satisfaction of the Comptroller that any goods manufactured or produced in Anguilla are re-imported into Anguilla after exportation therefrom and have not undergone any process outside Anguilla since their exportation, the goods may on their re-importation be delivered for home use without payment of duty.

Power to make regulations

76. (l) The Governor in Council may by regulation—

(a) impose rates of duty for the purposes of section 64;

(b) exempt goods or classes of goods subject to such conditions, if any, as may be specified; and

(c) provide for the form of written declaration to be furnished by an importer of goods.

(2) A regulation made under subsection (1)(a) and (b) is not valid—

(a) unless it implements an item in a budget approved by an Act of the Legislature; or

(b) until it is approved by resolution of the House of Assembly.

House of Assembly may reduce duty or exempt goods of specified person

77. (1) The House of Assembly may by resolution reduce the duty on any goods, or may exempt from duty any goods, imported into Anguilla by a specified person and may make the reduction or exemption subject to such conditions, including conditions on the importation, use or disposal of the goods, as may be specified in the resolution.

(2) Unless it is therein otherwise provided, any resolution passed under this section shall take effect and come into operation on the day such resolution is passed.

(3) Notwithstanding subsection (1), no resolution under that subsection in relation to goods imported into Anguilla by a person shall be introduced into the House unless a certificate of good standing issued pursuant to the regulations under the Inland Revenue Department Act in relation to that person that has not expired or been cancelled has been produced to the Minister of Finance.

(Act 6/2010, s. 41)

(4) A recital in a resolution to the effect that, before the resolution was introduced into the House, a certificate of good standing that had not expired or been cancelled was produced to the Minister of Finance in relation to the person who imported the specified goods is conclusive evidence for all purposes of the facts set out in the recital.

(Act 6/2010, s. 41)

(5) A resolution under section (1) is a regulation.

Recovery of amounts due

78. Any amount due and payable to the Comptroller under any enactment may be recovered by him in any court of competent jurisdiction.

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Valuation of goods for purpose of *ad valorem* duties

79. (1) For the purpose of any enactment for the time being in force whereunder a duty of customs is chargeable on imported goods by reference to their value, the value of any such goods shall be taken to be the normal price, that is to say, the price that they would fetch at the time when they are entered for home use (or, if they are not so entered, the time of importation) on a sale in the open market between a buyer in Anguilla and a seller in the country from which the goods were despatched to him, such buyer and seller being independent of each other and duty shall be paid on that value, but, in the case of goods imported under a contract of sale and entered for home use, duty is deemed to have been paid on that value if, before the goods are delivered for home use, duty is tendered and accepted on a declared value based on the contract price.

(2) For the purpose of the exception in subsection (1)—

(a) the declared value of any goods is their value as declared by or on behalf of the importer in making entry of the goods for home use; and

(b) that value shall be deemed to be based on the contract price if, but only if, it represents that price properly adjusted to take account of circumstances differentiating the contract from such a contract as is contemplated by subsection (3).

(3) The normal price of any goods shall be determined on the assumptions that—

(a) the normal price of any such goods shall be taken to be the landed cost of the goods, which shall be the aggregate of—

(i) the contract price of the goods or the normal price of the goods as defined in subsection (1), whichever is the greater; and

(ii) the freight, insurance and all other costs, charges and expenses incidental to the sale of the goods and to the removal or carriage from the place of despatch to Anguilla; and

(b) the buyer will pay the duty or tax in Anguilla.

(4) For the purpose of determining the price of goods under subsection (3) which are uninsured, there shall be substituted for the cost of insurance a notional insurance cost equal to 1% of the f.o.b. cost of such goods and, where the cost of freight is not known or is unsatisfactory in the opinion of the Comptroller, the Comptroller shall determine the cost of freight on the basis of known reliable costs on similar or identical goods carried on an equivalent or identical voyage.

(5) A sale in the open market between buyer and seller independent of each other presupposes that—

(a) the price is the sole consideration;

(b) the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer and any person associated with him (other than the relationship created by the sale of the goods in question); and

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(c) no part of the proceeds of the subsequent resale, use or disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

(6) Where the goods to be valued—

(a) are manufactured in accordance with any patented invention or are goods to which any registered design has been applied; or

(b) are imported under a foreign trademark or are imported for sale (whether or not after further manufacture) under a foreign trademark;

the normal price shall be determined on the assumption that the price covers the right to use the patent, design or trademark in respect of the goods.

(7) For the purpose of subsection (6), the expression "trademark" includes a trade name and a get-up, and a foreign trademark is a trademark indicating that the goods in relation to which it is used are those of a person—

(a) by whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside Anguilla;

(b) associated in business with any such person as is referred to in paragraph (a); or

(c) to whom any such person as is mentioned in paragraph (a) or (b) has assigned the goodwill of the business in connection with which the trademark is used.

(8) Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them.

(9) The Comptroller or an officer may require any importer or other person concerned with the importation of goods to furnish in such form as he may direct—

(a) such information as is in his opinion necessary for a proper valuation of the goods; and

(b) such declarations and evidence in support of such declarations relating to the goods as he may think fit;

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

(10) Where the information, declarations, evidence or documents furnished by the importer or other person concerned in the importation of the goods is not satisfactory in the opinion of the Comptroller, he shall make a determination of the value of the goods based on subsections (1) to (6).

(11) If any person contravenes or fails to comply with any requirement or direction of the Comptroller under this section, he is guilty of an offence and is liable on conviction to a penalty of $5,000.

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Personal and household effects; limit of exemption

80. Notwithstanding anything in this Act, if any person sells, exchanges, gives away or applies to any other use any household goods or personal effects imported as such under items 4 and 11 of the exemption in the ICT and thereby entered free of duty, there shall be levied upon such goods or effects, and such person shall pay duty at the rates applicable thereto as specified in the ICT on the values or quantities thereof—

(a) at the date of importation if the goods or effects are sold, exchanged, given away or disposed of within 6 months from the date of importation; or

(b) at the date of sale, exchange, gift or disposal of the goods or effects if that date is more than 6 months and less than 2 years after the date of importation, but no duty shall be charged on such goods imported not less than 2 years before the date of sale.

Motor vehicles; limit of exemption

81. (1) Notwithstanding anything in this Act, if any motor vehicle imported free of duty under any exemption by any person is sold, exchanged, given away or applied to any use not sanctioned by the exemption, such person shall—

(a) if the motor is sold, exchanged, given away or applied to unsanctioned use within 6 months of the date of importation, pay duty on the value of and at the rate of duty specified in the ICT either at the date of importation or the date of sale, whichever is the greater; or

(b) if the motor vehicle is sold, exchanged, given away or applied to unsanctioned use 6 months or more after the date of importation pay duty on the value of and at the rate of duty specified in the ICT on the date of sale.

(Act 15/2010, s. 18(a))

(2) The duty referred to in subsection (1) shall be chargeable at the time the motor vehicle is sold, exchanged, given away or applied to unsanctioned use.

(Act 15/2010, s. 18(b))

Processed re-imports

82. Notwithstanding anything in this Act, the owner of any class of goods exported from Anguilla for the purpose of being repaired, restored or otherwise processed and thereafter re-imported may at the time of entering such goods for export declare the purpose of such export and, if such goods are subsequently re-imported in repaired, restored or processed form, but without there being any substantial change in their form or character, then duty shall be charged as if the increase in value of the goods attributable to the process were the whole value thereof.

Drawback

Extent of drawback

83. (l) Subject to this section, where goods are entered—

(a) for exportation;

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(b) for shipment for use as stores; or

(c) for warehousing for subsequent exportation or shipment for use as stores;

drawback may be claimed in respect of such proportion of any duty paid on their importation into Anguilla as the Governor in Council may by regulation specify.

(2) No drawback may be claimed in respect of—

(a) any goods of a value of less than $270, such value being that at which the goods were originally imported;

(b) goods which were imported into Anguilla more than 12 months before the date of the claim for drawback; or

(c) goods not in the packages and in the same state in which they were originally imported into Anguilla, or in the case of bulk goods, where that bulk has been broken.

(3) Where imported goods are re-exported within 12 months of their importation by their importer to the same country and to the same person or firm from which they were imported or are entered for shipment for use as stores, this section shall not apply.

(4) The Governor in Council may by regulation prescribe any goods, class or description of goods in respect of which no drawback shall be claimable.

Claims for drawback

84. (l) Any claim for drawback shall be made in such form and manner and contain such particulars as the Comptroller may direct.

(2) No drawback is payable—

(a) unless it is shown to the satisfaction of the Comptroller that all duty due on the goods in respect of which the claim is made has been paid and not otherwise drawn back;

(b) until the person making the claim has furnished the Comptroller with such information and produced to him such books of account or other documents relating to the goods as the Comptroller may demand; and

(c) subject to section 70, until all the goods that are the subject of the claim have been exported.

Drawback on goods destroyed or damaged after shipment

85. (l) Where it is proved to the satisfaction of the Comptroller that after being duly shipped for exportation or for use as stores, goods that have been destroyed by accident on board the exporting vessel or aircraft, any amount payable by way of drawback on those goods shall be payable as if they had been exported to their destination.

(2) Where it is proved to the satisfaction of the Comptroller that after being duly shipped for exportation or for use as stores, goods that have been materially damaged by accident on board the exporting vessel or aircraft, those goods may, with the consent of and in accordance with any conditions

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and restrictions as may be imposed by the Comptroller, be relanded or unloaded again or brought back into Anguilla, and—

(a) if re-entered for home use, are liable to the duty due on the importation of such damaged goods; or

(b) if abandoned to the Comptroller or destroyed, the importer shall be entitled to such drawback payable on those goods as if they had been duly exported to their destination, and notwithstanding any customs enactment, no duty shall be payable on the importation or unloading of those goods.

(3) Any goods in respect of which an offence contrary to subsection (1) is committed are liable to forfeiture, but in the case of a claim for drawback, the Comptroller may, if he sees fit, instead of seizing the goods, either refuse to allow any drawback thereon or allow only such drawback as he considers proper.

(4) Without prejudice to this section, if, in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made, it is found that those goods do not correspond with any entry made thereof in connection with that claim, the goods are liable to forfeiture and any person by whom any such entry or claim was made is guilty of an offence and is liable to a fine of $10,000.

Offences in relation to drawback

86. (l) If any person obtains or attempts to obtain or does anything whereby there might be obtained by any person any amount by way of drawback in respect of goods for which there is no entitlement, he is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of the goods, whichever is the greater.

(2) If any person, with intent to defraud, obtains or attempts to obtain or does anything whereby there might be obtained by any person any amount by way of drawback in respect of goods for which there is no lawful entitlement, he is guilty of an offence and is liable to a fine of $20,000 or 3 times the value of goods, whichever is the greater, or to imprisonment for a term of 2 years or to both and may be arrested.

(3) Any goods in respect of which an offence under subsections (1) and (2) has been committed are liable to forfeiture.

Refund of duty paid on goods exported after undergoing process of manufacture

87. (1) If it is shown to the satisfaction of the Comptroller that duty has been paid on goods on importation and that such goods have—

(a) undergone a process of manufacture; and

(b) have been exported;

the Comptroller shall, subject to such conditions and restrictions as he sees fit to impose, authorise repayment to the importer upon a claim being made, of an amount equivalent to the duty paid on the importation of the goods.

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(2) Any such claim shall be made in such form and manner and contain such particulars as the Comptroller may direct.

Prohibitions and Restrictions

General provisions

88. (l) No goods, class or description of goods prescribed in Part 1 of Schedule 2 shall be imported into Anguilla.

(2) No goods, class or description of goods prescribed in Part 2 of Schedule 2 shall be imported into Anguilla except in accordance with the conditions and restrictions prescribed by that Part.

(3) No goods, class or description of goods prescribed in Part 3 of Schedule 2 shall be exported.

(4) No goods, class or description of goods prescribed in Part 4 of Schedule 2 shall be exported except in accordance with the conditions and restrictions prescribed by that Part.

(5) The Governor in Council may by regulation—

(a) delete from, vary or add to the goods, classes or description of goods prescribed in Parts 1, 2, 3 or 4 of Schedule 2;

(b) prohibit or restrict, subject to such conditions and restrictions as the regulations may impose, the importation, exportation or carriage coastwise of any goods, class or description of goods specified in the Order to or from any place in Anguilla so specified.

PART 10

POWERS

Customs control of persons entering or leaving Anguilla

89. (1) Any person entering Anguilla shall at such place and in such manner as the Comptroller with the approval of the Governor in Council may direct, declare anything contained in his baggage or carried with him that—

(a) he has obtained outside of Anguilla; or

(b) being dutiable goods or chargeable goods that he has obtained in Anguilla without payment of duty;

and in respect of which he is not entitled to exemption from duty or tax by virtue of any enactment.

(Act 5/2009, s. 1)

(2) Any person entering or leaving Anguilla shall—

(a) if he is in possession of currency, cheques or monetary instruments, or any combination thereof, of or exceeding $27,000, or the equivalent in any currency or combination of

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currencies, declare and make a report of same in such form and manner and containing such particulars as the Comptroller may direct; and

(b) answer such questions as the proper officer may put to him with respect to his baggage and anything contained therein or carried with him, and shall, if required by the proper officer, produce that baggage and any such thing for examination at such place as the Comptroller may direct.

(Act 15/2010, s. 19)

(3) Any person failing to declare any baggage or thing as required under this section is guilty of an offence and is liable to a fine of $10,000 or 3 times the value of the thing not declared or the baggage or thing not produced, as the case may be, whichever is the greater.

(4) Anything chargeable with any tax that is found concealed or is not declared and anything that is being taken into or out of Anguilla contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment is liable to forfeiture.

(5) A direction issued under subsection (1) is a regulation.

(Act 5/2009, s. 1)

Offence of waiting in green channel with uncustomed, prohibited or restricted goods

90. (1) In this section—

"green channel" means a channel to which a green channel notice refers;

"green channel notice" means a notice printed in large, legible characters displayed at an airport by order of the Comptroller notifying those persons disembarking there who have no uncustomed or prohibited or restricted goods to declare that they may await their turn to receive permission to leave the customs area in the green channel indicated for that purpose in such notice.

(2) A person disembarking at an airport who takes up the position in a green channel for the purpose of receiving permission to leave the customs area and whose baggage contains or who carries with him any uncustomed or prohibited or restricted goods commits an offence, unless he satisfies the court that he did not know and could not reasonably have been expected to know that he was committing such offence.

(3) Without prejudice to any other penalty or forfeiture imposed by any customs enactment, a person convicted of an offence under this section is liable to a fine of $200.

Right of access

91. (1) Without prejudice to any other power contained in this Act, any officer has a right of access to, and a power of search of any part of a customs port, approved wharf, customs airport or other customs area and any vehicle or goods found at such a place.

(2) The power of search provided by subsection (1) shall include the power to break into or open any building or container that is locked and to which there is no access.

(3) Any goods found concealed at a customs port, approved wharf, customs airport or other customs area, or in any vehicle found at such a place are liable to forfeiture.

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Power of boarding

92. (1) At any time while a vessel is in the territorial sea or an aircraft is at any customs airport or any other place within Anguilla, any officer may require that vessel or aircraft to stop and then may board it, or remain on board it, and may search any part of it.

(2) An officer on board any vessel or aircraft in pursuance of subsection (1) may—

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

(b) examine any goods in the course of their being unloaded;

(c) lock up, seal, mark or otherwise secure any goods carried in that vessel or aircraft or any place or container in which they are so carried;

(d) break open any place or container that is locked and to which there is no access;

(e) require any document or book that should be on board that vessel or aircraft to be produced to him for examination;

(f) require answers to all such questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as may be put by him; or

(g) have free access to any part of any vessel or aircraft;

and if any person on board prevents him from so doing, or refuses to produce any such document or book, or answer any such question, he is guilty of an offence and is liable to a fine of $10,000.

(3) Any goods found concealed on board a vessel within the territorial sea or an aircraft at any customs airport or any other place within Anguilla are liable to forfeiture.

(4) Where any vessel or aircraft refuses to stop or permit an officer to board when required to do so under subsection (1), the master of that vessel or the commander of that aircraft is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both and may be arrested and the vessel or aircraft is liable to forfeiture.

Power to station officer on vessel

93. The Comptroller may station an officer on board any vessel at any time while it is within the territorial sea and if the master of any vessel on which an officer is stationed neglects or refuses to provide—

(a) proper and sufficient food and water, together with reasonable accommodation for such an officer; and

(b) means of safe access to and egress from that vessel as required by the officer;

he is guilty of an offence and is liable to a fine of $10,000.

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Power to patrol and moor

94. (1) In relation to any assigned matter, any officer may patrol upon and pass freely either on foot or otherwise along and over and enter any part of Anguilla and any such officer so proceeding is not liable to any prosecution or any other action for so doing.

(2) Any officer, in command or in charge of any vessel, vehicle or aircraft engaged in the prevention of smuggling may haul up and moor that vessel or land that aircraft or park that vehicle any place in Anguilla.

Power to examine and take account of goods

95. (1) Without prejudice to any other power conferred by any customs enactment, an officer may examine and take account of any goods—

(a) that have been imported;

(b) that are in a warehouse or a customs warehouse;

(c) that have been loaded into or unloaded from any vessel or aircraft at any place in Anguilla;

(d) that have been entered for exportation or for use as stores;

(e) that have been brought to any place in Anguilla for exportation or for use as stores, or for shipment; or

(f) in respect of which any claim for drawback, allowance, rebate, remission or repayment of duty has been made;

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

(2) Any examination of goods by an officer under subsection (1) shall be made at such time and place as the officer may direct.

(3) Any bringing of goods to a place directed under subsection (2), and their unloading, opening, unpacking, weighing, repacking, bulking, sorting, lotting, marking, numbering, loading, carrying or landing, and any such treatment to the containers in which the goods are kept for the purposes of and incidental to the examination or for use as stores or warehousing, shall be done, and any facilities or assistance required for such examination shall be provided by, or at the expense of, the owner of the goods.

(4) If any—

(a) imported goods that an officer has the power under this Act to examine; and

(b) goods, other than imported goods, that an officer has directed to be brought to a place for the purposes of examination;

are without the authority of the proper officer removed from the charge of customs before they have been examined, those goods are liable to forfeiture.

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Power to require provision of facilities, etc.

96. (1) Any person required by the Comptroller under this Act to give security in respect of any premises shall—

(a) provide and maintain such appliances and afford such other facilities reasonably necessary to enable an officer to take any account or make any examination or search or to perform any other of his duties on the premises of that trader or at the bonded premises or place as the Comptroller may direct;

(b) keep any appliances so provided in a convenient place approved by the proper officer for that purpose; and

(c) allow the proper officer at any time to use anything so provided and give him any assistance necessary for the performance of his duties;

and any person who contravenes or fails to comply with this subsection is guilty of an offence and is liable to a fine of $10,000.

(2) Any such person as aforesaid shall provide and maintain any fitting required for the purpose of affixing any lock that the proper officer may require to be affixed to the premises of that trader or person, or any part thereof, or to any utensil or other apparatus whatsoever kept thereon, and in default—

(a) the fitting may be provided or any work necessary for its maintenance may be carried out by the proper officer, or on his behalf, and any expenses so incurred shall be paid on demand by the trader or person aforesaid; and

(b) if the trader or person aforesaid fails to pay those expenses on demand, he is in addition guilty of an offence and is liable to a fine of $10,000.

(3) If any person aforesaid or any person on his behalf—

(a) wilfully destroys or damages any such fitting as aforesaid or any lock or key provided for use therewith, or any label or seal placed on any such lock;

(b) improperly obtains access to any place or article secured by any such lock; or

(c) has any such fitting or any article intended to be secured by means thereof so constructed that that intention is defeated;

he is guilty of an offence and is liable on conviction to a fine of $10,000.

Power to take samples

97. (1) An officer may at any time take a sample of any goods that he is empowered by any customs enactment to examine.

(2) Any sample taken by an officer under subsection (1) shall be disposed of and accounted for in such manner as the Comptroller may direct.

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Power to search premises

98. (1) Where an officer has reasonable grounds to believe that anything that is liable to forfeiture by virtue of any customs enactment is kept at or concealed in any building or other place or any offence has been committed under or by virtue of any customs enactment, he may after being authorised by the Comptroller in writing so to do—

(a) enter that building or place at any time, whether by day or night, on any day and search for, seize and detain or remove any such thing;

(b) so far as is reasonably necessary for the purpose of such entry, search, seizure, detention or removal, break open any door, window or container and force or remove any other impediment or obstruction; and

(c) search for and remove any books, papers, invoices, bills of lading, electronic or mechanical records or any other documents or books relating to any assigned matter.

(2) No search shall be made at night unless accompanied by police officers.

(3) Without prejudice to the powers conferred by subsection (1) or to any other power conferred by this Act, if the Magistrate is satisfied by information upon oath given by an officer that there are reasonable grounds to suspect that anything liable to forfeiture under or by virtue of any customs enactment is kept or concealed in any building or place, he may, by warrant under his hand given on any day, authorise that officer or any other person named in the warrant to enter, with or without the assistance of a police officer, and search any building or place so named.

(4) Where in the case of any entry, search, seizure, detention or removal, damage is caused and no goods that are liable to forfeiture are found, the owner of the building, place or goods damaged is entitled to recover from the Comptroller the costs of making good that damage.

Power to search vehicles

99. (1) Without prejudice to any other power contained in or under this Act, where an officer has reasonable grounds to believe that any vehicle is carrying anything that is liable to forfeiture, he may stop and search that vehicle.

(2) If, when so required under subsection (1), the person in charge of the vehicle fails to stop or refuses to permit the vehicle to be searched, he is guilty of an offence and is liable to a fine of $10,000.

Power to search persons

100. (1) Where an officer has reasonable grounds to believe that any person has in his possession anything that is liable to forfeiture, he may stop and search that person and any article that that person has with him.

(2) No person shall be searched in pursuance of subsection (1) except by a person of the same sex.

(3) Any person to be searched in pursuance of subsection (1) may require to be taken before the Magistrate or to a superior of that officer, who shall consider the grounds for suspicion and direct whether or not the search is to take place.

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Power of arrest

101. (1) Subject to subsection (2), any officer or a police officer may arrest any person who has committed, or whom there are reasonable grounds to suspect of having committed, any offence for which he is liable to be arrested under any customs enactment.

(2) No person may be arrested for an offence by virtue of subsection (1) more than 5 years after the commission of that offence except that, where, for any reason it was not practicable to arrest that person at the time of the commission of the offence, he may be arrested and proceeded against as if the offence had been committed at the time when he was arrested.

(3) Where by virtue of subsection (1) any person is arrested by a police officer, that police officer shall give notice of that arrest to the Comptroller.

Power to carry and use firearms

102. If the Governor in Council is satisfied on representation made by the Comptroller that it is necessary for the protection of any officer duly engaged in the performance of any duty that he should carry firearms, he may grant permission to the Comptroller of Customs to apply to the Commissioner of Police for the issue of a licence to such officer to carry firearms.

Power to summon vessels to bring to

103. (1) If any part of the cargo of a vessel is thrown overboard or is staved or destroyed to prevent seizure—

(a) while the vessel is within the territorial sea; or

(b) where the vessel, having been properly summoned to bring to by any vessel in the service of the Government of Anguilla, fails so to do and chase is given, at any time during the chase;

the vessel is liable to forfeiture.

(2) If, save for just and sufficient cause, any vessel that is liable to forfeiture or examination under or by virtue of this Act does not bring to when summoned to do so, the master of the vessel is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both and may be arrested.

(3) Where any vessel liable to forfeiture or examination as aforesaid has failed to bring to when summoned to do so and chase has been given thereto by any vessel in the service of the Government of Anguilla, and after the commander of that vessel has caused a gun to be fired as a signal and the vessel still fails to bring to, the vessel may be fired upon.

(4) For the purposes of this section, a vessel is deemed to have been properly summoned to bring to—

(a) if the vessel making the summons did so by means of an international signal code or any other recognised means and while flying her proper ensign; and

(b) if at the time the summons was made the vessel was within the territorial sea.

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Power to pay rewards

104. The Comptroller may, with the approval of the Governor, reward any person, including an officer, for any service in relation to an assigned matter that appears to him to merit reward.

Power to require attendance

105. (1) Where under any customs enactment the master of any vessel or the commander of any aircraft is required to answer any questions put to him by the Comptroller or an officer, the Comptroller or the officer may, at any time while the vessel is at any port or the aircraft is at any customs airport, require the master or commander or, with the consent of the Comptroller or the officer, a senior officer of that vessel or aircraft, to attend before him at his office.

(2) Any master or commander who fails to comply with subsection (1) is guilty of an offence and is liable to a fine of $10,000.

Power to require information and the production of evidence

106. (l) Any officer may, at any time within 5 years of the importation, exportation or carriage coastwise of any goods, require any importer, exporter or other person concerned in that importation, exportation or carriage coastwise or in the carriage, unloading, landing or loading of such goods—

(a) to furnish to him in such form and manner as he may require any information relating to the goods;

(b) to give access to any computer for the purposes of verification and audit; and

(c) to produce and permit the officer to inspect, take extracts from, make copies of or remove for a reasonable period, any invoice, bill of lading, electronic or mechanical record or other book or document relating to the goods.

(Act 15/2010, s. 20(a))

(2) The Comptroller may require evidence to be produced to his satisfaction in support of any information provided by virtue of subsection (1) or Parts 3 to 7 and 9, in respect of any goods imported, exported or carried coastwise, or in respect of which any repayment of duty is claimed.

(3) Any person who—

(a) tampers with any information, computer, document or evidence required under subsection (1) or (2) prior to its production, access or inspection; or

(b) without reasonable cause, fails to comply with a requirement imposed on him under subsection (1) or (2);

is guilty of an offence and is liable to a fine of $10,000.

(Act 15/2010, s. 20(b))

Power to require security

107. (1) Without prejudice to any express requirement as to security provided for by any other customs enactment, the Comptroller may, if he sees fit, require any person to give security by bond or otherwise in such form and manner as the Comptroller may direct for the observance of any condition or restriction in connection with any assigned matter.

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

(a) shall be taken on behalf of the Government of Anguilla;

(b) shall be valid notwithstanding that it is entered into by a person who has not attained the age of majority; and

(c) may be cancelled at any time by or by the order of the Comptroller.

PART 11

OFFENCES

Unlawful assumption of character of Comptroller or officer

108. If, for the purpose of obtaining admission to any aircraft, vessel or building or other place, or of doing or procuring to be done any act that he would not be entitled to do or procure to be done of his own authority, or for other unlawful purpose, any person falsely assumes the name, designation or character of the Comptroller or an officer or of any other person appointed by the Comptroller to discharge any duty relating to an assigned matter, he may be arrested and, in addition to any other proceedings that may be taken against him, he is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both.

Bribery and collusion

109. (l) If the Comptroller, an officer or any other person appointed by the Comptroller to discharge any duty relating to an assigned matter—

(a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward not being a payment or reward that he is lawfully entitled to receive; or

(b) enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby the Government of Anguilla is or may be defrauded or that is otherwise unlawful, being an act or thing relating to an assigned matter;

he is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both and may be arrested.

(2) If any person—

(a) directly or indirectly offers or gives to the Comptroller, to an officer or to any other person appointed by the Comptroller to discharge any duty relating to an assigned matter, any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward; or

(b) proposes or enters into any agreement with the Comptroller, officer or other person so appointed;

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in order to induce him to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Government of Anguilla is or may be defrauded or that is otherwise unlawful, being an act or thing relating to an assigned matter, or otherwise to take any course contrary to his duty, he is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both and may be arrested.

Offences against officers

110. (1) Any person who—

(a) obstructs, hinders, molests or assaults any person engaged in the performance of any duty or the exercise of any power imposed or conferred on him by any customs enactment, or any person acting in his aid;

(b) does anything that impedes or is calculated to impede the carrying out of any search for anything liable to forfeiture or the detention, seizure or removal of any such thing;

(c) rescues, damages or destroys anything liable to forfeiture or does anything calculated to prevent the procuring or giving of evidence as to whether or not anything is so liable to forfeiture;

(d) prevents the arrest of any person under any customs enactment or rescues any person so arrested; or

(e) who attempts to do any such act, specified in paragraphs (a), (b), (c) or (d) or aids and abets any person doing such an act;

is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both and may be arrested.

(2) In addition to any other penalty that may be imposed under or by virtue of any enactment, any person who fires upon, maims or wounds any officer in the performance of his duty is guilty of an offence and is liable to a fine of $100,000 or to imprisonment for a term of 10 years or to both and may be arrested.

(3) If any person uses abusive, offensive or threatening language or behaviour to any officer engaged in the performance of any duty or the exercise of any power imposed or conferred upon him by any customs enactment, he is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both, and may be arrested.

Carrying away officers

111. (l) If any vessel or aircraft departs from any place in Anguilla carrying on board without his consent any officer, the master of that vessel or the commander of that aircraft is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both, and may be arrested.

(2) Without prejudice to the liability of any person under subsection (1), the amount of any expenses incurred by the Comptroller or the Government of Anguilla by reason of the carrying away of any officer may be recovered from that person or from the owner of the vessel or aircraft or his agent.

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Interfering with customs vessels

112. (1) If any person, save for just and sufficient cause, interferes in any way with any vessel, aircraft, vehicle, buoy, anchor, chain, rope, mark or anything that is being used by an officer in the performance of his duty, he is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both and may be arrested.

(2) If any person fires upon any vessel, aircraft or vehicle being used by an officer in the performance of his duty, he is guilty of an offence and is liable to imprisonment for a term of 10 years and may be arrested.

Signalling to smugglers

113. (l) In this section, reference to a "prohibited signal" or a "prohibited message" is a reference to a signal or message connected with the smuggling or intended smuggling of goods into or out of Anguilla.

(2) If any person by any means sends any prohibited signal or transmits any prohibited message from any place in Anguilla or from any vessel or aircraft for the information of any person in any vessel or aircraft, he is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both and may be arrested, and any equipment or apparatus used for the sending of the signal or message is liable to forfeiture.

(3) Subsection (2) applies whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at that time in smuggling.

(4) If, in any proceedings against a person under subsection (2), any question arises as to whether any signal or message was a prohibited signal or a prohibited message, the burden of proof shall lie on the defendant or claimant.

(5) If any officer or police officer has reasonable grounds to believe that a prohibited signal or a prohibited message is being or is about to be made or transmitted from any vessel, aircraft, vehicle, building or other place in Anguilla, he may board or enter that vessel, aircraft, vehicle, building or other place and take such steps as are reasonably necessary to stop or prevent the sending of that signal or message.

Offering goods for sale as smuggled goods

114. If any person offers for sale any goods as having been imported without payment of duty, or as having been otherwise unlawfully imported, then, whether or not those goods were in fact liable to duty or were so imported, the goods are liable to forfeiture and the person so offering them for sale is guilty of an offence and is liable to a fine of $20,000 or 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 2 years or to both and may be arrested.

Special penalty where offender armed or disguised

115. Any person concerned in the movement, carrying or concealment of goods—

(a) contrary to or for the purpose of contravening any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to the importation, exportation or carriage coastwise of those goods; or

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(b) without payment having been made or security given for any duty payable on those goods;

and, while so concerned, is armed with any offensive weapon or disguised in any way, he is guilty of an offence and is liable to a fine of $10,000 or to imprisonment to a term of 2 years or to both and may be arrested and the goods are liable to forfeiture.

Untrue declarations

116. (1) If any person—

(a) makes or signs or causes to be made or signed, or delivers or causes to be delivered to Customs any document; or

(Act 15/2010, s. 21)

(b) makes any statement in answer to any question put to him by an officer that he is required by or under any enactment to answer;

being a document or statement produced or made for the purpose of any assigned matter that is untrue in a material particular, he is guilty of an offence and is liable to a fine of $10,000, and any goods in relation to which the document or statement was made are liable to forfeiture.

(2) If any person knowingly or recklessly—

(a) makes or signs or causes to be made or signed, or delivers or causes to be delivered to Customs any document; or

(Act 15/2010, s. 21)

(b) makes any statement in answer to any question put to him by an officer that he is required by or under any enactment to answer;

being a document or statement produced or made for any purpose of an assigned matter that is untrue in a material particular, he is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both and may be arrested, and any goods in relation to which the document or statement was made are liable to forfeiture.

(3) Where by reason of any such document or statement mentioned in subsection (1) or (2), the full amount of any duty payable is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of duty unpaid or of the overpayment shall be payable immediately to the Comptroller and may be recovered accordingly.

Counterfeiting documents

117. If any person—

(a) counterfeits or falsifies any document that is required by any enactment relating to an assigned matter or that is used in the transaction of any business relating to an assigned matter;

(b) knowingly accepts, receives or uses any such document so counterfeited or falsified;

(c) alters any document after it has been officially issued; or

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(d) counterfeits any seal, signature, initials or other mark of, or used by, any officer for the verification of such a document or for any other purpose relating to an assigned matter;

he is guilty of an offence and is liable to a fine of $20,000 or to imprisonment for a term of 2 years or to both, and may be arrested.

False scales

118. (1) If any person required by any customs enactment to provide scales, provides, uses or permits to be used any scales which do not give a true reading, he is guilty of an offence and is liable to a fine of $10,000.

(2) Where any article is or is to be weighed, counted, gauged or measured for the purpose of the taking of an account or the making of an examination by an officer, then if—

(a) any such person as is mentioned in subsection (1); or

(b) any person by whom or on whose behalf the article is or is to be weighed, counted, gauged or measured;

does anything whereby the officer is or might be prevented from, or hindered or deceived in taking a true account or making a due examination, he is guilty of an offence and is liable to a fine of $10,000 and the scales and any articles in connection with which the offence was committed are liable to forfeiture.

(3) In this section, "scales" includes weights, measures and weighing or measuring machines or instruments, whether electronic or otherwise.

Fraudulent evasion

119. (1) Without prejudice to any customs enactment, if any person—

(a) acquires possession of any of the following goods, having good reason to believe or knowing they are—

(i) goods that have been unlawfully removed from a warehouse or a customs warehouse,

(ii) goods which are chargeable with any duty which has not been paid, or

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

(b) is in any way knowingly concerned in carrying, removing, depositing, landing, harbouring, keeping or concealing or in any manner dealing with any such goods;

and does so with intent to defraud the Government of Anguilla of any duty payable or tax chargeable on the goods or to evade any such prohibition or restriction with respect to the goods, he is guilty of an offence and may be arrested and, subject to subsection (3), is liable to a fine of $20,000 or 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 2 years or to both, and any goods in respect of which the offence was committed are liable to forfeiture.

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(2) Without prejudice to any customs enactment, if any person is, in relation to any goods, in any way concerned in a fraudulent evasion or attempt at evasion of any—

(a) duty chargeable on the goods; or

(b) prohibition or restriction for the time being in force with respect to the importation, exportation or carriage coastwise of those goods under or by virtue of any enactment;

he is guilty of an offence and may be arrested and, subject to subsection (3), is liable to a fine of $20,000 or to 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 2 years or to both, and any goods in respect of which the offence was committed are liable to forfeiture.

(3) Where the goods in respect of which any of the offences specified in subsections (1) and (2) were committed are controlled drugs, as defined in the Drugs (Prevention of Misuse) Act, a person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine of $250,000 or to imprisonment for 5 years or to both; or

(b) on indictment, to a fine of $500,000 or to imprisonment for 20 years or to both.

Removing locks, seals, or marks

120. (1) Where, in pursuance of any power conferred by any customs enactment, any lock, seal or mark is used to secure or identify any goods, or place or container in which goods are kept, then if, without the authority of the proper officer—

(a) that lock, seal or mark is unlawfully and prematurely removed or tampered with by any person; or

(b) at any time before the lock, seal or mark is lawfully removed, any of the goods are wilfully removed by any person;

that person and the person then in charge of the goods, unless the latter proves that the act or omission constituting the offence took place without his knowledge or consent, are guilty of an offence and are liable to a fine of $10,000 or 3 times the value of the goods removed, whichever is the greater, and the goods are liable to forfeiture.

(2) For the purposes of subsection (1), goods in a vessel or aircraft are deemed to be in the charge of the master of that vessel or the commander of that aircraft.

Computer fraud and related offences

121. If any person shall, knowingly or with intent to defraud the Government—

(a) access a computer without authorization;

(b) without authorization access any computer of Customs that is exclusively for the use of Customs, or in the case of a computer not exclusively for such use, is used by or for Customs;

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(c) access a computer without authorization and by means of such conduct—

(i) obtain any document, information or confidential instruction,

(ii) alter any document, information or confidential instruction,

(iii) introduce any information on the computer which is for the sole purpose of creating a computer virus or otherwise corrupt or disable the computer;

(d) use authorised access to—

(i) obtain or alter information on the computer that the person is not entitled to obtain or alter, or

(ii) introduce any information on the computer for the sole purpose of creating a computer virus or otherwise corrupt or disable the computer,

that person commits an offence and is liable on summary conviction to a fine of $50,000 or to imprisonment for a term of 6 years, or to both.

(Act 15/2010, s. 22)

PART 12

LEGAL PROCEEDINGS, FORFEITURE AND SALE OF GOODS

General Provisions as to Legal Proceedings

Institution of proceedings

122. (1) Subject to the provisions of subsection (3), no proceedings for an offence under any customs enactment, or for condemnation under Schedule 3, shall be commenced except—

(a) by order of the Comptroller in writing; and

(b) in the name of an officer.

(2) In the case of the death, removal, discharge or absence of the officer in whose name any proceedings were commenced by virtue of paragraph (1)(b), those proceeding may be continued by any officer authorised in that behalf by the Comptroller.

(3) Notwithstanding anything in this section, where any person has been arrested for any offence for which he is liable to be arrested under any customs enactment, any court before which he is brought may proceed to deal with the case although the proceedings have not been instituted by order of the Comptroller or have not been commenced in the name of the officer.

Time limit on proceedings

123. Save as otherwise expressly provided for in this Act and notwithstanding any other provision of any other enactment, proceedings for an offence under the customs enactment may be commenced at any time within, but shall not be commenced later than, 5 years from the date of the commission of the offence.

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Place of trial

124. Proceedings for an offence under any customs enactment may be commenced—

(a) in any court having jurisdiction in the place—

(i) where the offence was committed,

(ii) where the person charged with the offence resides or is found, or

(iii) in the case of a body corporate charged with the offence, where that body corporate has its registered or principal office; or

(b) if anything was detained or seized in connection with that offence, in any court having jurisdiction in the place where that thing was so detained or seized or was found or condemned as forfeited.

Persons who may conduct proceedings

125. Any proceedings before the Magistrate's Court in relation to an assigned matter may be conducted by an officer or any other person authorised in that behalf by the Comptroller.

Service of process

126. (l) Any summons or other process issued for the purpose of any customs enactment shall be deemed to have been duly served on a person—

(a) if delivered to him personally;

(b) if left at his last known place of abode or business or, in the case of a body corporate, at its registered or principal office; or

(c) if left on board any vessel or aircraft of which he is the owner.

(2) Any summons, notice, order or other document issued for the purposes of any proceedings under any customs enactment, or of an appeal from a decision of any court in any such proceedings, may be served by an officer.

Incidental provisions

127. (1) Where liability for an offence under any customs enactment is incurred by 2 or more persons jointly, those persons shall each be liable for the full amount of any fine and may be proceeded against either jointly or severally, as the Comptroller thinks fit.

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

(3) Where a fine for an offence under any customs enactment is required to be fixed by reference to the value of any goods, that value shall be taken as the price those goods might reasonably be

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expected to have fetched after payment of any duty chargeable on them, if they had been sold in the open market at or about the date of the commission of the offence for which the penalty is imposed.

(4) Where, in any proceedings for an offence under a customs enactment, any question arises as to the duty or rate chargeable on any imported or exported goods, or goods which were intended to be exported, and it is not possible to ascertain the relevant time specified in section 2, the duty or rate shall be determined as if the goods had been imported, exported or brought to a place for exportation at the time when the proceedings were commenced.

(5) In any proceedings for an offence under a customs enactment, the fact that security has been given for payment of any duty or compliance with any condition in respect of the non-payment of which or non-compliance with which the proceedings are instituted is not a defence.

Power to compound offences

128. (1) The Comptroller may, as he thinks fit—

(a) compound any proceedings for any offence under any customs enactment;

(b) stay the proceedings for condemnation of anything as being forfeited under this Act; or

(c) restore, subject to such conditions (if any) as he thinks proper, anything forfeited or seized under this Act.

(2) Where a person has admitted the commission of an offence under this Act and agrees to be dealt with under this Act, the Comptroller may, subject to the approval of the Attorney General, recover the customs duty payable by that person and penalty, if any, without instituting proceedings in a court.

(3) In any proceedings for any offence under any customs enactment, any court by which the matter is considered may mitigate any fine as it thinks fit.

Proof of certain documents

129. (1) Any document purporting to be signed by the Executive Council, the Governor, the Comptroller or by their order, or by any person with their authority, is, until the contrary is proved, deemed to have been so signed, and the matters contained in that document may, in any proceedings under any customs enactment, be proved by the production of that document or any document purporting to be a copy of that document.

(2) Where any book or other document or copy of it is required to be kept by virtue of any customs enactment, the production of that book or other document or a copy of it obtained by electronic means or otherwise and certified as a true copy by an officer shall in any proceedings under such an enactment be sufficient evidence of the matters contained therein unless the contrary be proved.

Proof of certain matters other than documents

130. (1) An averment in any process in proceedings under any customs enactment that—

(a) those proceedings were instituted by order of the Comptroller;

(b) any person is or was the Minister, the Comptroller, an officer or a police officer;

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(c) any person is or was appointed or authorised by the Comptroller to discharge, or was engaged by the order or with the concurrence of the Comptroller in the discharge of, any duty;

(d) the Comptroller is or is not satisfied as to any matter as to which he is required by any customs enactment to be satisfied;

(e) any place is within the limits of a port, approved wharf, customs airport or other customs area or within the territorial sea;

(f) any goods thrown overboard, staved or destroyed were so dealt with in order to prevent or avoid their seizure; or

(g) a vessel is an Anguillian vessel;

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

(2) Where in any proceedings relating to an assigned matter instituted by the Comptroller, an officer or a police officer or against the Comptroller any question arises as to the place from which goods have been brought or as to whether or not—

(a) any duty has been paid or secured in respect of any goods;

(b) any goods or other thing are of the description or nature alleged in the information, writ or other process;

(c) any goods have been lawfully imported or lawfully unloaded from any vessel or aircraft;

(d) any goods have been lawfully loaded into any vessel or aircraft or lawfully exported or were lawfully waterborne;

(e) any goods were lawfully brought to any place for the purpose of being loaded into any vessel or aircraft, or exported; or

(f) any goods are or were subject to any prohibition or restriction or carriage coastwise;

the burden of proof is upon the other party to the proceedings.

Detention of persons about to leave Anguilla

131. Where any person has by any action rendered himself liable to be prosecuted for any offence under any customs enactment and the Comptroller is of the opinion that that person is about to leave Anguilla, the Comptroller may apply to the Magistrate for a warrant for the arrest of that person.

Actions against officers

132. No action, suit or other proceedings shall be brought or instituted personally against any officer in respect of any act done by him in pursuance of any power granted to or duty imposed on him by a customs enactment.

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Forfeiture

Detention, seizure and condemnation of goods

133. (1) Anything that is liable to forfeiture under any customs enactment may be seized or detained by any officer or police officer.

(2) Where anything that is liable to forfeiture is seized or detained by a police officer, that thing shall be delivered to the Comptroller within 7 days unless—

(a) such delivery is not practicable; or

(b) that thing is or may be required for use in connection with any proceedings to be brought otherwise than under any customs enactment.

(3) Where, by virtue of subsection (2), anything seized or detained by a police officer is not delivered up to the Comptroller within 7 days, notice in writing of the seizure or detention containing full details of the thing seized or detained shall be given to the Comptroller, and any officer shall be permitted to examine and take account of that thing at any time while it remains in the custody of the police.

(4) Schedule 3 shall have effect in relation to appeals against the seizure of anything seized as liable to forfeiture under any customs enactment, and for proceedings for the condemnation as forfeited of that thing.

(5) Notwithstanding that anything seized as liable to forfeiture has not been condemned as forfeited, or deemed to have been condemned as forfeited, the Comptroller may at any time if he sees fit—

(a) deliver it up to any claimant upon his paying to the Comptroller such sum as the Comptroller thinks proper, being a sum not exceeding that which in his opinion represents the value of the thing, including any duty chargeable thereon that has not been paid; or

(b) if the thing seized is a living creature or is in his opinion of a perishable nature, sell or destroy it.

(6) The restoration, sale or destruction under subsection (5) of anything seized as liable to forfeiture is without prejudice to any right of appeal against its seizure.

Forfeiture of vessels used in connection with goods liable to forfeiture

134. (1) Where anything has become liable to forfeiture under any customs enactment—

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

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(b) any other thing mixed, packed or found with the thing so liable;

is also liable to forfeiture.

(2) Where—

(a) any vessel is or has been within the territorial sea;

(b) any aircraft is or has been at any place whether on land or water in Anguilla; or

(c) any vehicle is or has been within the limits of any port, approved wharf, customs airport or other customs area;

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

(3) If, at any time while a vessel is within the territorial sea, any part of its cargo is thrown overboard or is staved or destroyed to prevent seizure, that vessel is liable to forfeiture.

(4) Where any cargo has been imported into Anguilla upon any vessel or aircraft and any part of that cargo is afterwards found to be missing then, if the master of the vessel or the commander of the aircraft is unable to account for that missing cargo to the satisfaction of the Comptroller, that vessel or aircraft is liable to forfeiture.

(5) Where any vessel, aircraft, vehicle or animal has become liable to forfeiture, all tackle, apparel or furniture belonging to it is also liable to forfeiture.

Special provisions as to forfeiture of larger vessels

135. (1) Notwithstanding any customs enactment, no vessel of 250 or more net tonnes is liable to forfeiture unless—

(a) the offence in respect of or in connection with which the forfeiture is claimed—

(i) was substantially the object of the voyage during which the offence was committed, or

(ii) was committed while the vessel was under chase after refusing to stop when required to do so;

(b) the vessel was constructed, adapted, altered or fitted in any manner solely for the purpose of concealing goods; or

(c) subsection (3) applies.

(2) Where any vessel of 250 or more net tonnes would, but for subsection (1), be liable to forfeiture for or in connection with an offence under any customs enactment and, in the opinion of the Comptroller, a responsible officer of the vessel is implicated by his own act or by neglect in that offence, the Comptroller has the power to impose a fine on that vessel in any sum of $20,000 and until that fine is paid, he may withhold clearance of that vessel.

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(3) Where any vessel is liable to a fine under subsection (2), but the Comptroller is not satisfied that such a fine is adequate in relation to the offence committed, the Comptroller may take proceedings under Schedule 3 for the condemnation as forfeited of that vessel in any sum of $20,000 as the court thinks fit.

(4) Where condemnation proceedings are taken under subsection (3), the Comptroller may require such sum as he thinks fit, not exceeding $20,000, to be deposited with him and until that sum is so deposited, he may withhold clearance of that vessel.

(5) No claim shall lie against the Comptroller for damages in respect of the payment of any deposit or the detention of any vessel under this section.

(6) The exemption from forfeiture of any vessel under this section shall not affect the liability to forfeiture of any goods carried on board.

(7) For the purposes of this section—

(a) "responsible officer", in relation to any vessel, means the master, mate or engineer of the vessel and, in the case of a vessel carrying a passenger certificate, the purser or chief steward; and

(b) without prejudice to any other grounds upon which a responsible officer of any vessel may be held to be implicated by neglect, he may be so liable if goods not owned by any member of the crew are discovered in any place under that officer's supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the vessel or subsequently.

Protection of officers seizing or detaining goods

136. (1) Where, in any proceedings for the condemnation of anything seized as liable to forfeiture under any customs enactment, judgment is given for the claimant, the court may, if it thinks fit, certify that there were reasonable grounds for the seizure.

(2) Where any proceedings, whether civil or criminal, are brought against the Government of Anguilla or the Comptroller on account of the seizure or detention of anything as liable to forfeiture, and judgment is given for the plaintiff or prosecutor, then if either—

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

(b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing;

the plaintiff or prosecutor is not entitled to recover any damages or costs and the defendant is not liable to any punishment.

(3) Nothing in subsection (2) shall affect any right of any person for the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction of it.

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(4) Any certificate under subsection (1) may be proved by the production of either the original certificate or a certified copy of it purporting to be signed by an officer of the court by which it was granted.

Sale of Goods

Sale of goods condemned as forfeited

137. (1) Anything condemned as forfeited by virtue of Schedule 3, or deemed to have been condemned as forfeited by that Schedule, shall, unless a prohibited or restricted article, be sold by public auction.

(2) Any auction under this section shall be advertised in the *Gazette* not less than 7 days before it is due to take place.

(3) The Comptroller shall appoint a person, who may be an officer, to act as auctioneer at an auction under this section.

(4) No officer shall be permitted to bid for anything at an auction under this section and any officer who makes a bid in contravention of this subsection is guilty of an offence and is liable to a fine of $10,000.

(5) The value for duty of anything sold at auction under this section is the price realised less the included duty.

(6) All money arising from the sale of anything at auction under this section shall be used to pay—

(a) firstly, any duty payable on that thing; and

(b) secondly, all the charges of and incidental to the seizure of that thing and any proceedings for the condemnation and the sale of it;

and any residue shall be paid by the Comptroller into the Consolidated Fund.

(7) Anything not sold at an auction under this section, and all prohibited or restricted goods condemned or deemed to be condemned as forfeited, shall be destroyed or otherwise disposed of as the Comptroller may direct.

(8) Nothing in this section shall prevent the Comptroller from authorising the withholding from sale of anything condemned or deemed to be condemned as forfeited, or its use by an officer where such retention and use would assist that officer in the performance of his duty.

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PART 13

DETERMINATION OF DISPUTES

Appeal to the Comptroller

138. (1) Where any amount of duty demanded by an officer is disputed by the person required to pay that amount, that person shall pay that amount but then may, at any time before the expiration of 30 days from the date of payment, require the Comptroller by a notice in writing under this subsection to reconsider the duty demanded.

(2) A notice under subsection (1) shall state the grounds for disputing the amount of duty demanded.

(3) The Comptroller, after reconsidering the amount of duty demanded and taking into account the grounds contained in the notice, may increase, decrease or confirm that amount, and shall notify the person who paid the amount demanded of his decision (hereinafter in this Part referred to as the "appellant").

Customs Appeal Commissioners

139. (1) The Governor in Council shall from time to time appoint by notice in the *Gazette* such persons as he sees fit to be Customs Appeal Commissioners (hereafter in this Part referred to as "Commissioners").

(2) The Governor in Council shall appoint one of the Commissioners to be Chairman and another to be Deputy Chairman, and any hearing of the Commissioners shall be before either the Chairman or Deputy Chairman and two other Commissioners.

(3) The Governor in Council shall appoint a Secretary to the Commissioners and any notice or correspondence, other than decisions of the Commissioners, may be issued and signed by or on behalf of the Secretary.

(4) Every decision of the Commissioners shall be given under the signature of the Chairman presiding at that hearing.

(5) At any hearing of the Commissioners the decision of the majority shall prevail.

(6) At any hearing the Commissioners shall have—

(a) power to summon to attend that hearing any person who in their opinion is or might be able to give evidence relevant to the matter before the hearing;

(b) power to examine that person on oath or otherwise;

(c) power to require any person to produce any books or other documents that are in his custody or under his control and which they consider may contain evidence relevant to the matter before the hearing;

(d) all powers of a subordinate court with respect to the enforcement of attendance of witnesses, the hearing of evidence on oath and punishment for contempt;

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(e) power to admit or reject any evidence adduced;

(f) power to postpone or adjourn that hearing; and

(g) power to determine the procedure to be followed at any hearing.

Appeal to the Customs Appeal Commissioners

140. (1) Any person notified of a decision under section 138 may, subject to the requirements of section 138(1), appeal against the decision of the Comptroller by serving notice of appeal on the Secretary and the Comptroller within 30 days of the notification or such longer period as the Commissioners may permit.

(2) A notice of appeal under subsection (1) shall be in writing and shall state—

(a) the date of the decision of the Comptroller that is appealed against;

(b) the name and address of the person to whom the decision appealed against was sent;

(c) the amount of duty in dispute; and

(d) the grounds for claiming that the amount of duty in dispute is not due and payable.

(3) Thirty days or such shorter time as the parties may agree before the date fixed for the hearing of the appeal, the Secretary shall by notice in writing advise the Comptroller and the appellant of the time and date on which, and the place where, the appeal is set down for hearing.

(4) The hearing of any appeal under subsection (1) shall be in public unless the Chairman of that hearing shall otherwise direct.

(5) At any hearing under subsection (1)—

(a) the Comptroller and the appellant shall be entitled to appear in person or by representation;

(b) the burden of proof on any matter shall lie with the appellant; and

(c) the appellant shall be responsible for the costs of the appeal unless the Commissioners otherwise direct.

(6) The Commissioners may increase, decrease or confirm the amount of duty due and shall notify the Comptroller and the appellant of their decision.

(7) Any decision of the Commissioners under this section shall be published.

Right of further appeal

141. (1) The Comptroller or the appellant may appeal to the High Court against any decision of the Commissioners which involves a question of law, including a question of mixed fact and law.

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(2) The Comptroller or the appellant may appeal to the Court of Appeal against any decision of the High Court, being a decision on an appeal from the Commissioners, which involves a question of mixed fact and law.

(3) On an appeal to the Court of Appeal or High Court under this section, that Court shall have power to—

(a) increase, decrease or confirm the amount of duty due;

(b) make any such other order as it thinks fit; and

(c) make such order as to costs as it thinks fit.

Payment of duty after appeal

142. (1) Subject to subsection (2), where a decision of the Commissioners, the High Court or the Court of Appeal on an appeal under this part is that the amount of duty due—

(a) should be increased, the appellant shall pay to the Comptroller the amount of the increase; and

(b) should be decreased, the Comptroller shall authorise payment to the appellant the amount of the decrease;

within 30 days of the decision.

(2) Where the decision referred to in subsection (1) is that of the Commissioners or the High Court, no amount shall be payable if, within the 30 day time limit, an appeal against that decision is lodged with the High Court or the Court of Appeal, as the case may be.

PART 14

MISCELLANEOUS

Record retention

143. (1) Importers and exporters shall keep any invoice, bill of lading, electronic or mechanical record or other book or document relating to importation, exportation or carriage coastwise of goods for a period of 5 years from the date of importation, exportation or carriage coastwise of those goods.

(2) Any person who, without reasonable cause, fails to comply with a requirement imposed on him under subsection (1) is guilty of an offence and is liable to a fine of $10,000.

(Act 15/2010, s. 23)

Governor in Council may make regulations

144. The Governor in Council may make regulations for the better carrying out of this Act and without prejudice to the generality of the foregoing, may make regulations—

(a) increasing the amount of any fine that may be imposed under this Act or by any regulation made thereunder;

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(b) prescribing scales of fees or charges to be levied in respect of any services or supplies provided by customs; and

(c) any matter or thing required under this Act to be prescribed.

Repeal and saving

145. (1) The Customs Duties Ordinance, 1977 and Customs Ordinance, 1981 are repealed.

(2) Notwithstanding the repeal of the Ordinances referred to in subsection (1)—

(a) every order, decision or request made by the Comptroller under those Ordinances shall be deemed to be an order, decision or request made by the Comptroller under the corresponding provisions of this Act and shall have effect accordingly;

(b) all regulations made under the Ordinances referred to in subsection (1) that are in force on 1st November 2001, other than Integrated Customs Tariff Regulations, 1991, in so far as such regulations are not inconsistent with this Act are deemed to be regulations made under this Act and may be amended or rescinded by regulations made under this Act;

(c) every requirement made, certificate issued, payment made, notice, determination, direction or approval given, application made or thing done under those Ordinances shall, if in force on the day immediately preceding 1st November 2001, continue in force and shall, so far as it could have been made, issued, given or done under this Act have effect as if made, issued, given or done under the corresponding provisions of this Act; and

(d) every officer appointed under those Ordinances and holding office on the day preceding 1st November 2001 shall continue to hold such office as though this Act had been in operation at the time of the appointment of such officer.

Consequential amendments to ICT Regulations

146. (1) The Integrated Customs Tariff Regulations, 1991 are amended in the manner and to the extent set out in Schedule 4.

(2) The Integrated Customs Tariff Regulations, 1991 as amended by Schedule 4 are deemed to be made under section 76(1)(b) and approved under section 76(2)(b).

Removal of difficulties

147. (1) The Governor in Council, by regulation, may make such provision as he may consider necessary or expedient for the purpose of providing for any unforeseen or special circumstance or of resolving, determining or adjusting any doubt, question or matter that may arise in relation to the application of this Act or in respect of which no provision or no effective provision is made in this Act.

(2) Every regulation made under this section shall, upon publication thereof in the *Gazette*, have the force of law and be valid and effectual as if it were herein enacted.

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Citation

148. This Act may be cited as the Customs Act, Revised Statutes of Anguilla, Chapter C169.

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SCHEDULE 1

(Sections 52(l) and (2))

GOODS NOT PERMITTED TO BE WAREHOUSED ON IMPORTATION

Arms, ammunition and explosives

Asphalt, all kinds including pitch and tar

Dangerous chemicals

Fireworks

Hydrocarbon oil and fuel (other than at installations approved for the purpose)

Manure

Matches

Metals including radioactive materials

Any other goods that in the opinion of the Comptroller are likely to cause damage to other goods stored in the same warehouse or that may be considered hazardous to warehouse users.

———————

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SCHEDULE 2

(Section 88)

PROHIBITIONS AND RESTRICTIONS

PART 1

PROHIBITED IMPORTS

1. Goods, the importation of which is prohibited by or under any enactment or by an Order made by the Governor in Council to give effect to any United Nations sanctions.

2. War toys

3. Imitation firearms

4. Food unfit for human consumption

PART 2

RESTRICTED IMPORTS

1. Gold bullion and all other gold except with the permission of Ministry of Finance

2. Fireworks and explosives

3. Counterfeit notes or coins

4. Indecent or obscene material

5. Goods the importation of which is restricted by any other enactment, except in accordance with the restrictions in the enactment

PART 3

PROHIBITED EXPORTS

Goods, the exportation of which is prohibited by any other enactment

PART 4

RESTRICTED EXPORTS

Goods the exportation of which is restricted by any other enactment, except in accordance with the restrictions in the enactment

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SCHEDULE 3

(Section 133(4))

FORFEITURE

Notice of seizure

1. (1) The Comptroller shall, except as provided by subsection (2), give notice of the seizure of anything seized as liable to forfeiture and of the grounds of that seizure to any person who to his knowledge was the owner of, or one of the owners of that thing at the time of its seizure.

(2) Notice shall not be required to be given under subsection (1) if the seizure was made in the presence of—

(a) the person whose offence or suspected offence occasioned the seizure;

(b) the owner or any of the owners of the thing seized or any employee or agent of his; or

(c) in the case of anything seized in a vessel or aircraft, the master or commander of that vessel or aircraft.

Service of notice

2. Notice under section 1 shall be given in writing and shall be deemed to have been duly served on the person concerned—

(a) if delivered to him personally;

(b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business or, in the case of a body corporate, at its registered or principal office; or

(c) where he has no address in Anguilla or his address is unknown, by publication of the notice of seizure in the *Gazette*.

Notice of claim that thing not liable to forfeiture

3. Where any person, who was at the time of the seizure of anything the owner or one of the owners of it, claims that it was not liable to forfeiture, he shall, within 1 month of the date of service of the notice of seizure or, where no such notice was served, within 1 month of the date of seizure give notice of his claim in writing to the Comptroller at any customs office.

Name and address to be included in notice of claim

4. Any notice of claim under section 3 shall specify the name and address of the claimant and, in the case of a claimant who is outside Anguilla, shall specify the name and address of a solicitor in Anguilla who is authorised to accept service and act on behalf of the claimant, and service upon a solicitor so specified is deemed to be proper service upon the claimant.

Notice defective

5. If, on the expiration of the relevant period under section 3 for the giving of a notice of claim, no such notice has been given to the Comptroller, or where such notice is given, that notice does not comply with any requirement of section 4, the thing seized is deemed to have been duly condemned as forfeited.

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Condemnation by court

6. Where notice of claim in respect of anything seized is duly given in accordance with sections 3 and 4, the Comptroller shall take proceedings for the condemnation of that thing by the court, and if the court finds that the thing was at the time of its seizure liable to forfeiture, that court shall condemn that thing as forfeited.

Effective date of forfeiture

7. Where anything is in accordance with either section 5 or 6 deemed to have been condemned, or condemned as forfeited, then without prejudice to any restoration or sale, the forfeiture is deemed to have had effect from the date when the liability to forfeiture arose.

Court proceedings for condemnation

8. Proceedings for the condemnation of anything shall be civil proceedings and may be instituted—

(a) in the Magistrate's Court; or

(b) in the High Court.

Requirements of court proceedings

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

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

(3) If this section is not complied with, the court shall give judgment for the Comptroller.

Appeals

10. (1) Any party to condemnation proceedings in the Magistrate's Court may appeal to the High Court against the decision of that Magistrate's Court in those proceedings.

(2) Where any appeal is made against the decision of any court in condemnation proceedings, the thing seized shall remain in the possession of, or be returned to the possession of, the Comptroller until the final determination of the matter.

Proof of seizure

11. In any proceedings arising out of the seizure of anything, the fact, form and manner of the seizure shall be taken to have been as set forth in the process unless the contrary is proved.

Oath under section 9(1)

12. Where anything is at the time of its seizure the property of a body corporate, or of 2 or more partners or of any number of persons exceeding 5 not being in partnership, the oath required to be taken by section 9, and any other thing required by this Schedule or the rules of court to be done by or by any person authorised by the claimant or owner may be taken or done by the following persons respectively, that is to say—

(a) where the owner is a body corporate, the secretary or some other authorised officer of that body;

(b) where the owners are in partnership, any of those owners; or

(c) where the owners are any number of persons exceeding 5 not being in partnership, any 2 of those persons on behalf of themselves and their co-owners.

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Where thing not liable to forfeiture

13. (1) Where, under section 133 of the Act, anything is restored, sold or destroyed and it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Comptroller shall on demand by the claimant tender to him—

(a) where the thing was restored, an amount equal to any amount paid as a condition of that restoration;

(b) where the thing was sold, an amount equal to the proceeds of sale; or

(c) where the thing was destroyed, an amount equal to its market value at the time of its seizure.

(2) Where an amount tendered under subsection (1) includes a sum on account of the duty chargeable on the thing that has not been paid, the Comptroller may deduct so much of that amount as represents the duty.

(3) If the claimant accepts an amount tendered to him under subsection (1), he is not entitled to maintain any further action on account of the seizure, detention, restoration, sale or destruction of the thing seized.

(4) Where the claimant and the Comptroller are unable to agree upon the market value of anything destroyed under section 133 of the Act, that value shall be determined by the Governor.

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SCHEDULE 4

(Section 146)

AMENDMENTS TO THE INTEGRATED CUSTOMS TARIFF REGULATIONS, 1991

1. The Integrated Customs Tariff Regulations, 1991 (hereinafter referred to as the "Principal Regulations") are amended by adding the following after section 2—

"**Exemptions from customs duty**

2A. The items set out in the First Schedule under the centred heading "Exemptions" are exempt from customs duty to the extent specified therein."

2. The First Schedule to the Principal Regulations is amended—

(a) by adding the following sections after section 17 under the centred heading "Exemptions**"—**

"**Goods in general**

18. (1) Goods imported by the holder of a duty free franchise in respect of such goods.

(2) Goods and parts thereof replaced free of charge under any warranty by the supplier provided that such replacement shall be made within 6 months of the date of import or date of issue of the warranty whichever is the earlier.

(3) Goods imported for repair, restoration or processing in Anguilla and re-export after such repair, restoration or processing.

Goods retained in Anguilla for limited time

19. (1) The following classes of goods imported for retention in Anguilla for a period not exceeding 6 months or for such extended period as the Comptroller may authorize in any particular case—

(a) commercial travellers samples;

(b) containers and pallets;

(c) packages and packing materials;

(d) goods for display or exhibition;

(e) goods covered by A.T.A. Carnet;

(f) any other goods for use in construction or manufacture which are proved to the satisfaction of the Comptroller not to be available for hire or purchase in Anguilla.

(2) Vessels imported for retention in Anguilla for a total period of 90 days in any one calendar year commencing on the date of first importation, but any goods so imported which are not re-exported within the period or extended period permitted shall become liable to the full duty payable in respect of such goods as if the same had been imported without reference to this subsection."

(b) by repealing all the items under the centred heading "Valuation: Calculation of Duty".

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