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**CUSTOMS REGULATIONS 2023**

**SL No. 38 of 2023**

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The Cabinet makes the following Regulations under Sections 42, 63, 65, 75 and 310 of the *Customs Act 2014*:

## PART 1 – PRELIMINARY

### 1 Citation

These Regulations may be cited as the *Customs Regulations 2023*.

### 2 Commencement

These Regulations commence on the date they are notified in the Gazette.

### 3 Interpretation

(1) In these Regulations:

**'Act'** means the *Customs Act 2014*;

**'approved form'** means a form approved by the Chief Collector of Customs or his or her delegate;

**'cargo'** means the wares, merchandise and articles of every kind whatsoever including animals that a carrier undertakes to carry under a contract of carriage and includes the packing and any equipment and container not supplied by or on behalf of the carrier;

**'cargo manifest'** means the consolidated list of all the goods on board an aircraft or a ship, that shows the name, type, quantity and weight of each item, and the name and address of the consignor and consignee, and that are on the ship for discharge at a particular destination or at various destinations;

**'carrier'** means a person that enters into a contract of carriage of goods with a shipper;

**'CIF'** means Cost, Insurance and Freight which is paid by the buyer or seller to cover the costs, the insurance and freight of a buyer's order, including the actual travel of the aircraft or ship;

**'consignee'** means a person entitled to delivery of the goods under a contract of carriage or a transport document or electronic transport record;

**'consolidator'** means a person whose function involves grouping or assembling diverse shipments from various customers so as to make up full container loads;

**'container'** means any type of container, transportable tank or flat, swap body, or any similar unit load used to consolidate goods;

**'Customs Broker'** means a person who acts as the agent of exporters and importers in order to process customs declarations and other border formalities and pay duties and taxes;

**'Customs system'** means an integrated customs management system known as the ASYCUDA System, that is used by Customs for international trade and transport operations;

**'Customs Warehouse'** means a designated customs area or a building licensed by Customs for the purpose of storing goods under customs control;

**'FAS'** means free alongside ship;

**'FOB'** means free on board;

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**'freight forwarder'** means a person who acts as an agent when he or she performs functions on behalf of, and under the instructions of the exporter or importer and procure the services of third parties on handling and customs clearance of the goods and is responsible for the safe carriage of goods from a point of export to the country of destination;

**'inward report'** means the report referred to in Section 27 of the Act;

**'liquor'** has the meaning given in Section 4 of the *Liquor Control Act 2017*;

**'official purpose'** has the meaning given in Section 73(2) of the *Public Service Act 2016*;

**'passenger manifest'** means the list of passengers, and crew of a ship, aircraft, or vehicle, for the use of Customs;

**'person'** includes an incorporated or unincorporated body;

**'prescribed'** means prescribed by regulations;

**'Secretary'** means the Secretary responsible for customs;

**'shipper'** means a person that enters into a contract of carriage with a carrier;

**'shipping agent'** means a person acting on behalf of the master or the principal of the carrier in discharging and loading operations, collecting sea freight, paying port charges, and other administrative operations; and

**'stores'** means consumables meant for the crew of an aircraft or a ship that are kept under seal for the crew while the aircraft or ship is in port.

In these Regulations, words and phrases have the same meaning as those under the Act.

**PART 2 – ADMINISTRATION**

**4 Working days and hours**

- (1) The working day of a Customs officer shall be each day of a week except for Saturday, Sunday and any public holiday.
- (2) The working hours of a Customs officer shall be from 9am to 5pm on each working day, with one hour for a meal break between that period.
- (3) A Customs officer shall only collect duties and other taxes on each working day at the following times:

Purpose	Working Day	
	From	To
Collection of duties and other taxes	9 am	12.30pm
	2 pm	4.30 pm

**5 Additional hours of attendance**

A Customs officer may be required to attend work for a reasonable number of hours in addition to his or her working hours if he or she is compensated for the additional hours by way of:

- (a) overtime allowance; or

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(b) leave of absence in lieu of overtime allowance.

**6 Overtime allowance**

(1) Any person requiring Customs to clear cargo outside the working hours specified in Regulation 4(2) on any working day or at any time on a non-working day shall:

(a) make a written request to the Chief Collector of Customs within reasonable time to enable the Chief Collector of Customs to arrange for a Customs officer to perform such duty; and

(b) where a Customs officer performs such duty, the person shall pay the Customs officer's overtime allowance at the following rates to the Nauru Revenue Office:

Overtime	Rate
Outside working hours on a working day	\$20 per hour
Saturday, Sunday or public holiday	\$40 per hour

(2) Notwithstanding any other provision in these Regulations, the Chief Collector of Customs may:

(a) require any Customs officer to work for 7 hours on any working day outside the working hours specified in Regulation 4 without the Customs officer being entitled to overtime allowance;

(b) in special cases, grant a consolidated overtime allowance to a Customs officer in lieu of any overtime allowance calculated at the rate under subregulation (1);

(c) refuse the payment of any overtime allowance to a Customs officer; and

(d) grant leave of absence to a Customs officer in lieu of any overtime allowance.

(3) For the avoidance of doubt, a person may only make a request for overtime work to be undertaken by Customs where the purpose of the overtime work is for the clearance of cargo by Customs.

**7 Customs officers not eligible for overtime allowance when travelling for official purpose**

A Customs officer shall not be eligible for overtime allowance for the period he or she is travelling for an official purpose.

**8 Additional copies of forms**

The Chief Collector of Customs may require that he or she be provided with a copy of any approved form, and he or she may require to be shown on any form information additional to that required by such form if he or she decides that the furnishing of the additional information is necessary.

**PART 3 – ARRIVAL AND REPORT OF AIRCRAFT AND SHIPS**

**9 Declaration of stores of aircraft and ships**

(1) The pilot of an aircraft arriving from a place outside Nauru shall make a declaration, in the approved form, of all the unconsumed stores of the aircraft.

(2) The master of a ship arriving from a place outside Nauru shall make a declaration, in the approved form, of all the unconsumed stores of the ship.

(3) The declarations under subregulations (1) and (2) shall be given to the Customs officer who boards the aircraft or ship for inspection of the stores.

**10 Stores to be produced**

All stores which are required for use by the pilot, master, crew and passengers of an aircraft or a ship while the aircraft or ship is in Nauru shall, upon request by a Customs officer, be produced separately to the Customs officer.

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**11 Cargo remaining on board**

Any cargo remaining on board an aircraft or a ship for exportation shall be reported as "General cargo remaining on board for exportation: of ..... tonnes", unless the Customs officer otherwise directs.

**12 Allowance for the master and crew**

(1) The master and members of the crew of a ship may retain the following quantities of tobacco and liquor for their own consumption on board the ship while the ship is in Nauru and such goods in such quantities shall not be subject to the payment of any duty:

	Tobacco in any form (per day)	Potable Spirits (per day)	Wine and Beer (per day)
Master	25 grams	1 litre	2 litres
Officers	25 grams	250 millilitres	2 litres
Other members of the crew	25 grams	Nil	2 litres

(2) A Customs officer may, in special circumstances, allow such other quantity provided that the quantity shall not exceed the maximum allowance for 4 consecutive days.

**13 Security of stores**

(1) The pilot of an aircraft or master of a ship shall provide on board the aircraft or ship a suitable store for the security of any goods which the Customs officer may require to be placed under seal.

(2) The Customs officer may secure and seal any quantity of dutiable goods in excess of the quantities specified in Regulation 12, and any stores which, subsequent to the arrival of the aircraft or ship, are loaded on board from a bonded warehouse or are under drawback or on which a remission, rebate or refund of excise duty has been or shall be claimed:

Provided that the Customs officer may permit any stores to remain unsealed if he or she is satisfied that due precaution has been taken against the smuggling of stores so left unsealed.

(3) Subregulation (2) shall, *mutatis mutandis*, apply to the securing and sealing of dutiable goods and stores on board an aircraft.

(4) Any goods other than cigarettes, liquor and other high dutiable goods that are, or are not, regarded as stores for use by the passengers and crew or for the service of the aircraft or ship departing from any Customs place are not required to be placed under seal.

**PART 4 – LOADING AND ARRIVAL**

**14 Time of arrival of aircraft and ships**

(1) The master, owner or agent of a ship shall, not less than 48 hours before the expected arrival of the ship in Nauru, inform the Customs officer at the port of the expected time of arrival of the ship.

(2) The pilot, owner or agent of an aircraft shall, not less than 3 hours before the expected arrival of the aircraft in Nauru, inform the Customs officer at the airport of the expected time of arrival of the aircraft.

(3) The master or pilot, owner or agent of a ship or an aircraft, as the case may be, shall register the inward manifests of the ship or aircraft immediately before the information required under subregulations (1) and (2) is provided to the Customs officer.



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(4) Any person who contravenes subregulation (1) or (2) commits an offence.

**15 Arrival and report of aircraft and ships**

(1) A report on arrival or departure, which contains a manifest, shall be in the approved form.

(2) The manifest shall be submitted by electronic means before the arrival or departure of the carrier.

(3) The manifest shall pertain to all goods consigned in a conveyance to or from Nauru.

(4) For the purposes of Customs control, a manifest shall take the form of a master waybill.

**16 Report of ships and cargo**

(1) The inward report by the master of a ship arriving from a port outside Nauru shall be in the approved form and signed by the master or the authorised agent.

(2) The inward report shall be made to the Customs officer at the port or place of arrival.

(3) The master of a ship shall, where required by the Customs officer, produce the certificate of registry of the ship at the time of making his or her inward report.

(4) An inward manifest shall in the like manner be declared and shall be made in the approved form.

(5) All packages for which no bill of lading has been issued shall be declared on the Parcels List in the approved form, which shall be produced with the goods to the Customs officer boarding the ship on arrival.

**17 Report of aircraft and cargo**

(1) The inward report by the pilot of an aircraft arriving from outside Nauru shall be in the approved form and shall be made to the Customs officer at the airport or place of arrival.

(2) The report of the cargo of an aircraft shall be made in the approved form and shall be attached to the inward report.

(3) The report of all consumable stores on board the aircraft shall be submitted in the approved form.

(4) The Customs officer may permit the pilot of a private aircraft not carrying cargo and operated for pleasure and recreation only, or a pilot who is not flying for reward or remuneration or operating for business purposes, to make a report in the approved form.

(5) Notwithstanding the requirements in subregulations (1), (2) and (3), the Chief Collector of Customs may dispense with the approved forms and instead accept the International Civil Aviation Organization's General Declaration Form in lieu of the approved forms.

**PART 5 – LANDING AND LOADING OF GOODS**

**18 Appointed place for landing**

(1) A person shall not land any aircraft, or berth any ship, at any place unless the place has been appointed as a place for landing or berthing by the Minister.

(2) On the landing at the airport, port or place of an aircraft or a ship which has arrived from or called at a place outside Nauru, the following persons shall proceed to the baggage room or any other place assigned by Customs for the examination of baggage:

(a) a person who is disembarking at the airport, port or place;

(b) a person who has any uncustomed goods in his or her possession whether upon his or her person or in his or her baggage;

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- (c) the crew of any aircraft or ship who are leaving the aircraft or ship, either temporarily or otherwise, and wish to remove their baggage, or any part of their baggage, from the aircraft or ship;
  - (d) a passenger who is temporarily leaving the aircraft or ship and wishes to remove his or her baggage, or any part of his or her baggage, from the aircraft or ship; and
  - (e) any other person who may be required by the Customs officer so to do.
- (3) Any person who contravenes this Regulation commits an offence.

#### **PART 6 — EXAMINATION AND DELIVERY**

#### **19 Examination of baggage**

- (1) A person shall not enter the baggage room or any other place assigned for the examination of baggage, except a person:
- (a) specified in Regulation 18;
  - (b) required by Customs to enter the baggage room or other place; or
  - (c) permitted by a Customs officer.

- (2) Any person who contravenes this Regulation commits an offence.

#### **20 Baggage to be taken to examination place**

- (1) The baggage and any uncustomed goods in the possession of any person to whom Regulation 18 applies, whether the goods are on his or her person or in his or her baggage, shall be taken without delay to the nearest place assigned for the examination of baggage or such other place as the Customs officer may direct, and shall not be removed from the assigned place or such other place, except as authorised by the Customs officer, unless the baggage or goods have been examined and passed by, and any duty due on the baggage or goods paid to, the Customs officer.
- (2) A person shall not remove any baggage or goods out of the baggage room or such other place unless the Customs officer authorizes its removal.
- (3) Any person who contravenes this Regulation commits an offence.
- (4) In the case of a person referred to in Regulation 18, the baggage and uncustomed goods which are to be dealt with pursuant to this Regulation are such only as are removed from the aircraft or ship.

#### **21 Unaccompanied baggage**

Except in the case of unaccompanied baggage or baggage which is short shipped, the Customs officer may refuse to attend to any person unless the whole of that person's baggage is presented to him or her in one place, or, where the baggage belongs to more than one person, unless all the owners of the baggage are present before him or her.

#### **22 Unclaimed baggage**

The pilot of an aircraft or the master of a ship, or an agent of the aircraft or ship, shall remove all unclaimed or uncleared baggage after one day to a Customs warehouse.

#### **23 Unaccompanied baggage declaration**

The owner of a passenger's unaccompanied baggage shall make a declaration in the approved form of his or her ownership of the baggage and the articles contained in the baggage before the baggage is released to him or her by Customs.

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**24 Unmanifested baggage**

- (1) A passenger's unmanifested baggage shall:
  - (a) only be unloaded from an aircraft or a ship on the authorisation of a Customs officer;
  - (b) be landed only at a place approved by a Customs officer; and
  - (c) not be removed from the place of examination except with the authorization of a Customs officer.
- (2) Subject to subregulation (1), a passenger's unmanifested baggage shall:
  - (a) not remain on board an aircraft or a ship; and
  - (b) be landed immediately on the arrival of the aircraft or ship at the port of destination of the aircraft or ship.
- (3) A passenger arriving from a place outside Nauru shall, where required to do so, make an oral declaration to a Customs officer of any unmanifested baggage.
- (4) Where the Customs officer considers it necessary, he or she may require the passenger to make a written declaration in the approved form.

**25 Perishable goods**

- (1) Where, in any special circumstances, the importer or the agent of the importer of perishable or other goods wishes to take delivery of such goods prior to the goods being examined and any applicable duty being paid, the importer or agent shall apply in the approved form to the Customs officer.
- (2) Where goods have not previously been passed, the importer or agent shall enter the goods and pay any applicable duty within 5 working days of taking delivery of the goods.
- (3) An application under subregulation (1) shall be accompanied by:
  - (a) a fee of \$10 per application per Electronic Singular Administrative Document; and
  - (b) such security which shall be equivalent to the duty payable.
- (4) For the purposes of subregulation (3)(b), where the importer or agent has paid security to Customs prior to the application being made under subregulation (1), the Customs officer shall deduct from the pre-paid security the amount equivalent to the duty payable if the importer or agent fails to enter the goods and pay the applicable duty under subregulation (2).
- (5) Any fee and security received under subregulation (3) shall be paid into the Treasury Fund.
- (6) Where the importer or agent contravenes subregulation (2), the importer or agent of the importer shall not be permitted to apply under this Regulation for any perishable or other goods to be taken prior to the entry being passed or prior to the goods being examined, and where such an application is made by the importer or the agent of the importer, the Customs officer shall reject such application.

**26 Special delivery**

Any goods authorized for delivery in special circumstances under Regulation 25 are deemed to be under Customs control and the owner of such goods shall be responsible to Customs unless the goods

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have been entered and duty on the goods paid and, where required by the Customs officer, the goods have been examined and duly released.

**27 Seizure or detention of goods delivered in special circumstances**

Where a Customs officer reasonably believes that any goods to which Regulations 25 and 26 apply are liable to forfeiture, the Customs officer may seize or detain such goods and cause such goods to be removed to a Customs warehouse or to such other place as the Customs officer may approve, at the expense of the owner of such goods.

**PART 7 – CARGO AND PASSENGER MANIFEST AND BILLS**

**28 Manifest**

- (1) An electronic copy of the manifest shall be registered electronically in the Customs system not less than 48 hours for a cargo ship and not less than 3 hours for an aircraft before the arrival of the carrier in Nauru.
- (2) Where an aircraft or a ship arrives from a place outside Nauru, the pilot of the aircraft or the master of the ship shall, immediately on demand, present to a Customs officer a:
  - (a) list in the approved form of the passengers disembarking the aircraft or ship and the passengers remaining on board the aircraft or ship;
  - (b) a statement of the stores of the aircraft or ship in the approved form; and
  - (c) a declaration in the approved form by each member of the crew of all dutiable goods in his or her possession.
- (3) A manifest shall contain:
  - (a) the content of every container and of all cargo in bulk intended for discharge at the airport or port of arrival;
  - (b) the content of every container and of all cargo intended for transshipment according to the description on the bill of lading or airway bill; and
  - (c) a list of restricted goods with as much information on the goods as possible.
- (4) An airline or a shipping agent or freight forwarder may amend the manifest of the aircraft or ship before the actual arrival of the aircraft or ship at the airport or port of arrival.

**29 Recording excess and shortage of cargo**

Where there is excess or shortage of cargo, the airline or shipping agent shall:

- (a) attach supporting documents to the airway bill or bill of lading confirming the excess or shortage of cargo;
- (b) validate the shortage and excess in cargo; and
- (c) amend the existing manifest.

**30 Amendments to the manifest**

- (1) Any excess or shortage of cargo in the manifest after the manifest has been submitted to Customs shall be referred to the airline and shipping agent.
- (2) The airline and shipping agent shall:
  - (a) verify and confirm the excess and shortages; and

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- (b) issue a new air way bill and bill of lading for any surplus cargo.
- (3) The airline and shipping agent shall amend the manifest highlighting the new bill of lading and airway bill before submitting the manifest to the Customs officer.
- (4) A fee of \$50 shall be paid per in-house bill of lading to the Treasury Fund by the shipping and airline company or their agent for any amendment to the original manifest.

31

**Ballast**

An aircraft or a ship that does not have on board any goods other than stores and passengers' baggage shall be reported "in ballast".

32

**Weight or measurement of cargo to be reported**

The report of every ship shall show the weight or cubic measurement of the cargo reported according to which freight has been charged, or where no freight has been charged, the weight or measurement normally chargeable for the like kind and quantity of goods.

33

**Description of cargo**

- (1) The contents of every package and of all cargo in bulk intended for discharge at an airport or a port or place in Nauru, shall be reported in accordance with the description of the cargo in the relevant bill of lading.
- (2) An application to break bulk prior to making report and to unload goods prior to entry shall be made to a Customs officer in the following forms:
  - (a) for cargo ships and cruise ships, in the approved form;
  - (b) for fishing ships, in the approved form;
  - (c) for small ships under 500 tonnes net tonnage, in the approved form; and
  - (d) for any type of aircraft, in the approved form, provided the pilot, owner or agent has already registered the manifest electronically with Customs.

34

**Cargo remaining on board**

Cargo remaining on board an aircraft or a ship for transshipment shall be reported as "transshipment cargo remaining on board: .....tonnes", unless a Customs officer otherwise directs.

35

**Consolidated cargo**

- (1) A freight forwarder and consolidator shall prepare and submit all bills of lading or airway bills electronically to Customs for any consolidated cargo consigned to the freight forwarder or consolidator before the arrival of the ship at port.
- (2) Shipping agents may notify a freight forwarder or consolidator by forwarding the acknowledgment of manifest submission through the Customs system.
- (3) The details of a freight forwarder shall be clearly identified on all bills of lading or airway bills.
- (4) A freight forwarder and consolidator shall have the consignee code and other details filled on each bill of lading with the corresponding code assigned by Customs to identify the consignee.
- (5) The bill of lading or airway bill number shall be shown against each item on the manifest of every aircraft or ship.

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- (6) A freight forwarder shall use the Customs system to enter the data for each bill of lading or upload files directly to the Customs system.
- (7) All house bill of lading and air waybill (delivery notices) created in the Customs system may only be viewed by the declarant or the Customs Broker.
- (8) The clearance of all cargo shall be on:
  - (a) an in-house bill of lading for sea freight; or
  - (b) a house airway bill for airfreight.

### **PART 8 – APPLICATION OF DUTIES**

#### **36 Entry of imported goods**

The importer or his or her agent shall electronically enter goods on imports and exports for duty purposes and for any other requirements under the law in the approved form and be provided with receipt of the goods before clearance.

#### **37 Import entries**

- (1) The entries required to be made for imported goods other than goods in transit or for transshipment shall be in one of the following customs forms: (enter entry code)
  - (a) IM4 – import for home consumption form;
  - (b) IM5 -provisional import for home consumption form;
  - (c) IM7-import for warehousing form for normal or provisional warehousing; and
  - (d) IM8 warehousing for transshipment.
- (2) If goods referred to in subregulation (1) are entered provisionally, the perfect entry for such goods shall be made on whichever of the undermentioned approved form is appropriate:
  - (a) IM4 - perfecting provisional import for home consumption form;
  - (b) IM7- perfecting provisional import for warehousing form;
  - (c) IM6 - re-imported goods; and
  - (d) IM4 - simplified declaration.
- (3) The Chief Collector of Customs may, subject to consideration of relevant risks, permit the submission of an entry for imported goods into the system prior to the arrival of the goods.

#### **38 Forms of entry and entry fee**

- (1) Subject to Regulations 37(1)(a), (b) and (d) and 37(2)(a), (b), (c) and (d), a fee of \$10 per entry, per lodgement, shall be payable to the Treasury Fund for each entry lodged and processed by Customs.
- (2) In addition to the fee prescribed in Regulation 38(1), the agent, importer, exporter or owner as the case may be, shall pay to Customs a fee of \$10 per entry, if entries are not claimed and collected within 10 working days after lodgement.
- (3) Where before Customs has processed entry documents, the agent, importer, exporter or owner notifies in writing, within 10 days from the date of lodgment, to the Chief Collector of Customs that

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the documents are no longer required due to goods being over carried, short landed etc., the Chief Collector of Customs may at his or her discretion, refund or remit in whole or in part the fee paid or payable pursuant to this Regulation.

**39 Number of copies of Customs entry**

The importer or his or her agent shall be required to submit one electronic copy of entry for the purpose of clearance.

**40 Making of entries**

(1) Entries of imported or exported goods shall be made by lodging of the completed approved forms in the Customs systems and the payment of the prescribed fees by or on behalf of the importer or exporter.

(2) Any person making any entry shall, if so required by the Chief Collector of Customs, answer questions relating to the goods referred to in the entry.

(3) The condition for self-assessment where the importer is required to declare any discrepancies in the entry after the goods have been cleared by the importer and the import entry shall be referred back to customs to re-asses and pay the rightful duty that would be applicable.

(4) Where the office is satisfied that an excess duty has been paid, he or she may allow the refund of duty overpaid in error.

**41 Particulars on invoices**

(1) Any invoice electronically transmitted through the system, shall be from the seller and authenticated by the signature of the seller of the goods, stating:

(a) the invoice date, number or other identifying particulars;

(b) the name and address of the seller or consignor of the goods;

(c) the name and address of the buyer or consignee of the goods;

(d) the name of the aircraft or ship in which the goods are shipped if it is known at the time the invoice is made out;

(e) the country of origin of the goods;

(f) a description of the goods;

(g) the quantity of the goods;

(h) the number of packages containing the goods and the marks and numbers of each package containing the goods;

(i) the selling price of the goods to the purchaser of the goods, or the actual price for which the consignors would, on the date of exportation, have been prepared to sell the goods to an importer in Nauru;

(j) the terms of delivery (ex-factory, FOB, CIF, etc.);

(k) the costs, charges and expenses specified in Regulation 36(1)(2).

(2) If the information specified in subregulation (1) is contained in any packing list or other documentary evidence produced to the satisfaction of the Customs officer it shall not be necessary for such information to be included in the invoice.

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**42 Powers of Chief Collector of Customs in special cases**

- (1) If the Chief Collector of Customs is satisfied in any special case or class of case that it is not possible for the importer to produce an invoice as prescribed in Regulation 41 in respect of imported goods or in any case in which the Customs officer considers it necessary, he or she may examine the goods and assess the amount of duty leviable thereon.
- (2) The amount of duty so assessed shall be deemed to be the proper duty payable and shall be paid together with all expenses connected with the examination of the goods.

**43 Passing of entries**

- (1) All completed customs entries from the declarant shall be transmitted electronically through the Customs System.
- (2) An entry may be stored on the Customs System anytime in advance of the registration of the Manifest.
- (3) Entries shall be processed and, where they are found to be satisfactory, shall be passed by Customs and,
- (4) On the passing of the entry, the goods shall be deemed to have been entered, and any entry so passed and full duty paid shall be the warrant to the Customs officer for dealing with the goods in accordance with the entry.
- (5) Entries may be assessed on the Customs system any time after registration of the Manifest.
- (6) Commercial cargo imported in passenger's baggage shall be declared in the same manner as cargo reported on a cargo manifest.
- (7) Returning nationals, diplomats and expatriates and technical workers on work permits shall attend an interview to determine their eligibility of concessions with the Customs officer prior to a declaration being submitted on their behalf.

**PART 9 — GOODS FOR EXPORT**

**44 Export of goods**

- (1) A carrier shall transmit the outward manifest through the Customs system within 24 hours before the departure of the aircraft or ship.
- (2) Any commercial cargo exported in a passenger's baggage shall be declared by the passenger in the same manner as cargo exported on a cargo manifest.
- (3) An export declaration shall be submitted to Customs for the following:
  - (a) EX 1 general export;
  - (b) EX2- temporary export;
  - (c) EX3 – transshipment;
  - (d) EX3 – re-exportation;
  - (e) EX3 – goods under drawback; and
  - (f) EX3 – export ex warehouse.

**45 Certificate of export for goods intended for re-importation**



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- (1) Any person desiring to export any goods temporarily and intending to re-import the goods in accordance with the Act shall produce such goods for examination to the Customs officer at the airport, port or place of exportation.
- (2) Where a Customs officer is satisfied that on re-importation of such goods it shall be possible to identify the goods by reason of marks or numbers indelibly marked on the goods or by affixing a Customs seal to the goods, he or she shall be allowed to clear the goods in the system as reimported goods.
- (3) On re-importation, the goods shall be produced to the Customs officer at the airport, port or place of importation for examination and identification of the goods, and where the Customs officer is satisfied that the goods are the same goods as those exported, he or she may authorise importation under the provisions of the Act.
- (4) Subject to subregulation (3), where goods are exported for repair, on the re-importation of the goods to Nauru, duty shall be levied on any new parts that have been incorporated into the goods.

#### **PART 10 — TEMPORARY IMPORTATION, ETC.**

**46**

##### **Privileged goods**

- (1) For the purpose of this Part, "privileged goods" means:
  - (a) goods for display or use at an exhibition, fair, meeting or similar event;
  - (b) goods for alteration or repair;
  - (c) goods imported by bona fide tourists for their own use while in Nauru;
  - (d) goods which are imported solely for use in connection with some particular project or occasion;
  - (e) goods of a specialized nature or which are of a kind covered by approved international convention concerning temporary importation; or
  - (f) traveller's samples.
- (2) The Chief Collector of Customs may allow goods to be entered as privileged goods.

**47**

##### **Provisional entries**

- (1) The importer or agent shall make a provisional entry in the prescribed form if the importer:
  - (a) is unable to immediately supply the full particulars of the goods for making an entry; and
  - (b) makes (by himself or herself or the importer's agent) a declaration to that effect before the Chief Collector of Customs or other Customs officer.
- (2) A provisional entry, on being passed by Customs, is warrant for the landing and examination of the goods by the importer.
- (3) The Chief Collector of Customs, in his or her own discretion, may require the importer to pay one and half times the proposed duty payable or demand security for the release of such goods.
- (4) The importer of the goods included in a provisional entry:

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- (a) shall make a complete entry within 5 days after the passing of that entry or within any further time allowed by the Chief Collector of Customs; and
  - (b) if the importer makes default in so doing, the goods may be dealt with by the Chief Collector of Customs as if no provisional entry had been made.
- (5) A complete entry of the goods included in a provisional entry shall be made in the same manner as if the provisional entry had not been made.
- (6) The Chief Collector of Customs may refund or remit any duty paid on excess or payable pursuant to this Regulation.

48

**Forms of entry**

- (1) Imported goods other than goods in transit or for transshipment which are not entered for warehousing, shall be entered on whichever of the undermentioned approved forms is appropriate:
- (a) provisional import for home consumption form; and
  - (b) provisional import for warehousing form.
- (2) If goods referred to in subregulation (1) are entered provisionally, the perfect entry for such goods shall be made on whichever of the undermentioned approved forms is appropriate:
- (a) perfecting provisional import for home consumption form; and
  - (b) perfecting provisional import for warehousing form.

49

**Fees, etc. to be paid into Treasury Fund**

All fees, charges and expenses payable under these Regulations shall be paid into the Treasury Fund.

50

**Certified entries**

Where an importer or exporter has entered and paid duty on any goods and has not received or shipped the goods, as the case may be, in pursuance of the relative entry or shipping bill he or she may claim refund of the duty been paid or make an appropriate amending entry with reference to the first declaration.

51

**Entry outwards of ships**

- (1) A ship's report outwards and the outward manifest shall be in the approved forms respectively .
- (2) The master of any ship reporting outwards shall transmit electronically to the Customs officer a list of passengers embarking and of stores shipped in the appropriate approved forms and together with such other documents or further particulars as the Customs officer may require in connection with the voyage not less than 3 hours before the ship is about to depart.

52

**Entry outwards of aircraft**

- (1) An aircraft's report outwards and the outward manifest shall be in the relevant approved forms respectively.
- (2) The master of any aircraft reporting outwards shall, immediately on demand, present to the Customs officer a list of passengers embarking and stores shipped in the appropriate approved form together with such other documents or further particulars as the Customs officer may require in connection with the flight on which the aircraft is about to depart.

53

**Entries for exportation**

- (1) Goods for exportation, other than:
- (a) warehoused goods;

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(b) goods under drawback; or

(c) goods for transshipment,

shall be entered in the approved form.

- (2) Subject to subregulation (1), a fee of \$10 per entry, per lodgement, shall be payable to the Treasury Fund for each entry lodged and processed by Customs.
- (3) In addition to the fee prescribed in subregulation (2), the agent, importer, exporter or owner, as the case may be, shall pay to the Treasury Fund an additional fee of \$10 per entry, if entries are not claimed and collected within 10 working days after lodgement.
- (4) Where before the Chief Collector of Customs has processed entry documents, the agent, importer, exporter or owner notifies in writing, within 10 days from the date of lodgement, to the Chief Collector of Customs that the documents are no longer required due to goods being over-carried, short landed etc., the Chief Collector of Customs may refund or remit in whole or in part the fee paid or payable pursuant to this Regulation.

#### **PART 11 — ENTRY OUTWARDS AND LOADING OF AIRCRAFTS AND SHIPS**

##### **54 Place of embarkation**

- (1) A person shall not embark on any aircraft or ship, except at a place appointed under this Regulation, or, in the case of a passenger, unless permission to embark has been granted by the Chief Collector of Customs.
- (2) The baggage of passengers of an aircraft or a ship proceeding to a place outside Nauru shall be loaded at such place as the Customs officer may direct, and unless the Customs officer otherwise allows, shall not be loaded unless it has been examined and passed by him or her for shipment.
- (3) Any person who contravenes this Regulation commits an offence.

##### **55 Loading before entry**

- (1) Where, under the provisions of the Act, the Customs officer permits the loading, prior to entry, of goods, whether liable to or free of export duty, an application shall be made by the exporter in the approved form and in the case of goods liable to export duty such security as the Customs officer requires shall be provided.
- (2) Applications referred to in subregulation (1) shall be accompanied by the fee prescribed in subregulation (3).
- (3) A fee of \$10 shall be payable to the Treasury Fund in respect of each application per entry referred to in subregulation (1).

##### **56 Cargo landed in error**

Where goods have been unloaded in error, the master or agent of the aircraft or ship shall arrange for the goods to be reloaded or immediately added to the inward report of the aircraft or ship.

##### **57 Transfer of stores**

- (1) The pilot of an aircraft or master of a ship who desires to transfer stores from one aircraft or ship to any other shall make an application to the Customs officer in the approved form.
- (2) The application to transfer stores shall be accompanied with the fee prescribed in subregulation (3).
- (3) A fee of \$10 shall be payable in respect of each application under subregulation (2).

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- (4) Stores subject to import duty shall not be transferred from one aircraft or ship to any other unless a bond has been given in the approved form.
- (5) Any person who contravenes this Regulation commits an offence.

**58 Conditions of loading or transfer of stores**

The loading or transfer of stores shall be subject to the observance by the applicant of any conditions imposed by the Customs officer and shall not commence unless the appropriate entry has been passed or approval has been granted.

**59 Production of stores before loading**

- (1) Every store shall be produced to the Customs officer before being put on board an aircraft or a ship, and upon being put on board (except in the case of commissioned ships), shall not be taken into use while the aircraft or ship is in Nauru without the express approval of the Customs officer, provided that stores on which duty has been paid and on which a drawback of duty or a remission, refund or rebate of duty is not claimed and stores which are not liable to duty may be taken into immediate use.

- (2) Any person who contravenes this Regulation commits an offence.

**60 Shipment of stores from bonded or Customs warehouse**

Goods may be shipped from a bonded warehouse or a Customs warehouse free of import duty as stores for the use of the master, crew and passengers of an outward-bound aircraft or ship, provided that:

- (a) a requisition has been made by the master or agent in the approved form;
- (b) a bond in the approved form has been given for the due exportation of the goods as stores in accordance with this Regulation; and
- (c) an export entry in the approved form has been passed for stores allowed on the requisition.

**61 Certification of value of imported goods**

- (1) The importer of any goods shall, at the time of making entry, or within such period thereafter as the Customs officer may in special circumstances allow, deliver to the Customs officer a combined certificate and invoice in the form set out in this Regulation or in such other form as the Chief Collector of Customs may approve.
- (2) The importer shall produce at the request of the Customs officer such documentary evidence relating to the goods as he or she may require to substantiate the correctness of the particulars contained in the combined certificate and invoice or in such other approved form of invoice.
- (3) Subject to subregulations (1) and (2), if in the case of goods liable to *ad valorem* duty, the invoice and the combined certificate of value and of origin do not furnish particulars of all the charges necessary to arrive at the value for the purposes of assessing duty in accordance with the provisions of Act, the importer at the time of making entry shall produce to the Customs officer a declaration in respect thereof in the Customs form and shall give such further particulars as the Customs officer may consider necessary for a proper valuation and account of the goods.

- (4) Combined certificates and invoices in respect of goods shall be retained by the Customs officer.

**62 All books, documents, etc., to be produced**

- (1) The importer shall produce to the Customs officer upon demand any books of account or other documents of whatever nature relating to the purchase, importation or sale of any goods, in addition to any declaration or documents required by the Act or these Regulations.

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- (2) Subject to subregulation (1), the Customs officer shall on demand from the importer, proof of the Value of the goods by the production of documents relating to the correctness of the importation or sale of any goods

## **PART 12 — PROVISIONS RELATING TO BONDED AREA AND WAREHOUSES**

### **63 Responsibility for goods in a Customs area**

- (1) The agent of the aircraft and a ship required to discharge goods into a Customs area, the property of Government and under the sole control of Customs, and the owner or occupier of a private Customs area, shall be responsible for the goods in such Customs areas so far as their storage and delivery are concerned.
- (2) A person shall not deliver any goods from any Customs area without the authority or except in accordance with the directions of the Customs officer.

### **64 Government bonded area**

Where a Customs area is owned by the Government, the area shall be:

- (a) deemed to be a private Customs area; and
- (b) controlled by Customs.

### **65 Goods delivered in special circumstances**

- (1) If, in any special circumstances, the owner of any goods or other goods wishes to take delivery of such goods prior to the entry being passed or prior to the goods being examined, he or she shall apply to the Customs officer in the approved form and furnish such security as cash bond or bank security as may be required, with the amount as the Customs officer may determine.
- (2) Where goods have not previously been entered, the importer shall enter the goods within 48 hours of taking delivery of the goods.

### **66 Appointment of bonded warehouse**

An application for the approval of a building, storage tank or enclosure as a bonded warehouse shall be made in the approved form to the Chief Collector of Customs.

### **67 Unsuitable premises**

- (1) Premises situated in a private yard except under special circumstances shall not be accepted as suitable for a bonded warehouse.
- (2) Subject to subregulation (1), the doors of all bonded warehouses shall open into a street or public thoroughfare and be at all times accessible for the examination of the locks and fastenings without passing through other doors or gates.

### **68 Construction**

- (1) Bonded warehouses shall be constructed of substantial materials to the satisfaction of the Chief Collector of Customs.
- (2) A person shall not make any alteration or addition to any bonded warehouse without first obtaining the permission of the Chief Collector of Customs.
- (3) Any person who contravenes this Regulation commits an offence.

### **69 Bond security fee payable on general and private bonded warehouse**

- (1) The bond security payable for each:
- (a) general bonded warehouse shall be \$5,000; and
- (b) private bonded warehouse shall be \$2,000.

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- (2) Where the bond security fee has not been paid by 7 January in any year following the year in which such licence was first granted, the Chief Collector of Customs may refuse to allow any transactions to take place in the warehouse, enclosure or tank in respect of which the fee may be due, unless such fee has been paid.
- (3) A certificate for a bonded warehouse shall be in the approved form.
- (4) A person who does not pay the requisite fee payable under this Regulation commits an offence.

**70 Licence Fee payable for a bonded warehouse**

- (1) The licence fee payable by an operator of a bonded warehouse whether for the general bonded warehouse or the private bonded warehouse is \$1,000.
- (2) The licence fee shall expire on 31 December in each year.
- (3) Where any annual licence fee has not been paid by 7 January in any year following the year in which such licence was first granted, the Chief Collector of Customs may refuse to allow any transactions to take place in the warehouse, enclosure or tank in respect of which the fee may be due, unless such fee has been paid.

**71 Bonded warehouses to be numbered**

- (1) Bonded warehouses shall be distinguished by numbers allocated by the Chief Collector of Customs.
- (2) The words "Bonded Warehouse" and the number allocated to the warehouse shall be clearly marked on the principal entrance to the warehouse or elsewhere as the Customs officer shall approve and shall be removed where the warehouse ceases to be licensed as a bonded warehouse.
- (3) Any person who contravenes this Regulation commits an offence.

**72 Obligations of warehouse keeper**

- (1) Every warehouse keeper shall at his or her own expense—
  - (a) provide at his or her bonded warehouse such office accommodation and weights, scales, measures, and other facilities for examining and taking account of goods and for securing them as the Customs officer may reasonably require;
  - (b) keep a record of all goods warehoused in his or her bonded warehouse and shall keep such record at all reasonable times but not less than 5 years from the time of importation to be available for examination by the Customs officer.
- (2) Any warehouse keeper who contravenes this Regulation or any requirement of the Chief Collector of Customs under this Regulation commits an offence.

**73 Only approved goods in a bonded warehouse**

A warehouse keeper shall not without the authorisation of the Chief Collector of Customs allow goods of a dangerous nature to be stored in a bonded warehouse which has been approved for general merchandise and where any bonded warehouse has been approved for the deposit of special goods, shall not allow any other goods to be deposited therein.

**74 Warehouse keeper to keep packages in repair**

A warehouse keeper shall maintain in a proper state of repair the packages in which warehoused goods are contained.

**75 Goods refused for warehousing**

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- (1) Where goods to be warehoused are found by the Customs officer examining them to be insecurely packed, he or she may refuse to permit them to be warehoused.
- (2) Where, in accordance with the provisions of the Act, a Customs officer refuses to permit goods to be warehoused, the warehousing entry shall be deemed to be void, and the goods shall be deemed to be unentered.
- (3) Where the goods have been removed from a Customs area, they shall be returned thereto without delay by, or at the expense of the owner, unless the Customs officer allows them to be entered for home consumption.
- (4) The owner shall be responsible for any loss or damage which may take place between the time the goods are removed from a Customs area to the time they are returned or received in a Customs area when examined by the Customs officer.

**76 Time during which goods may be removed for warehousing**

Unless the Customs officer in any special circumstances otherwise allows, goods shall not be removed from a Customs area to a bonded warehouse, or from one bonded warehouse to any other, unless the warehousing of the goods can be completed during working days and hours.

**77 Conditions of repacking in warehouse**

- (1) Permission to repack warehoused goods may be granted on application being made to the Customs officer in the approved form.
- (2) An overtime fee of \$20 per hour from Mondays to Fridays from 5pm to 9am and \$40 for Saturdays, Sundays and public holidays shall be paid by the warehouse operator for work performed within those hours shall be paid by the warehouse operator or his agent for work performed
- (3) The owner of the goods shall observe all the requirements of the Customs officer in regard to opening, repacking removing, marking, stacking, sorting, weighing, measuring and closing the packages, and as to the payment of duty on any part of such goods.
- (4) A fee of \$10 shall be payable to the Treasury Fund in respect of each application under subregulations (1) and (2).

**78 Transfer of ownership of goods**

- (1) Where the owner of any goods deposited in a bonded warehouse desires to transfer ownership of those goods to any other person, he or she and the person to whom it is desired to transfer the goods shall each complete and sign in the appropriate places a form of transfer in the approved form.
- (2) The completed approved form shall be accompanied with the fee under subregulation (3).
- (3) A fee of \$10 shall be payable to the Treasury Fund in respect of each application under subregulation (1).

**79 Entries for warehoused goods**

Warehoused goods shall be entered in whichever of the undermentioned approved forms is appropriate:

- (a) IM4 ex-warehouse for home consumption form;
- (b) IM7 removal from warehouse to warehouse form;

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- (c) EX3- export or transhipment ex-warehouse form; and
- (d) IM7- import warehousing form for re-ware housing.

**80 Goods to be consigned to the Customs officer**

(1) All goods:

(a) entered for warehousing at the airport or port; or

(b) removed from the airport or port to a bonded warehouse or port, shall be consigned care of the Customs officer to the bonded warehouse, airport or port at which the goods are to be so warehoused, and the relative consignment note in the approved form relating to the movement of the goods shall be delivered to the Customs officer.

(2) The goods referred to in these Regulations shall not be delivered to any person without the authority of the Customs officer.

**81 Remit or waive fees and charges in certain circumstances**

The Chief Collector of Customs may, in his or her or her discretion, and having regard to any special or exceptional circumstance under the law remit, refund, or exempt any fee or charge paid or payable, pursuant to these Regulations.

**PART 13 — DRAWBACK, REFUND, REMISSION AND REBATE**

**82 Basis of drawback**

(1) Drawback shall be payable according to the actual quantity of goods exported or shipped for use as stores, as the case may be.

(2) For the purpose of assessing the amount of drawback of duty payable on any goods on which drawback is claimed, the value of such goods shall be calculated to the nearest dollar, so that in any value an amount being \$0.50 or less shall be disregarded and in any value an amount in excess of \$0.50 shall be taken to be \$1.

**83 When drawback is not payable**

Drawback shall not be allowed on any goods:

(a) where such goods are prohibited by any law from being exported;

(b) unless perfect entry of the goods has been made and the relative invoice deposited with the Customs officer;

(c) unless the person claiming drawback enters the goods for exportation on the approved form and establishes the claim to drawback by completion of the relevant certificate thereon prior to the passing of the entry;

(d) unless the Chief Collector of Customs is satisfied that they are being re-exported from the Republic of Nauru for use for trade, commerce or industry;

(e) unless security by bond or in such other form as the Customs officer may require has been given that the goods shall be shipped and exported, or otherwise accounted for to the satisfaction of the Customs officer;

(f) which are damaged or spoiled;

(g) which after importation were used in local manufacturing or production, except as otherwise provided in any regulations concerning drawback of duty on goods.

**84 Minimum amount**



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The minimum amount of \$10 drawback of duty allowable on goods, and the circumstances in which drawback below the prescribed amount shall not be allowed

**85 Drawback on locally manufactured goods**

A drawback of duty equal to the duty paid may be allowed on the quantity of any imported article or material which has been used in the manufacture of goods or articles of any class or description manufactured in the Republic of Nauru and exported, subject to such conditions as may be prescribed.

**86 Drawback of duty on certain goods**

(1) Subject to Regulation 81, drawback of duty may be allowed, at such amounts and subject to any prescribed conditions, on:

- (a) goods imported into the Republic that are later exported from the Republic;
- (b) goods that are produced in a manufacturing area and exported from the Republic;
- (c) imported parts, and materials used in, worked into, or attached to, goods manufactured or produced in the Republic and exported from the Republic;
- (b) imported materials, except fuel or plant equipment consumed in the manufacture or production of goods produced in the Republic and exported from the Republic.

(2) If, under this Regulation, drawback is allowed to any person, the Chief Collector of Customs may apply the whole or any part of the sum allowed towards the payment of any duty that is payable by that person.

**87 Goods not allowed for drawback**

Drawback shall not be allowed on the following:

Every liquor product falling under tariff headings 2203; 2204; 2205; 2206; 2208; Tobacco and Tobacco products of Chapter 24 and mobile phone and smart phone falling under tariff headings 8517 and PC Tablet falling under 8471 of the Tariff.

**PART 14 – UNCLEARED AND UNENTERED CARGO AND DISPOSAL OF SUCH GOODS**

**88 Uncleared Cargo**

- (1) All manifested goods not entered and cleared within 14 days of the departure of the carriers shall be treated as uncleared cargo.
- (2) Notice shall be given that unless such goods are entered and removed from the custody of Customs, the goods may be sold by public auction.
- (3) All goods pursuant to subregulation (2) shall be sold by public auction after 30 days' notice of the sale has been published in the Gazette.
- (4) Goods which are of a perishable nature may be sold by the Customs officer, either by public auction or otherwise, and after notice of intention to sell has been published in the Gazette.
- (5) Abandoned goods may be sold by the Chief Collector of Customs at any time by a private treaty or, when he or she deems it to be practicable, by public auction.
- (6) Transshipment goods deposited in a Customs warehouse, bonded warehouse or any other Customs area and are not transhipped within a period of 6 months from the date when such goods arrived in the Republic of Nauru shall be deemed to be uncleared goods and shall be sold by public auction.
- (7) Goods stored in a bonded warehouse for export only which are not removed therefrom within 12 months or any other period but not exceeding 24 months as directed by the Chief Collector of

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Customs after the date of expiry therein, may be sold by the Chief Collector of Customs in the prescribed manner, and the proceeds of sale thereof shall be paid to the Treasury Fund.

**89 Unaccounted goods in the manifest**

- (1) The carrier shall be responsible for any duty payable when the goods appearing in the manifest cannot be accounted for by the carrier or provide a satisfactory explanation as to the whereabouts of the goods.
- (2) The carrier shall be responsible for any landing certificate in the event of goods being landed in any other country.

**PART 15 — GOODS FOR AUCTION**

**90 Sales by auction**

- (1) Except with the authorisation of the Chief Collector of Customs, goods shall not be exposed or offered for sale in any Customs area or bonded warehouse.
- (2) Before any sale commences to which the provisions of this Regulation apply, the auctioneer shall announce that the bids taken shall be:
  - (a) inclusive of duty;
  - (b) inclusive of any rent and charges due to the Government; and
  - (c) inclusive of the expenses of sale reasonably incurred.
- (3) Any goods sold but not cleared within 48 hours from the day of sale shall be forfeited to Customs.

**91 Auctioneer to certify sale record**

On the conclusion of any sale and before leaving the place where the sale takes place, the auctioneer shall:

- (a) give a certificate of correctness of the particulars of the sale; or
- (b) in the case of a dispute, record full particulars of the matter in dispute.

**92 Delivery of goods sold at auction**

- (1) Where the auctioneer receives the amount of the purchase price, he or she shall make and sign an order to the Customs officer in charge of the warehouse to deliver the goods.
- (2) The purchaser of the goods shall present the order to the Customs officer in charge of the warehouse and on surrender thereof if in order and on giving a receipt for the goods in the auction sales record to the Customs officer in charge of the warehouse the purchaser may take delivery.

**93 Auctioneer's account**

An auctioneer shall deliver to the Customs officer a full account of the goods sold and the prices realized within 48 hours from the date of sale together with the amount received by him for the goods after deduction of an approved commission of 2.5% of the total sale and of such expenses of the sale as may be approved by the Chief Collector of Customs.

**94 Owner may receive net proceeds of sale**

Any person entitled to receive any balance of the proceeds of a sale by auction after the payment of duties- storage fees and other expenses shall make an application to the Chief Collector of Customs therefor in the customs form and shall produce therewith proof to the satisfaction of the Chief Collector of Customs of his or her title to such balance.

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**95 Penalty**

A person who commits an offence against these Regulations for which no specific penalty is provided is liable to a fine not exceeding \$5,000.

**96 Auction sale on special occasion**

- (1) Subject to the Act, all other goods which may be sold under the provisions of the Act shall be sold by public auction after 30 days' notice of sale has been given in the Gazette or any official online platform.
- (2) If any goods liable to be sold cannot be sold for a sufficient sum to cover the duty and other charges due on them, such goods may be destroyed or otherwise disposed of as the Chief Collector of Customs may direct.
- (3) Goods advertised for sale by public auction in the Gazette may in exceptional circumstances, at the sole discretion of the Chief Collector of Customs, be withdrawn from sale if he or she receives a written notice from the owner of the goods requesting withdrawal not less than 48 hours before the sale is due to take place.
- (4) The owner of any goods withdrawn from sale under this Regulation shall pay all duties and charges due on such goods and remove them from customs control within 48 hours from the day on which they were to be sold.
- (5) The purchaser of any goods at any customs sale shall pay the purchase price and remove the goods from customs control within 48 hours of the time and date of sale.
- (6) The Chief Collector of Customs shall not be liable to compensate any person in respect of any sale made pursuant to this Regulation.

**97 Proceeds of sale**

- (1) Where goods are sold under this Part, the proceeds of the sale shall be applied in the order set out below in discharge of—
  - (a) the duties, if any;
  - (b) the expenses of sale reasonably incurred; and
  - (c) the rent and charges due to the Customs.
- (2) If, after the proceeds of sale have been applied in accordance with subregulation (1), there is a balance, the balance shall be payable to the person claiming to be the owner of the goods if he or she makes an application therefore within 6 months of the date of the sale or such further period as the Chief Collector of Customs may allow.

**PART 16 — TREATMENT FOR SAMPLES**

**98 Samples**

- (1) Commercial travellers who import samples of dutiable goods and who desire to exhibit the same in Nauru without payment of duty thereon shall withdraw the sample without submitting a separate Customs entry.
- (2) If goods referred to in subregulation (1) are entered provisionally, the perfect entry for such goods shall be made on whichever of the undermentioned approved forms is appropriate—
  - (a) perfecting provisional import for home consumption form; and
  - (b) perfecting provisional import for warehousing form.

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## PART 17 — VALUATION ON IMPORTS

### 99 Valuation of imported goods

- (1) For the determination of the value of goods for the purpose of the customs laws, there shall be delivered to Customs—
  - (a) the entry of such goods;
  - (b) a declaration of terms and conditions under which the goods have been imported or exported, as the case may be, on whichever of the approved forms is appropriate;
  - (c) a commercial invoice, if goods have been the subject of a bona fide sale at the time of importation or exportation, as the case may be;
  - (d) such documents as the Customs officer may deem necessary, showing the commercial circumstances in which the goods are to be marketed or put to use by the consignee, if goods have not been the subject of a sale at the time of importation or exportation, as the case may be;
  - (e) such documents as the Customs officer may reasonably deem necessary.
- (2) All invoices, declarations and other documents shall contain the particulars specified in this Regulation and the Customs officer may refuse to accept any invoice, declaration, certificate or other document which does not contain these particulars.
- (3) There shall also be delivered, if the proper office so requires, the original invoice, bill of lading, bill of parcel, policy of insurance, letter and other documents showing the value of the goods at the place at which they were purchased, together with freight, insurance and other charges on the goods.

## PART 18 — SECURITY AND BOND

### 100 Security

- (1) The Chief Collector of Customs may require and take security for compliance with the provisions of this Regulations.
- (2) For the protection of the revenue of the Customs, and, pending the giving of the required security in relation to any goods subject to the control of the Customs, may refuse to deliver the goods or to pass any entry relating thereto.
- (3) Where any security is required to be given, such security shall be given by bond or guarantee or cash deposit or all or any of these methods and, in each case, the security shall be subject to the approval of the Chief Collector of Customs.
- (4) The forms of security prescribed shall be sufficient for all purposes of a bond or guarantee under the provisions of this Act, and, unless otherwise provided therein, shall bind the subscribers thereto jointly and severally for the full amount.
- (5) All securities may, after the expiration of 3 years from the date thereof, or from the time specified for the performance of the particular conditions thereof, whichever is the later date, be cancelled by the Chief Collector of Customs.

### 101 Bond

- (1) Whenever the Chief Collector of Customs shall require a bond or other form of security, such bond or security shall be furnished on the approved form.

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- (2) The security provided to be as low as possible but not lower than the duty payable.
- (3) Security to be disposed as soon as transaction is received.

### **PART 19 — APPLICATIONS OF ADVANCE RULING**

**102**

#### **Advance ruling**

- (1) A person may, in the prescribed form, apply (for particular goods specified in the application) to the Chief Collector of Customs for a Customs ruling on any one or more of the following matters:
  - (a) Tariff Classification of those goods under Part 1 of the Tariff;
  - (b) Valuation of any goods under the Customs Tariff Act 2014;
  - (c) Rules of Origin under the provision of this Regulations; and
  - (d) whether or not those goods are subject to a specified duty concession under Part 2 of the Tariff Schedule.
- (2) In a matter of classification whether the goods have a particular tariff classification under Part 1 of the Tariff Schedule.
  - (a) the date on which any information on which Customs ruling was made ceases to be correct in all material respects;
  - (b) the date of a material change in any of the information or fact on which Customs ruling was made;
  - (c) the date of expiry of 3 months from the date that notice of the Customs ruling, or any amendment to that Customs ruling is given to the applicant,
  - (d) Information on which it was made was not correct in all material respects;
  - (e) a material change has occurred in any information or facts on which it was made.

### **PART 20 — RULES OF ORIGIN**

**103**

#### **Originating goods**

All goods shall be allowed under duty concession when imported into Nauru when deemed to be originating and entitled to preferential tariff treatment for the purposes of a free-trade agreement if it is:

- (a) wholly produced or obtained in the territory of a party; or
- (b) has undergone substantial transformation in the territory of a party.

**104**

#### **Substantial transformation**

- (1) All goods are deemed to originate in Nauru even though it may contain non-originating material provided it satisfies the criteria in subregulation (2).
- (2) The criteria for manufactured goods to qualify as originating through substantial transformation are two-fold:
  - (a) the last process of manufacture shall be performed within a party to the free-trade agreement; and
  - (b) the total qualifying expenditure of originating material costs, labour costs, and overhead costs as determined in the terms of the free-trade agreement.

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**105 Release of goods under special circumstances**

- (1) Customs shall not wait for the completion of administrative or legal action before they release the goods.
- (2) The importer shall not pay duty on goods where the importer decides to abandon the goods to the Government or in case of goods being destroyed by a competent authority.
- (3) Customs shall destroy all goods which have been abandoned under subregulation (2).

**106 Risk management**

- (1) Any person entering, transiting or departing Nauru shall be subject to examination by Customs using risk assessment.
- (2) Customs shall carry out targeted controls based on risk management that Customs may use to target shipments or cargo that represent a threat to the revenue of the Government or the safety or interests of legitimate traders.
- (3) Customs shall adopt a risk management and compliance strategy to support risk management.
- (4) Customs may work in cooperation with other customs authorities in the region in gathering intelligence relevant to the performance of its duties.

**107 Post clearance audit**

- (1) Customs control procedure shall include audit-based controls.
- (2) A Customs officer shall examine a trader's relevant commercial systems and processes, financial and non-financial records, physical stock and other assets, as a means to measure and improve compliance under customs laws
- (3) For the purposes of this Regulation, an importer shall be required to keep all records of importation or exportation for a period not less than 5 years from the date of importation.
- (4) Any person who contravenes this Regulation commits an offence and is subject to a penalty of not more than \$10,000 or other penalty provided for in the Act.

**108 Bill of lading**

- (1) The holder of a draft with a bill of lading in guarantee of the payment of the draft may give notice to the Chief Collector of Customs that he or she holds those documents, and thereupon the Chief Collector of Customs shall not allow the entry of such goods without the written consent of the holder of those documents.
- (2) Where the goods have been entered in compliance with the provisions of this Regulation but have not been taken delivery of by the importer, the Chief Collector of Customs may, at any time before such goods are disposed of as unclaimed, allow delivery of such goods to any person holding a draft with a bill of lading.

**109 Place of clearance**

The Chief Collector of Customs may, with the approval of the Minister, appoint and specify areas or places outside the limits of ports and airports to be used for the purpose of storing, examination and clearance of goods, including baggage, subject to such conditions as may be notified at the time when such areas or places are appointed and to the payment of such sum as may be authorised by the Minister.

**110 Customs control area**

- (1) The Minister may, on application, and subject to such conditions as he or she may deem necessary, licence—
  - (a) any international airport;

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- (b) seaport;
- (c) wharf;
- (d) any other area, for temporary storage of goods.

- (2) For the purposes of this Regulation, the Minister may further permit any place in an area of a seaport or airport to be used for temporary storage of goods, and may approve or licence such place as a bonded consolidated freight station, a bonded export freight station or a bonded customs area.
- (3) The Customs shall not be liable for the loss of or damage to any goods subject to their control unless such loss or damage shall have been occasioned by the wilful or negligent act of any Customs officer.

**111 Interference with goods subject to Customs control**

- (1) A person shall not, except as may be allowed under the Act, the *Customs Tariff Act 2014* and any regulations made under such Acts, alter or interfere in any way with goods subject to Customs control.
- (2) Any person who contravenes subregulation (1) commits an offence.

**112 Right of examination and cost**

- (1) The control of goods by the Customs includes the right of the Customs to examine at any time all goods subject to customs control.
- (2) where goods are detained or seized under the Act, the bringing of such goods from the place of examination to a Customs warehouse or such other place as may be directed by the Customs officer, shall be provided by and at the expense and risk of the owner, importer, exporter or agent of the goods as the case may be.

**113 Import through post**

- (1) Goods may be allowed duty free if the value of the goods is \$200 or less.
- (2) When goods are imported in postal parcels or postal packets, the Customs officer, in his or her discretion, may accept for the purpose of assessing the duty on the goods from the information provided on parcel notification provided by Naoero Postal Services .
- (3) The duty shall be assessed by the Customs officer and any duty payable shall be paid through Customs Declaration to the Treasury Fund before the good is released from Customs.
- (4) Where goods are exported by post, the Customs officer may, in his or her discretion, deem any form or label affixed to the parcel and bearing a description of the contents and a declaration of their value to be the entry required under customs laws.

**114 Transhipment under bond**

- (1) Upon the entry inwards of an aircraft or a ship, the Chief Collector of Customs may, on the application of the owner or his or her agent, permit the transhipment of goods without payment of the import or export duty leviable thereon, if such goods are specifically entered for transhipment at the time of importation.
- (2) Transhipment under the provisions of subregulation (1) shall take place under the supervision of the Customs officer at the expense of the applicant after the due entries inwards and outwards have been passed for the goods and a bond has been entered into for the exportation of the goods in like manner as if they had been actually landed and deposited in a warehouse.

**115 Transhipment procedure**

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- (1) Before presentation at the Custom, transshipment shipping bills shall be presented to the Customs officer in charge of the place of export who shall indicate thereon that the entry outwards where required, has been delivered for the exporting ship or, that the exporting ship has arrived, or alternatively, that the Customs officer has granted an application which such importer shall attach to the shipping bill to allow the goods to be put afloat pending the arrival of the exporting ship.
- (2) Provided that where the exporting ship has not arrived and the cargo is to remain ashore pending its arrival, the shipping bill shall be presented for initialing to the Customs officer at the import station, instead of to the Customs officer at the place of export.

#### **PART 21—CUSTOMS CARRIERS**

##### **116 Customs carriers**

- (1) The Chief Collector of Customs may, upon written application, grant a licence to any person approved by him or her to act as a Customs carrier for conveying Customs goods, whether by water or by land.
- (2) Any such licence may be revoked by the Chief Collector of Customs by notice in writing at any time.

##### **117 Security by carrier**

- (1) An annual fee of \$200 is payable for each carrier's licence
- (2) Before any Customs carrier's licence is granted, the person applying for the licence shall, where the Chief Collector of Customs so requires, provide details of the vehicle in the approved form to the satisfaction of the Chief Collector of Customs.

##### **118 Customs carrier's licence**

A customs carrier's licence shall be issued by the Chief Collector of Customs in the approved form and shall expire on the 31<sup>st</sup> day of December of the year of issue unless previously revoked.

#### **PART 22 — FEES**

##### **119 Customs broker**

- (1) A person doing business which necessitates the use of any form which is prescribed or required under the provisions of any written law relating to Customs shall provide the necessary form at their own expense.
- (2) A fee of \$200 is payable by each broker to be licensed as a Customs Broker.

##### **120 Making of entries**

An entry of imported or exported goods shall be made by the delivery of the approved forms and the payment of the prescribed fees by or on behalf of the importer or exporter to the Chief Collector of Customs and any person making any entry shall, if so required by the Chief Collector of Customs, answer questions relating to the goods referred to in the entry.

##### **121 Damage to any Customs warehouse**

A person who causes any damage to any Customs warehouse or other building or equipment in the possession of Customs shall pay the cost of the damage and the person, where the damage was caused wilfully, shall commits an offence.

##### **122 Entrances and exits**

All vehicles and pedestrians shall enter and leave any Customs area through such gates and entrances and exits as the Customs officer may direct and any person failing to comply with any such directions shall be guilty of an offence.

##### **123 Enforcement of Regulations**

The introduction of the Customs Regulations shall not affect licences, permits, bonds, securities, appointments, orders and rules issued, executed, given or made under or by virtue of those other Regulations and in force immediately before the commencement of these Regulations; and those



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licences, permits, bonds, securities, appointments, orders and rules shall remain in force, unless replaced or revoked by a licence, permit, bond, security, appointment, order or rule made under or by virtue of other laws.