

CUSTOMS ACT 1986

Revised up to 31st March 2020

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Table of Amendments

Customs Act 1986 (No 11 of 1986) commenced on 1 November 1986, as amended by:

Amending Legislation	Date of Commencement
Customs (Amendment) (No 2) Act 1992 (No 6 of 1992)	22 December 1992
Customs (Amendment) Decree 1992 (No 33 of 1992)	1 July 1992
Customs (Amendment) Act 1995 (No 23 of 1995)	22 December 1995
Customs (Amendment) Act 1996 (No 23 of 1996)	25 October 1996
Customs (Amendment) (No 2) Act 1996 (No 28 of 1996)	27 December 1996
Customs (Amendment) Act 1997 (No 23 of 1997)	24 December 1997
Fiji Revenue and Customs Authority Act 1998 (No 9 of 1998)	1 January 1999
Dumping and Countervailing Duties Act 1998 (No 23 of 1998)	24 July 1998
Customs (Amendment) Act 1998 (No 57 of 1998)	20 September 1999
Customs (FAMS Amendment) Act 1999 (No 38 of 1999)	1 January 2000
Customs Act (Amendment) Decree 2000 (No 31 of 2000) ¹	26 October 2000
Customs (Duty Suspension Scheme) (Amendment) Act 2002 (No 9 of 2002)	1 July 2002
Customs (Budget Amendment) Act 2003 (No 23 of 2003)	1 January 2004
Customs Act (Amendment) Promulgation 2007 (No 14 of 2007)	1 July 2007
Customs Act (Budget Amendment) (No 2) Promulgation 2007 (No 41 of 2007)	23 November 2007
Customs Act (Amendment) (No 2) Promulgation 2008 (No 32 of 2008)	1 January 2009

¹ This was rectified by the Corrigendum published on 22 November 2000.

Customs Act (Budget Amendment) Decree 2010 (No 9 of 2010)	1 January 2010
Superyacht Charter Decree 2010 (No 19 of 2010)	6 April 2010
Customs (Amendment) Decree 2012 (No 4 of 2012)	1 January 2012
Customs (Budget Amendment) Act 2014 (No 8 of 2014)	21 November 2014
Customs (Budget Amendment) Act 2015 (No 23 of 2015)	6 November 2015
Customs (Budget Amendment) Act 2016 (No 30 of 2016)	23 June 2016
Revised Edition of Laws (Consequential Amendments) Act 2016 (No 31 of 2016)	1 December 2016
Customs (Budget Amendment) Act 2017 (No 37 of 2017)	30 June 2017
Fiji Revenue and Customs Authority (Budget Amendment) Act 2017 (No 38 of 2017)	1 August 2017
Customs (Budget Amendment) Act 2018 (No 20 of 2018)	1 August 2018
Customs (COVID-19 Response) (Amendment) Act 2020 (No 6 of 2020)	1 April 2020

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CUSTOMS (PROHIBITED IMPORTS AND EXPORTS) REGULATIONS 1986

CUSTOMS (COURT OF REVIEW) RULES 1969

PART 1 PRELIMINARY

(Sections 1-2)

[Section 1] Short title and commencement

(1) This Act may be cited as the Customs Act 1986.

(2) This Act shall come into force on a date to be notified by the Minister in the Gazette and different dates may be so notified for the purpose of different provisions of this Act.

[Section 2] Interpretation

(1) In this Act, unless the context otherwise requires—

aerodrome	means an area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;
agent	in relation to the master or owner of an aircraft or ship, includes any person who notifies the Comptroller in writing that he or she is entitled to act as the agent and who or on whose behalf any person authorised by him or her, signs any document required or permitted by the customs laws to be signed by an agent, provided that— <ul style="list-style-type: none">a) such person is licensed under section 148; orb) the owner of an aircraft or ship—<ul style="list-style-type: none">i. if resident or represented in Fiji but no other agent is appointed, is deemed to be the licensed agent of the master of the aircraft or ship, for all purposes of the customs laws;ii. if not resident or represented in Fiji, the master of the aircraft or ship is deemed to be the licensed agent of the aircraft or ship;
[def am Promulgation 14 of 2007 s 2, effective 1 July 2007]	
aircraft	includes balloons, gliders, airships, hovercraft, helicopters, flying machines and any other means of aerial locomotion;
airport	means an airport appointed by the Minister under section 4 as an airport for the purpose of the customs laws;
approved place of loading	and approved place of unloading means a quay, jetty, wharf, part of an airport or other place, appointed by the Comptroller to be a place where goods may be loaded or unloaded;
assembly process	means the putting together of 2 or more constituent materials by manual labor or machinery especially on a large scale as an industry;

[def insrt Decree 9 of 2010 s 2, effective 1 January 2010]

authorised economic operator means a person approved as an authorised economic operator by the Comptroller in accordance with section 92A

[def insrt Act 20 of 2018 s 2, effective 1 August 2018]

authorised officer , for the purpose of downtown duty free shops, means an officer identified by the licensee of a downtown duty free shop and approved by the Comptroller to remove goods from a customs area;

[def insrt Act 30 of 2016 s 2, effective 23 June 2016]

blending means merging together of 2 or more fluids or materials or gases in the manufacture process;

[def insrt Decree 9 of 2010 s 2, effective 1 January 2010]

boarding station means a place appointed by the Comptroller to be a place for aircraft or ships arriving at or departing from any port or place to bring to for boarding by or the disembarkation of, officers;

bonded means subject to customs control under customs laws;

[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]

bonded area means an area subject to customs control under customs laws;

[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]

bonded consol freight station means a place licensed under customs laws in which shipping containers of goods imported or exported may be stored, unpacked, packed or sorted, pending payment of duty, exportation or re-exportation;

[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]

bonded customs area means an area that is subject to customs control under customs laws regarding movement of persons, goods or activity where goods may be lodged, stored or secured;

[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]

bonded warehouse means a building or storage tank licensed by the Comptroller, in which goods entered to be warehoused maybe lodged, kept or secured pending payment of duty or exportation; and includes a customs warehouse and an export warehouse;

[def subst Act 23 of 1996 s 3, effective 25 October 1996]

break bulk with its grammatical variations and cognate expressions means subdividing the original magnitude in 3 dimensions of any commodity into smaller measurable units without changing the description classification on the Harmonised Commodity Description and Coding System;

[def insrt Decree 9 of 2010 s 2, effective 1 January 2010]

cargo includes all goods imported or exported in any aircraft or ship other than such goods as are required as stores for consumption or use by or for that aircraft or ship, its crew and passengers; and also includes the bona fide personal accompanied baggage of such passengers;

cleared	in relation to goods, means removed, after release by the proper officer, in pursuance of the purpose for which the goods were entered;
coastwise	means the trade by air, land or sea from one port to another port in Fiji;
Comptroller	means the Comptroller of customs and excise or any officer or other person authorised in writing by the Comptroller to act on his or her behalf;
container	includes a bundle, package, box, cask or other receptacle of whatsoever kind;
conversion process	means the transformation involved in the act of changing the character, form or function of any tangible commodity or service; [def insrt Decree 9 of 2010 s 2, effective 1 January 2010]
crew	includes every person (except the master) employed or engaged in any capacity on board an aircraft or ship;
Customs	
	[def rep Act 31 of 2016 s 51, effective 1 December 2016]
customs agent	means a customs agent licensed under section 144(1), but does not include an agent licensed under section 148; [def subst Promulgation 14 of 2007 s 2, effective 1 July 2007]
customs approved	
secure package	means any package whether or not stored in a customs area and whether or not for import, export or trans-shipment, that has been identified by the customs with appropriate markings for export or trans-shipment but has not yet been exported or transhipped; [def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]
customs area	means a place appointed by the Comptroller under section 4 for the deposit of goods subject to customs control and includes a bonded consol freight station, a bonded export freight station or any bonded customs area; [def am Promulgation 14 of 2007 s 2, effective 10 July 2007]
Customs dog	means a dog that is being used or intended to be used by the Fiji Revenue and Customs Service; [def insrt Act 23 of 2015 s 2, effective 6 November 2015 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]
customs enclosed area	means an area appointed by the Comptroller and marked with demarcation boundaries and notices for the purposes of customs laws under section 4(2); [def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]
customs laws	includes this Act, the Tax Free Zones Act 1991 and any other Act or subsidiary legislation relating to customs; [def am Act 23 of 1997 s 3, effective 24 December 1997 ; Act 31 of 2016 s 51, effective 1 December 2016]
customs revenue	means any amount collectible by the Fiji Revenue and Customs Service in accordance with the provisions of the customs laws; [def am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

customs warehouse	means a place appointed by the Comptroller for the deposit of uncleared goods or other goods, pending the payment of the import duty payable thereon;
days	does not include Saturdays, Sundays or public holidays;
	[def am Act 28 of 1996 s 3, effective 27 December 1996]
declarant reference number	means a declaration number allocated to any entry at the time of registration when electronically lodged by the agent or the owner;
[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]	
dispute	
	[def rep Act 23 of 2015 s 2, effective 6 November 2015]
downtown duty free shop	means a place licensed as a downtown duty free shop by the Comptroller under section 63K;
	[def insrt Act 30 of 2016 s 2, effective 23 June 2016]
drawback	means a refund of all or part of any import duty paid in respect of goods exported or used in a manner or for a purpose prescribed as a condition for granting drawback;
dutiable goods	includes all goods in respect of which any duty is payable;
duty	means any duty leviable under any customs law; Dumping and Countervailing Duties Act 1998 and includes Value Added Tax leviable under section 14 of the Value Added Tax Act 1991;
[def am Decree 33 of 1992 s 2 effective 1 July 1992 ; Act 23 of 1998 s 20, effective 24 July 1998]	
duty suspension scheme	
	[def rep Act 23 of 2015 s 2, effective 6 November 2015]
enclosure	means a piece of land or a building, surrounded by fences over secured metal mesh grill framework and may include a secured roof, to the satisfaction of the Comptroller;
	[def am Promulgation 14 of 2007 s 2, effective 1 July 2007]
entry	means a prescribed form of declaration (with or without additional documents as required under this Act) and with the automatically generated unique registration number of such form and registered by means of an electronic message transmitted to the custom computer system but the duty has not yet been paid and receipted;
	[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]
export	means to take or cause to be taken out of Fiji;
export freight station	means bonded premises approved and licensed by the Comptroller under section 4(5) for export freight handling;
	[def am Promulgation 14 of 2007 s 2, effective 1 July 2007]
export warehouse	means a place appointed by the Comptroller for the deposit, keeping and securing of imported and Fiji manufactured goods for sale to a relevant traveller leaving Fiji from an approved airport or seaport. Export warehouses may be called duty free shops;
	[def insrt Act 23 of 1996 s 3, effective 25 October 1996]

exporter	includes an owner or an owner's agent or any other person for the time being possessed of or beneficially interested in any goods at the time of their exportation;
	[def insrt Act 57 of 1998 s 3, effective 20 September 1999]
Exporters Club	
	[def rep Act 23 of 2015 s 2, effective 6 November 2015]
Fiji	includes the internal waters of Fiji, the Archipelagic waters of Fiji and the territorial seas of Fiji, as defined in the Marine Spaces Act 1977;
foreign parcels	means parcels either posted in Fiji and sent to a place outside Fiji or posted in a place outside Fiji and sent to a place in Fiji or in transit through Fiji to a place outside Fiji;
foreign port	means a place in a country other than Fiji to which aircraft or ships as the case may be, may have access;
goods	includes all kinds of articles, wares, merchandise, living creatures and movable property of any kind whatsoever;
goods under drawback	means any goods in relation to which a claim for drawback has been or is to be made;
identifier	means the identifier allocated to a registered user by the Comptroller under section 36C;
	[def insrt Act 57 of 1998 s 3, effective 20 September 1999]
import	with its grammatical variations and cognate expressions means to bring or cause to be brought within Fiji;
importer	includes an owner or his or her agent or any other person for the time being possessed of or beneficially interested in, any goods at the time of the importation thereof;
licensee	means a licensee of a bonded warehouse or an export warehouse;
	[def insrt Act 57 of 1998 s 3, effective 20 September 1999]
lodgement number	means any number allocated in sequential order either manually or by means of a numbering device by the proper officer under section 4 to any custom document;
	[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]
manufacture	means the making of goods of wares by manual labour or machinery especially on large scale;
	[def insrt Decree 9 of 2010 s 2, effective 1 January 2010]
manufacturer	with its grammatical variations and cognate expressions means the owner of goods or entity directly involved in making of goods or wares;
	[def insrt Decree 9 of 2010 s 2, effective 1 January 2010]
master	in relation to an aircraft or ship, means the person in charge or in command of that aircraft or ship, but does not include a person appointed for conduct of ships into or out of a port;
materials	means ingredients or components for using in the manufacture;
	[def insrt Decree 9 of 2010 s 2, effective 1 January 2010]
member of crew	means:

- a) in relation to an aircraft, the pilot, crew and attendants of the aircraft; and
- b) in relation to a ship, the master, mate, engineer or any other members of the crew of the ship;

[def insrt Act 23 of 1996 s 3, effective 25 October 1996]

Minister means the Minister responsible for finance;

[def insrt Act 28 of 1996 s 3, effective 27 December 1996]

mixing means merging together of 2 or more non-fluid materials in the manufacture process;

[def insrt Decree 9 of 2010 s 2, effective 1 January 2010]

name includes the registration mark of an aircraft or ship;

[def am Act 28 of 1996 s 3, effective 27 December 1996]

officer includes a person duly appointed and employed or a person or class of persons authorised by the Comptroller, to carry out or assist to carry out any of the provisions of the customs laws;

owner in respect of goods, includes a person being or holding himself or herself out to be the owner, importer, exporter, consignee or person possessed of or beneficially interested in or having control of or power of disposition over, the goods;

owner in respect of an aircraft or ship, includes the master or other responsible officer of that aircraft or ship and also any person acting as an agent for the owner and any charterer, operator or hirer;

package includes every means by which goods for carriage may be cased, covered, carried, enclosed, contained or packed;

parcel means a postal parcel or postal packet which is posted in Fiji and accepted by the Post Office as a packet or a parcel in accordance with the Posts and Telecommunications Act 1989 or which is received in Fiji from abroad by parcel post;

[def am Act 31 of 2016 s 51, effective 1 December 2016]

port means a place, whether on the coast or elsewhere, appointed by the Minister under section 4 as a port for the purposes of the customs laws;

process means substantial transformation;

[def insrt Act 8 of 2014 s 2, effective 21 November 2014]

produce means any tangible commodity extracted, cultivated or harvested from the land, underground, from the seas of Fiji, including from under the sea, from the seabed and beneath the seabed;

[def insrt Decree 9 of 2010 s 2, effective 1 January 2010]

producer with its grammatical variations and cognate expressions means the owner of goods who yields or causes to yield a tangible commodity;

[def insrt Decree 9 of 2010 s 2, effective 1 January 2010]

prohibited goods	and restricted goods mean respectively goods the importation or exportation of which is prohibited or restricted by or under the provisions of this or any other Act;
proper officer	means the officer authorised by the Comptroller to carry out any provision of the customs laws;
relevant traveller	means a person who intends to make an international flight or voyage whether, as a passenger on or as the pilot or a member of the crew of, an aircraft or ship;
[def insrt Act 23 of 1996 s 3, effective 25 October 1996]	
secure exports scheme	means a customs approved secure exports partnership scheme between the exporter and the Fiji Revenue and Customs Service under section 66B, where cargo may be accumulated for onward carriage, handling, transportation or exportation to places beyond Fiji;
[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]	
Service	means the Fiji Revenue and Customs Service established under section 3 of the Fiji Revenue and Customs Service Act 1998;
[def insrt Act 20 of 2018 s 2, effective 1 August 2018]	
ship	includes a ship, hovercraft, vessel or boat of any kind whatsoever, whether propelled by engine or otherwise or towed;
smuggle	means to import, introduce, export or to attempt to import, introduce or export goods with intent to defraud the customs revenue;
storage place	includes a customs area for the storage of goods before being finally released from customs control;
[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]	
Substantial transformation	means imported inputs of 2 or more items, each coded of 4 digits on the Harmonised Commodity Description and Coding System, which upon manufacturing or processing will result in a finished product that is substantially different from the original by virtue of a change to the classification of goods in its first 4 digits of the Fiji Standard Tariff based on the Harmonised Commodity Description and Coding System;
[def insrt Decree 9 of 2010 s 2, effective 1 January 2010]	
sufferance wharf	means a place, other than an approved place of loading or unloading, at which the Comptroller may, subject to such conditions as he or she may either generally or in any particular case impose, allow any goods to be loaded or unloaded;
system	means a Fiji Revenue and Customs Service automated cargo reporting or entry processing system;
[def insrt Act 57 of 1998 s 3, effective 20 September 1999 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]	
time of exportation	means the time at which goods are placed on board an aircraft or ship for the purpose of exportation;

time of importation	means the time at which an aircraft or ship importing goods actually lands in Fiji or enters a port, as the case may be;
tons register	means the net tonnage of any ship as set forth in the certificate of registry of such ship;
tranship	means to transfer, either directly or indirectly, any goods from an aircraft or ship arriving at a port in Fiji from outside Fiji to an aircraft or ship departing from Fiji;
transit	includes in respect of an aircraft or ship, the interim passage in Fiji of such aircraft or ship arriving from a place outside Fiji and proceeding thereafter to another place outside of Fiji and where the duration of time in Fiji does not exceed 4 consecutive days, excluding the vessel which is used as the principal asset in a Superyacht Charter arrangement from the above definition of "transit" throughout its duration of Superyacht Charter in Fiji and such vessel must then immediately depart for definite foreign destination upon completion or termination or premature termination of the Charter in Fiji;
[def subst Decree 19 of 2010 s 25, effective 6 April 2010]	
transit	in respect of goods, means all manifested goods on board an aircraft or ship (other than the aircraft's or ship's stores and manifested cargo for landing in Fiji) arriving at any airport or seaport in Fiji from outside Fiji but without finally landing in Fiji; and finally being exported from Fiji on the same aircraft or ship;
[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]	
transit	in respect of persons refers to all manifested persons on board an aircraft or ship (other than the aircraft's or ship's crew and manifested disembarking passengers) arriving at an airport or seaport in Fiji from outside Fiji but without finally disembarking in Fiji and finally departing from Fiji on the same aircraft or ship;
[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]	
transit shed	means a building appointed by the Comptroller under section 4 for the deposit of goods subject to customs control;
uncustomed goods	includes dutiable goods on which the full duties have not been paid and any goods, whether dutiable or not, which are imported or exported or in any way dealt with contrary to the provisions of the customs laws;
vehicle	includes every description of conveyance for the transport by land of human beings or goods;
warrant	for the purposes of customs laws shall be the paid entry declaration unique number automatically generated by the system on the forms prescribed and registered by means of an electronic message transmitted to the Fiji Revenue and Customs Service computer system after payment; and
[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]	

wharf	includes a quay, pier, jetty, landing place or similar place at or from which passenger or goods may be taken on board or landed from a vessel;
[def insrt Promulgation 14 of 2007 s 2, effective 1 July 2007]	

(2) In the construction of this Act, when anything or act has been or is required to be done within a specific number of hours, in reckoning such hours Saturdays, Sundays and public holidays shall be excluded and the expression "24 hours" or "48 hours" means respectively 24 or 48 consecutive hours of the day.

[subs (2) am Act 28 of 1996 s 3, effective 27 December 1996]

(3) For the purpose of the Act, any references wherever it appears the term "he" or "his" shall be deemed to include "she" or "her" and shall be used interchangeably.

[subs (3) insrt Decree 9 of 2010 s 3, effective 1 January 2010]

PART 2 ADMINISTRATION

(Section 3)

[Section 3] Customs authorities

(1) There shall be a Comptroller of Customs and Excise who shall administer this Act and be responsible for the enforcement of its provisions and the collection of revenue under it and who shall perform such other duties as the Fiji Revenue and Customs Service may assign to him or her.

[subs (1) subst Act 9 of 1998 s 55 and Sch 2, effective 1 January 1999; am Act 38 of 2017 s 7, effective 1 August 2017]

(2) The person for the time being appointed as the Chief Executive Officer of the Fiji Revenue and Customs Service shall hold office as the Comptroller.

[subs (2) subst Act 9 of 1998 s 55 and Sch 2, effective 1 January 1999; am Act 38 of 2017 s 7, effective 1 August 2017]

(3) The Comptroller may authorise any other officer or employee of the Fiji Revenue and Customs Service to exercise any of the powers conferred upon him or her by the customs laws except the power of delegation under this subsection.

[subs (3) subst Act 9 of 1998 s 55 and Sch 2, effective 1 January 1999; am Act 38 of 2017 s 7, effective 1 August 2017]

(4) The Minister may give to the Comptroller general or special directions which are not inconsistent with provisions of the customs laws.

[subs (4) subst Act 9 of 1998 s 55 and Sch 2, effective 1 January 1999]

(5) Every person employed on any duty or service relating to the Fiji Revenue and Customs Service by the orders or with the concurrence of the Comptroller is deemed to be the proper officer for that duty or service, and every act required by law at any time to be done by or with, any particular officer nominated for such purpose, if done by or with any person appointed by the Comptroller to act for such particular officer, is deemed to be done by or with such particular officer.

[subs (5) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(6) Every officer, when acting against any person under this Act, shall, if not in uniform, on demand declare his or her office and produce to the person against whom he or she is acting such document establishing his or her identity as the Comptroller may direct to be carried by such officer.

(7) Every officer shall be liable to serve in any place in Fiji and shall perform such duties as may be required of him or her by the Comptroller.

(8) Every officer concerned with the administration of the customs laws shall perform such duties and follow such procedures as the Comptroller may direct.

PART 3 APPOINTMENT OF PORTS AND PLACES

(Section 4–7)

[Section 4] Appointment of ports etc

(1) The Minister may, subject to such conditions as he or she thinks fit, by notice in the Gazette, appoint and specify, for the purposes of the customs laws, ports, airports, seaports and the limits of ports, airports and seaports.

[subs (1) am Promulgation 14 of 2007 s 3, effective 1 July 2007]

(1A) Where—

- a) a written law provides for the power to declare ports or airports; and
- b) such declaration will affect the functions, powers and duties under customs laws or the operations of the Fiji Revenue and Customs Service,

the Minister responsible for customs laws shall be consulted before such declaration is made.

[subs (1A) am Promulgation 14 of 2007 s 3, effective 1 July 2007 ; Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) The Comptroller may, subject to such conditions as he or she thinks fit, by notice in the Gazette, appoint and specify such of the following as he or she may consider necessary for the purposes of the customs laws in relation to areas within the limits of ports and airports appointed under subsection (1)—

- a) places of loading and unloading;
- b) boarding stations;
- c) transit sheds;
- d) places for the landing and embarkation of persons;
- e) places for the examination of goods, including baggage;
- f) peripheral boundaries and surveyor's coordinate bearings of the area; comprising the airport or seaport;
- g) entrances and exits whether general or specific, to and from an airport or seaport.

[subs (2) am Promulgation 14 of 2007 s 3, effective 1 July 2007]

(3) The Comptroller may, on application and subject to such conditions in any particular case as he or she may deem necessary, permit any place to be used temporarily as a place for loading or unloading and examination of goods, a boarding station, a sufferance wharf, a road or route over which goods under customs control may be conveyed, an entrance or an exit.

[subs (3) am Promulgation 14 of 2007 s 3, effective 1 July 2007]

(4) The Comptroller 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.

(5) The Comptroller may, on application and subject to such conditions as he or she may deem necessary, licence—

- a) any international airport;
- b) seaport;
- c) sufferance airport;
- d) wharf; or
- e) any other area,

for temporary storage of goods.

[subs (5) insrt Promulgation 14 of 2007 s 3, effective 1 July 2007]

(6) For the purposes of subsection (5), the Comptroller 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 consol freight station, a bonded export freight station or a bonded customs area.

[subs (6) insrt Promulgation 14 of 2007 s 3, effective 1 July 2007]

[Section 4A] Revocation of ports etc

(1) If the Minister intends to revoke or not to renew the licence of an airport or seaport, the Minister shall—

- a) obtain the concurrence of the Comptroller;
- b) consult the relevant Minister responsible for transport, civil aviation or seaport;
- c) notify the operator of the airport or seaport;
- d) notify such intention by notice in the Gazette, not being less than 3 months from the intended date in which the revocation or non renewal is to take effect.

(2) If notice is given under subsection (1)(c), no goods shall be deposited in such airport or seaport after its publication in the Gazette.

(3) For the purpose of subsection (1), the publication of the notice in the Gazette is deemed to be notice duly sent to and served on all persons interested in any goods then entered for or deposited in such airport or seaport and within the limits of that airport or seaport and persons associated with movement of persons at that airport or seaport.

(4) A proper officer may cause the goods to be taken to a customs warehouse, if—

- after the date specified in the notice referred to in subsection (1) or such later date as the Comptroller may in any case allow, any goods upon which duty has not been paid remain in the airport or seaport and within the limits of the airport or seaport; or
- after such notice has been served, any goods are deposited in the airport or seaport and within the limits of airport or seaport.

(5) For the purpose of subsection (3), the Comptroller may, permit such goods to be transferred to another airport or seaport.

(6) For the purpose of this section, any opening, unpacking, weighing, measuring, repackings bulking, sorting, lotting, marking, numbering, loading, unloading, carrying or landing of goods or their packages for the purposes of or incidental to, any facilities or assistance is to be performed or provided by the master or owner of the aircraft or ship at his or her expense.

[s 4A insrt Promulgation 14 of 2007 s 4, effective 1 July 2007]

[Section 5] Restrictions on entry etc to customs areas

(1) A person shall not enter a customs area when forbidden to do so by an officer, nor remain therein when requested to leave by an officer, when such area is temporarily restricted for the purpose of the administration of the customs laws.

(2) A person or vehicle entering or leaving and all goods being brought into or out of a customs area, may be detained by a proper officer for search or for examination.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable to a fine not exceeding \$10,000.

[subs (3) am Promulgation 14 of 2007 s 5, effective 1 July 2007]

[Section 6] Accommodation on wharves, airports, bonded consol freight stations, bonded export freight stations and bonded customs areas

(1) Every wharf, sufferance wharf, airport, sufferance airport, bonded consol freight stations, bonded export freight station and other bonded customs areas owner shall at his or her own expense provide—

- suitable furnished office accommodation on his or her wharf or sufferance wharf or sufferance airport, bonded consol freight station, bonded export freight station and bonded customs areas for the exclusive use of the officer employed at these locations; and
- such shed accommodation for the protection and examination and delivery of goods and baggage as the Comptroller may in writing require.

[subs (1) am Promulgation 14 of 2007 s 6, effective 1 July 2007]

(2) If the owner of a wharf, airport, sufferance wharf, sufferance airport, bonded consol freight station, bonded export freight station or bonded Customs areas contravenes any of the provisions of this section then—

- a) the appointment of a place of loading or unloading or a wharf, airport, sufferance wharf, sufferance airport, bonded consol freight station, bonded export freight station or bonded customs areas maybe withheld until the required accommodation is provided; or
- b) any existing appointment may be revoked.

[s 6 subst Act 28 of 1996 s 4, effective 27 December 1996 ; am Promulgation 14 of 2007 s 6, effective 1 July 2007]

[Section 7] Working days and hours and overtime charges

(1) The working days and hours of the Fiji Revenue and Customs Service shall be such as may be prescribed and, except with the permission of the Comptroller, no work connected with embarkation or disembarkation of passengers, the discharge, landing, loading or receipt of any cargo or other goods shall be performed outside the prescribed working days and hours.

[subs (1) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) When work is permitted by the Comptroller to be performed outside the prescribed working days and hours, the services of the officers involved shall be charged for at the prescribed rates.

PART 4 CUSTOMS CONTROL OF GOODS

(Sections 8–10)

[Section 8] Customs liability, goods subject to customs control

(1) The Fiji Revenue and Customs Service 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 officer.

[subs (1) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) The following goods shall be subject to customs control—

- a) all imported goods, whether imported by sea, air, stored in a bonded consol freight station or a bonded Fiji Revenue and Customs Service area, including goods imported through the Post Office, from the time of importation until removal for home consumption or until exportation, whichever first happens;
- b) all goods under drawback from the time of their being brought to a proper officer for examination until exportation or until release from customs control;
- c) all goods for export from the time when the goods are brought to any airport, seaport or place for exportation until exportation or until release from customs control;
- d) all goods on board any aircraft or ship while within any airport, seaport or place in Fiji;
- e) all goods in or intended for or removed from a tax free zone on which all duties and charges have not been paid and which have not yet been released from the control of the Fiji Revenue and Customs Service;
- f) all goods removed from a tax free zone intended for export until their export;
- g) all goods on board any vehicle, aircraft or vessel consigned to or removed from a tax free zone;
- h) [Repealed];
- i) all goods from any bonded warehouse or excise warehouse from the time of their being dispatched from such bonded warehouse or excise warehouse until exportation or until release from customs control;
- j) all goods verified by the Fiji Revenue and Customs Service within a secure exports scheme until exportation or until release from customs control;
- k) all goods that have been secured in a customs approved secure package under the secure exports scheme but not yet exported;
- l) all goods intended for trans-shipment;
- m) all restricted or prohibited goods;
- n) all goods being transferred between 2 customs areas;
- o) all goods being transferred from a bonded or excise warehouse to a downtown duty free shop.

[subs (2) am Act 23 of 1997 s 4, effective 24 December 1997 ; Act 9 of 2002 s 3, effective 1 July 2002 ; Promulgation 14 of 2007 s 7, effective 1 July 2007 ; Act 23 of 2015 s 3, effective 6 November 2015 ; Act 30 of 2016 s 3, effective 23 June 2016; Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(3) The Comptroller may, subject to such conditions as in any particular case he or she may deem necessary, extend the descriptions of customs control goods in subsection (2), temporarily meeting exigencies of any place (other than within the limits of seaports or airports) to be used temporarily as a place for loading or unloading and examination of goods, a boarding station, a sufferance airport or sufferance wharf, a road or route over which goods under customs control may be conveyed or entrance or exit.

[subs (3) insrt Promulgation 14 of 2007 s 7, effective 1 July 2007]

(4) The Comptroller may, temporarily appoint and specify areas or places outside the limits of airports and sea ports to be used temporarily for the purpose of storing, examination and clearance of goods, including baggage, subject to such conditions as may be notified when such areas or places are appointed and to the payment of such prescribed sum.

[subs (4) insrt Promulgation 14 of 2007 s 7, effective 1 July 2007]

(5) The Comptroller may, upon written application and subject to such conditions as he or she may deem necessary, permit any place in an area outside of airport or seaport peripheral boundaries, to be used for the purposes of subsections (3) and (4).

[subs (5) insrt Promulgation 14 of 2007 s 7, effective 1 July 2007]

(6) An appointment under subsection (4)—

- a) shall not be made until the operator that applies has furnished a memorandum of understanding with the Fiji Revenue and Customs Service regarding the security arrangement for import, export and trans-shipment of goods; and
- b) shall be subject to full compliance with subsection 5(2)(a) to (n).

[subs (6) insrt Promulgation 14 of 2007 s 7, effective 1 July 2007 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(7) The Comptroller may appoint and specify areas within the limits of airports and seaports as customs enclosed areas to be expressly demarcated for the parking and berthing of aircraft and vessels arriving from and departing to places outside Fiji and the operators of such airports or seaports shall have such boundaries to such places expressly marked to be easily visible to the pilot or master of aircraft and vessels.

[subs (7) insrt Promulgation 14 of 2007 s 7, effective 1 July 2007]

(8) Notwithstanding any existing airport or seaport appointed under the customs laws, all such airports or seaports shall conform to all requirements under this Act for the purposes of licensing by the Comptroller.

[subs (8) insrt Promulgation 14 of 2007 s 7, effective 1 July 2007]

[Section 9] Interference with goods subject to customs control

(1) A person shall not, except as may be allowed under the customs laws, alter or interfere in any way with goods subject to customs control.

(2) A person who contravenes subsection (1) is guilty of an offence.

[Section 10] Right of examination and cost

(1) The control of goods by the Fiji Revenue and Customs Service includes the right of the Fiji Revenue and Customs Service to examine at any time all goods subject to customs control.

[subs (1) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) The shipping, unshipping, carrying and landing of goods, including passengers' baggage and the bringing of such goods to the place of examination and the measuring, weighing, counting, unpacking and repacking and the opening and closing of the packages, shall be provided by and at the expense and risk of the owner, importer or exporter of the goods, as the case may be.

(3) If goods are detained or seized under this Act, the bringing of such goods from the place of examination to a Fiji Revenue and Customs Service warehouse or such other place as may be directed by the proper 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.

[subs (3) insrt Promulgation 14 of 2007 s 8, effective 1 July 2007 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

PART 5 ARRIVAL AND REPORT OF AIRCRAFT AND SHIPS (Section 11)

[Section 11] Ship to bring to on being hailed

The master of every ship arriving within Fiji shall bring his or her ship to for boarding when approached by or hailed or signalled from any vessel in the service of the Fiji Revenue and Customs Service or from any vessel in the service of the Government, flying the proper flag and shall provide the means to facilitate the boarding and disembarkation of the proper officer.

[s 11 am Act 28 of 1996 s 5, effective 27 December 1996 ; Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

PART 5A ADVANCED NOTIFICATION OF ARRIVAL OF AIRCRAFT OR SHIP (Sections 11A–21)

[Section 11A] Advanced notification of arrival of aircraft or ship

(1) Subject to customs laws, the pilot, commanding officer or agent of an aircraft, whether laden or in ballast, shall, not less than 9 hours or less than the actual flight time from the airport of departure outside Fiji to any airport in Fiji, but before arrival at a Fiji airport or at any other place especially allowed by the proper officer, notify the proper officer (in the prescribed form or by means of an electronic message and in the prescribed manner)—

- a) of the aircraft;
- b) of its passengers and crew;
- c) of its cargo and stores; and
- d) of any package for which there is no airway bill.

[subs (1) insrt Promulgation 14 of 2007 s 9, effective 1 July 2007]

(2) Subject to the customs laws, the master or agent of a ship, whether laden or in ballast shall, not less than 2 days before arrival from outside Fiji to any port in Fiji or at any other place especially allowed by the proper officer, notify the proper officer (in the prescribed form or by means of an electronic message and in the prescribed manner)—

- a) of such ship;
- b) of its passengers and crew;
- c) of its cargo and stores; and
- d) of any package for which there is no bill of lading.

[subs (2) insrt Promulgation 14 of 2007 s 9, effective 1 July 2007]

(3) The proper officer may permit the master or agent of an aircraft or ship to amend any obvious error in the notification or to supply any omission, which in the opinion of the proper officer results from accident or inadvertence, by providing an amended or supplementary notification in the prescribed manner.

[subs (3) insrt Promulgation 14 of 2007 s 9, effective 1 July 2007]

(4) The provisions of subsection (1) and subsection (2) shall not apply in relation to an aircraft or ship which is compelled by accident, stress of weather or other unavoidable cause to call at a place other than an airport or port, but the master of any such aircraft or ship shall in those circumstances—

- a) without any unnecessary delay report to an officer the circumstances which caused the aircraft or ship to call at such place and on demand produce to him or her the documents relating to the aircraft or ship, its cargo and passengers;
- b) not, without the consent of a proper officer or, in his or her absence, of a police officer, permit any goods to be unloaded or loaded or any of the crew or passengers to land from the aircraft or ship; and
- c) comply with any directions given by a proper officer or, in his or her absence, of a police officer with respect to any such goods and no passenger or member of the crew shall, without the consent of a proper officer or police officer, as the case may be, leave the aircraft or ship,

provided that nothing in this subsection shall prohibit the landing or unloading of passengers, crew or goods from an aircraft or ship where that landing or unloading is necessary for reasons of health, safety or the preservation of life or property.

[subs (4) insrt Decree 9 of 2010 s 4, effective 1 January 2010]

(5) A master, pilot, commanding officer or agent of an aircraft or ship who—

- a) fails to make a notification under subsection (1) or (2); or
- b) makes a notification in which any of the material particulars contained are false; or
- c) fails to comply with any direction given by the Comptroller for the purpose of this Part;

commits an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (5) insrt Promulgation 14 of 2007 s 9, effective 1 July 2007 ; am Decree 9 of 2010 s 4, effective 1 January 2010; Act 37 of 2017 s 2, effective 30 June 2017]

[Section 12] Master to facilitate boarding

The master of every aircraft or ship arriving in Fiji from outside Fiji, shall bring his or her aircraft or ship to, for boarding, at the boarding station appointed at an airport or port and shall provide the means to facilitate the boarding and disembarkation of the proper officer.

[Section 13] Penalty

The master of an aircraft or ship who, under the provisions of sections 11 or 12, when required to do so, refuses or does not facilitate the boarding or disembarkation of or neglects to receive any officer at any place in Fiji on board such aircraft or ship or neglects to bring his or her vessel to when required to do so, is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[s 13 am Decree 9 of 2010 s 5, effective 1 January 2010; Act 37 of 2017 s 3, effective 30 June 2017]

[Section 14] Procedure on arrival

(1) The master of every aircraft or ship arriving in Fiji—

- a) shall not, except where so allowed by the proper officer in any special circumstances, cause or permit the aircraft or ship to land, touch at or enter, any place in Fiji other than an airport or port;
- b) shall, on arriving at any airport or port, cause the aircraft or ship to come as quickly as the conditions of the airport or port permit up to the proper place of mooring or unloading without touching at any other place;
- c) shall, after arriving at the proper place of mooring or unloading, not take his or her aircraft or ship therefrom except with the authority of the proper officer.

(2) The provisions of subsection (1) shall not apply in relation to an aircraft or ship which is compelled by accident, stress of weather or other unavoidable cause to call at a place other than an airport or port, but the master of any such aircraft or ship shall in those circumstances—

- a) without any unnecessary delay report to an officer the circumstances which caused the aircraft or ship to call at such place and on demand produce to him or her the documents relating to the aircraft or ship, its cargo and passengers;
- b) not, without the consent of a proper officer or, in his or her absence, of a police officer, permit any goods to be unloaded or loaded or any of the crew or passengers to land from the aircraft or ship; and
- c) comply with any directions given by a proper officer or, in his or her absence, of a police officer with respect to any such goods and no passenger or member of the crew shall, without the consent of a proper officer or police officer, as the case may be, leave the aircraft or ship,

provided that nothing in this subsection shall prohibit the landing or unloading of passengers, crew or goods from an aircraft or ship where that landing or unloading is necessary for reasons of health, safety or the preservation of life or property.

(3) The master of a ship arriving in Fiji shall, if the Comptroller so requires, provide a proper officer boarding and remaining on the ship for the purposes of this Act with proper and sufficient food and suitable accommodation.

(4) A person who contravenes or fails to comply with any provision of this section is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (4) am Decree 9 of 2010 s 6, effective 1 January 2010; Act 37 of 2017 s 4, effective 30 June 2017]

[Section 15] Place of discharging cargo

The proper officer may, unless other provision is lawfully made, direct at what particular part of any airport or port or other place an aircraft or ship shall discharge its cargo.

[Section 16] Restriction on boarding before proper officer

(1) No person, except a port pilot, the medical officer for health for the port or any other person in the execution of his or her duty and duly authorised by the Biosecurity Authority of Fiji or the Comptroller, shall board an aircraft or ship before the proper officer.

(2) A person who contravenes the provisions of this section is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (2) am Decree 9 of 2010 s 7, effective 1 January 2010; Act 37 of 2017 s 5, effective 30 June 2017]

[Section 17] Provisions as to persons disembarking from or going on board an aircraft, ship etc

(1) The Comptroller may, for the purpose of the customs laws, give directions as to the procedure to be followed by any person going ashore, disembarking from or going on board, any aircraft or ship.

(2) A person who contravenes or fails to comply with any direction given by the Comptroller under the provisions of this section is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (2) am Decree 9 of 2010 s 8, effective 1 January 2010; Act 37 of 2017 s 6, effective 30 June 2017]

[Section 18] Report

(1) The master or agent of every aircraft or ship, whether laden or in ballast, shall, subject to the provisions of the customs laws, within 24 hours after arrival from outside Fiji at any airport or port or at another place especially allowed by the proper officer, make a report to the proper officer, in the prescribed form or by means of an electronic message transmitted to the system and in the prescribed manner, of such aircraft or ship and of its cargo and stores and of any package for which there is no bill of lading or air waybill.

[subs (1) am Act 57 of 1998 s 4, effective 20 September 1999]

(2) Every such report shall, except, where otherwise allowed by the proper officer, be made before bulk is broken and shall show separately any goods which are in transit, any goods which are for trans-shipment, any goods which are to remain on board for other ports in Fiji and any goods for re-exportation on the same aircraft or ship.

(3) The proper officer may permit the master or agent of an aircraft or ship to amend any obvious error in the report or to supply any omission, which in the opinion of the proper officer results from accident or inadvertence, by furnishing an amended or supplementary report in the prescribed manner.

(4) A master or agent of an aircraft or ship who—

- a) fails to make a report in accordance with the provisions of this section;
- b) makes a report in which any of the material particulars contained are false;
- c) except with the knowledge and consent of the proper officer, causes or permits bulk to be broken contrary to the provisions of this section; or
- d) except with the knowledge and consent of the proper officer, at any time after arrival, causes or permits any goods to be staved in, destroyed or thrown overboard or any packages to be opened,

shall unless such contravention is explained to the satisfaction of the proper officer, be guilty of an offence; and any goods in respect of which an offence has been committed contrary to paragraphs (a), (b) or (d) shall be liable to forfeiture.

[subs (4) am Act 57 of 1998 s 4, effective 20 September 1999]

[Section 19] Master to furnish information etc

(1) The master or agent of an aircraft or ship—

- a) shall answer fully and immediately all such questions relating to the aircraft or ship, its cargo, stores, baggage, crew and passengers, as may be put to him or her by the proper officer for the purposes of the customs laws;
- b) shall produce all such books and documents in his or her custody or control relating to the aircraft or ship, its cargo, stores, baggage, crew and passengers, as the proper officer may require for the purposes of the customs laws;
- c) shall, if required to do so by the proper officer, before any person disembarks, furnish to the proper officer who boards the aircraft or ship on arrival at an airport, seaport or other place, a correct list in the prescribed form of the names of the passengers disembarking and of those remaining on board the aircraft or ship, and, if required by the proper officer, the names of the master and of the officers and members of the crew; and
- d) shall, if required to do so by the proper officer, furnish to the officer at the time of furnishing the report, the clearance if any, of the aircraft or ship from the place from which the aircraft or ship arrived.

[subs (1) am Promulgation 14 of 2007 s 10, effective 1 July 2007]

(2) The operator of an international passenger air service shall provide access to passenger information, if requested by the Comptroller to allow authorised officers ongoing access to the operator's passenger information in a particular manner and form.

[subs (2) subst Promulgation 14 of 2007 s 10, effective 1 July 2007]

(3) Subsection (2) is not contravened if—

- a) the operator, at a particular time, cannot access its passenger information; or

b) the operator had a reasonable excuse for failing to provide the facilities and assistance in accordance with that subsection.

[subs (3) insrt Promulgation 14 of 2007 s 10, effective 1 July 2007]

(4) An authorised officer must only access an operator's passenger information for the purposes of performing his or her functions in accordance with the Act.

[subs (4) insrt Promulgation 14 of 2007 s 10, effective 1 July 2007]

(5) In this section—

Fiji international flight means a flight—

- a) from a place within Fiji to a place outside Fiji; or
- b) from a place outside Fiji to a place within Fiji;

international passenger air service means a service of providing air transportation of persons—

- a) by means of Fiji (international flights, domestic flights or other international flights);
- b) for a fee payable by persons using the flight service;
- c) in accordance with fixed schedules to or from fixed terminals over specific routes; and
- d) that is available to the general public on a regular basis;

operator, in relation to an international passenger air service, means a person, who conducts or offers to conduct, the service;

passenger information, in relation to an operator of an international passenger air service, means any information the operator of the service keeps electronically relating to—

- a) flights scheduled by the operator (including information about schedules, departure and arrival terminals and routes);
- b) payments by persons of fees relating to flights scheduled by the operator;
- c) persons taking or proposing to take, flights scheduled by the operator;
- d) passenger check-in and seating, relating to flights scheduled by the operator;
- e) numbers of passengers taking or proposing to take, flights scheduled by the operator;
- f) baggage, cargo or anything else carried or proposed to be carried, on flights scheduled by the operator and the tracking and handling of those things;
- g) itineraries (including any information about things other than flights scheduled by the operator) for people taking or proposing to take, flights scheduled by the operator; and
- h) any other information required by the Comptroller.

[subs (5) insrt Promulgation 14 of 2007 s 10, effective 1 July 2007]

(6) In this section, the flights referred to are any flight scheduled by the operator (not just Fiji international flights).

[subs (6) insrt Promulgation 14 of 2007 s 10, effective 1 July 2007]

(7) A master, agent or operator that contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 years.

[subs (7) insrt Promulgation 14 of 2007 s 10, effective 1 July 2007]

[Section 20] Power to detain ships etc

(1) Where at the expiration of a period of 21 clear days from the date of making a report under the provisions of section 18 of this Act of any aircraft or ship, or, where no such report was made, the date when it should properly have been made or such longer period as the Comptroller may allow, any goods are still on board the aircraft or ship, the Comptroller may authorise the detention of that aircraft or ship until the expenses specified in subsection (3) have been paid.

(2) Where, in the case of any derelict or other aircraft or ship coming, driven or brought into Fiji under legal process, by stress of weather or for safety, it is necessary to station any officer in charge thereof, whether on board or otherwise, for the protection of the revenue, the proper officer may detain that aircraft or ship until the expenses specified in subsection (3) have been paid.

(3) The Comptroller may recover from the owner or agent of an aircraft or ship detained under the provisions of subsections (1) or (2)—

- a) any expense incurred in watching and guarding such aircraft or ship and any goods contained therein; and
- b) where any goods are removed from an aircraft or ship to a customs warehouse by virtue of any of the provisions of the customs laws, the expenses of that removal.

[Section 21] Minimum size of ships

The Comptroller may order that no goods or class of goods shall be imported into or exported from Fiji in any ship or class of ships of less than 100 tonnes net tonnage.

[s 21 am Act 28 of 1996 s 6, effective 27 December 1996]

PART 6 UNLOADING AND REMOVAL OF CARGO

(Sections 22–29)

[Section 22] Authority for unloading

No goods shall be unloaded from an aircraft or ship except with the authorisation of the Comptroller or pursuant to any entry passed.

[Section 23] Unloading of goods

(1) All goods unloaded from an aircraft or ship shall be either—

- a) landed at such place as the proper officer may require; or
- b) transhipped or removed direct to the aircraft or ship into which they are to be transhipped or removed, as the case may be or after conveyance thereto in a boat, lighter or vehicle under such conditions as may be prescribed.

(2) All imported goods which have been unloaded or landed in accordance with the customs laws shall be conveyed to a customs area or, if the proper officer considers the goods to be unsuitable for storage in a customs area, to such other place as the proper officer may direct, at the expense of the owner; and such goods, if the proper officer so requires, shall be deposited in a transit shed or such other place as the proper officer may direct and such place shall, for the purpose of the deposit, be deemed to be a transit shed.

(3) A person who contravenes a provision of this section or fails to comply with a condition or direction imposed or given by the proper officer thereunder, is guilty of an offence and the goods in respect of which the offence is committed are liable to forfeiture.

[Section 24] Removal of goods

(1) Imported goods shall not be removed from any part of a customs area until authority for their removal has been given by the proper officer.

(2) Imported goods entered for warehousing shall be removed by the person entering the goods to the warehouse for which they were entered and shall be delivered into the custody of the person in charge of the warehouse.

(2A) A person who is an authorised officer shall deliver the goods entered under subsections (1) and (2) or cause such goods to be delivered from a customs area or bonded warehouse to a downtown duty free shop.

[subs (2A) insrt Act 30 of 2016 s 4, effective 23 June 2016]

(3) The goods referred to in subsection (2) shall be removed by such routes, in such manner and within such time, as the proper officer reasonably directs.

(4) If the proper officer so requires, a bond or other security shall be given for the warehousing of goods, goods entered pursuant to the Tax Free Zones Act 1991.

[subs (4) subst Act 9 of 2002 s 4, effective 1 July 2002 ; am Act 23 of 2015 s 5, effective 6 November 2015]

(5) A person who contravenes a provision of this section or fails to comply with a condition or direction imposed or given by the proper officer thereunder is guilty of an offence and the goods in respect of which the offence is committed are liable to forfeiture.

[Section 25] Stacking, weighing, repacking or sorting of goods on wharves or in storage places

(1) Any goods which are chargeable with duty shall be stacked or restacked in such place and in such manner as the proper officer may require.

(2) Any goods may, with the approval of the proper officer, be weighed, repacked or sorted on wharves or in storage places.

[Section 26] Goods in customs area etc deemed to be in aircraft or ship

Goods which have been unloaded and landed into a customs area are deemed to be in the importing aircraft or ship until they are delivered from the customs area, transit shed or other place appointed under section 4 and while the goods remain in the area, the owner or agent of the aircraft or ship shall be responsible, for the purposes of the customs laws, as if the goods had not been removed from the aircraft or ship.

[Section 27] Unentered goods

(1) Within 4 days after the completion of discharge of the importing aircraft or ship or at such other time as the Comptroller may direct, the owner of the aircraft or ship or his or her agent and including the operator of any area approved and licensed by the Comptroller under section 4 and including a bonded consol freight station or a bonded customs area, shall deliver to the Comptroller in such form and manner as the Comptroller may require, a list of all goods unloaded from such aircraft or ship and not yet cleared. A person who fails to comply with the provisions of this subsection is guilty of an offence.

[subs (1) am Promulgation 14 of 2007 s 11, effective 1 July 2007]

(2) Where any imported goods remain uncleared at the expiration of 3 days or such other period as the Comptroller may direct, from the date of completion of discharge of the importing aircraft or ship, the proper officer may direct the owner of the aircraft or ship or his or her agent and including the operator of any area approved and licensed by the Comptroller under section 4 and including a bonded consol freight station or a bonded customs area, to remove or store all or any of such goods to or at, a customs warehouse or such other place as the proper officer may

approve. A person who fails to comply with such a direction within 24 hours after the direction is given or such further period as the proper officer may specify, is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both, and the proper officer may cause any such goods to be removed to a customs warehouse or such other place as he or she may approve, at the expense of the owner of the aircraft or ship or his or her agent.

[subs (2) am Promulgation 14 of 2007 s 11, effective 1 July 2007; Act 37 of 2017 s 7, effective 30 June 2017]

(3) Where, under the provisions of subsection (2), goods are removed to or stored at a place approved by a proper officer, that place is deemed to be a customs warehouse and such goods are deemed to have been removed to and deposited in a customs warehouse.

(4) For the purpose of determining the amount of any duty chargeable, any imported goods which have remained uncleared after the expiration of 3 days as specified in subsection (2), are deemed to be warehoused goods and shall be assessed for duty in accordance with section 51.

[subs (4) am Promulgation 14 of 2007 s 11, effective 1 July 2007]

[Section 28] Missing goods

(1) When any dutiable goods shown on the import manifest of any aircraft or ship are not produced or otherwise duly accounted for to the proper officer, the master or agent of the aircraft or ship shall, on demand being made in writing by the proper officer, pay the duty on such goods within one month from the date of the demand.

(2) Where goods on which duty has been paid under the provisions of subsection (1) are, within one year of the time or report of arrival of such goods into Fiji, accounted for to the satisfaction of the proper officer, the proper officer shall refund the duty paid on such goods.

(3) Where it is necessary for the purpose of determining the amount of any duty chargeable under the provisions of subsection (1) or to classify any goods and assess the value, quantity, weight, measurement or strength thereof, such goods are deemed to be of such description and of such value, quantity, weight, measurement or strength as may be determined by the proper officer having regard to the information in his or her possession.

[Section 29] Goods abandoned by importer

Goods which have been abandoned by their importer shall be destroyed or otherwise disposed of within such time and in such manner as may be prescribed.

PART 7 ENTRY, EXAMINATION AND DELIVERY OF GOODS (Sections 30–36)

[Section 30] Entries

(1) An entry in respect of imported goods shall be made on the forms prescribed or by means of an electronic message transmitted to the system in respect of goods—

- a) for home consumption;
- b) for warehousing; or
- c) for trans-shipment,

as the case may be.

[subs (1) am Act 57 of 1998 s 5, effective 20 September 1999]

(1A) An import entry may be made by document or by computer.

[subs (1A) insrt Act 57 of 1998 s 5, effective 20 September 1999]

(2) The Comptroller may allow goods to be entered, under the provisions of this section, prior to importation.

[Section 30A] When entry of imported goods deemed to be made

For the purpose of this Act, an entry of goods to which section 30 applies is deemed to have been made when a lodgement number has been allocated to that entry either electronically or manually.

[s 30A insrt Act 57 of 1998 s 6, effective 20 September 1999]

[Section 31] Provisions relating to mail, personal baggage etc

(1) Notwithstanding any other provisions in this Act—

- a) mail bags and postal articles in the course of transmission by post may be unloaded and delivered to an officer of the Post Office without entry;
- b) goods which are the bona fide personal baggage of passengers or members of the crew of any aircraft or ship may, subject to the Customs Regulations 1986, be imported by those persons without entry.

(2) The proper officer may permit the unloading and delivery to the importer of—

- a) goods of a dangerous or inflammable nature;
- b) bullion, currency notes or coin;
- c) perishable goods;

- d) bulk goods; or
- e) air cargo which has been reported electronically to the Fiji Revenue and Customs Service, for which a self-assessment of duty has been made and in respect of which the duty has been paid by the importer;
- f) any other goods authorised by the Comptroller,

without entry, subject to an undertaking being given by the importer to the Fiji Revenue and Customs Service that the necessary entry will be provided within 48 hours of the time of delivery.
[subs (2) am Act 38 of 1999 s 2, effective 1 January 2000 ; Decree 31 of 2000 s 2, effective 26 October 2000 ; Act 23 of 2003 s 2, effective 1 January 2004 ; Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(3) An importer who contravenes an undertaking given under subsection (2) is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both, and the goods in respect of which the undertaking was given are liable to forfeiture.

[subs (3) am Decree 9 of 2010 s 9, effective 1 January 2010; Act 37 of 2017 s 8, effective 30 June 2017]

(4) If any goods under the control of the Fiji Revenue and Customs Service are of a perishable nature or become offensive in any way and such goods are not entered and cleared by the owner thereof within such time as the proper officer may allow, such goods may be immediately destroyed or sold and the proceeds of sale of any goods sold under this subsection shall be applied as provided under section 63.

[subs (4) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 32] Particulars of entries

(1) A person entering any goods shall—

- a) deliver to the Comptroller the entry of those goods in the prescribed form together with such copies as may be required by the proper officer or by means of an electronic message transmitted to the system;
- b) furnish such other particulars and documents as may be prescribed or as may be required by the proper officer, and
- c) at the same time, pay all duties due upon the goods, unless the goods are entered to be warehoused or are for trans-shipment or are free of duty:

[subs (1) am Act 57 of 1998 s 7, effective 20 September 1999 ; Decree 9 of 2010 s 10, effective 1 January 2010]

(2) The Comptroller may allow payment of duties in instalments, over a period not exceeding 9 months from date of first importation, provided the value for duty for any vessel or yacht shall not be less than \$2,000,000.

[subs (2) insrt Decree 9 of 2010 s 10, effective 1 January 2010]

(3) It shall be lawful for the Comptroller to require security under the provisions of sections 35(1), 35(2) and 35(3), provided that—

- i. the holder of a draft with a bill of lading in guarantee of the payment thereof may give notice to the Comptroller that he or she holds those documents and thereupon the Comptroller shall not allow the entry of such goods without the written consent of the holder of those documents; and
- ii. where the goods have been entered in compliance with the provisions of this section but have not been taken delivery of by the importer, the Comptroller 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 or other documents of title to such goods in guarantee of the payment thereof, notwithstanding that an entry has already been made by the importer and such goods shall be dealt with in accordance with the entry already presented and the importer shall have no claim against the Comptroller for any expenses or other costs incurred by him or her in connection with the entering of the goods.

[subs (3) insrt Decree 9 of 2010 s 10, effective 1 January 2010]

[Section 33] Provisional entries

(1) Where the importer of any goods for home consumption is unable immediately to supply any particulars required by the Comptroller for making an entry, he or she may make a declaration to that effect before the Comptroller and provide him or her with an undertaking to make a perfect entry within 6 months of the issue of a warrant number for the provisional entry and he or she may be authorised to make a provisional entry on payment of the sum specified in subsection (2).

[subs (1) am Act 57 of 1998 s 8, effective 20 September 1999]

(2) The importer shall, in respect of any provisional entry, produce such documentary evidence as the proper officer may require, including bank drafts, copies of orders, copies of confirmation of indent, catalogues, price lists and other documents as may be in his or her possession in support of such provisional entry and after examination, appraisal and computation of duty, shall pay into the Consolidated Fund the amount of estimated duty together with such additional sum as the proper officer may require.

(3) If an importer, within 6 months of the issue of a warrant number for the provisional entry, makes a perfect entry in respect of any goods for which a provisional entry has been made, the importer shall produce to the proper officer such documentary evidence as may be prescribed and upon production of the prescribed documentary evidence to the satisfaction of the Comptroller—

- a) any sum which may have been paid under this section by the importer in excess of the correct amount of duty shall be refunded to such importer and any sum to be so refunded

shall be a charge upon the Consolidated Fund, provided that the claim for the payment of duty paid in excess of the correct amount is made by the importer within one month from the date of the issue of the warrant number or such further period as the Minister may in special circumstances approve; and

- b) where the amount paid by the importer as estimated duty is less than the amount of duty payable, the importer shall pay to the Comptroller the amount of the deficit.

[subs (3) am Act 57 of 1998 s 8, effective 20 September 1999]

(4) Whenever an importer fails to produce any particulars required by the Comptroller and to make a perfect entry within 6 months or such further period as may be permitted by the Comptroller from the date of passing of the provisional entry, the sum paid under the provisions of subsection (2) shall not be refunded.

(5) When the owner of any goods for warehousing is unable to produce immediately the proper documents required for perfect entry of the goods, the proper officer may permit such goods to be deposited in a customs warehouse, but—

- a) the owner shall furnish a provisional warehouse entry which shall be as complete as possible for the removal of the goods to a customs warehouse; and
- b) if a perfect warehouse entry is not furnished within 12 weeks from the date of such provisional warehouse entry, the provisions of section 63 shall apply.

(6) The special attendance of an officer or officers, which may be required for the examination of goods in respect of which a provisional entry is made, shall be charged to and borne by the owner or importer of the goods at the rates prescribed.

[Section 34] Power to allow special entries

Notwithstanding anything to the contrary contained in this Act, the Comptroller may permit the entry of any goods in such form and manner and subject to such conditions as he or she may direct, to meet the exigencies of any case to which the provisions of this Act may not be strictly applicable.

[Section 34A] Assessment and payment of duty

(1) An entry for goods or a claim for refund or drawback in respect of goods made under this Act is deemed to be an assessment by the importer, exporter or licensee, as the case may be, as to the duty payable or refundable in respect of those goods.

(2) The Comptroller may approve a person who is required to pay any duty, fee, charge or penalty under the customs laws to pay the duty, fee, charge or penalty by electronic transfer of funds.

[s 34A insrt Act 57 of 1998 s 9, effective 20 September 1999]

[Section 35] Security

(1) The Comptroller may require and take security for compliance with the provisions of this Act and generally for the protection of the revenue of the Fiji Revenue and Customs Service and pending the giving of the required security in relation to any goods subject to the control of the Fiji Revenue and Customs Service, may refuse to deliver the goods or to pass any entry relating thereto.

[subs (1) renum Act 23 of 1998 s 20, effective 24 July 1998 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) In the case of anti-dumping and countervailing duties, the Comptroller, on receipt of a provisional notice under section 16 of the Dumping and Countervailing Duties Act 1998 may release goods after the amount of duty specified in the notice has been paid in cash or by such other means as the Comptroller may accept.

[subs (2) insrt Act 23 of 1998 s 20, effective 24 July 1998]

(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 Comptroller.

[subs (2) renum subs (3) Act 23 of 1998 s 20, effective 24 July 1998]

(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.

[subs (3) renum subs (4) Act 23 of 1998 s 20, effective 24 July 1998]

[Section 36] Cancellation of securities

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 Comptroller.

PART 7A CUSTOMS AUTOMATED ENTRY PROCESSING SYSTEM (Sections 36A–36F)

[Section 36A] Access to system

No person may transmit to or receive information from, a system unless the person is registered by the Comptroller as a user of the system.

[Section 36B] Registered users

(1) A person who wishes to be registered as a user of a system may apply in writing to the Comptroller in the prescribed form and must provide the prescribed information in relation to the application.

(2) The Comptroller may require an applicant under subsection (1) to provide any additional information the Comptroller considers necessary for the purpose of the application.

(3) The Comptroller may—

- a) register an applicant subject to any conditions (including the payment of any prescribed fee) the Comptroller thinks fit to impose; or
- b) refuse to register an applicant.

(4) The Comptroller must, in writing, notify an applicant of the decision made under subsection (3).

(5) A person aggrieved by a decision of the Comptroller under subsection (3) or section 36E(1) may appeal to the Minister who may confirm or vary the decision.

[Section 36C] Registered users to be allocated identifier

(1) A person who is registered as a user of a system must be allocated by the Comptroller for use in relation to the system an identifier in a form and of a nature determined by the Comptroller.

(2) A registered user who is allocated an identifier under subsection (1) must use the identifier for the purpose of transmitting information to or receiving information from, the system.

(3) The Comptroller may, by notice in writing, impose conditions on a particular registered user or on registered users generally, relating to the use and security of an identifier or identifiers.

[Section 36D] Use of identifier

(1) If any information is transmitted to a system using an identifier issued to a registered user by the Comptroller for the purpose, the transmission of the information is, unless the contrary is proved and subject to subsection (2), evidence that the registered user to whom the identifier has been issued has transmitted the information.

(2) If—

- a) an identifier is used by a person who is not entitled to use it; and
- b) the registered user to whom the identifier was issued has, prior to the unauthorised use of that identifier, notified the Fiji Revenue and Customs Service in writing that the identifier is no longer secure,

subsection (1) does not apply.

[subs (2) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 36E] Cancellation of registration of registered user

(1) If at any time the Comptroller is satisfied that a registered user of a system has—

- a) failed to comply with a condition of registration imposed by the Comptroller under section 36B(3)(a);
- b) failed to comply with or acted in contravention of, a condition imposed by the Comptroller under section 36C(3) relating to the use and security of the registered user's identifier; or
- c) been convicted of an offence under this Act relating to improper access to or interference with a system,

the Comptroller may cancel the registration of the registered user.

(2) Cancellation under subsection (1) is done by giving notice in writing to the registered user stating that the registration is cancelled and setting out the reasons for the cancellation.

[Section 36F] Customs to keep records of transmission

(1) The Fiji Revenue and Customs Service must keep a record of every transmission sent to or received from a registered user using a system.

[subs (1) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) A record kept under subsection (1) must be kept for 5 years from the date of the sending of or the receipt of the transmission or for any other period.

PART 7B DUTY SUSPENSION SCHEME FOR IMPORTED GOODS
(Repealed)

PART 8 BONDED WAREHOUSES

(Sections 37–56)

[Section 37] Licensing of warehouses

(1) No warehouse shall be licensed at any port or place other than a port or place appointed by the Minister in accordance with section 4.

(2) Notwithstanding the provisions of subsection (1), the Comptroller may in his absolute discretion licence a bonded warehouse in another place which meets the following criteria:

- a) the location of the warehouse shall be within a radius of 70 kilometres from a port in accordance with section 4; the Comptroller may in his or her absolute discretion approve a warehouse location which may exceed 70 kilometres from a port in accordance with section 4;
- b) the warehouse shall be located on the sealed main trunk road and in an area well-lit with street lights and in addition with floodlights around the warehouse building;
- c) The premises of the warehouse shall be surrounded by metal fencing not less than 3 metres in vertical height and the lower part of the fence shall be embedded into the ground footing; and
- d) The warehouse shall meet all other terms and conditions of Part 8 of this Act;
- e) the warehouse shall be certified by the occupational health and safety standards; and
- f) the warehouse shall be certified by the National Fire Authority for proper safety standards.

[subs (2) am Act 23 of 2015 s 6, effective 6 November 2015]

(3) A warehouse keeper who contravenes any of the provisions in subsection (2) shall be guilty of an offence and liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both, and the Comptroller shall invoke the provisions of section 39.

[subs (3) am Act 37 of 2017 s 9, effective 30 June 2017]

[s 37 subst Decree 9 of 2010 s 11, effective 1 January 2010]

[Section 38] Appointment of bonded warehouses

(1)

- a) The Comptroller may, on application, licence any building, enclosure or storage tank as a bonded warehouse for the deposit of goods permitted to be warehoused on first importation without payment of duty and may attach such conditions to the licence as he or she may see fit.
- b) A licence is required for each storage tank, notwithstanding that such tank may be connected by a pipe or other means to any other tank.

(2) The licence issued under subsection (1) shall be in such form as may be prescribed and shall be subject to the payment of such fees as may be prescribed.

(3) A licence shall not be issued under the provisions of this section until the person who applies therefore has furnished such security for the due payment of all duties and the due observance of the provisions of the customs laws as the Comptroller may require; and the Comptroller may, at any time, require a warehouse keeper to furnish such additional or new security as he or she may consider necessary for such purposes.

(4) The Comptroller may at any time for reasonable cause revoke any licence which has been issued under subsection (1).

(5) A warehouse keeper who, without the previous consent in writing of the Comptroller, makes any alteration in or addition to, a warehouse or who uses his or her warehouse or permits it to be used in contravention of any of the conditions of his or her licence, is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (5) am Decree 9 of 2010 s 12, effective 1 January 2010; Act 37 of 2017 s 10, effective 30 June 2017]

(6) An owner or occupier of a building, enclosure or storage tank who uses or permits such building, enclosure or storage tank to be used for the deposit of goods entered for warehousing while a valid licence under the provisions of this section is not in force is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (6) am Decree 9 of 2010 s 13, effective 1 January 2010; Act 37 of 2017 s 10, effective 30 June 2017]

[Section 39] Procedure on warehouse ceasing to be licensed

(1) Where the Comptroller intends to revoke or not to renew the licence of a warehouse, he or she shall, not later than 3 months before the date when the revocation is to take effect or the licence is due to expire, as the case may be, give notice of his or her intention specifying therein such date and no goods shall be deposited for warehousing in that warehouse after notice of intention to revoke or not to renew the licence has been given.

(2) The notice referred to in subsection (1) shall be given in writing and shall be deemed to have been served on all persons interested in any goods then entered for or deposited in that warehouse, if addressed to the warehouse keeper and delivered personally or sent by registered post.

(3) If—

- a) after the date specified in the notice referred to in subsection (1) or such later date as the Comptroller may in any case allow, any goods upon which duty has not been paid remain in the warehouse; or
- b) after such notice has been served, any goods are deposited for warehousing in the warehouse,

the proper officer may cause the goods to be taken to a customs warehouse, provided that the Comptroller may, if he or she thinks fit, permit such goods to be rewarehoused in another licensed warehouse.

[Section 40] Warehouse keeper to provide facilities

(1) Every warehouse keeper shall at his or her own expense—

- a) provide and maintain at the warehouse such office, lavatory and sanitary accommodation for the proper officer, with the requisite furniture, lighting and cleaning, as the Comptroller may require;
- b) provide and maintain such appliances and afford such other facilities, for examining and taking account of goods and for securing them, as the proper officer may require;
- c) stack and arrange the goods in the warehouse so as to permit reasonable access to and examination of every container at all times;
- d) provide all necessary labour and materials for the storing, examining, packing, marking, coopering, weighing and taking stock of the warehoused goods whenever the proper officer so reasonably requires; and
- e) keep a record of all goods warehoused and at all reasonable times keep such record available for examination by the proper officer.

(2) If, in respect of any warehouse, a warehouse keeper fails to comply with any of the provisions of this section, the Comptroller may direct that no further goods shall be warehoused in that warehouse until the warehouse keeper has complied with such provision or provisions to the satisfaction of the Comptroller.

(3) A warehouse keeper who contravenes any direction given by the Comptroller under the provisions of subsection (2) is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (3) am Decree 9 of 2010 s 14, effective 1 January 2010; Act 37 of 2017 s 11, effective 30 June 2017]

[Section 41] Times at which goods may be warehoused

(1) The Comptroller may give directions as to the times between which goods may be received at a warehouse and goods shall not be removed for warehousing except at such times as may allow them to be received at the warehouse within the times directed by the Comptroller for that purpose.

(2) If any goods are removed in contravention of subsection (1), the person removing such goods is guilty of an offence.

[Section 42] Procedure on warehousing

(1) A warehouse keeper shall immediately report, to the proper officer, the arrival of any goods at a warehouse.

(2) Goods which are, on importation, entered for warehousing are deemed to be duly warehoused as from the time certified by the proper officer.

(3) All goods delivered to be warehoused shall forthwith be removed to the warehouse for which they are entered and shall be deposited therein in the packages or lots in which they were entered for warehousing. Any goods warehoused in contravention of this subsection are liable to forfeiture.

(4) The warehouse keeper shall mark the containers or lots of any warehoused goods in such manner as the proper officer may direct and shall, subject to any further directions, keep them so marked while they are warehoused.

(5) A warehouse keeper who fails to comply with the provisions of this section is guilty of an offence.

[Section 43] Stowage and storage of warehoused goods

(1) The proper officer may direct in what parts of a warehouse and in what manner any goods shall be deposited and kept.

(2) If, except as permitted or directed by the proper officer—

- a) goods deposited in a warehouse are moved from that part of the warehouse in which they have been deposited;
- b) any alteration is made in the goods or in the packages or lots thereof; or
- c) any alteration is made in the marks or numbers of such goods or the containers or lots thereof,

the goods are liable to forfeiture.

(3) If goods are deposited in a warehouse contrary to the directions of the proper officer, the warehouse keeper is guilty of an offence.

[Section 44] Liability for production of warehoused goods

A warehouse keeper shall produce upon request by the proper officer any goods deposited in a warehouse which have not been lawfully removed therefrom and if he or she fails to produce any goods so requested he or she is guilty of an offence.

[Section 45] Deficiency in warehoused goods

If, at any time after any goods have been warehoused and before they are lawfully removed from a warehouse, the goods are found to be missing or deficient and it is not shown to the satisfaction of the Comptroller that their absence or deficiency can be accounted for by natural waste or other legitimate cause then, without prejudice to any penalty or forfeiture incurred under any other of the provisions of the customs laws, the Comptroller may require the warehouse keeper to pay immediately the duty on the missing goods or on the whole or any part of the deficiency, as the Comptroller sees fit.

[Section 46] Repacking etc

(1) The Comptroller may, subject to such conditions as he or she sees fit to impose, permit goods in a warehouse to be inspected, bulked, sorted, lotted, packed or repacked therein.

(2) A person who contravenes any conditions imposed by the Comptroller under subsection (1) is guilty of an offence.

[Section 47] Entry of warehoused goods

(1) Before goods are removed from a warehouse the owner of the goods shall deliver to the proper officer an entry thereof in such form and manner as the Comptroller may require.

(1A) An entry under subsection (1) shall clearly record the exact date and time of removal of such goods.
[subs (1A) insrt Promulgation 14 of 2007 s 12, effective 1 July 2007]

(1B) The Comptroller shall also at all times maintain a proper record of the removal of all goods from a warehouse.
[subs (1B) insrt Promulgation 14 of 2007 s 12, effective 1 July 2007]

(1C) The Comptroller—

- a) may, as and when it is necessary to do so for the purposes of carrying into effect the provisions of this Act, seal up any warehouse for the duration of time necessary for giving effect to such purposes; and
- b) shall keep and maintain proper record of all seals placed upon the entrance to and exit from any bonded warehouse, including the records of all seals used and the date of use of same.

[subs (1C) insrt Promulgation 14 of 2007 s 12, effective 1 July 2007]

(2) Subject to the customs laws, warehoused goods may be entered—

- a) for home consumption in Fiji;
- b) for exportation;
- c) for use as stores; or
- d) subject to such conditions as the Comptroller sees fit to impose, for removal to another warehouse.

(3) Goods are deemed to have been duly entered under the provisions of this section when a lodgement number has been allocated either electronically or manually.

[subs (3) am Act 57 of 1998 s 11, effective 20 September 1999]

(4) Except as otherwise provided under the customs laws, goods may not be removed from a warehouse before all duties and other charges payable thereon to the Government have been paid.

(5) A person who contravenes any of the provisions of this section is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (5) am Decree 9 of 2010 s 15, effective 1 January 2010; Act 37 of 2017 s 12, effective 30 June 2017]

[Section 48] Account to be taken of goods to be warehoused

(1) Upon the landing of any goods to be warehoused or as soon as practicable thereafter, the proper officer shall take a particular account of the goods.

(2) Except where otherwise provided, the account referred to in subsection (1) shall be that upon which the duties are ascertained and paid.

[Section 49] Constructive warehousing

If goods, which have been entered for warehousing either on importation or removal for re-warehousing, are entered for home consumption exportation or removal before they have been actually warehoused, the goods are deemed to have been warehoused and shall be delivered as such for home consumption, exportation or removal, as the case may be.

[Section 50] Samples

The Comptroller may allow the owner of any warehoused goods to take samples thereof subject to such conditions as he or she thinks fit.

[Section 51] Duty chargeable on warehoused goods

(1) The rates of duty chargeable on warehoused goods shall be those in force with respect to goods of that class or description at the date of the removal of the goods from the warehouse.

(2) Subject to the provisions of subsection (3), the amount payable in respect of any duty chargeable on goods under the provisions of this section shall be calculated in accordance with the quantity and value established by the first account taken of the goods after their importation.

(3) The proper officer may, either on the direction of the Comptroller or on the written application and at the expense of the owner of the goods—

- a) re-gauge, re-measure, re-weigh, examine or take stock of any warehoused goods;
- b) re-value any warehoused goods liable to duty ad valorem which have deteriorated in quality,

and in either such case the duty on such goods shall be chargeable on the basis of the examination or valuation under paragraphs (a) or (b) unless the proper officer considers that any loss or deterioration so revealed is or has been wilfully or negligently caused. In such event the duty shall, subject to such reduction, if any, as the Comptroller may allow, be chargeable according to the original account.

[Section 52] Period of warehousing

(1) If the owner does not lawfully remove any goods which have been deposited in a bonded warehouse within 12 months from the date the goods were deposited, the Comptroller may, after giving one month's notice of his or her intention to do so to the owner, proceed to sell the goods in the prescribed manner or otherwise dispose of the goods, and the proceeds of any sale of the goods shall be dealt with in accordance with section 63.

(2) For the purposes of subsection (1), the Comptroller may allow any goods deposited in a bonded warehouse to be re-warehoused by the owner for a further period determined by the Comptroller.

(3) If the owner does not lawfully remove the goods deposited in a bonded warehouse within the extended period approved by the Comptroller in accordance with subsection (2), the Comptroller may, after giving one month's notice of his or her intention to do so to the owner, proceed to sell or dispose of the goods in accordance with subsection (1).

[subs (2) subst Act 23 of 1995 s 3, effective 22 December 1995 ; am Promulgation 14 of 2007 s 13, effective 1 July 2007 ; Promulgation 41 of 2007 s 2, effective 23 November 2007 ; Promulgation 32 of 2008 s 2, effective 1 January 2009, amended Act 6 of 2020, s 2, effective 1 April 2020]

[Section 53] Goods not worth the duty may be destroyed

(1) The Comptroller may allow any warehoused goods, which are not worth the duty payable, to be destroyed under such conditions as he or she sees fit and may remit the duty thereon.

(2) Any charges which may be due in respect of destroyed goods which were stored in a customs warehouse shall be paid to the Comptroller.

[Section 54] Comptroller to have access to warehouse

The Comptroller shall have access at all reasonable times to every part of any warehouse and shall have the power to examine the goods therein, and, for that purpose may, if necessary, break open the warehouse.

[Section 55] General offences relating to bonded warehouses

Any person who, except with the authority of the proper officer, opens any of the doors or locks of a bonded warehouse or makes or obtains access to any such bonded warehouse or to any goods warehoused therein is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[s 55 am Decree 9 of 2010 s 16, effective 1 January 2010; Act 37 of 2017 s 13, effective 30 June 2017]

[Section 56] Transfer and removal of goods in a bonded warehouse

If the ownership of goods in a bonded warehouse is transferred from one person to another, the transferor of such goods shall inform the proper officer and the warehouse keeper in writing of the change of ownership. On removal of any goods from a bonded warehouse neither the Government nor any officer shall be responsible for ascertaining the title to the goods of the person removing the same.

PART 9 PROVISIONS RELATING TO CUSTOMS WAREHOUSES (Sections 57–63)

[Section 57] Customs warehouses

Customs warehouses shall be appointed by the Comptroller by notice in the Gazette.

[Section 58] Deposit of goods in customs warehouse pending payment of import duty

(1) The Comptroller may, in his or her discretion, allow the removal to and deposit of any goods in a customs warehouse, pending the payment of the import duty payable thereon.

(2) The removal and deposit of all goods in pursuance of the provisions of subsection (1) shall be performed by and at the risk and expense of the owner of the goods.

[Section 59] Delivery of goods from customs warehouse

Subject to section 63, the proper officer shall not permit the removal from a customs warehouse of any goods deposited therein in accordance with the provisions of section 58 until it is shown to his or her satisfaction that all duties, rent and other charges due in respect of the goods have been paid.

[Section 60] Rent to be charged

Where any goods are deposited in accordance with the provisions of section 58, in a customs warehouse or other place of deposit provided by the Government for the security of the duties thereon or until the regulations relating to the importation thereof have been complied with, the Comptroller may charge, demand and receive warehouse rent for such period as the goods remain therein, at such rates and subject to such conditions as may be prescribed.

[Section 61] Inflammable or dangerous goods

(1) Without prejudice to any other law for the time being in force, no goods of a dangerous, combustible, inflammable or offensive nature shall be lodged or deposited in a customs warehouse or a transit shed except with the previous authorisation of the Comptroller and when any such goods are landed, they may be deposited in any other place approved by the Comptroller in accordance with the provisions of section 4.

(2) While deposited in a place approved by the Comptroller in accordance with the provisions of subsection (1), goods shall be deemed to be in a customs warehouse unless duly cleared or warehoused in some approved place in the meantime; and such charges shall be made for securing, watching and guarding the goods until sold, cleared or warehoused as aforesaid as the Comptroller may deem reasonable.

(3) The State shall not be responsible for any damage which goods may sustain by reason of or during the time of, their being deposited in any place other than a customs warehouse or a transit shed and dealt with in pursuance of the provisions of this section.

[subs (3) am Act 28 of 1996 s 7, effective 27 December 1996]

[Section 62] Customs warehouses under control of Comptroller

Every customs warehouse shall be under the control of the Comptroller and the provisions of this Act relating to bonded warehouses shall, so far as is practicable, apply to customs warehouses.

[Section 63] Goods deposited in a customs warehouse may be sold etc

(1) Where unentered goods deposited in a customs warehouse under the provisions of section 27(2) are not lawfully removed within 7 days after deposit, they may be sold after 7 days' public notice of sale has been given by the proper officer, provided that goods which are of a perishable nature may be sold by the proper officer at any time after deposit in the customs warehouse and after notice of intention to sell has been given to the consignee.

[subs (1) am Promulgation 14 of 2007 s 14, effective 1 July 2007 ; Act 20 of 2018 s 3, effective 1 August 2018]

(2) Where any goods removed to or deposited in a customs warehouse under the provisions of section 58 or subsection 33(5) are not removed therefrom within 12 weeks after the date of entry therein, the goods may be sold by the Comptroller in the approved manner and the proceeds of sale thereof shall be applied as provided in subsection (3).

[subs (2) am Act 20 of 2018 s 3, effective 1 August 2018]

(3) Where goods are sold under this section, 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 Fiji Revenue and Customs Service.

[subs (3) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(4) If, after the proceeds of sale have been applied in accordance with subsection (3), 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 application therefore within 6 months of the date of the sale or such further period as the Comptroller may allow.

(5) If goods to be sold under this section are unlikely to raise a sum sufficient to cover the charges set out in subsection (3), then they may be destroyed or disposed of in such manner as the Comptroller may direct.

PART 9A PROVISIONS RELATING TO EXPORT WAREHOUSE (Sections 63A–63J)

[Section 63A] Sales from an export warehouse

Subject to the regulations, specified goods may be sold to a relevant traveller in an export warehouse when—

- a) delivered to the relevant traveller personally for export by him or her when making an international flight or voyage from Fiji; and
- b) exported by the relevant traveller when making that flight or voyage without the goods having been entered for export.

[Section 63B] Export warehouses under control of Comptroller

Every export warehouse shall be under the control of the Comptroller and the provisions of this Act relating to bonded warehouses shall, so far as is practicable, apply to export warehouses.

[Section 63C] Deposit of goods in export warehouse pending export

- (1) The Comptroller may, in his or her discretion, allow the removal to and display of any prescribed goods in an export warehouse, pending their sale to an exportation by, a relevant traveller.
- (2) The removal and deposit of all prescribed goods in pursuance of the provisions of subsection (1) shall be performed by and at the risk and expense of the licensee of the export warehouse.

[Section 63D] Application for export warehouse licence

- (1) An application for an export warehouse licence shall be made to the Comptroller in writing, as prescribed and shall state the place at which the applicant proposes to carry on business and shall be accompanied by the prescribed fee.
- (2) The application shall be made by the occupier of the premises to which it relates and shall be accompanied by such plans and particulars as the Comptroller may require.
- (3) A plan submitted under subsection (2) shall show the limits of the area and buildings or parts of buildings which would constitute the proposed export warehouse.
- (4) The application shall be accompanied by details of security and insurance policies as the Comptroller may require.

[Section 63E] Export warehouse to be gazetted

All export warehouses shall be appointed by the Comptroller by notice in the Gazette.

[Section 63F] Comptroller may impose conditions on warehouse licences

(1) The Comptroller may, at any time, impose conditions that, in the opinion of the Comptroller are necessary for the protection of revenue or for the purpose of ensuring compliance with this Act and may, at any time, revoke, suspend or vary a condition so imposed.

(2) Where the Comptroller makes a decision to revoke, suspend or vary a condition of an export warehouse licence in accordance with subsection (1), the Comptroller shall cause to be served, either personally or by post, on the proprietor of the export warehouse, a notice in writing setting out the Comptroller's findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

[subs (2) am Act 57 of 1998 s 12, effective 20 September 1999]

[Section 63G] Failure to comply with conditions

A person who fails to comply with any conditions imposed under section 63F(1) commits an offence and is liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[s 63G subst Act 57 of 1998 s 13, effective 20 September 1999 ; am Decree 9 of 2010 s 17, effective 1 January 2010; Act 37 of 2017 s 14, effective 30 June 2017]

[Section 63H] Revocation of an export warehouse licence

(1) The Comptroller may, at any time, in his or her discretion, revoke, cancel or suspend an export warehouse licence, issued under section 38 of this Act.

(2) Where the Comptroller makes a decision to revoke, cancel or suspend an export warehouse licence in accordance with sub section (1), the Comptroller shall cause to be served, either personally or by post, on the proprietor of the export warehouse, a notice in writing setting out the Comptroller's findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.

[Section 63I] Goods must be sold for export

(1) All goods in an export warehouse must be intended for sale to relevant travellers for exportation from Fiji.

(2) No goods may be sold to a relevant traveller without the production of—

- a) a current passport in the name of the relevant traveller; and
- b) an airline or shipping ticket which indicates that the relevant traveller will be departing Fiji within 5 days of the sale of goods;
- c) Other prescribed conditions relating to sales to relevant travellers must be adhered to and notwithstanding anything to the contrary contained in this Act, the Comptroller may

impose further conditions to meet the exigencies of any case to which the provisions of this Act may not be strictly applicable.

[Section 63J] Evidence of export

Where the licensee of an export warehouse does not produce the proof required as evidence that the goods delivered by him or her to a relevant traveller have been exported by that relevant traveller, the goods shall be deemed to have been entered and delivered, for home consumption by the licensee, as owner of the goods, on the day on which the goods were delivered to that traveller.

PART 9B PROVISIONS RELATING TO DOWNTOWN DUTY FREE SHOPS

(Sections 63K–63O)

[Section 63K] Licensing of downtown duty free shop

The Comptroller may, where he or she deems it necessary or desirable to do so and upon payment of the prescribed fee, issue a licence to any person qualified to operate a downtown duty free shop.

[Section 63L] Comptroller may impose conditions on downtown duty free shop

The Comptroller may, at any time, impose conditions that in the Comptroller's opinion is necessary for the protection of revenue or for the purpose of ensuring compliance with the Act, and may at any time revoke, suspend or vary a condition so imposed.

[Section 63M] Goods must be sold for exports

All goods which are not subject to duty and are to be sold at a downtown duty free shop, shall be sold at duty free prices to a relevant traveller for exportation from Fiji.

[Section 63N] Comptroller to have access to goods in downtown duty free shop

A downtown duty free shop owner shall, where a proper officer requests, provide free access to the downtown duty free shop or any premises attached to it, and allow the proper officer to open and inspect any package or container of goods.

[Section 63O] Regulations

The Minister may make regulations prescribing matters that are required to be prescribed or are necessary or convenient to be prescribed for the regulation of downtown duty free shops, including but not limited to—

- a) licensing terms or conditions issued by the Comptroller;
- b) procedures or guidelines;
- c) offences for failure to comply with any term or condition issued by the Comptroller or any requirement in the regulations;
- d) penalties for offences committed under any regulations prescribed under this section, with fines not exceeding \$200,000 or imprisonment for terms not exceeding

PART 10 PROHIBITED AND RESTRICTED IMPORTS AND EXPORTS

(Section 64)

[Section 64] Prohibition and restriction of imports and exports

- (1) The Minister may make regulations to prohibit or restrict the importation into Fiji or exportation from Fiji of any goods of any description whatsoever.
- (2) The power conferred by subsection (1) may be exercised—
 - a) by prohibiting the importation or exportation absolutely;
 - b) by prohibiting the importation or exportation of goods from or to a specified place; or
 - c) by prohibiting the importation or exportation of goods unless specified conditions or restrictions are complied with.

PART 11 EXPORTATION OF GOODS AND CLEARANCE OF AIRCRAFT OR SHIPS (Sections 65–76)

[Section 65] Loading etc

(1) Subject to section 66—

- a) no goods shall be taken on board an aircraft or ship for export unless the master or master's agent—
 - i. has delivered a manifest to the Comptroller by means of an electronic message 2 days ahead of the proposed time of departure for a ship and 9 hours ahead of the proposed date of departure for an aircraft on the customs system and the system has allocated a registration number in respect of that message; or
 - ii. has possession of an export entry declaration in respect of that shipment;
- aa) no goods shall be approved to be put on board an aircraft or ship for export unless the exporter or the exporter's agent—
 - i. has previously delivered to an officer an entry declaration outwards 2 days ahead of the proposed time of departure of a ship and 9 hours ahead of the proposed date of departure for an aircraft in the prescribed form; or
 - ii. in the case of an entry declaration made by means of an electronic message, has transmitted the appropriate message to a system and the system has allocated a registration number in respect of that message; and
 - iii. has paid all duties and charges payable upon the goods;
- b) no goods shall be put on board an aircraft or ship departing from Fiji except from an approved place of loading, a sufferance airport, a sufferance wharf or a ship on to which they have been loaded for the purpose of being transferred on to the aircraft or ship;
- c) no goods destined for export shall be received at any premises for storage or stowage unless the premises has been duly licensed by the Comptroller as a bonded Customs area.

[subs (1) am Act 57 of 1998 s 14, effective 20 September 1999; Promulgation 14 of 2007 s 15, effective 1 July 2007]

(2) A person who contravenes a provision of this section is guilty of an offence and is liable to a fine of 3 times the value of the export declared on the export entry declaration or a fine not exceeding \$50,000, whichever is the greater or to imprisonment for a term not exceeding 10 years or to both such fine and imprisonment and any goods in respect of which the offence is committed are liable to forfeiture.

[subs (2) am Promulgation 14 of 2007 s 15, effective 1 July 2007; Act 37 of 2017 s 15, effective 30 June 2017]

(3) Notwithstanding the penalty in subsection (2), the Comptroller shall prevent all further exports for that exporter until the penalty has been settled or served in full.

[subs (3) insrt Promulgation 14 of 2007 s 15, effective 1 July 2007]

[Section 65A] Storage and stowage of goods destined for export

(1) The Comptroller may, on application, licence any area to be a bonded export freight station whether inside or outside the limits of an airport of entry or a seaport of entry.

(2) A licence issued under this section shall—

- a) be in the prescribed form;
- b) be subject to the payment of prescribed fees; and
- c) be subject to any prescribed security arrangement.

(3) No licence shall be issued under subsection (1) unless the applicant has furnished a memorandum of understanding to the Fiji Revenue and Customs Service regarding the security arrangement for export and trans-shipment of goods, dealing in under bond goods, as articulated in section 67 and subject to full compliance with section 67(2).

[subs (3) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(4) The Comptroller may, subject to such conditions as he or she may think fit, by notice in the Gazette, appoint the following places as the Comptroller considers necessary for the purposes of the customs laws in relation to areas whether inside or outside the limits of airports and seaports licensed under this section—

- a) places for loading and unloading of export goods;
- b) places for examination of export goods;
- c) places for detention and storage of detained export goods;
- d) satisfactory office accommodation and furnishing; and
- e) satisfactory sanitation facilities.

[s 65A insrt Promulgation 14 of 2007 s 16, effective 1 July 2007]

[Section 66] Goods which may be loaded without entry

(1) Notwithstanding anything contained in this Act, the proper officer may permit—

- a) goods, which are the personal baggage of the passengers or members of the crew of an aircraft or ship, to be put on board the aircraft or ship and exported without entry;
- b) mail bags and postal articles in the course of transmission by post to be put on board an aircraft or ship and exported without entry;
- c) goods to be put on board an aircraft or ship departing from Fiji without an entry being immediately provided, unless—
 - i. an application is made by the owner in such manner and form as may be prescribed;
 - ii. an undertaking is given to the Comptroller by the owner of the goods or his or her duly authorised agent that he or she will furnish the necessary entry within 5

consecutive days of the departure of the aircraft or ship or within such further time as the Comptroller may specify; and

iii. such security, if any, is given by the owner or his or her duly authorised agent for the due payment of any export duties as the Comptroller may consider appropriate.

[subs (1) am Promulgation 14 of 2007 s 17, effective 1 July 2007]

(2) A person who fails to comply with an undertaking given under subsection (1)(c), shall pay \$100 per entry for each day after the period of 5 consecutive days or after such further period as the Comptroller may allow under the provisions of that subsection.

[subs (2) am Act 28 of 1996 s 8, effective 27 December 1996 ; Act 23 of 2003 s 3, effective 1 January 2004 ; Promulgation 14 of 2007 s 17, effective 1 July 2007 ; Act 20 of 2018 s 4, effective 1 August 2018]

[Section 66A] Purpose of secure exports scheme

The purpose of a secure exports scheme is to ensure that the goods to be exported under the scheme are—

- packed securely with no other goods; and
- conveyed securely and without interference to the place of shipment and shipped.

[s 66A insrt Promulgation 14 of 2007 s 18, effective 1 July 2007]

[Section 66B] Security for export freight stations

Sections 35 and 36 apply to security arrangements for any bonded export freight station.

[s 66B insrt Promulgation 14 of 2007 s 18, effective 1 July 2007]

[Section 66C] Customs approved secure exports schemes

(1) The Comptroller may, upon written application by a person involved in the carriage, handling, transportation or exportation of goods for export, approve a secure exports scheme, as a customs approved secure export scheme, subject to any conditions the Comptroller may impose.

(2) The Comptroller must ensure that the exporter concerned is notified promptly and in writing of any decision to give or to decline an approval under this section.

(3) An approval under this section must be in writing and takes effect either on the day after the date on which it is given or on any later date specified in the approval.

(4) Any approval under this section may be revoked by the Comptroller by notice in writing given to the exporter concerned and specifying both any conditions to which the revocation is subject and the date on or after which the revocation takes effect.

(5) Subsections (1) to (4) apply, with all necessary modifications, to any amendment to a secure exports scheme.

(6) Upon an application for the purpose by the exporter concerned, the Comptroller must revoke an approval under this section of all of a secure export scheme.

(7) The revocation of an approval must be subject to the condition that goods remain subject to the scheme until exported, if, at the time the revocation takes effect, the goods have been secured in a customs approved secure package under the scheme but not yet exported.

[s 66C insrt Promulgation 14 of 2007 s 18, effective 1 July 2007]

[Section 66D] Matters to be specified in secure exports scheme

(1) A secure exports scheme must specify how the goods to be exported under the scheme are to be packed, including—

- a) the secure package to be used;
- b) the seal or markings to be applied to the package, as soon as it is secured—
 - i. to show that, when it was secured, the package contained only the goods and was secured in an approved way; and
 - ii. to help to identify tempering or interference with the package after it was secured.

(2) A secure exports scheme must also specify any conditions required by the Comptroller as to—

- a) the persons who are to pack the goods and the security checks to be applied to those persons;
- b) the conditions in which packing is to occur (such as, the area or areas in which packing is to occur and the controls on the entry and exit of persons and goods to that area or those areas);
- c) any other requirements relating to how the goods are to be packed.

(3) A secure exports scheme must also specify how, on the completion of the packing of the goods, the goods are to be conveyed to the place of shipment and shipped, including any conditions required by the Comptroller as to—

- a) the persons who are to convey the goods and the security checks to be applied to those persons;
- b) the manner in which those goods are to be conveyed;
- c) any place or places of security en route to the place of shipment in which the goods are to be stored in the course of being conveyed to the place of shipment and shipped.

[s 66D insrt Promulgation 14 of 2007 s 18, effective 1 July 2007]

[Section 66E] Matters to be acknowledged in secure exports scheme

A secure exports scheme must include express acknowledgements by the exporter concerned—

- a) that the goods to be exported under the scheme are subject to the control of the Fiji Revenue and Customs Service from the time such goods are first secured in a customs approved secure package until their exportation;
- b) that the powers of detention and search under this Act are available in respect of a vehicle in Fiji if there are suspected to be in or on the vehicle goods that are or are suspected to be—
 - i. subject to the control of the Fiji Revenue and Customs Service; and
 - ii. in a customs approved secure package.
- c) that a customs officer may, under this Act, question any or all of the following persons about any cargoes destined to be exported—
 - i. a person who is the owner or operator of a vehicle that a customs officer has reasonable cause to suspect has in or on it or has within the previous 72 hours had in or on it, goods subject to the control of the Fiji Revenue and Customs Service and in a customs approved secure package;
 - ii. a person who is the owner or occupier of premises that a customs officer has reasonable cause to suspect have in or on them, goods subject to the control of the Fiji Revenue and Customs Service and in a customs approved secure package;
 - iii. a person employed by a person described in subparagraph (i) or (ii);
- d) that the powers in section 114 (which includes powers of examination) are available in respect of goods that are or are suspected to be—
 - i. subject to the control of the Fiji Revenue and Customs Service; and
 - ii. in a customs approved secure package.

[s 66E insrt Promulgation 14 of 2007 s 18, effective 1 July 2007 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 66F] Exports under drawback from a secure exports scheme premises

The Comptroller may permit a secure exports scheme operator to export its goods directly from a secure exports scheme premises provided that all conditions prescribed for export under drawback under sections 98 to 101 shall bind the operator of the secure exports scheme.

[s 66F insrt Promulgation 14 of 2007 s 18, effective 1 July 2007]

[Section 66G] Customs seals to goods exported under secure exports scheme

Nothing in this Act prevents a Fiji Revenue and Customs Service seal from being applied on any goods or any means of conveyance and the laws governing the application of the Fiji Revenue and Customs Service seals shall prevail.

[s 66G insrt Promulgation 14 of 2007 s 18, effective 1 July 2007 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 66H] Penalty when goods under secure exports scheme are found contrary to declaration

(1) If any goods under the secure exports scheme have been found by the Fiji Revenue and Customs Service at any stage, to be incorrect in any material particular from any declaration made to the Fiji Revenue and Customs Service, the operator of the secure exports scheme commits an offence and is liable on conviction to—

- a) a fine of 3 times the value of the export declared on the export entry declaration or a fine not exceeding \$50,000, whichever is the greater; or
- b) imprisonment for a term not exceeding 10 years or to both such fine and imprisonment;
- c) in addition to such penalties, an order that any goods in respect of which such offence is committed are liable to forfeiture.

[subs (1) am Act 31 of 2016 s 51, effective 1 December 2016; Act 37 of 2017 s 16, effective 30 June 2017; Act 38 of 2017 s 7, effective 1 August 2017]

(2) The Comptroller may revoke the approval given to that secure exports scheme operator, if operator is convicted under subsection (1) in addition to the penalties imposed to that operator.
[s 66H insrt Promulgation 14 of 2007 s 18, effective 1 July 2007]

[Section 67] Provisions relating to export of certain goods

(1) Before—

- a) warehoused goods;
- b) goods on which drawback may be claimed;
- c) dutiable goods intended for trans-shipment;
- d) restricted goods;
- e) goods approved under the secure exports scheme;
- f) goods in a customs approved secure package;
- g) goods from a Tax Free Factory;
- h) goods from a Tax Free Zone;
- i) [Repealed]
- j) goods from an excise factory; or
- k) goods from a Tax Free Region.

may be entered for exportation, trans-shipment or for use as stores for aircraft or ships, the proper officer may require the exporter or his or her duly authorised agent of the goods to give security, in such amount and subject to such conditions as he or she may think fit to impose that the goods shall be duly put on board the aircraft or ship for which they are entered and either duly exported and discharged at the place for which they are so entered or used as stores, as the case may be, within such time as the proper officer may specify.

[subs (1) am Promulgation 14 of 2007 s 19, effective 1 July 2007 ; Promulgation 32 of 2008 s 3, effective 1 January 2009 ; Act 23 of 2015 s 7, effective 6 November 2015]

(2) All goods in respect of which security is required under this section, in this Part referred to as “bonded goods”, shall, after being put on board, be duly exported and discharged at the place for which they are entered or used as stores for aircraft or ships, as the case may be.

(3) The proper officer may require the exporter or his or her duly authorised agent of any bonded goods which have been put on board an aircraft or ship for exportation to any place to produce, within such time as the proper officer may consider reasonable, a certificate from the customs authorities at the port of discharge of the due discharge thereat of the goods according to the export entry; and if the exporter or his or her duly authorised agent fails to produce such certificate or if such certificate does not show that the goods have been discharged thereat according to the export entry and the exporter or his or her duly authorised agent fails to account for any of the goods to the satisfaction of the proper officer, then the proper officer may refuse to allow the exporter or his or her duly authorised agent to enter for export and to export any other goods in respect of which security may be required under this section.

[subs (3) am Promulgation 14 of 2007 s 19, effective 1 July 2007]

(3A) The master or agent of any aircraft or ship including the operator of any storage area approved and licensed by the Comptroller under this Act and a bonded consol freight station, a bonded export freight station or any bonded Fiji Revenue and Customs Service area, in which goods under subsection (1) were received and approved for shipment by the Fiji Revenue and Customs Service shall be responsible to ensure the goods are actually shipped as entered for export.

[subs (3A) insrt Promulgation 14 of 2007 s 19, effective 1 July 2007 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(4) Where bonded goods which have been entered outwards have not been shipped according to the entry—

- a) the person who entered the goods or the exporter or his or her duly authorised agent thereof shall so notify the proper officer within 24 hours of the departure of the aircraft or ship or such other time as the proper officer may allow; and
- b) the person who entered the goods or the exporter or his or her duly authorised agent thereof shall forthwith re-warehouse the goods or again enter the goods for exportation or for use as stores for aircraft or ships.

[subs (4) am Promulgation 14 of 2007 s 19, effective 1 July 2007]

(5) Any person who enters or exports, bonded goods which are brought to be put on board an aircraft or ship and which, on examination by a proper officer, are found—

- (a)not to agree with the particulars of the entry thereof; or
- (b)being goods entered under drawback, not to be goods entitled to drawback,

is guilty of an offence and the goods in respect of which the offence is committed are liable to forfeiture.

(5A) For the purpose of subsection (4) or (5), the master, owner or agent of the aircraft or ship against which the proper officer had certified export documents for shipment shall also be required on demand, to produce a certificate from the customs authorities at the port of discharge of the due discharge thereat of the goods according to the export entry declaration.
[subs (5A) insrt Promulgation 14 of 2007 s 19, effective 1 July 2007]

(5B) For the purpose of subsection (5A), the master, owner or his or her duly authorised agent that—

- a) fails to produce such certificate; or
- b) produces a certificate that does not show that the goods have been discharged thereat according to the export entry declaration; and
- c) fails to account for any of the goods to the satisfaction of the proper officer, the proper officer may refuse to allow any further export by that master, owner or his or her duly authorised agent until the appropriate duties, fees and taxes due on those goods have been paid in full.

[subs (5B) insrt Promulgation 14 of 2007 s 19, effective 1 July 2007]

(6) A person who contravenes any condition imposed on him or her under this section in respect of any bonded goods is guilty of an offence and is liable to a fine of 3 times the value of the export declared on the export entry declaration or \$100,000, whichever is the greater or to imprisonment not exceeding 12 years and any goods in respect of which such offence is committed are liable to forfeiture.

[subs (6) am Promulgation 14 of 2007 s 19, effective 1 July 2007]

[Section 68] Short shipment of nonbonded goods

(1) Where goods, other than bonded goods, are entered for exportation and are not exported in the aircraft or ship for which they were so entered or are short shipped, the person who entered the goods or the exporter thereof shall so notify a proper officer within 9 hours of the departure of the aircraft or within 2 days of the departure of the ship or within such further time as the proper officer may allow.

[subs (1) am Promulgation 14 of 2007 s 20, effective 1 July 2007]

(2) A person who contravenes this section is guilty of an offence.

[Section 69] Provisions relating to goods liable to export duty

(1) No goods liable on export to duty shall be exported until the export duty or other charge relating thereto has been paid or security therefore given to the satisfaction of the proper officer.

(2) Where goods liable on export to duty are brought to be put on board an aircraft or ship and on examination by the proper officer are found not to agree with the particulars of the entry or application for shipment relating thereto, the person who entered the goods and the exporter thereof are guilty of an offence and the goods in respect of which the offence is committed are liable to forfeiture.

(3) If it is not possible to assess the exact amount of export duty to be paid, the Comptroller may accept a provisional entry or a security given under section 35.

[subs (3) insrt Promulgation 14 of 2007 s 21, effective 1 July 2007]

(4) Where a provisional entry for export is accepted by the Comptroller under subsection (3), an exporter must perfect the entry of those goods within a time approved by the Comptroller not exceeding 6 months from the date of the provisional entry.

[subs (4) insrt Act 20 of 2018 s 5, effective 1 August 2018]

(5) The Comptroller may, subject to such conditions as he or she deems fit and having regard to the provisions of this Act, determine the correct export value or duty to be paid in respect of a provisional entry accepted under subsection (3).

[subs (5) insrt Act 20 of 2018 s 5, effective 1 August 2018]

(6) Where a provisional entry has been accepted and the exporter fails to make perfect the entry within the approved time, the relevant exporter is guilty of an offence and is liable to a fine of—

- a) 25% of the amount of export value; and
- b) for each month that the exporter fails to make a perfected entry, an additional 2% of the export value, compounded monthly.

[subs (6) insrt Act 20 of 2018 s 5, effective 1 August 2018]

[Section 70] Certificate of origin and movement certificates

(1) The Comptroller may, where appropriate, upon application by an exporter, issue to him or her certificates of origin of goods or movement certificates in respect of goods, in such form as may be determined.

(2) The application for certificates shall be made by an exporter at the time of exportation or in exceptional circumstances within 6 days after exportation, subject to such conditions as the Comptroller may think fit.

(3) The Comptroller may require an exporter to produce such documentary or other evidence in support of an application for the issue of certificates of origin and movement certificates as may be necessary for the purpose of issuing any certificate.

(4) For the purpose of verifying the origin of goods in respect of which a certificate of origin or movement certificate has been issued, the Comptroller may within a period of 3 years from the date of issue of such certificate require an exporter to produce such documents and answer such questions as the Comptroller may consider necessary.

[Section 71] Giving incorrect material particulars

A person who, for the purposes of the issue or verification of a certificate of origin or movement certificate, makes a statement which is incorrect in a material particular in relation to—

- a) any form of application;
- b) any document produced or delivered in support of such application;
- c) any document produced or delivered in verification of any certificate; or
- d) any oral statement made to the Comptroller, whether for the purposes of the issue of a certificate or for the purposes of the verification of a certificate,

is guilty of an offence and is liable to a fine not exceeding \$25,000 plus 10% of the export value stated on the export entry declaration or to imprisonment for a term not exceeding 10 years, or both.

[s 71 am Promulgation 14 of 2007 s 22, effective 1 July 2007; Act 37 of 2017 s 17, effective 30 June 2017]

[Section 72] Clearance of aircraft or ship

(1) Before an aircraft or ship departs from a place in Fiji to an eventual destination outside Fiji, the master of the aircraft or ship shall obtain from the proper officer a clearance of the aircraft or ship for that departure.

(2) Before a certificate of clearance is granted, the master or owner or duly authorised agent of the aircraft or ship shall make due report outwards in the prescribed manner and shall—

- a) deliver to the Comptroller an outward cargo manifest and such copies thereof as may be required, in the prescribed form;
- b) answer questions relating to the aircraft or ship and to the cargo, crew, passengers, stores and voyage; and
- c) produce all documents required by the proper officer relating to the aircraft or ship and to the cargo and passengers.

(3) No certificate of clearance shall be granted for any aircraft or ship unless all requirements of the law in regard to such aircraft or ship and the inward and outward cargo, have been duly complied with.

(4) Any aircraft or ship which has been issued with a valid certificate of customs clearance for departure beyond Fiji shall depart Fiji—

- a) for the aircraft, within 2 hours from the time clearance is given;
- b) for the ship, within one day from the time clearance is given.

[subs (4) subst Promulgation 14 of 2007 s 23, effective 1 July 2007]

(5) If the aircraft or ship does not depart from Fiji within the times specified in subsection (4), the master or agent of the aircraft or ship commits an offence and is liable on conviction to a fine not exceeding \$25,000 or imprisonment for a term not exceeding 10 years or to both such fine and imprisonment.

[subs (5) insrt Promulgation 14 of 2007 s 23, effective 1 July 2007; Act 37 of 2017 s 18, effective 30 June 2017]

(6) If the master or agent is convicted under subsection (5), no customs clearance shall be issued to such aircraft or ship until the fine is paid in full.

[subs (6) insrt Promulgation 14 of 2007 s 23, effective 1 July 2007]

(7) The master or agent is not liable under subsection (5) if the master or agent shows reasonable excuse for such failure to comply with subsection (4).

[subs (6) insrt Promulgation 14 of 2007 s 23, effective 1 July 2007]

[Section 73] Power to refuse or cancel clearance of aircraft or ship

(1) For the purpose of the detention thereof in pursuance of any power or duty conferred or imposed by or under the customs laws or for the purpose of securing compliance with any provision of the customs laws being a provision relating to the importation or exportation of goods—

- a) the proper officer may at any time refuse clearance of any aircraft or ship; and
- b) where clearance has been granted to an aircraft or ship, any officer may at any time while the aircraft or the ship is within Fiji, demand that the clearance be returned to him or her.

(2) Any such demand may be made either orally or in writing, on the commander of the aircraft or the master of the ship and if made in writing may be served—

- a) by delivering it to him or her personally;
- b) by leaving it at his or her last known place of abode; or
- c) by leaving it on board the aircraft or ship with the person appearing to be in command or charge thereof.

(3) If a demand for the return of a clearance is made as aforesaid—

- a) the clearance shall forthwith become void; and
- b) if the demand is not complied with, the commander of the aircraft or the master of the ship is guilty of an offence.

[Section 74] Goods for export not to be discharged

(1) Subject to the customs laws, no goods which have been put on board an aircraft or ship for export, for use as stores or as passengers baggage, shall, save with the written consent of the proper officer and in accordance with such conditions as he or she may impose, be discharged at any place within Fiji or transferred to another aircraft or ship at any place in Fiji.

[subs (1) am Promulgation 14 of 2007 s 24, effective 1 July 2007]

(2) A person who contravenes this section or any condition imposed by the proper officer, is guilty of an offence and is liable to a fine of 3 times the total duty component of relevant goods at subsisting rates for home consumption or \$50,000 whichever is greater or to imprisonment not exceeding 10 years, or to both such fine and imprisonment and the goods in respect of which the offence is committed are liable to forfeiture.

[subs (2) am Promulgation 14 of 2007 s 24, effective 1 July 2007; Act 37 of 2017 s 19, effective 30 June 2017]

[Section 75] Discrepancies in cargo or stores

(1) The master of an aircraft or ship who, after clearance has been granted, fails to account to the Comptroller when required to do so for any goods specified or referred to in the outward manifest and not on board his or her aircraft or ship, is guilty of an offence.

(2) The master of an aircraft or ship which, when boarded by a proper officer, contains goods or stores not shown in the manifest, is guilty of an offence and the goods in respect of which the offence is committed are liable to forfeiture.

(3) If an aircraft or ship is boarded by a proper officer and any goods which—

- a) were reported on the arrival of the aircraft or ship as remaining on board for other ports in Fiji or for re-exportation or as stores; or
- b) after arrival, were put on board for removal under bond to another port in Fiji or for exportation or use as stores,

are not on board and due allowance has been made, in the case of stores, for any goods which might fairly have been consumed or used, then the master of the aircraft or ship is guilty of an offence.

[Section 76] Aircraft or ship to bring to at boarding station

(1) The master of every aircraft or ship departing from Fiji shall bring to at the boarding station for the purpose of disembarking any officer on board the aircraft or ship or for any other purpose of the customs laws or when required to do so by the proper officer.

(2) A master of an aircraft or ship who fails to comply with subsection (1) is guilty of an offence.

PART 12 AIRCRAFT AND SHIP'S STORES

(Sections 77–81)

[Section 77] Stores on board

(1) The proper officer may, on boarding an aircraft or ship, place under seal any dutiable goods on board such aircraft or ship, being either unconsumed stores of the aircraft or ship or personal property in the possession of any member of the crew in transit or of any passenger in transit for any other place outside Fiji.

(2) Except with the consent of the Comptroller, no seal referred to in subsection (1) may be broken or interfered with while the aircraft or ship remains at an airport or in a port and any person who breaks or interferes with such seal is guilty of an offence.

(3) If, when required by any officer, the master fails to make full disclosure of any unconsumed stores of the aircraft or ship or if the master or any member of the crew of any aircraft or ship knowingly or negligently fails to disclose any dutiable goods the property of or in the possession of the master or such member of the crew, as the case may be, such master or member of the crew is guilty of an offence and the goods in respect of which the offence is committed are liable to forfeiture.

[Section 78] Disposal of aircraft stores and ship's stores

Subject to the customs laws, aircraft stores or ship's stores, whether taken on outside Fiji or in Fiji, shall, unless entered for home consumption, only be used by the passengers and crew for the service of the aircraft or ship and no such stores shall be unshipped except with the consent of the Comptroller.

[Section 79] Surplus goods

Surplus aircraft stores or ship's stores may, with the authorisation of and at the direction of the Comptroller, be entered in like manner as goods or warehoused for future use as aircraft stores or ship's stores.

[Section 80] Shipment of stores

(1) Upon an application made in that behalf in the prescribed form by the master of an aircraft or a ship departing from Fiji, the Comptroller may permit, for the use on board the aircraft or ship, the loading of such stores as may be necessary according to the voyage upon which the aircraft or ship is about to depart, provided that no goods taken on an aircraft or ship shall be deemed to be stores, unless duly shipped as such and specified on the prescribed form.

(2) If the amount of goods applied for by the master or agent of any aircraft or ship in pursuance of the provisions of subsection (1) is, in the opinion of the Comptroller, in excess of the amount

which should normally be required, the Comptroller may restrict the amount of stores to such an amount as he or she considers fair and reasonable in the circumstances.

(3) Goods shipped otherwise than in accordance with the provisions of subsection (1) are deemed to be goods not entered and are liable to forfeiture.

(4) Goods required as stores for the master, crew or passengers of any aircraft or ship leaving Fiji and taken from any bonded or customs warehouse, shall be allowed to be exported free of duty.

[Section 81] Stores under seal

All stores taken on board an aircraft or ship free of customs duty in accordance with the provisions of this Act shall be placed under seal by an officer and shall remain under seal until the aircraft or ship has departed from Fiji on an outward voyage.

PART 13 GOODS FOR TRANS-SHIPMENT

(Sections 82 - 83)

[Section 82] Trans-shipment under bond

(1) Upon the entry inwards of an aircraft or ship, the Comptroller may, on the application of the owner or his or her agent, permit the trans-shipment of goods without payment of the import or export duty, if any, leviable thereon, if such goods are specifically entered for trans-shipment at the time of importation.

(2) Trans-shipment under the provisions of subsection (1) shall take place under the supervision of an 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.

(3) A person who, without the previous authorisation of the Comptroller, transships any goods or attempts to remove any goods from an aircraft or ship to another aircraft or ship, is guilty of an offence.

[Section 83] Power to sell after 6 months, goods entered for trans-shipment

Where any goods entered for trans-shipment are deposited in a customs warehouse, bonded warehouse, transit shed or customs area and are not transhipped, within a period of 6 months from the date when such goods arrived in Fiji, the Comptroller may in his or her discretion cause such goods to be sold in the prescribed manner and the proceeds of the sale shall be applied as specified in section 63(3) and (4).

PART 14 CARRIAGE OF IMPORTED UNDER BOND GOODS WITHIN FIJI

(Section 84)

[Section 84] Transfer of unentered goods for carriage within Fiji

(1) The Comptroller may, subject to such conditions and restrictions as he or she sees fit to impose, permit goods brought by an importing aircraft or ship to a port in Fiji but consigned to and intended to be delivered at some other port in Fiji, to be transferred before due entry of the goods has been made to another aircraft, vehicle or ship for carriage by air, land or sea to that other port and any goods so transferred and carried shall for the purposes of this Act be deemed to be carried coastwise.

(2) Imported goods which have been carried coastwise by virtue of the provisions of this section shall not be unloaded before due entry thereof has been made except if the goods are unloaded for deposit in a customs area and duly deposited therein. If any goods are unloaded in contravention of this subsection or are dealt with contrary to any condition or restriction imposed under the provisions of subsection (1), the master of the aircraft or ship or the agent commits an offence and, is liable on conviction to a fine of 3 times the total duty component at subsisting rates for home consumption of those goods or \$200,000 whichever is greater or to imprisonment not exceeding 12 years or both such fine and imprisonment.

[subs (2) am Promulgation 14 of 2007 s 26, effective 1 July 2007]

(3) Goods which have not been released from customs control and have been carried coastwise under this section shall not be unloaded before due import entry of such goods has been made except if the goods are unloaded for deposit in a customs area.

[subs (3) insrt Promulgation 14 of 2007 s 26, effective 1 July 2007]

(4) If any import dutiable goods for home consumption are unloaded in contravention of subsection (3) or are dealt with contrary to any condition or restriction imposed under subsection (1), the master of the aircraft or ship or the agent commits an offence and, is liable to—

- a) a fine of 3 times the total import duty component (as the case may be) at subsisting rates for home consumption on those goods or \$200,000 whichever is greater; or
- b) imprisonment not exceeding 12 years or to both such fine and imprisonment; and
- c) an order that such goods in respect of which the offence is committed be forfeited.

[subs (4) insrt Promulgation 14 of 2007 s 26, effective 1 July 2007]

(5) If a master or agent is convicted under subsection (2) or (4), the master or agent shall not be permitted to carry out any coastwise transactions until any fine imposed under the subsection (2) or (4) is paid in full.

[subs (5) insrt Promulgation 14 of 2007 s 26, effective 1 July 2007]

PART 14A TRANSFER OF EXCISE UNDER BOND GOODS BETWEEN EXCISE FACTORIES, EXCISE WAREHOUSES AND PORTS WITHIN FIJI

(Section 84A)

[Section 84A] Transfer of excisable goods

(1) The Comptroller may, subject to such conditions and restrictions as he or she sees fit to impose, permit goods transferred from an excise factory or an excise warehouse to a port in Fiji, to be transferred before due entry of the goods has been made to another aircraft, vehicle or ship for carriage by air, land or sea to that other port and any goods so transferred and carried shall for the purposes of this Act be deemed to be carried coastwise.

(2) Excise goods which have been carried coastwise under this section shall not be unloaded before due entry of such goods has been made except if the goods are unloaded for deposit in a customs area and duly deposited in such area.

(3) If any import dutiable goods for home consumption are unloaded in contravention of subsection (2) or are dealt with contrary to any condition or restriction imposed under subsection (1), the master of the aircraft or ship or the agent commits an offence and, is liable to—

- a) a fine not exceeding 3 times the total import duty component (as the case may be) at subsisting rates for home consumption on those goods or \$200,000, whichever is the greater;
- b) imprisonment for a term not exceeding 12 years or to both such fine and imprisonment; or
- c) to an order that the goods in respect of which the offence is committed be forfeited.

(4) If a master or agent is convicted under subsection (3), the master or agent who is convicted under this section shall not be permitted to carry out any further coastwise transactions until any fine imposed under the subsection (3) is paid in full.

PART 14B CARRIAGE AND ACCOUNTABILITY OF EXPORT UNDER BOND GOODS WITHIN FIJI (Sections 84B–87)

[Section 84B] Carriage and accountability of export under bond goods within Fiji

(1) The Comptroller may, subject to such conditions and restrictions as he or she sees fit to impose, permit goods described in section 67(1) transferred to a port in Fiji but consigned to and intended to be exported from Fiji to be transferred before due entry of the goods has been made to another aircraft, vehicle or ship for carriage by air, land or sea to that other port and any goods so transferred and carried shall for the purposes of this Act be deemed to be carried coastwise.

(2) Transferred goods which have been carried coastwise under this section shall not be unloaded before due entry of such goods has been made except if the goods are unloaded for deposit in a customs area and duly deposited in such area.

(3) Goods which have been carried coastwise under this section shall not be unloaded before due entry of such goods has been made except if the goods are unloaded for deposit in a customs area and duly deposited in such area.

(4) A master or agent who unloads goods contrary to subsection (2) or (3) commits an offence and, is liable on conviction to—

- a) a fine not exceeding 3 times the total import duty component (as the case may be) at subsisting rates for home consumption on such goods or \$200,000 whichever is greater;
- b) imprisonment for a term not exceeding 12 years or to both such fine and imprisonment; or
- c) an order that such goods in respect of which the offence is committed be forfeited.

(5) If a master or agent is convicted under subsection (4), the master or agent shall not be permitted to carry out any further coastwise transactions until any fine imposed under subsection (4) is paid in full.

[Section 85] Failure to produce goods transferred

(1) If the owner, operator or agent of an aircraft, vehicle or ship to which imported goods or excisable goods have been permitted to be transferred under the provisions of section 84, fails to produce such goods to the proper officer at the airport or port to which they have been consigned, such goods shall be deemed to have been removed for use in Fiji and, without prejudice to any other remedy in respect of any contravention of this or any other Act in respect of such goods, the owner, operator or agent shall, if so required by the proper officer within one

year from the date of arrival of the aircraft, vehicle or ship at such airport or port, pay on demand any duty chargeable appropriately on the importation or excise home consumption of the goods.
[subs (1) am Promulgation 14 of 2007 s 28, effective 1 July 2007]

(2) The provisions of section 28(3) shall apply for the purpose of determining any duty payable under subsection (1) or section 23(1) (including the relevant Parts of Schedules 1 and 2) of the Excise Act 1986, as the case may be.

[subs (2) am Promulgation 14 of 2007 s 28, effective 1 July 2007]

[Section 86] Goods landed at another port

Goods intended to be landed at one port in Fiji but landed at another shall be treated in respect of storage charges as goods entered for trans-shipment.

[Section 87] Licence to carry coastwise

Licences to enable foreign-going ships, arriving at a port from any place beyond Fiji, to carry coastwise within Fiji goods or passengers not arriving therein from abroad or not to be carried therein beyond Fiji (hereafter called "licences to carry coastwise") may be issued by and at the discretion of the proper officer of the Fiji Revenue and Customs Service at any port of entry and shall be subject to such conditions as the Comptroller may impose, provided that this section shall not apply to yachts, pleasure launches and other similar ships carrying solely passengers for pleasure without hire or reward.

[s 87 am Act 28 of 1996 s 9, effective 27 December 1996 ; Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

PART 15 IMPORTATION AND EXPORTATION BY POST

(Sections 88–91)

[Section 88] Entry of postal articles

(1) Postal parcels and postal packets may be entered at such place and in such manner as the Comptroller may direct.

(2) Any officer in the service of the Post Office performing any duty in relation to the importation or exportation of any postal article shall perform such duty in accordance with this Act.

[Section 89] Production of postal articles

All imported postal parcels and postal packets and all postal parcels and postal packets intended for exportation shall, if the Comptroller so requires, be produced by an officer of the Post Office to the proper officer, either at the port of arrival in or departure from Fiji, as the case may be or at such other place in Fiji as the Comptroller may direct and, for that purpose, the officer of the Post Office shall be deemed to be the agent of the importer or exporter.

[Section 90] Customs declaration forms may be accepted in lieu of entries

(1) When goods are imported in postal parcels or postal packets, the Comptroller, in his or her discretion, may accept for the purpose of assessing the duty on the goods the customs declaration on the form provided by the postal administration in the country of origin, in lieu of the entry required under the customs laws.

(2) Where goods are exported by post, the Comptroller 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 the customs laws.

[Section 91] Entry of postal parcels and packets

Where a postal parcel or postal packet or any part of its contents is on examination found—

- a) not to agree with any declaration which accompanies or is affixed to such postal article or with any entry, invoice or other document purporting to relate to its contents and which may be either transmitted therewith or produced by the addressee;
- b) to consist of goods prohibited from being imported or exported, as the case may be; or
- c) to consist of goods regulated by or under the customs laws and imported or exported contrary to any conditions regulating such importation or exportation,

such postal article and all its contents shall be deemed to be goods imported or exported contrary to the customs laws and shall be dealt with in accordance with the customs laws.

PART 16 DUTIES

(Sections 92–101B)

[Section 92] Liability to duty

(1) Subject to the customs laws, import duty is payable on all goods imported into Fiji at the rates and in the circumstances specified in the Customs Tariff Act 1986 and in any other law relating to import duties.

[subs (1) subst Act 6 of 1992 s 3, effective 22 December 1992]

(2) Subject to the customs laws, export duty is payable on the goods and at the rates and in the circumstances specified in the Customs Tariff Act 1986 and in any other law relating to export duties.

[subs (2) subst Act 6 of 1992 s 3, effective 22 December 1992]

(3) The duty on all goods imported or entered for home consumption or exported shall, immediately on their importation or entry for home consumption or, as the case may be, on the delivery to the sites or other proper officer of the entry for the export of the goods or upon transmission to the system of an electronic message, constitute a debt due to the Government.

[subs (3) subst Act 6 of 1992 s 3, effective 22 December 1992 ; am Act 57 of 1998 s 15, effective 20 September 1999 ; Act 20 of 2018 s 6, effective 1 August 2018]

(4) Such debt shall be owing by the importer, or, as the case may be, the exporter of the goods, and, if there are several importers or exporters (whether at or at any time after the time of importation or, as the case may be, exportation) then jointly and severally by all of them.

[subs (4) subst Act 6 of 1992 s 3, effective 22 December 1992]

(5) Subject to any special provisions made by this Act in that behalf, such debt shall become due and payable as soon as entry of the goods for home consumption has been made or the goods have been entered for delivery to a manufacturing area or the delivery of the entry for the export of the goods has been made to the Comptroller or other proper officer or upon transmission to the system of an electronic message, export of the goods have been wrongfully landed or shipped or otherwise wrongfully dealt with without having been entered for home consumption or for delivery to a manufacturing area or for export, as the case may be or any other offence against this Act has been committed in respect of the goods.

[subs (5) subst Act 6 of 1992 s 3, effective 22 December 1992 ; am Act 57 of 1998 s 15, effective 20 September 1999]

(5A) The Comptroller may, subject to such conditions, as he or she may impose to ensure compliance with this Act for the protection of the revenue, approve any petroleum company to defer the payment of import duty on imported petroleum products.

[subs (5A) insrt Act 23 of 2003 s 4, effective 1 January 2004]

(6) The Comptroller may, subject to such conditions as he or she may impose to ensure compliance with this Act and for the protection of the revenue, approve any company or person

licensed under section 7 of the Tax Free Zones Act 1991, to defer payment of Value Added Tax on imports. This subsection shall not apply to any such company or person who has not registered for Value Added Tax under the Value Added Tax Act 1991.

[subs (6) subst Act 6 of 1992 s 3, effective 22 December 1992 ; am Act 9 of 2002 s 6, effective 1 July 2002 ; Act 23 of 2015 s 8, effective 6 November 2015 ; Act 20 of 2018 s 6, effective 1 August 2018]

(6A) The Comptroller may, subject to such conditions as he or she may impose to ensure compliance with this Act and for the protection of the revenue, approve any company or person licensed under regulation 7 of the Income Tax (Tax Free Region Incentives) Regulations 2016, to defer payment of Value Added Tax on imports. This subsection shall not apply to any such company or person who has not registered for Value Added Tax under the Value Added Tax Act 1991.

[subs (6A) insrt Promulgation 32 of 2008 s 4, effective 1 January 2009 ; am Act 31 of 2016 s 51, effective 1 December 2016]

(7) Where a company or person has received approval under subsection (6) and (6A) of this section, the due date for payment for any debt due shall be 90 consecutive days after the end of the duty accounting period during which it would otherwise have become payable.

[subs (7) subst Act 6 of 1992 s 3, effective 22 December 1992 ; am Promulgation 32 of 2008 s 4, effective 1 January 2009]

(7A) Where a petroleum company has received approval under subsection (5A) of this section, the due date for payment of import duty due shall be the third working day after the end of the duty accounting period during which it would otherwise have become payable.

[subs (7A) insrt Act 23 of 2003 s 4, effective 1 January 2004]

(8) For the purposes of subsection (7), the expression "duty accounting period" in relation to any company or person, means a calendar month in which goods may be imported or entered for Customs purposes, whichever is the latter.

[subs (8) subst Act 6 of 1992 s 3, effective 22 December 1992]

(8A) For the purposes of subsection (7A), the expression "duty accounting period" in relation to any petroleum company means a period of one week from Monday to Sunday, in which goods may be imported, exported, transferred or entered into home consumption.

[subs (8A) insrt Act 23 of 2003 s 4, effective 1 January 2004]

(9) Where any such debt is not paid by the approved company or person by the due date pursuant to subsection (7) of this section, the Comptroller may, in his or her discretion, suspend or withdraw his or her approval or may vary the conditions under which the approval was given.

[subs (9) subst Act 6 of 1992 s 3, effective 22 December 1992]

(9A) Where any such import duty is not paid by the approved petroleum company by the due date pursuant to subsection (7A) of this section, the Comptroller may, in his or her discretion, suspend or withdraw his or her approval or may vary the conditions under which the approval was given.

[subs (9A) insrt Act 23 of 2003 s 4, effective 1 January 2004]

(10) The owner of the goods may make advance payments of duty to a prepayment facility provided by the Fiji Revenue and Customs Service.

[subs (10) insrt Act 23 of 2015 s 8, effective 6 November 2015 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(11) The Comptroller may deduct the duty from the prepayment facility upon importation of the goods.

[subs (11) insrt Act 23 of 2015 s 8, effective 6 November 2015]

(12) The Comptroller may, subject to such terms and conditions as he or she may impose, approve any person or class of persons as persons who may defer the payment of duty due and, for that purpose, may determine a duty accounting period and may suspend or withdraw that approval or vary any term or condition under which the approval is given or vary the duty accounting period.

[subs (12) insrt Act 23 of 2015 s 8, effective 6 November 2015]

(12A) The Comptroller may approve an authorised economic operator as a person to whom subsection (12) may be applied for the purposes of allowing the deferment of payment of any duty due under this section.

[subs (12A) insrt Act 20 of 2018 s 6, effective 1 August 2018]

(13) Where the Comptroller makes any decision under subsection (12), the persons or class of persons affected shall be advised of the decision by notice in writing.

[subs (13) insrt Act 23 of 2015 s 8, effective 6 November 2015]

(14) Where the payment of any duty has been deferred in accordance with subsection (12) and the duty remains unpaid by the due date, the relevant importer or, as the case may be, the exporter is guilty of an offence and is liable to a fine of—

- a) in the case of a person that is not an authorised economic operator—
 - i. 5% of the amount of the duty unpaid; and
 - ii. for each month that the duty remains unpaid, an additional 2% of the amount of the duty unpaid, compounded monthly; or
- b) in the case of an authorised economic operator, 25% of the amount of duty unpaid at the due date for each month of default of payment.

[subs (14) subst Act 20 of 2018 s 6, effective 1 August 2018]

(15) Where for any reason the amount of duty in respect of which a fine has been imposed under subsection (14) is amended, the fine shall, where necessary, be adjusted accordingly.

[subs (15) subst Act 20 of 2018 s 6, effective 1 August 2018]

(16)

[subs (16) rep Act 20 of 2018 s 6, effective 1 August 2018]

(17)

[subs (17) rep Act 20 of 2018 s 6, effective 1 August 2018]

[Section 92A] Authorised economic operators

(1) The Comptroller may, upon the receipt of an application made in the approved form, approve a person as an authorised economic operator for the purposes of encouraging compliance with customs laws and improving efficiency in customs related activities.

(2) Pursuant to subsection (1), the Comptroller may endorse a framework or a policy regulating the conduct of authorised economic operators and the benefits and services which such operators may be eligible to under this Act.

[s 92A insrt Act 20 of 2018 s 7, effective 1 August 2018]

[Section 93] Rates of duty applicable

(1) Subject to sections 27 and 51, import duties shall be paid at the rate in force at the time of importation, irrespective of the date when the goods liable to such duty are entered for home consumption.

[subs (1) subst Act 6 of 1992 s 4, effective 22 December 1992]

(2) If in accordance with section 30(2), goods are entered before the arrival at the port of discharge of the aircraft or ship in which they are imported, the import duty upon them shall be paid at the rate in force at the time of importation.

[subs (2) subst Act 6 of 1992 s 4, effective 22 December 1992]

(3) Export duty shall be paid at the rate in force at the time of exportation, irrespective of the date when the goods liable to such duty are entered for export, provided that, in the case of goods exported by post, the rate of duty payable shall be the rate applicable when such goods are received by the Post Office.

[Section 94] Disputes concerning duty payable

(1) If any dispute arises as to the amount or rate of duty payable in respect of any goods or as to the liability of any goods to duty under any customs law, the owner of the goods may pay under protest the sum demanded by the Comptroller as the duty payable in respect of the goods and thereupon the sum so paid shall, as against the owner of the goods, be deemed to be the proper duty payable in respect of the goods unless the contrary is determined in an action brought in pursuance of this section.

(2) The owner may—

- a) if the dispute relates to the decision by the Comptroller upon any of the matters specified in the Schedule, within 3 months after the date of payment, enter an appeal to the Court of Review established under the provisions of section 174;

b) in any other case, within 3 months after the date of payment, bring an action against the Comptroller in any court of competent jurisdiction for the recovery of the whole or any part of the sum so paid.

(3) No action shall lie for the recovery of any sum paid under the provisions of subsection (1) unless, before payment is made, the words “paid under protest” are written on every copy of the entry of the goods presented to the Fiji Revenue and Customs Service and signed by the owner of the goods or his or her agent or are transmitted to the system by a registered user.

[subs (3) am Act 57 of 1998 s 16, effective 20 September 1999 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(4) If the sum demanded by the Comptroller as the duty payable on any goods is not paid, the Comptroller may refuse to pass an entry or to release such goods unless otherwise directed by an order of a court in an action brought by the owner.

(5) If the court determines that a lesser or no amount was properly payable in respect of duty on the goods, the amount overpaid shall be repaid by the Comptroller.

(6) A payment made pursuant to subsection (1) shall not affect the right of the Comptroller to bring or maintain a prosecution for an offence against the customs laws and notwithstanding any such payment, the Comptroller may retain any goods which he or she considers may be required for production in court as evidence in any prosecution.

[Section 95] Recovery of duties

(1) The correct amount of any duty, charge, penalty or fee due and payable under this Act—

- a) may be demanded by the Comptroller at any time within one year from the date when such duty, charge, penalty or fee should have been paid;
- b) shall constitute a debt payable to the Government;
- c) is payable by the importer or exporter, as the case may be; and
- d) is recoverable in a court of competent jurisdiction in the name of the Comptroller.

[subs (1) am Act 8 of 2014 s 3, effective 21 November 2014]

(2) Any goods at whatever time imported or entered for export shall, while stored in a bonded warehouse or otherwise in the custody of the Fiji Revenue and Customs Service and belonging to the importer or exporter, be subject to a lien for the said debt and may be detained in the manner specified in section 95A1.

[subs (2) am Act 23 of 2015 s 9, effective 6 November 2015 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(3) The owner, director, partners and shareholders shall be held personally responsible for payment of correct amount of any duty, charge, penalty or fee due and payable under this Act.

[subs (3) insrt Decree 9 of 2010 s 19, effective 1 January 2010 ; am Act 8 of 2014 s 3, effective 21 November 2014]

(4) The Comptroller may execute section 143C of the Act.

[subs (4) insrt Decree 9 of 2010 s 19, effective 1 January 2010]

(5) Any duty recoverable under this section shall have priority over all claims of whatsoever nature upon the said goods.

[subs (3) renum as subs (5) Decree 9 of 2010, s 19, effective 1 January 2010]

(6) Any duty, charge, penalty or fee payable by an importer or exporter under this Act is a charge upon the real or personal property of the importer or exporter and shall be dealt with in accordance with section 28 of the Tax Administration Act 2009, as the case may be.

[subs (6) insrt Act 30 of 2016 s 6, effective 23 June 2016]

(7) The Comptroller may determine the manner in which the property under subsection (6) is to be disposed.

[subs (7) insrt Act 30 of 2016 s 6, effective 23 June 2016]

[Section 95A] Recovery of tax debts

(1) A proper officer may, in writing, request to the Comptroller to detain any goods, if the owner of such goods has not paid taxes due and payable under the Income Tax Act 1974, the Value Added Tax Act 1991, the Gambling Turnover Tax Act 1991 and the Hotel Turnover Tax Act 2006.

[subs (1) am Act 31 of 2016 s 51, effective 1 December 2016]

(2) Section 95(2) applies, with necessary modifications, to recovery of tax under this section.

[s 95A insrt Promulgation 14 of 2007 s 29, effective 1 July 2007]

[Section 95A1] Dealing with goods subject to lien

(1) For any good subject to a lien under section 95(2), the Comptroller may detain the goods and recover the debt within a period as the Comptroller may consider reasonable having regard to the condition of the goods.

[subs (1) am Act 30 of 2016 s 7, effective 23 June 2016]

(2) If the Comptroller is unable to recover the debt due within the specified time stated in subsection (2), for any goods subject to a lien, the Comptroller may determine the manner in which the goods are to be disposed.

[s 95A1 insrt Act 23 of 2015 s 10, effective 6 November 2015 ; Act 30 of 2016 s 7, effective 23 June 2016]

[Section 95B] Garnishee Order

(1) In this section, “payer” means a person who—

- a) owes money to an importer;
- b) holds money, for or on account of, an importer;
- c) holds money, for a joint account of, an importer, with a spouse or another party;

- d) holds money on account of some other person for payment to an importer or has authority from some other person to pay money to an importer; or
- e) holds money that is deposited to the credit of an importer and includes money held in a joint bank account in the name of the importer and one or more other person, provided the source of income is determined to be the income of the importer.

(2) This section applies if an importer is liable to pay duty and the—

- a) duty has not been paid by the importer by the due date for payment; or
- b) Comptroller has reasonable grounds to believe that the importer will not pay the assessed duty by the due date for payment.

(3) If this section applies, the Comptroller may, by notice in writing, require a payer in respect of the importer to pay the amount specified in the notice to the Comptroller, being an amount that does not exceed the amount of duty that has not been paid or the amount that the Comptroller believes will not be paid by the due date.

(4) The notice in subsection 3 shall remain effective for a period of 12 months from the date of its issue.

(5) A payer must pay the amount specified in a notice under subsection (3) by the date specified in the notice, being a date that is not before the date that the amount owed by the importer becomes due to the importer or held on the importer's behalf.

(6) If a notice served under subsection (3) requires a payer to deduct amounts from a pension, salary, wages or other remuneration payable at fixed intervals to the importer, the amount required to be deducted by the payer from each payment must not exceed 20% of the amount of each payment of pension, salary, wages or other remuneration.

(7) Subject to subsection (6), if a notice served under subsection (3) requires a payer who holds monies in accordance with subsection (1)(c), the payer must deduct the payment of duty specified in the notice, from the income of the importer liable to pay duty owed.

(8) If a payer served with a notice under subsection (3) is unable to comply with the notice, the person must notify the Comptroller, in writing within 14 consecutive days after receipt of the notice, setting out the reasons for the importer's inability to comply.

(9) If a notice is served on the Comptroller under subsection (8), the Comptroller may, by notice in writing—

- a) accept the notification and cancel or amend the notice issued under subsection (3); or

b) reject the notification.

(10) A payer or the payer's representative is precluded from appealing the decision of the Comptroller under subsection (9).

(11) The Comptroller, must, by notice in writing to the payer, revoke or amend a notice served under subsection (3) if the importer has paid the whole or part of the duty due or has made an arrangement satisfactory to the Comptroller for payment of duty.

(12) A copy of a notice served on a payer under this section must be served on the importer.

(13) An amount deducted from the payment by a payer pursuant to a notice served on a payer under this section is held by the payer in trust for the State.

(14) A payer making a payment under this section is treated as acting under the authority of the importer and of any other persons concerned and is hereby indemnified in respect of the payment.

(15) A payer who, without reasonable cause, fails to comply with a notice under this section is personally liable for the amount specified in the notice.

[s 95B insrt Decree 4 of 2012 s 2, effective 1 January 2012]

[Section 95C] Service of notice

(1) A person shall be served with a garnishee notice under section 95B(3), by the Comptroller and the notice shall be treated as properly served on the person, if—

- a) served personally on the person;
- b) sent to an address for service which is provided; or
- c) served by using the electronic notice system.

(2) If a notice is served by normal post, service is, in the absence of proof to the contrary, deemed to have been effected at the time at which the notice would be delivered in the ordinary course of post and in proving such service, it is sufficient to prove that the envelope containing the notice was properly addressed and was posted.

(3) If the person to whom a notice has been sent by registered post is informed of the fact that there is a registered letter awaiting him or her at a Post Office and the person refuses or fails to take delivery of the notice, service of the notice is deemed to have been effected and the burden of proof rests on the person to rebut, that service of the notice has been effected.

(4) An electronic notice or printed copy thereof, must not be ruled out as inadmissible as evidence merely on the basis that a hard copy of the return or document was not filed or delivered by the person sending the return, notice or other document.

(5) If an electronic notice is admissible under subsection (4), it is presumed that, until the contrary is proved, the contents of the electronic notice have been accurately transmitted.

(6) The validity of service of notice under section 95B cannot be challenged after the notice has been wholly or partly complied with.

[s 95C insrt Decree 4 of 2012 s 2, effective 1 January 2012]

[Section 95D] Failure to comply with Garnishee Order

(1) A person who, without reasonable cause fails to comply with a garnishee order served on him or her under section 95C commits an offence and is liable for a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years or both.

[subs (1) am Act 37 of 2017 s 20, effective 30 June 2017]

(2) A person who notifies the Comptroller in writing under section 95B(9) is considered to be in compliance with the garnishee order served on the person under section 95B(3) until the Comptroller serves the person with a notice under section 95B(10) amending the order served under section 95B(3) or rejecting the person's notice under section 95B(9).

[s 95D insrt Decree 4 of 2012 s 2, effective 1 January 2012]

[Section 95E] Administrative Summons

(1) For the purposes of administering any customs laws, the Comptroller may by notice in writing, require any person to—

- a) furnish such information as the Comptroller may require;
- b) attend and give evidence; or
- c) produce all accounts, documents and records, inclusive of electronic documents and records, which are in the custody of or under the control of the person and which relate to that person's or any other person's customs affairs.

(2) Notwithstanding the provisions of subsection (1), the person to whom subsection (1) applies, may have access to legal advice and representation.

(3) Where a notice is served under subsection (1)(c), it shall be sufficient if such accounts, documents or records are clearly described in the notice with reasonable certainty.

(4) The Certificate of Service signed by the person serving the notice shall be conclusive evidence of the facts stated therein.

(5) The Comptroller may require that the information or evidence referred to in subsection (1) be—

- a) given on oath, verbally or in writing and for that purpose, the Comptroller may administer the oath; or
- b) verified by a statutory declaration or otherwise.

(6) This section shall have effect notwithstanding any—

- a) other law relating to privilege or the public interest with respect to the provision or supply of information or the production of any property, account, document or record, inclusive of that which is stored electronically; or
- b) contractual duty of confidentiality.

(7) The Minister may prescribe scales of expenses allowable to persons required to attend and give evidence under this section by way of regulations.

[s 95E insrt Act 8 of 2014 s 4, effective 21 November 2014]

[Section 96] Refunds

(1) Where any duty, fee or other charge has been levied and paid and repayment of such duty or charge or of any portion thereof is claimed on the ground that the duty, fee or other charge was levied or paid through inadvertence or from other error and where the Comptroller is satisfied that such claim is correct, the excess duty, fee or other charge shall be refunded and any sum to be so refunded shall be a charge upon the Consolidated Fund.

(2) No repayment referred to in subsection (1) of excess duty, fee or other charge or of any portion thereof, shall be made by the Comptroller when such claim is made after one year from the date of the payment.

(3) The Comptroller shall require that any applicant for refund of any duty, charge or fee must have a bank account in a commercial trading bank in Fiji.

[subs (3) insrt Decree 9 of 2010 s 20, effective 1 January 2010]

(4) The Comptroller shall refrain from refunding any duty, charge or fee directly to claimants.

[subs (4) insrt Decree 9 of 2010 s 20, effective 1 January 2010]

(5) Where any amount of duty, fees or other charges has been erroneously refunded, the Comptroller may, within one year from the date upon which such sum was refunded, demand repayment of such sum and may recover such sum in a court of competent jurisdiction.

[subs (3) renum as subs (5) Decree 9 of 2010, s 20, effective 1 January 2010]

(6) Notwithstanding anything in any other tax law, the Comptroller may refrain from collecting or refunding tax if the amount of tax to be collected or refunded does not exceed \$10.

[subs (6) insrt Act 23 of 2015 s 11, effective 6 November 2015]

[Section 97] Remission of duty on goods lost, destroyed or damaged etc

(1) If it is shown to the satisfaction of the Comptroller that any goods chargeable with any duty have by accident been lost or destroyed—

- a) after importation but before being cleared for any purpose for which they might be entered on importation;
- b) while in a bonded warehouse or customs warehouse;
- c) at any time while that duty is otherwise lawfully unpaid; or
- d) if the duty with which the goods are chargeable is a duty on exportation, at any time after being entered for exportation and before exportation,

the Comptroller may remit or repay any duty chargeable or paid thereon and, in the case of any repayment made under this subsection, the provisions of section 96 shall apply, provided that in the case of lost imported goods or lost goods entered for exportation the remission or repayment shall not be given unless the Comptroller is satisfied that they have not and will not be used or consumed in Fiji.

(2) The Comptroller, at the request of the owner of the goods and subject to compliance with such conditions as the Comptroller sees fit to impose, may allow the value originally declared for the goods specified in paragraph (a) or (b) to be reduced or permit the destruction of such goods and may remit or repay the whole or part of any duty chargeable or paid on—

- a) any imported goods not yet cleared for any purpose for which they might be entered on importation; or
- b) any warehoused goods which have by reason of their state or condition ceased to be worth the original value declared.

[Section 98] Drawback allowed on re-export

(1) Where goods have been imported from a foreign port and are thereafter exported to a foreign port or as ship's stores without having been subjected to any process in Fiji, an amount not exceeding the duty paid in respect of the importation of the goods may be repaid as drawback if the following conditions are complied with, namely—

- a) the goods must be identified to the satisfaction of the Comptroller with the original import invoice and with the entry for the payment of duty in Fiji;

- b) the re-exportation must be made within one year from the time of importation or the date of clearance from bonded warehouse or within such further period as the Comptroller may, in special circumstances, approve;
- c) the claim for drawback is of not less than \$50 in respect of any one commodity entered as a separate item on the original entry; and
- d) the claim for drawback is established at the time of the re-export and payment is demanded within one month from the date of the entry for shipment or within such further period as the Comptroller may, in special circumstances, approve, provided that no drawback is payable on any damaged goods or on any goods that are not in all respects in as good and sound condition as when imported or removed from bonded warehouse.

[subs (1) subst Act 28 of 1996 s 11, effective 27 December 1996 ; am Act 23 of 1997 s 5, effective 24 December 1997 ; Act 30 of 2016 s 8, effective 23 June 2016 ; Act 20 of 2018 s 8, effective 1 August 2018]

(2) No payment of drawback shall be made until the aircraft or ship carrying the goods has left Fiji.

[s 98 subst Act 28 of 1996 s 11, effective 27 December 1996]

[Section 99] Declaration by claimant for drawback

A person or his or her duly authorised agent demanding payment of drawback on any goods duly exported shall make and subscribe a declaration that such goods have been duly exported and have not been re-landed at any place within Fiji and that such person was, at the time of entry outwards and shipment and continues to be, entitled to drawback thereon.

[Section 100] When no drawback allowed

(1) If goods upon which drawback is claimed or allowed, are shipped or brought to any wharf, quay or other place, to be shipped for exportation or are found on board an aircraft or ship and are, upon examination by the proper officer found not to be of the description, quality or quantity stated on the export entry or shipping bill or other document for the allowance of drawback on shipment, all such goods and the packages containing them with all other contents therein are liable to forfeiture and the person entering such goods and claiming the drawback thereon shall in every case be guilty of an offence and shall be liable to a fine not exceeding \$25,000 or 3 times the amount of the drawback claimed, whichever is the greater or to a term of imprisonment not exceeding 10 years, or all such fines and penalties.

[subs (1) am Decree 9 of 2010 s 21, effective 1 January 2010; Act 37 of 2017 s 21, effective 30 June 2017]

(2) A person who wilfully claims more drawback on any goods than is legally due thereon or falsely claims drawback on goods, is guilty of an offence and is liable to a fine not exceeding \$25,000 or a term of imprisonment not exceeding 10 years, or both.

[subs (2) am Decree 9 of 2010 s 22, effective 1 January 2010; Act 37 of 2017 s 21, effective 30 June 2017]

[Section 101] Power to allow 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 Fiji and exported, subject to such conditions as may be prescribed.

[Section 101A] Power to amend assessments of duty made by importers, exporters or licensees

(1) If the Comptroller is satisfied, as a result of an investigation or audit carried out under section 114B or for any other reason, that an assessment of duty payable or refundable made by an importer, exporter or licensee contravenes the customs laws or is for any other reason incorrect, the Comptroller may amend the assessment and demand for and recover any short-paid duty.

[subs (1) am Act 8 of 2014 s 5, effective 21 November 2014]

(2) Notice in writing must be given to the importer, exporter or licensee of—

- a) an amended assessment made under subsection (1); and
- b) the basis for the amended assessment and where applicable, the relevant provision of any written law.

(3) Subsection (1) applies whether or not the goods have been released from the control of the Fiji Revenue and Customs Service and whether or not any duty assessed has been paid.

[subs (3) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(4) An importer, exporter or licensee who is dissatisfied with a decision of the Comptroller under this section may, within 15 working days after the date on which notice of the decision was given, appeal the decision to the Court of Review.

[s 101A insrt Act 57 of 1998 s 17, effective 20 September 1999]

[Section 101B] Extension of time to pay tax

(1) Any importer, exporter or licensee may apply, in writing to the Comptroller for an extension of time to pay duty after an audit and investigation under a Customs law.

(2) If an application has been made under this section, the Comptroller may, having regard to the circumstances of the case—

- a) grant the importer, exporter or licensee an extension of time payment of the duty payable; or
- b) require the importer, exporter or licensee to pay the duty payable in such instalments as the Comptroller may determine,

and the Comptroller must serve the taxpayer with written notice of the decision.

[s 101B insrt Act 23 of 2015 s 12, effective 6 November 2015]

PART 17 POWERS OF OFFICERS

(Sections 102–122B)

[Section 102] Power of Comptroller with regard to invoices

(1) If information has been received by the Comptroller to the effect that goods have been or are intended to be smuggled, undeclared, unlawfully entered or illegally dealt with or where any goods have been seized or detained, a person shall, upon being requested to do so by the Comptroller, produce any books, invoices and documents relating to any goods imported or exported and which such person may have had in his or her possession at any time within the period of 7 years immediately preceding the date of such request and shall also produce for the inspection of the Comptroller and permit him or her to make copies of or take extracts from, all books or documents of any kind whatsoever wherein any entry or memorandum appears in any way to relate to any such goods.

[subs (1) am Act 28 of 1996 s 12, effective 27 December 1996; Act 37 of 2017 s 22, effective 30 June 2017]

(2) The Comptroller may seize and detain any book, invoice or document produced under the provisions of this section if, in his or her opinion, such book, invoice or document may afford evidence of the commission of any offence against the customs laws.

(3) A person who—

- a) refuses or neglects to comply with a request of the Comptroller under the provisions of this section;
- b) knowingly produces any false book, invoice or document;
- c) knowingly makes any false representation in regard to the country in which any goods were grown, produced or manufactured; or
- d) makes any false representation with intent to evade or to contravene the provisions of this section,

is guilty of an offence and is liable to a fine not exceeding \$25,000 or a term of imprisonment not exceeding 10 years, or both.

[subs (3) am Decree 9 of 2010 s 23, effective 1 January 2010; Act 37 of 2017 s 22, effective 30 June 2017]

[Section 103] Power to require ships etc to bring to

(1) The master of a ship entering Fiji or operating within Fiji shall bring his or her ship to for boarding on being signalled to do so by any ship in the service of the Fiji Revenue and Customs Service or any other ship in the service of Fiji.

[subs (1) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) The master of an aircraft entering Fiji or operating within Fiji shall land the aircraft on being signalled to do so by a proper officer.

(3) A ship may be fired upon if—

- a) that ship is liable to forfeiture or examination pursuant to the provisions of the customs law;
- b) that ship does not bring to when so required;
- c) that ship has been chased by a ship in the service of the Fiji Revenue and Customs Service or in the service of Fiji, which has flown the proper flag and fired a gun as a signal; and
- d) that ship continues to fail to bring to.

[subs (3) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(4) A master of an aircraft or ship who contravenes any of the provisions of this section is guilty of an offence and is—

- a) in the case of the master of a light aircraft or a ship of less than 250 tonnes register, liable to a fine not exceeding \$40,000 or to a term of imprisonment not exceeding 10 years, or both, and the aircraft or ship in respect of which the offence is committed is liable to forfeiture;
- b) in the case of the master of an aircraft other than a light aircraft or of a ship of 250 tonnes register or more, liable to a fine not exceeding \$200,000 or to a term of imprisonment not exceeding 10 years, or both; and the aircraft or ship in respect of which the offence is committed may be seized and detained until the fine is paid or satisfactory security therefore is given.

[subs (4) am Act 28 of 1996 s 13, effective 27 December 1996 ; Decree 9 of 2010 s 24, effective 1 January 2010; Act 37 of 2017 s 23, effective 30 June 2017]

(5) In this section, “light aircraft” means an aircraft licensed to carry less than 8 passengers.

[Section 104] Power to board ship etc and search

(1) A proper officer may, in the course of his or her duty, board and search any aircraft or ship within Fiji and may require the master of any such aircraft or ship to produce documents and answer questions relating to such aircraft or ship, its cargo, stores, baggage, crew and passengers and may examine, lock-up, seal, mark or otherwise secure any goods on such aircraft or ship; and for the purpose of the examination or security of any goods, he or she may require them to be unloaded or removed to a customs warehouse at the expense of the master of the aircraft or ship.

(2) An officer may at the risk of the owner open packages and examine, weigh, mark and seal any goods subject to the control of the Fiji Revenue and Customs Service and the expenses of the examination including the cost of removal to the place of examination shall be borne by the owner.

[subs (2) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(3) A proper officer, acting in pursuance of this section, who is unable to obtain free access to any part of an aircraft or ship or to any container therein, may enter such part or open such container, by force if necessary.

(4) A proper officer boarding a ship pursuant to this section may remain thereon for such time as he or she may consider necessary and the master of the ship shall provide the officer with proper and sufficient food and suitable accommodation. A master who contravenes any provision of this subsection is guilty of an offence and is liable to a fine not exceeding \$25,000 or a term of imprisonment not exceeding 10 years, or both.

[subs (4) am Decree 9 of 2010 s 26, effective 1 January 2010; Act 37 of 2017 s 24, effective 30 June 2017]

(5) A master of an aircraft or ship—

- a) shall not refuse to unload or remove any goods from the aircraft or ship when required to do so in accordance with this section;
- b) shall not cause or permit any goods which have been locked up, sealed, marked or otherwise secured in the aircraft or ship to be interfered with in any way except with the consent of the proper officer; and
- c) shall not cause or permit any lock, seal or mark, placed on any place or goods in the aircraft or ship in accordance with this section, to be opened, broken or altered,

and any master who contravenes any provision of this subsection is guilty of an offence and is liable to a fine not exceeding \$25,000 or 3 times the value of any goods found to be missing as a result of the offence, whichever is the greater or to a term of imprisonment not exceeding 10 years, or all penalties.

[subs (5) am Decree 9 of 2010 s 26, effective 1 January 2010; Act 37 of 2017 s 24, effective 30 June 2017]

(6) If, on the search of an aircraft or ship under this section, goods are found in relation to which an offence under this Act has been committed, those goods are liable to forfeiture.

(7) If—

- a) on an aircraft or ship boarded under this section, goods are found therein;
- b) on the aircraft or ship being subsequently boarded, whether by the same or another proper officer, the goods or any part thereof are no longer therein; and
- c) the master of the aircraft or ship cannot account for the missing goods to the reasonable satisfaction of the proper officer,

the master is guilty of an offence.

[Section 105] Access to transit sheds

A proper officer acting in the execution of his or her duty has the right to demand immediate access to any transit shed and if any person with the authority to grant access fails or refuses to grant such access the proper officer may cause the transit shed to be opened by any means, including by force.

[Section 106] Power to patrol freely

(1) The officer in charge of an aircraft, ship or vehicle, employed in the enforcement of the customs laws—

- a) may take such aircraft, ship or vehicle to any place in Fiji; and
- b) keep any such aircraft, ship or vehicle at any place in Fiji for such time as he or she considers necessary,

and such officer is not liable to any prosecution or action at law for so doing.

(2) An officer engaged in the enforcement of the customs laws may for that purpose patrol upon and pass freely over and enter any place in Fiji and such officer is not liable to any prosecution or action at law for so doing.

(3) Nothing in this section alone shall authorise entry into a dwelling house or other building.

[Section 107] Power to stop vehicle, boat etc suspected of conveying uncustomed goods etc

(1) A proper officer shall, if he or she has reasonable grounds to believe that a vehicle, boat or other means of conveyance is conveying any uncustomed goods, stop and search such vehicle, boat or other means of conveyance and, for the purposes of the search, the proper officer may require any goods in such vehicle, boat or other means of conveyance to be unloaded at the expense of the owner of the vehicle, boat or other means of conveyance.

(2) A proper officer who is unable to obtain free access to any place or container in the course of any search carried out under this section may, if necessary, use force to gain such access.

(3) Where, on the search of a vehicle, boat or other means of conveyance carried out under this section, goods are found in relation to which an offence under this Act has been committed, the goods are liable to forfeiture.

(4) A person in charge of a vehicle, boat or other means of conveyance who refuses to stop or to permit it to be searched in accordance with this section is guilty of an offence.

[Section 108] Power to question persons arriving or leaving

A proper officer may, in the course of his or her duty, question any person who is entering Fiji or who is about to depart from Fiji, for the purpose of determining whether such person has any dutiable goods, prohibited goods or restricted goods in his or her possession, whether upon his or her person or in his or her baggage.

[Section 109] Power to detain and search persons

(1) Subject to subsection (2) and (3), any proper officer who has reasonable suspicion that any good is being conveyed, whether on any person or in any vehicle, package or otherwise concealed or carried on any person will amount to the commission of an offence against the Customs law, without a warrant or other written authority, detain and search any such person, vehicle or package and may take possession of and detain any such article or any such person.

(1A) Any proper officer who conducts a search under this section, may use a Customs dog, where necessary or reasonably required.

[subs (1A) insrt Act 23 of 2015 s 13, effective 6 November 2015]

(2) A female shall not be searched except by a female.

(3) The person to be searched may require to be taken forthwith before a proper officer.

[subs (3) am Act 31 of 2016 s 51, effective 1 December 2016]

(4) If a proper officer has reasonable cause to believe that a person has unlawfully secreted about his or her person or within his or her body cavities of any uncustomed goods or prohibited imports, the proper officer may direct an internal search of that person to be undertaken at his or her direction by a registered medical practitioner.

(5) If, on the search of a person under this section, goods are found in his or her possession, whether upon his or her person or his or her baggage, in relation to which an offence under this Act has been committed, the goods are liable to forfeiture.

(6) If, on the search of a person under this section, goods are found in his or her possession, whether upon his or her person or baggage, in relation to which an offence under this Act has been committed, the goods are liable to forfeiture.

[s 109 subst Decree 9 of 2010 s 28, effective 1 January 2010]

[Section 109A] Power to detain without warrant

(1) When any person has been taken into custody without a warrant for an offence under the Customs Act, the proper officer may in any case and shall, if it does not appear to be practicable to bring such persons before an appropriate Magistrates Court within 48 hours after he or she has been taken into custody, inquire into the case and unless the offence appears to the proper officer to be of a serious nature, release the person on his or her entering into a bond with or

without sureties, for a reasonable amount to appear before a Magistrates Court at a time and place to be named in the bond.

[subs (1) am Act 31 of 2016 s 51, effective 1 December 2016]

(2) Where a person is retained in custody, he or she shall be brought before a Magistrates Court as soon as practicable, provided that a proper officer may release a person arrested on suspicion of committing a Fiji Revenue and Customs Service offence when, after due Fiji Revenue and Customs Service inquiry, insufficient evidence is, in his or her opinion, disclosed on which to proceed with the charge.

[subs (2) am Act 38 of 2017 s 7, effective 1 August 2017]

[s 109A insrt Decree 9 of 2010 s 26, effective 1 January 2010]

[Section 109B] Power to detect

(1) A proper officer may conduct inquiries, if he or she under reasonable suspicion believes that an offence against the Fiji Revenue and Customs Service laws will be committed.

[s 109B am Decree 9 of 2010 s 26, effective 1 January 2010; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 110] Power to arrest

(1) A proper officer may, if he or she has reasonable grounds to believe that a person is committing or has committed an offence under this Act, arrest that person and the proper officer may, for that purpose, use all reasonable force necessary.

(2) A person arrested in accordance with this section shall forthwith be taken before a Magistrate or to a police station, to be dealt with according to law.

[Section 111] Powers of search

(1) Any officer may, where there are reasonable grounds to suspect that any goods liable to forfeiture under the Customs laws are kept in any building or place, enter that building or place at any time and search for, seize, detain or remove any such goods and may, 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 and remove any other impediment or obstruction, provided that entry shall not be made at night except in the company of a police officer.

(2) Any officer acting under subsection (1) may at any time require assistance from a police officer who shall render assistance accordingly.

(3) Without prejudice to any other power under the Customs laws, where an officer declares on oath before a Magistrate that he or she has reasonable grounds to believe that there are in any premises any uncustomed goods or any books or documents relating to any uncustomed goods, the Magistrate may by warrant under his or her hand authorise the officer to enter upon and search the premises with such force as may be necessary, by day or by night and to seize and

carry away any uncustomed goods and any books or documents relating thereto that may be found in the premises.

An officer in possession of a search warrant may require a police officer to assist him or her in the execution of the warrant and the police officer so required shall render assistance accordingly.

[s 111 subst Act 23 of 1995 s 4, effective 22 December 1995]

[Section 112] Power of entry, detention and seizure without search warrant

If an officer observes an act being committed which is an offence under the customs laws, such officer may enter any building or place where such offence is being committed, using whatever force may be necessary to secure entry and may—

- a) detain any person found to be in such building or place, who he or she suspects upon reasonable grounds of being involved in the commission of the offence;
- b) seize any goods which may be the subject of the offence; and
- c) seize any documents relating to the goods which are the subject of the offence.

[Section 113] Penalty for interfering with Customs ships etc

(1) A person who interferes in any way with an aircraft, ship, vehicle, buoy, anchor, chain, rope or mark which is being used for the purpose of enforcing the customs laws, is guilty of an offence and is liable upon conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (1) am Act 37 of 2017 s 25, effective 30 June 2017]

(2) A person who fires upon any aircraft, ship or vehicle which is being used for the purpose of enforcing the customs laws or by an officer while otherwise engaged in the execution of his or her duty is guilty of an offence and is liable to imprisonment for 15 years.

[Section 114] Examination, sampling etc of goods subject to customs control

(1) If goods are subject to customs control, a proper officer may—

- a) at any time examine and take account of them;
- b) at any time take samples of them for such purposes as the Comptroller may think necessary; and
- c) subject to such conditions as the Comptroller may see fit to impose, permit them to be bulked, sorted, lotted, packed or repacked.

(2) Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, lotting, marking, numbering, loading, unloading, carrying or landing of goods or their packages for the purpose of

or incidental to, any facilities or assistance required for any of the purposes described in subsection (1), is performed or provided by the owner of the goods at his or her expense.

(3) Any examination specified in subsections (1) and (2), may be facilitated by a Customs dog.
[subs (3) insrt Act 23 of 2015 s 14, effective 6 November 2015]

(4) Notwithstanding subsection (1), where goods have been cleared from customs control or a customs area, and a proper officer has reasonable grounds to believe that a person is committing or has committed an offence under customs laws, the proper officer may in accordance with section 129(2)(f), retrieve samples of those goods in order to conduct an inquiry with regard to the classification of those goods.

[subs (4) insrt Act 20 of 2018 s 9, effective 1 August 2018]

[Section 114A] Keeping of business records

(1) Every licensee, importer and exporter must keep or cause to be kept in Fiji in the English language all business records and other prescribed information needed to enable an officer to be satisfied as to the correctness and completeness of the particulars shown in any entry or claim lodged with the Fiji Revenue and Customs Service.

[subs (1) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) The business records and other prescribed information kept under subsection (1) must be kept for at least 7 years.

[subs (2) am Act 37 of 2017 s 26, effective 30 June 2017]

(3) Every licensee, importer and exporter must, when required by an officer—

- a) make the records and the prescribed information kept under subsection (1) available to the Fiji Revenue and Customs Service;
- b) provide copies of the records and the prescribed information as required; and
- c) answer any questions relating to matters arising under this Act asked by an officer in respect of them.

[subs (3) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(4) If, for the purposes of complying with subsection (2), information is recorded or stored by means of an electronic or other device, the licensee, importer or exporter or an agent of the licensee, importer or exporter must, at the request of an officer, operate the device or cause it to be operated, to make the information available to the officer.

[s 114A insrt Act 57 of 1998 s 18, effective 20 September 1999]

[Section 114B] Powers of officers to examine business records

If a person has exported, imported, warehoused, removed from a warehouse or transhipped any goods or has made a claim for refund or drawback dealing with part or all of the goods, an officer may—

- a) at all reasonable times within 5 years after the entry has been lodged or the claim for refund or drawback of duty has been made, for the purpose of this section enter and remain on the premises in which the records required under section 114A(1) are kept;
- b) have full and free access, at all reasonable times, to any relevant business document or other accounting book, record, report or document kept on the premises; and
- c) inspect, examine, make copies of or take extracts from, any such document, book, record or report,

for the purpose of verifying any information provided to the Fiji Revenue and Customs Service and being satisfied that all entries, forms and declarations relating to the goods are an accurate and complete record of the matters required to be reported on.

[s 114B insrt Act 57 of 1998 s 18, effective 20 September 1999; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 115] Customs officers not liable for acts done in good faith

An officer or other person acting under his or her direction shall not be liable to any legal proceedings for any action taken by him or her in good faith in accordance with any provision of this Act.

[Section 116] Power to require declaration

(1) A person entering Fiji shall, at such place and in such manner as the Comptroller may direct, declare anything contained in his or her baggage or carried with him or her which—

- a) he or she has obtained outside Fiji; or
- b) being dutiable or chargeable goods within the meaning of any law relating to Customs and Excise, he or she has obtained in Fiji without payment of duty or tax and in respect of which he or she is not entitled to exemption from payment of duty or tax by virtue of any provision of the customs law.

(2) A person entering or leaving Fiji shall answer such questions as the proper officer may put to him or her with respect to his or her baggage and anything contained therein or carried with him or her 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.

(3) A person who fails to declare or to produce any baggage or thing as required by this section is guilty of an offence and is liable to a fine not exceeding \$25,000 or 3 treble the value of the

thing not declared or of the baggage or thing not produced, whichever is the greater; and anything chargeable with any duty or tax which is found concealed or is not declared, is liable to forfeiture or to imprisonment for a term not exceeding 10 years, or all penalties.

[subs (3) am Decree 9 of 2010 s 29, effective 1 January 2010; Act 37 of 2017 s 27, effective 30 June 2017]

[Section 117] Impounding of documents

The Comptroller may impound or retain any document which is presented in connection with any entry or which is required to be produced under the provisions of this Act and the person otherwise entitled to such documents shall, on his or her application, be given in lieu thereof a copy of the document duly certified by the Comptroller and the certified copy shall be admissible in evidence at any trial to the same extent and in the same manner, as the original.

[Section 118] Comptroller may require further proof of proper entry

The Comptroller may require from the importer of any goods, proof by declaration or by the production of documents, that the goods are owned as claimed and are properly described, valued or rated for duty and failing the giving of such proof the Comptroller may refuse to deliver the goods or to pass any entry relating thereto.

[Section 119] Translation of foreign documents

If a document in a foreign language is presented to an officer for any purpose connected with the Fiji Revenue and Customs Service, the Comptroller may require a translation in the English language to be made at the expense of the owner.

[s 119 am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 120] Value of goods seized

Where any penalty, fine or forfeiture, the amount of which is to be determined by the value of any goods, is incurred under any customs law the goods shall not be deemed to be of less value by reason of any damage or injury they may have sustained in the course of any attempt to destroy or make away with them by any person offending or endeavouring to commit an offence against the law.

[Section 121] Power to inspect aerodromes, records etc

(1) The person in control of an aerodrome shall permit a proper officer at any time to enter upon and inspect the aerodrome and all buildings and goods thereon.

(2) The person in control of an aerodrome licensed under any enactment relating to air navigation and, if so required by the Comptroller, the person in control of any other aerodrome shall—

- a) keep a record in such form as the Comptroller may approve of all aircraft arriving at or departing from the aerodrome;

- b) keep such record available and produce it on demand to any proper officer, together with all other books and documents kept at the aerodrome which relate to the movement of aircraft; and
- c) permit any proper officer to make copies of and take extracts from any such record, book or document.

(3) A person who contravenes or fails to comply with any of the provisions of this section is guilty of an offence.

[Section 122] Power to prevent flight of aircraft

(1) An officer or police officer, if it appears to him or her that an aircraft is about to or is likely to depart for a destination outside Fiji from any place other than an airport or from an airport before customs clearance is given therefrom, may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to him or her necessary in order to prevent the flight.

(2) A person who contravenes any instructions given under the provisions of subsection (1) is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (2) am Decree 9 of 2010 s 30, effective 1 January 2010; Act 37 of 2017 s 28, effective 30 June 2017]

(3) If an aircraft flies in contravention of any instructions given under the provisions of subsection (1), notwithstanding any steps taken to prevent the flight, the operator of the aircraft and the commander thereof shall, without prejudice to the liability, of any other person under this section, each be guilty of an offence under subsection (2), unless he or she proves that the flight took place without his or her consent or connivance.

[Section 122A] Use of Customs dog by Customs officer

(1) In exercising any power of boarding, entry or search conferred under this Act, a proper officer may use a Customs dog to assist in searches.

(2) Nothing in this section applies to search carried out on any premises except pursuant to a warrant.

[s 122A insrt Act 23 of 2015 s 15, effective 6 November 2015]

[Section 122B] Search and examination by proper officers

(1) In exercising any powers of boarding, entry, search or examination conferred under this Act, a proper officer may use x-ray or imaging equipment, other electronic devices or any other equipment authorised by the Comptroller.

(2) An examination carried out pursuant to subsection (1) and in accordance with section 114 of this Act—

- a) may include the physical or chemical testing of the goods; and
- b) may be facilitated by any means, including but not limited to, a Customs dog, a chemical substance, x-ray or imaging equipment, or any other mechanical, electrical or electronic device.

[s 122B insrt Act 37 of 2017 s 29, effective 30 June 2017]

PART 18 PENAL PROVISIONS

(Sections 123–143C)

[Section 123] Obstruction of officers etc

A person who—

- a) obstructs, hinders, molests, assaults, uses threatening language to, attempts to intimidate or endeavours to bribe any person duly engaged in the performance of any duty or the exercise of any power imposed or conferred on him or her by the customs laws or any person acting in his or her aid;
- b) does anything which impedes or is intended to impede the carrying out of any search for anything liable to seizure under the customs laws or the detention, seizure or removal of any such thing;
- c) rescues, damages or destroys anything so liable to forfeiture;
- d) does anything intended to prevent the procuring or giving of evidence as to whether or not anything is so liable to forfeiture;
- e) intentionally interferes with a customs dog used or intended for use, by the Fiji Revenue and Customs Service;
- f) does any act with the intention of impairing the effectiveness of a customs dog used or intended for use, by the Fiji Revenue and Customs Service; or
- g) prevents the arrest of any person by a person duly engaged or acting as aforesaid or rescues any person so arrested,

is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[s 123 am Decree 9 of 2010 s 31, effective 1 January 2010 ; Act 23 of 2015 s 16, effective 6 November 2015 ; Act 31 of 2016 s 51, effective 1 December 2016; Act 37 of 2017 s 30, effective 30 June 2017; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 123A] Killing or injuring customs dog

(1) Any person who intentionally kills, maims, wounds or otherwise injures a customs dog without lawful authority or reasonable excuse commits an offence.

(2) Every person who commits an offence against this section is liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (2) am Act 37 of 2017 s 31, effective 30 June 2017]

[s 123A insrt Act 23 of 2015 s 17, effective 6 November 2015]

[Section 124] Offences with violence

(1) A person who—

- a) shoots or otherwise attacks with any weapon, wounds or maims any officer in the execution of his or her duty or any person acting in his or her aid or attempts to shoot or otherwise attack such officer or other person acting in his or her aid; or
- b) commits with violence any of the offences referred to in subsection (4),

is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (1) am Act 37 of 2017 s 32, effective 30 June 2017]

(2) A person who—

- a) while committing an offence under this Act, is armed with any firearm or other weapon; or
- b) while being so armed, is found with any goods liable to forfeiture under this Act,

is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (2) am Act 37 of 2017 s 32, effective 30 June 2017]

(3) A person who—

- a) while committing an offence under this Act is disguised in any way with intent to mislead any officer; or
- b) while being so disguised, is found with any goods liable to forfeiture under this Act,

is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (3) am Decree 9 of 2010 s 32, effective 1 January 2010; Act 37 of 2017 s 32, effective 30 June 2017]

(4) A person who—

- a) staves, breaks, destroys or throws overboard from any aircraft, ship or vehicle, any goods or documents relating thereto for the purpose of preventing the seizure thereof;
- b) rescues, staves, breaks, destroys or throws overboard from any aircraft, ship or vehicle, any goods or documents relating thereto for the purpose of preventing the securing of such goods after they have been seized; or rescues any person arrested for any offence under this Act,

is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (4) am Decree 9 of 2010 s 33, effective 1 January 2010; Act 37 of 2017 s 32, effective 30 June 2017]

[Section 125] Protection of witnesses

A witness on behalf of the Comptroller in any customs prosecution shall not be compelled to disclose the fact that he or she received any information or the nature thereof or the name of the person who gave such information and no officer appearing as a witness shall be compelled to produce any reports made or received by him or her confidentially in his or her official capacity or containing confidential information.

[Section 126] Penalty for assembling to contravene provisions of the customs laws

A person who assembles with other persons for the purpose of contravening the provisions of the customs laws is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[s 126 am Decree 9 of 2010 s 34, effective 1 January 2010; Act 37 of 2017 s 33, effective 30 June 2017]

[Section 127] Unlawful assumption of character of an officer

If, for the purpose of obtaining admission to any building or other place or to any aircraft or ship or of doing or procuring to be done any act which he or she would not be entitled to do or procure to be done of his or her own authority or for any other unlawful purpose, a person, not being an officer, assumes the name, designation or character of an officer, he or she shall, in addition to any other punishment to which he or she may have rendered himself or herself liable, be guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[s 127 am Decree 9 of 2010 s 35, effective 1 January 2010; Act 37 of 2017 s 34, effective 30 June 2017]

[Section 128] Conduct of officers

(1) The Comptroller, any officer or any person authorised by the comptroller to discharge any duty relating to this Act shall—

- a) maintain the secrecy of all matters relating to the Act which come to his or her knowledge and shall not, either while he or she is or after he or she ceases to be an officer of the Fiji Revenue and Customs Service, communicate any such matters to any person except for the purpose of carrying into effect this Act or any other enactment imposing customs or excise duties payable to the Government; and
- b) before he or she begins to perform any official duty as an officer of the Fiji Revenue and Customs Service, make a declaration of fidelity and secrecy in the approved form.

[subs (1) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) If the Comptroller or any officer or any person authorised by the Comptroller to discharge any duty relating to this Act—

- a) directly or indirectly asks for or takes in connection with any of his or her duties any payment or other reward whatsoever, whether pecuniary or otherwise or any promise or

security for any such payment or reward, not being a payment or reward which he or she is lawfully entitled to claim or receive he or she is guilty of an offence; or

- b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Government is or may be defrauded or which is otherwise unlawful, being an act or thing relating to this Act, he or she is guilty of an offence.
- c) if the Comptroller or any officer takes possession of or unauthorised usage of any goods under false pretences other than for authorised bona fide usage for customs and excise,

he or she is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both.

[subs (2) am Promulgation 14 of 2007 s 30, effective 1 July 2007; Act 37 of 2017 s 35, effective 30 June 2017]

(3) If a person—

- a) directly or indirectly gives to the Comptroller, any officer or any person authorised by the Comptroller to discharge any duty relating to this Act, any payment or other reward; or
- b) proposes or enters into an agreement with the Comptroller, any officer or person authorised as aforesaid,

in order to induce him or her to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Government is or may be defrauded or which is unlawful, being an act or thing relating to the customs laws or otherwise to take any course contrary to his or her duty, he or she is guilty of an offence.

- c) colludes with the Comptroller or any officer in unauthorised usage of any goods under false pretences other than for authorised bona fide usage for customs or excise.

[subs (3) am Promulgation 14 of 2007 s 30, effective 1 July 2007]

(4) A person who commits an offence under this section is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 10 years, or to both such fine and imprisonment and the goods the subject matter of the offence may be ordered to be forfeited, notwithstanding that the goods may be duty paid.

[subs (4) am Promulgation 14 of 2007 s 30, effective 1 July 2007; Act 37 of 2017 s 35, effective 30 June 2017]

[Section 129] Provisions as to detention, seizure and forfeiture

(1) An officer or other person authorised in that behalf by the Comptroller may at any time seize or detain any goods liable to forfeiture under the customs laws or any goods which such officer or other person has reasonable grounds to believe are liable to forfeiture thereunder.

(2) The following goods are liable to forfeiture and may be seized or detained as aforesaid—

- a) all goods which are smuggled;
- b) all prohibited goods and any restricted goods which are dealt with contrary to any condition regulating their importation, exportation or carriage coastwise;
- c) all goods found in any aircraft or ship after arrival in any port and not being specified in the inward manifest or parcel list and not being baggage belonging to the master, crew or passengers and not being satisfactorily accounted for;
- d) all uncustomed goods;
- e) all goods which, being subject to the control of the Fiji Revenue and Customs Service, are moved, altered or interfered with except by the authority of and in accordance with the provisions of this Act;
- f) all goods in respect of which any entry, invoice, declaration, answer, statement or representation which is false or incorrect in any material particular has been delivered, made or produced;
- g) all goods falsely described either in the manifest of the aircraft or ship or other document by which importation is authorised;
- h) the cargo of any ship which hovers within Fiji and does not depart after being required by an officer to do so;
- i) all goods, not being baggage belonging to the master, crew or passengers, found on an aircraft or ship after clearance and not specified or referred to on the outward manifest and not accounted for to the satisfaction of the Comptroller;
- j) all dutiable goods concealed in any manner;
- k) any package having concealed therein goods not enumerated in the entry or being so packed as to deceive the officer;
- l) save as may be prescribed by the Minister, all dutiable goods found in the possession or the baggage of any person who has landed from any aircraft or ship and has denied that he or she has any dutiable goods in his or her possession or who, when questioned by an officer, has not fully disclosed that such goods are in his or her possession or baggage;
- m) any imported goods found, whether before or after delivery, not to correspond with the entry made thereof.

[subs (2) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(3) The officer or other person so authorised may place under seal any goods detained under this section and keep such goods on board an aircraft, ship or vehicle under customs control or keep at any customs area or keep at any other place authorised by the Comptroller.

[subs (3) insrt Promulgation 14 of 2007 s 31, effective 1 July 2007]

(4) No seal referred to and placed under subsection (3) may be broken or interfered with while the goods remain detained except with the consent of the Comptroller.

[subs (4) insrt Promulgation 14 of 2007 s 31, effective 1 July 2007]

(5) A person who breaks or interferes with a seal placed under subsection (3) commits an offence and the goods in respect of which the offence is committed are liable to forfeiture.

[subs (5) insrt Promulgation 14 of 2007 s 31, effective 1 July 2007]

(6) Detained goods, which have been placed under seal on board an aircraft or ship in accordance with the provisions of this Act, shall remain under seal until the aircraft or ship has departed from Fiji on an outward voyage.

[subs (6) insrt Promulgation 14 of 2007 s 31, effective 1 July 2007]

[Section 130] Forfeiture of ships etc used in connection with goods liable to forfeiture

(1) Without limiting any other provision of this Act, if any goods or things have become liable to forfeiture under the customs laws—

- a) any ship, aircraft, vehicle, living creature, container (including any article of passenger's baggage) or anything whatsoever which has been used for the carriage, handling, deposit or concealment of the goods or things so liable to forfeiture either at a time when it was so liable or for the purposes of the commission of the offence for which it later became so liable; and
- b) any other thing mixed, placed or found with the goods or things so liable,

is also liable to forfeiture.

(2) Where a ship, aircraft, vehicle or living creature has become liable to forfeiture under the customs laws, whether by virtue of the last preceding subsection or otherwise, all tackle, apparel or furniture thereof is also liable to forfeiture.

[Section 131] Ships etc constructed for concealing goods

Any aircraft or ship which is found to be engaged in or to be about to depart on a flight or voyage while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, is liable to forfeiture.

[Section 132] Ships jettisoning cargo

(1) If any part of the cargo of a ship is thrown overboard or staved or destroyed to prevent seizure after the ship has been summoned to bring to by any ship employed in the enforcement of the customs laws, the ship from which such cargo was thrown overboard or on which such cargo was staved or destroyed, is liable to forfeiture.

(2) For the purposes of this section and section 133, a ship shall be deemed to have been properly summoned to bring to if the ship making the summons did so by means of an international signal code or other recognised means and while flying the customs flag.

[Section 133] Special provision as to forfeiture of larger ships and of aircraft

(1) Notwithstanding any other provision of this Act, a ship of 250 or more tonnes register or an aircraft, is not liable to forfeiture under or by virtue of any provision of this Act unless the offence in respect of or in connection with which the forfeiture is claimed—

- a) was substantially the object of the flight or voyage in connection with which the offence was committed; or
- b) in the case of a ship, was committed while the ship was under chase by a ship employed in the enforcement of the customs laws after failing to bring to when properly summoned to do so.

[subs (1) am Act 28 of 1996 s 14, effective 27 December 1996]

(2) The exemption from forfeiture of an aircraft or ship under this section shall not affect any liability for forfeiture of goods carried therein.

[Section 134] Various penalties associated with owners of aircraft and ships

(1) The owner of—

- a) an aircraft or ship used in smuggling or knowingly used in the unlawful importation, exportation or conveyance of any prohibited or restricted imports or exports;
- b) a ship hovering within Fiji and not departing after being required by an officer so to do;
- c) an aircraft or ship from which any goods are thrown overboard, staved or destroyed to prevent seizure by the Fiji Revenue and Customs Service;
- d) an aircraft or ship found within any port with cargo on board and afterwards found light or in ballast or with the cargo deficient and the master of which is unable lawfully to account for the deficiency;
- e) an aircraft or ship found within a port or within Fiji having false bulkheads, bows, sides or bottoms or any secret or disguised place adapted for the purpose of concealing goods or having any hole, pipe or other device adapted for the purpose of smuggling goods; and
- f) an aircraft or ship found within any port having on board or in any manner attached thereto or conveying or having conveyed, any goods in a manner such as to be in contravention of the provisions of the customs laws or any other laws of Fiji, whenever a responsible officer of such aircraft or ship is implicated either actually or by neglect,

is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 10 years, or both and the aircraft or ship may be detained until the penalty is paid or until security is given for its payment.

[subs (1) am Decree 9 of 2010 s 34, effective 1 January 2010; Act 31 of 2016 s 51, effective 1 December 2016; Act 37 of 2017 s 36, effective 30 June 2017; Act 38 of 2017 s 7, effective 1 August 2017]

(2) For the purpose of subsection (1)(f)—

- a) responsible officers of a ship include the master, mates and engineers and where the ship is carrying passengers, the purser and chief steward;
- b) responsible officers of an aircraft include the commander, a pilot, a navigator, the chief engineer and the chief steward; and
- c) the expression “neglect” includes cases where goods not owned by any of the crew are discovered in a place in which they could not reasonably have been put if the responsible officer or officers having supervision of such place had exercised reasonable care at the time of the loading of the aircraft or ship or of the coming on board the aircraft or ship of the crew or subsequently.

[Section 135] Collusive seizure etc penalty

An officer who—

- a) makes a collusive seizure;
- b) delivers up or makes an agreement to deliver up or not to seize an aircraft or ship or goods liable to forfeiture;
- c) conspires or connives with any person to import or export; or
- d) is in any way concerned in the importation or exportation of any goods for the purpose of seizing any aircraft or ship or goods and obtaining any reward for such seizure,

is guilty of an offence and is liable to a fine not exceeding \$200,000 or to imprisonment for 12 years or to both such fine and imprisonment.

[s 135 am Promulgation 14 of 2007 s 32, effective 1 July 2007]

[Section 135A] Colluding, conspiring or conniving with any person to commit a Customs offence

Any person who—

- a) colludes with an officer, importer, exporter or any agent or any person whatsoever or whatsoever, corporate or unincorporated, to violate or to breach any customs law;
- b) colludes either directly or indirectly to deliver up or not to seize any aircraft, ship or goods required by this Act to be delivered up or to be seized;
- c) conspires or connives with any person to import or export contrary to this Act or the Excise Act 1986; or
- d) is in any way concerned in the importation or exportation of any goods for the purpose of preventing seizure of any aircraft or ship or goods and obtaining any reward for preventing such seizure,

commits an offence and is liable on conviction to a fine not exceeding \$200,000 or to imprisonment for 12 years or to both such fine and imprisonment and the subject matter of the offence shall be liable to forfeiture.

[s 135A insrt Promulgation 14 of 2007 s 33, effective 1 July 2007]

[Section 136] Removal or destruction of dutiable goods

A person who—

- a) removes goods from a warehouse or a customs area without paying the duty; or
- b) wilfully destroys any dutiable goods,

is guilty of an offence and is liable to a fine not exceeding \$25,000 or a term of imprisonment not exceeding 10 years, or both.

[s 136 am Decree 9 of 2010 s 37, effective 1 January 2010; Act 37 of 2017 s 37, effective 30 June 2017]

[Section 137] Customs offences

A person who—

- a) prepares, passes, presents or causes to be prepared, passed or presented as genuine any document required to be produced under any customs law which is not in fact a genuine document or which is untrue or incorrect in any material particular;
- b) makes any entry which is false or incorrect in any material particular;
- c) makes in any oral declaration to an officer or in any document produced to an officer, any statement which is untrue or incorrect in any material particular or produces or delivers to an officer any declaration or document containing any such statement;
- d) misleads an officer in any material particular likely to affect the discharge of his or her duty;
- e) refuses or fails to give to an officer his or her correct name or correct address;
- f) without the authorisation of the Comptroller previously obtained, sells or exposes for sale or has in his or her possession for sale or for any purpose of trade on board an aircraft or ship in a port, any goods;
- g) delivers, removes or withdraws any goods from an aircraft or ship, wharf or other place, where such goods are under customs control, previous to their examination by an officer or without the authority of an officer;
- h) unlawfully conveys or has in his or her possession any smuggled goods; or
- i) refuses or fails to stop or neglects to stop any means of conveyance when called upon to do so by an officer or police officer,

is guilty of an offence and is liable to a fine not exceeding \$25,000 or a term of imprisonment not exceeding 10 years, or both.

[Section 137A] Penalty for making false statements

(1) If—

- a) a person, either knowingly, recklessly or otherwise—
 - i. makes a statement to an officer that is false or misleading in a material particular; or
 - ii. omits from a statement made to an officer any information without which the statement is misleading in a material particular; and
- b) the amount of duty properly payable on particular goods exceeds the amount of duty that would have been payable on those goods if the statement was not false or misleading,

the Comptroller may, within 12 months after the statement was made, by written notice, require the owner of the goods to pay, within 90 days after service of the notice, a penalty equal to twice the excess amount of the duty or a penalty of \$1000, whichever is the greater.

[subs (1) am Decree 9 of 2010 s 39, effective 1 January 2010]

(2) A notice under subsection (1) must be served on the owner of the goods or on the agent of the owner.

(3) If an amount required to be paid in accordance with subsection (1) is not paid after 90 days, the amount due becomes a debt to the Government and may be recovered in a court of competent jurisdiction.

(4) For the purpose of subsection (1), an entry or a claim for refund or drawback, communicated to the Fiji Revenue and Customs Service in any period is to be treated as a statement made to the Comptroller.

[subs (4) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(5) If the Comptroller serves a notice under subsection (2) in relation to a statement or an omission from a statement made by any person, proceedings under section 137 must not be instituted in relation to that statement or omission.

[s 137A insrt Act 57 of 1998 s 19, effective 20 September 1999]

[Section 137B] Application for remission of penalty

(1) If a penalty is payable under section 137A by an owner of any goods as a result of a statement or an omission from a statement by any person, the Comptroller may, on written application made by the owner to the Comptroller, within 30 days after the notice was served under subsection 137A(2), remit the whole or any part of the penalty on one or more of the grounds provided for by section 137C or may refuse to remit the penalty.

(2) In making a decision on an application for remission of a penalty, the Comptroller must have regard to the grounds for remission provided for by section 137C and only those grounds.

[s 137B insrt Act 57 of 1998 s 19, effective 20 September 1999]

[Section 137C] Grounds for remission of penalty

The grounds for remission of a penalty under section 137B(1) are that the person who made the entry or claim—

- a) voluntarily disclosed an error or omission to the Fiji Revenue and Customs Service or sought written advice from the Fiji Revenue and Customs Service before the Fiji Revenue and Customs Service notified the person in writing that—
 - i. the goods to which the entry or claim relates had been selected for examination by the Fiji Revenue and Customs Service;
 - ii. the documents relating to the entry or claim were required to be presented to the Fiji Revenue and Customs Service; or
 - iii. the Fiji Revenue and Customs Service intended to conduct an audit or investigation relating to a selection of entries or claims including the entry or claim or relating to entries or claims made over a period of time including the time the entry or claim was made;
- b) satisfies the Comptroller that the relevant facts stated pertaining to the entry or claim, although incorrect, were reasonable to state having regard to the information available to the person at the time the entry or claim was prepared;
- c) has relied on a Fiji Revenue and Customs Service ruling in relation to specific goods or a specific matter and, as a result, has not paid the amount of the duty that, but for the ruling would be payable on the goods; or
- d) took all reasonable steps to ensure that the information provided was complete and correct.

[s 137C insrt Act 57 of 1998 s 19, effective 20 September 1999 ; am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 137D] Obligation to pay penalty not suspended by appeal

The obligation to pay and the right to receive and recover, any penalty imposed under section 137A are not suspended by any appeal to the Court of Review or any other legal proceedings.

[s 137D insrt Act 57 of 1998 s 19, effective 20 September 1999]

[Section 137E] Price of goods to reflect duty decrease

(1) If the percentage of duty decreases, all persons in the supply chain to the ultimate consumer must reflect the actual percentage duty decrease in the sale price of the goods.

(2) The onus of proving that the price at which the goods are sold reflects the actual percentage duty decrease shall be on the person selling the goods at any stage of the supply chain.

(3) A person who fails to comply with subsection (1) shall be liable to a fine not exceeding \$50,000 which must be payable by that person within 21 days of notification by the Chief Executive Officer.

(4) A person who fails to pay the fine as prescribed in subsection (3) within the time period prescribed in subsection (3), shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding \$100,000 or to a term of imprisonment not exceeding 10 years.

(5) The Minister may make regulations prescribing fines for the purpose of subsection (3).

[s 137E insrt Act 23 of 2015 s 18, effective 6 November 2015]

[Section 137F] Duty protection

(1) Where a producer, manufacturer or supplier is granted any duty protection under this Act, the producer, manufacturer or supplier shall not increase the price of goods unless prior approval of the permanent secretary responsible for finance and the Authority obtained.

(2) Any person who fails to comply with subsection (1) shall be liable upon conviction to a fine not exceeding \$100,000 or imprisonment for a term not exceeding 10 years, or to both.

[s 137F insrt Act 30 of 2016 s 9, effective 23 June 2016]

[Section 138] Counterfeiting documents etc

A person who—

- a) counterfeits or falsifies any document which is required under the customs laws or which is used for the transaction of any business relating to customs;
- b) knowingly accepts, receives or uses any document so counterfeited or falsified;
- c) alters any document which is required under the customs laws or which is used for the transaction of business relating to the customs after it has been officially issued; or
- d) counterfeits any seal, signature, initials or other mark of or used by any officer for the verification of such a document or for the security of goods or for any other purpose relating to the customs,

is guilty of an offence and is liable to a fine not exceeding \$25,000 or to imprisonment for a term of imprisonment not exceeding 10 years, or both.

[s 138 am Act 57 of 1998 s 20, effective 20 September 1999 ; am Decree 9 of 2010 s 40, effective 1 January 2010; Act 37 of 2017 s 39, effective 30 June 2017]

[Section 139] Penalty for fraudulent evasion of duty

Without limiting any other provision of this Act, a person who—

- a) with intent to defraud the Government of any duty payable thereon, acquires possession of or is in any way concerned in dealing with goods which have been unlawfully removed

from a bonded warehouse or customs warehouse or which are chargeable with a duty which has not been paid;

- b) is, in relation to any goods, in any way knowingly concerned in a fraudulent evasion or attempt at evasion of any duty chargeable thereon;
- c) unlawfully and with guilty intent imports any prohibited or restricted import; or
- d) unlawfully and with guilty intent exports any prohibited or restricted export,

is guilty of an offence and is liable to a fine not exceeding 3 times the value of the goods or \$25,000 or a term of imprisonment not exceeding 10 years, or both and the goods, if any, which are the subject matter of the offence are liable to forfeiture.

[s 139 am Decree 9 of 2010 s 41, effective 1 January 2010; Act 37 of 2017 s 40, effective 30 June 2017]

[Section 140] False scales etc

- (1) If a person required under the customs laws to provide scales for any purpose of those laws provides, uses or permits to be used, scales which are false, he or she is guilty of an offence.
- (2) Where goods are or are 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 or any person mentioned in subsection (1) and any person by whom or on whose behalf the goods are weighed, counted, gauged or measured, does anything either before, during or after the weighing, counting, gauging or measuring, whereby the officer or other person is or might be prevented from or hindered or deceived in taking a just account or making a due examination, he or she is guilty of an offence.
- (3) A person who commits an offence under the provisions of this section is liable to a fine not exceeding \$25,000 or a term of imprisonment not exceeding 10 years, or both and any false scales and any goods in connection with which the offence was committed are liable to forfeiture.

[subs (3) am Decree 9 of 2010 s 42, effective 10 January 2010; Act 37 of 2017 s 41, effective 30 June 2017]

- (4) In this section the expression "scales" includes weights, measures and weighing and measuring machines or instruments.

[Section 141] Aiders and abettors

A person who aids, abets, counsels or procures or by act or omission is in any way directly or indirectly concerned in the commission of any offence against this Act, is deemed to have committed such offence and is liable to be punished accordingly.

[Section 142] Attempts

An attempt to commit an offence against this Act is an offence against this Act.

[Section 143] General penalty

A person who is guilty of an offence against this Act for which no special penalty is imposed, is liable to a fine not exceeding \$25,000 or a term of imprisonment not exceeding 10 years, or both, and the goods, if any, which are the subject matter of the offence are liable to forfeiture.

[s 143 am Decree 9 of 2010 s 43, effective 1 January 2010; Act 37 of 2017 s 42, effective 30 June 2017]

[Section 143A] Interference with system

A person who knowingly—

- a) falsifies any record or information stored in a system;
- b) damages or impairs a system; or
- c) deletes, damages or impairs any duplicate tape or disk or other medium on which any information obtained from a system is held or stored, except with the permission of the Comptroller,

commits an offence and is liable on conviction to a fine of \$25,000 or a term of imprisonment not exceeding 10 years, or both.

[s 143A insrt Act 57 of 1998 s 21, effective 20 September 1999 ; am Decree 9 of 2010 s 44, effective 1 January 2010; Act 37 of 2017 s 43, effective 30 June 2017]

[Section 143B] Offences in relation to security of or unauthorised use of identifiers

(1) A registered user of a system or an employee or agent of a registered user who fails to comply with any conditions imposed by the Comptroller relating to the security of the registered user's identifier commits an offence and is liable on conviction to the penalties provided by section 143.

(2) A person who—

- a) not being a registered user, uses an identifier without the authority of the registered user; or
- b) being a registered user, uses the identifier of any other registered user,

commits an offence and is liable on conviction to the penalties provided by section 143.

[subs (2) insrt Act 57 of 1998 s 21, effective 20 September 1999]

[Section 143C] Departure prohibition orders

(1) Notwithstanding any other provision of this Act, if the Comptroller is satisfied that a person—

- a) owes duty or has outstanding fines or penalties under the Customs Act 1986 or Customs Tariff Act 1986 or Excise Act 1986; and

b) may leave Fiji without discharging such duty, fines or penalties under the Customs Act 1986, Customs Tariff Act 1986 or Excise Act 1986 or without securing such duty, fines or penalties,

the Comptroller may issue a departure prohibition order against the person prohibiting the departure of the person from Fiji for another country.

(2) Other provisions regulating departure prohibition order under the Tax Administration Act 2009 apply, with necessary modification, to this section.

[subs (2) am Act 31 of 2016 s 51, effective 1 December 2016]

[s 143C insrt Promulgation 14 of 2007 s 34, effective 1 July 2007 ; am Decree 4 of 2012 s 3, effective 1 January

PART 18A INFRINGEMENT NOTICES

(Sections 143D–143F)

[Section 143D] Interpretation of this Part

In this Part, unless the context otherwise requires—

fixed penalty means a penalty specified in, and payable on receipt of, an infringement notice;

infringement notice means a notice prescribed by regulations and issued by a proper officer pursuant to section 143E; and

prescribed offence means an offence under any customs law for which a fixed penalty is payable as prescribed by regulations.

[Section 143E] Infringement notices

(1) Subject to this Part, where a proper officer has reason to believe that a person has committed a prescribed offence, the proper officer may institute proceedings in respect of the alleged commission of the offence by issuing upon that person an infringement notice.

(2) An infringement notice issued under subsection (1) must—

- a) name the person to whom the infringement notice is issued;
- b) specify the particulars of the offence;
- c) specify the fixed penalty that the person named on the infringement notice is required to pay; and
- d) specify any other information prescribed by regulations.

(3) A fixed penalty payable under this Act or any regulations made under this Act is a debt due to the State that—

- a) is to be collected by the Service in the manner and form prescribed by regulations;
- b) following the collection of the fixed penalty under paragraph (a), is to be paid by the Service into the Consolidated Fund; and
- c) ceases to be due—
 - i. at the time the fixed penalty is paid; or
 - ii. on acquittal or conviction of the prescribed offence.

[Section 143F] Regulations for issuance of infringement notices

The Minister may make regulations prescribing matters that are required to be prescribed or are necessary or convenient to be prescribed for the issuance of infringement notices under this Part, including—

- a) the offences for which infringement notices may be issued;
- b) the fixed penalties for prescribed offences;
- c) the manner, form and time frames for which infringement notices are to be issued;
- d) the actions a person may undertake on receipt of an infringement notice; and
- e) the penalties that a person to whom an infringement notice has been issued may be liable to.

PART 19 AGENTS

(Sections 144–154)

[Section 144] Licensing of agents

(1) The Comptroller may, on application, licence such persons as he or she thinks fit to act as customs agents for transacting business relating to the entry or clearance of any aircraft or ship, goods or baggage.

(2) The Comptroller may, at any time, limit the number of persons to be licensed under subsection (1).

(3) The Comptroller may, by order, revoke the licence issued to any person—

- a) if that person has been guilty of fraud or misconduct either as regards the Fiji Revenue and Customs Service or his or her employers;
- b) if that person, being a natural person, is unable efficiently to act as agent by reason of mental or physical incapacity;
- ba) if that person breaches the code of conduct issued by the Comptroller in accordance with subsection (4); or
- c) for any other reasonable cause.

[subs (3) am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017 ; Act 20 of 2018 s 11, effective 1 August 2018]

(4) The Comptroller may issue a code of conduct for customs agents licensed under this section for the purposes of regulating the manner in which customs agents transact business in relation to the entry or clearance of any aircraft or ship, including its goods or baggage.

[subs (4) insrt Act 20 of 2018 s 11, effective 1 August 2018]

[Section 145] Licence

The licence referred to in section 144 shall—

- a) be in such form as may be prescribed;
- b) authorise the person named therein to operate as a customs agent from the place of business and at the ports or airports named in the licence;
- c) be subject to the payment of the prescribed fee and shall expire on 31 December in each year; and
- d) be personal to the licensee named therein and not transferable.

[Section 146] Security

A licence for a customs agent shall not be issued until the person who applies for the licence has furnished, in such form as the Comptroller may require, security in the sum of \$1,000 or such

other sum as may be prescribed, for the faithful and uncorrupt conduct of such person and of any clerk or employee assisting him or her, both as regards the Fiji Revenue and Customs Service and his or her employers.

[s 146 am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 147] Revocation of licence

Whenever a copy of an order made by the Comptroller setting forth the reason for which a licence is revoked is delivered to the person concerned or to his or her appointed clerk at his or her usual place of abode or business, such licence shall cease to have effect.

[Section 148] Licensing of airline and shipping agents

(1) The Comptroller may, on application, licence such other persons as he or she thinks fit as airline or shipping agents for transacting business relating to inward and outward entry and clearances of any aircraft or ship, including its goods and baggage.

(2) Sections 144(2), (3), 145, 146 and 147 apply, with necessary modifications, to this section.

(3) The Comptroller may issue a code of conduct for airline or shipping agents licensed under this section for the purposes of regulating the manner in which airline or shipping agents transact business in relation to inward and outward entry and clearances of any aircraft or ship, including its goods and baggage.

[subs (3) insrt Act 20 of 2018 s 12, effective 1 August 2018]

[s 148 insrt Promulgation 14 of 2007 s 35, effective 1 July 2007]

[Section 149] Appointment of clerks

(1) A person licensed to act as a customs agent or any importer or merchant may, with the approval of the Comptroller, appoint a clerk to assist him or her in transacting his or her business.

(2) A clerk so appointed shall not assist any person other than the person appointing him or her.

(3) If an appointed clerk commits any fraud or misconduct, the Comptroller may, by notice in writing to such clerk and to the agent, importer or merchant employing him or her, withdraw his or her approval of the appointment of that clerk and the appointment shall thereupon cease to have effect.

(4) Any person who contravenes subsection (2) is guilty of an offence and is liable to a fine not exceeding \$25,000 or a term of imprisonment not exceeding 10 years, or both.

[subs (4) insrt Act 23 of 1997 s 6, effective 24 December 1997 ; am Decree 9 of 2010 s 45, effective 1 January 2010; Act 37 of 2017 s 44, effective 30 June 2017]

[Section 150] Clerk or agent may be authorised to sign documents

Any person, firm or company doing business in Fiji may, on a form to be from time to time approved by the Comptroller, grant an authority to any clerk employed by such person, firm or company to sign at any port specified in such form any declaration, bond or other document relating to the clearance of any aircraft or ship, goods or baggage, required under this Act and any declaration, bond or other document so signed shall be valid and binding on the person, firm or company as aforesaid and any such authority issued to any clerk shall remain in full force and effect until notice of its withdrawal has been received in writing by the proper officer.

[Section 151] Entry of goods by unauthorised persons not permitted

If—

- a) any person not duly licensed under this Act to act as a customs agent for transacting business relating to the clearance of any aircraft or ship, goods or baggage;
- b) any person not being the appointed clerk to any duly licensed customs agent, importer or merchant; or
- c) any person who, whether or not so licensed or appointed, shall make or cause to be made entry of any goods without being duly authorised for that purpose by the importer or consignee of those goods,

every such person is guilty of an offence, provided that the provisions of this section shall not extend to any merchant, importer or consignee of any goods, acting for himself or herself in respect thereof or to any clerk or servant exclusively employed by him or her or by any such person in copartnership.

[Section 152] Authority of agent may be required

Whenever a person makes an application to an officer to enable such person to transact business on behalf of any other person, it shall be lawful for that officer to require the person so applying to produce a written authority from the person on whose behalf the application is made and in default of the production of such authority, to reject the application.

[Section 153] Liability of duly licensed agent

A duly licensed customs agent or person who performs any act on behalf of the owner of any goods shall, for the purposes of this Act, be deemed to be the owner of such goods and shall accordingly be personally liable for the payment of any duties to which such goods are liable and for the performance of all acts in respect of such goods which the owner thereof is required to perform under the provisions of this Act, provided that—

- a) nothing contained in this section shall relieve the owner of such goods from any such liability;

b) the liability of the agent or other person under this section shall not extend to the payment of any such duties which become payable or the performance of any such act which falls to be performed, after the agent or other person has ceased, in respect of those goods, to be the agent of the owner.

[Section 154] Liability of owner for acts of duly licensed agent or his or her own employee

An owner of goods who authorises a licensed customs agent or appointed clerk to act for him or her in relation to such goods for any of the purposes of this Act shall be liable for the acts and declarations of such duly authorised agent or appointed clerk and may accordingly be prosecuted for an offence committed by such agent or appointed clerk in relation to any such goods as if such owner had himself or herself committed the offence, provided that—

- a) an owner shall not be sentenced to imprisonment for any offence committed by his or her duly authorised agent or appointed clerk unless such owner actually consented to the commission of the offence; and
- b) nothing herein contained shall relieve the duly authorised agent or appointed clerk from any liability to prosecution in respect of any such offence.

PART 19A CUSTOMS RULINGS

(Sections 154A–154H)

[Section 154A] Application for customs ruling

(1) A person may make an application in respect of particular goods specified in the application, to the Comptroller for a Customs ruling in respect of any one or more of the following matters—

- a) the Tariff Classification of those goods under the Schedule to the Customs Tariff Act 1986;
- b) the excise classification of those goods under the Schedule to the Excise Act 1986;
- c) the rules of origin of those goods under the Schedule to the Customs Tariff Act 1986;
- d) the valuation of those goods under the Schedule to the Customs Tariff Act 1986; and
- e) in the case of an application made under section 154A(3), make a Customs ruling in respect of the particular matter specified in the application.

[subs (1) am Act 37 of 2017 s 45, effective 30 June 2017]

(2) The Comptroller shall make a Customs ruling under subsection (1) within such time or times as may be prescribed after receipt of—

- a) in the case of an application under section 154A(1)—
 - i. a properly completed application in respect of particular goods; and
 - ii. the goods or a sample of the goods unless the Comptroller has agreed not to require receipt of the goods;
- b) all information that the Comptroller considers relevant to a proper consideration of the application; and
- c) payment of the prescribed fee by the Comptroller.

(3) A Customs ruling may be made subject to such conditions as the Comptroller thinks fit.

(4) The Comptroller may decline to make a Customs ruling if, in the Comptroller opinion, he or she has insufficient information to do so.

[Section 154B] Notice of Customs ruling

The Comptroller shall promptly give notice in writing to the applicant of—

- a) a Customs ruling, together with the reasons for the ruling, and the conditions (if any) to which it is subject; or
- b) a decision to decline to make a Customs ruling, together with the reasons for that decision.

[Section 154C] Effect of Customs ruling

(1) Subject to section 154D, a Customs ruling in respect of particular goods is conclusive evidence for the purposes of this Act, that the goods—

- a) have a particular tariff classification under the Schedule to the Customs Tariff Act 1986;
- b) have a particular excise classification under the Schedule to the Excise Act 1986;
- c) are or are not, as the case may be in accordance with applicable regulations made under this Act, the produce or manufacture of a particular or group of countries, for the purposes of the Customs Tariff Act 1986;
- d) are or are not, as the case may be, subject to a specified duty concession under the Schedule of the Customs Tariff Act 1986; or
- e) under the Schedule to the Customs Tariff Act 1986 of rules of origin or valuation.

(2) Subject to section 154B, a Customs ruling in respect of a particular matter in which a ruling has been given under section 154A(1)(b) is conclusive evidence for the purposes of this Act and, where applicable the Customs Tariff Act 1986 or Excise Act 1986 in which the ruling was made in relation to that matter.

[Section 154D] Confirmation of basis of Customs ruling

At any time after a Customs ruling is made, the Comptroller may by notice in writing, require the applicant to satisfy the Comptroller in such manner and within 20 working days or such longer period as the Comptroller considers appropriate that—

- a) the facts or information on which the Customs ruling was made remain correct; and
- b) any conditions on which the Customs ruling was made have been complied with.

[Section 154E] Amendment of Customs ruling

(1) The Comptroller may from time to time amend a Customs ruling to correct any error contained in the ruling.

(2) The Comptroller shall, promptly after making the amendment, give notice in writing to the applicant of the amended Customs ruling and, subject to subsection (3), the ruling as amended shall be applied to the applicant as from the date on which notice of the amendment was given to the applicant.

(3) Notwithstanding subsection (2), if the amendment to the ruling has the effect of increasing any duty liability in respect of any goods—

- a) where the goods are imported within 3 months of the date notice of the amendment is given, pursuant to a binding contract entered into before that date;

- b) where the goods have left the place of manufacture or warehouse in the country from which they are being exported for direct shipment to Fiji at the date notice of the amendment of the ruling is given; or
- c) where the goods are imported on or before the date notice of the amendment is given but have not been entered for home consumption,

then the ruling as given prior to amendment under this section shall be applied to those goods.

(4) Notwithstanding subsection (2), if the amendment to the ruling has the effect of decreasing any duty liability in respect of any goods, then the provisions of section 92 shall apply as if the higher duty had been paid in error.

[Section 154F] Cessation of Customs ruling

(1) A Customs ruling ceases to have effect on the earliest to occur of the following dates—

- a) the date on which any information on which the 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 facts on which the Customs ruling was made;
- c) the date of a material change in the Customs Tariff Act 1986, if that date occurs prior to importation or manufacture of the relevant goods, as the case may be;
- d) the date on which any of the conditions to which the Customs ruling was made subject cease to be met or complied with;
- e) the date of a failure to satisfy the requirements of the Comptroller under section 154C; or
- f) the date of expiry of 3 years from the date that notice of the Customs ruling under section 154D, is given to the applicant.

(2) A Customs ruling shall not come into effect if—

- a) information on which it was made is incorrect in all material respects; or
- b) a material change has occurred in any information or facts which it was made.

[Section 154G] Appeal from decision of Comptroller

An applicant who is dissatisfied with a Customs ruling, or a decision to decline to make a Customs ruling, or a decision to amend a Customs ruling, under this Part may within 28 working days after the date on which notice of the ruling or decision is given, appeal to a Court of Review against that ruling or decision.

[Section 154H] No liability where Customs ruling relied on

(1) Where an applicant has relied on a Customs ruling in relation to specific goods or a specific matter, and, as a result—

- a) the applicant has not paid the amount of duty that, but for this section, is payable on the goods;
- b) the applicant would, but for this section, be liable to the imposition of a penalty under section 137; or
- c) goods, but for this section, would be liable to seizure under this Act,

the amount of the duty otherwise payable is not recoverable as a debt due to the State and no penalty shall be imposed under section 137 and the goods shall not be liable to seizure under this Act, as the case may be.

(2) Subsection (1) applies only in relation to a matter on which the Customs ruling was given and where the Customs ruling has not ceased under section 154F of this Act, and in accordance with any amendment to a Customs ruling that the applicant has received notice under section 154D.

PART 20 SETTLEMENT OF CASES BY THE COMPTROLLER

(Section 155)

[Section 155] Power of Comptroller to compound offence by agreement

(1) Subject to such procedure as may be prescribed, the Comptroller may, where he or she is satisfied that a person has committed an offence against this Act in respect of which a pecuniary penalty is provided or in respect of which any goods are liable to forfeiture, compound such offence and may order such person to pay such sum of money, not exceeding the maximum amount of the pecuniary penalty to which such person would have been liable if he or she had been prosecuted and convicted for the offence, as he or she may think fit; and he or she may order any goods liable to forfeiture in connection therewith to be condemned, provided that the Comptroller shall not exercise his or her powers under the provisions of this section unless such person in writing admits that he or she had committed the offence and requests the Comptroller to deal with such offence under the provisions of this section.

(2) Where the Comptroller makes an order under the provisions of subsection (1) then—

- a) such order shall be put into writing and shall have attached to it the request to the Comptroller to deal with the matter;
- b) such order shall specify the offence which such person committed and the penalty imposed by the Comptroller;
- c) a copy of such order shall be given to such person if he or she so requests;
- d) the person against whom the order is made shall not be liable to any further proceedings or prosecution in respect of the offence and if he or she is in custody he or she shall be discharged;
- e) such order shall be final and shall not be subject to appeal; and
- f) if the sum of money so ordered to be paid or any part thereof is not paid, it shall be lawful for the Comptroller to send a copy of his or her order to a court of competent jurisdiction which shall thereupon make an order for the enforcement thereof in the same manner as if the penalty had been imposed by the court.

(3) The Minister may delegate to any officer all or any of the powers of the Comptroller under the provisions of this section and may impose such limitations and conditions upon such delegation as he or she considers appropriate.

(4) This section does not apply to any offence based on a statement which has been the subject of a penalty notice under section 137A(1).

[subs (4) insrt Act 57 of 1998 s 22, effective 20 September 1999]

PART 21 LEGAL PROCEEDINGS

(Sections 156–169)

[Section 156] Notice of seizure to be given

(1) If goods have been seized as being liable to forfeiture under this Act then unless such goods were seized in the presence of the owner thereof or, in the case of an aircraft or ship, of the master thereof, the Comptroller shall give notice in writing of such seizure and the reasons therefore to the owner thereof or, in the case of an aircraft or ship, to the master thereof.

(2) If goods have been seized in the presence of a person coming within the definition of owner for the purposes of this Act, then it is not necessary for the Comptroller to give notice of the seizure thereof to any other person coming within such definition and a notice given to any person coming within the definition of owner is deemed to be notice to all other coming persons within such definition.

(3) Where no person coming within the definition of owner is known then it shall not be necessary for the Comptroller to give notice of the seizure to any person.

(4) If goods seized are of a perishable nature or are living creatures, they may forthwith be sold in accordance with the provisions of section 63 by the Comptroller either by public auction or private treaty and the proceeds of the sale be retained by the Comptroller and dealt with as if they were such goods.

[Section 157] Notice of claim

(1) Where goods liable to seizure under the provisions of this Act have been seized, the owner thereof or, in the case of an aircraft or ship the master thereof, may within 3 months of the date of the seizure or of the date of any written notice of seizure, as the case may be, by notice in writing to the Comptroller claim the goods.

(2) If no claim is made within such period of 3 months in accordance with the provisions of subsection (1), the goods are deemed to have been condemned.

[Section 158] Procedure after notice of claim

(1) If a notice of claim has been given to the Comptroller in accordance with the provisions of section 157, then the Comptroller may within a period of 2 months from the receipt of such claim, either—

- a) by notice in writing to the claimant, require the claimant to institute proceedings for the recovery of the goods within 2 months of the date of such notice; or
- b) himself or herself institute proceedings for the condemnation of the goods.

(2) If the Comptroller fails within such period of 2 months either to require the claimant to institute proceedings or himself or herself to institute proceedings, in accordance with the provisions of subsection (1) then such goods shall be released to the claimant.

(3) If the Comptroller, in accordance with the provisions of subsection (1), requires the claimant to institute proceedings within the period of 2 months and the claimant fails to do so, then on the expiration of such period the goods are deemed to have been condemned.

[Section 159] Custody of seized goods

All goods which are seized as being liable to forfeiture under the provisions of this Act shall be delivered into the custody of the Comptroller and may be sold or otherwise disposed of by the Comptroller in the prescribed manner, provided that it shall be lawful for the Minister to direct that, in lieu of being sold, such goods shall be reserved for the civil service.

[s 159 am Act 2 of 2016 s 20 , effective 16 February 2016 ; Act 30 of 2016 s 11, effective 23 June 2016]

[Section 160] Serving of notice of seizure

A notice of seizure is deemed to have been duly served on the person concerned—

- a) if delivered to him or her personally; or
- b) if addressed to him or her and left or forwarded by registered post to him or her at his or her usual or last known place of abode or business or, in the case of a body corporate, at its registered or principal office.

[s 160 am Act 28 of 1996 s 15, effective 27 December 1996]

[Section 161] Bail may be given for goods seized

(1) Where goods have been seized as being liable to forfeiture under this Act, it is lawful for the Comptroller to order the delivery of such goods on security by bond, with 2 sufficient sureties to be first approved by him or her, being given for double the value of the goods and such bond shall be delivered and kept in the custody of the Comptroller.

(2) If the goods referred to in subsection (1) are condemned, the value thereof only shall be paid into the hands of the Comptroller who shall thereupon cancel the bond.

[Section 162] Security to abide by decree of competent court

(1) If in any proceedings instituted by the Comptroller the court delivers judgment ordering the return of any goods to the owner or claimant thereof, the execution of the judgment shall not be stayed pending the appeal if the party to whom the goods are ordered to be returned furnishes security to the satisfaction of the court for the restitution of the goods or the payment of the full value thereof, in case the judgment is reversed by the appellate court.

(2) The full value of the goods for the purposes of subsection (1) shall, either be ascertained by agreement between the parties or, if the parties cannot agree, by appraisement under the authority of the court.

[Section 163] Protection of officers etc in relation to seizure and detention of goods etc

(1) If, in any proceedings for the condemnation of any goods seized as liable to forfeiture under the customs laws, judgment is given for the claimant, the court may, if it sees fit, certify that there were reasonable grounds for the seizure.

(2) If any proceedings, whether civil or criminal, are brought against the Comptroller or any person authorised under the provisions of this Act to seize or detain any goods liable to forfeiture, on account of the seizure or detention of any goods, aircraft or ship or pursuant to any act done by any officer in the execution or intended execution of his or her duty under any law relating to customs and judgment is given for the plaintiff or prosecutor, then if either—

- a) a certificate relating to the seizure has been granted under the provisions of subsection (1); or
- b) the court is satisfied and so declares that there were reasonable grounds or probable cause for such seizure or act,

the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant or person who effected the seizure or performed the act shall not be liable to any punishment and shall be immune from all proceedings whether civil or criminal, on account of such seizure or act, provided that nothing in this subsection shall affect any right of any person to the return of the goods seized or detained or to compensation in respect of any damage to or loss in value of the goods or in respect of the destruction thereof.

(3) A certificate under the provisions of subsection (1) may be proved by the production of either the original certificate or a certified copy thereof purporting to be signed by an officer of the court by which it was granted.

[Section 164] Averment of prosecutor sufficient

(1) In any Customs prosecution the averment of the prosecutor or plaintiff contained in the information, complaint, declaration, claim or other originating process shall be *prima facie* evidence of the matter or matters averred.

(2) This section shall apply to any matter so averred although—

- a) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or

b) the matter averred is a mixed question of law and fact, but in that case the averment shall be *prima facie* evidence of the fact only.

(3) Any evidence given by witnesses in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this section.

(4) The foregoing provisions of this section shall not apply to—

- a) an averment of the intent of the defendant;
- b) proceedings for an offence directly punishable by imprisonment unless the defendant does not appear at the trial.

(5) This section shall not lessen or affect any onus of proof otherwise falling on the defendant.

[Section 165] Evidence of officers

If in any proceedings relating to the customs the question arises whether any person is an officer, his or her own evidence thereof shall be deemed sufficient unless the contrary is proved.

[Section 165A] Customs records of electronic transmissions admissible in evidence

(1) The Fiji Revenue and Customs Service must keep a record of all electronic transmissions made by the system for a period of 7 years after the transmission is communicated to or by the Fiji Revenue and Customs Service.

[subs (1) am Act 31 of 2016 s 51, effective 1 December 2016; Act 37 of 2017 s 46, effective 30 June 2017; Act 38 of 2017 s 7, effective 1 August 2017]

(2) In any proceedings under this Act, a record retained by the Fiji Revenue and Customs Service under this section—

- a) is admissible in evidence; and
- b) is *prima facie* evidence—
 - i. if the record purports to be a record of a transmission made to the Fiji Revenue and Customs Service, that the person whose identifier was used for the purpose of the transmission made the statements contained in the transmission; and
 - ii. if the record purports to be a record of a transmission made by the Fiji Revenue and Customs Service, that the Customs made the statements contained in the transmission.

[subs (2) am Act 38 of 2017 s 7, effective 1 August 2017]

[s 165A insrt Act 57 of 1998 s 23, effective 20 September 1999 ; Act 31 of 2016 s 51, effective 1 December 2016]

[Section 166] Action by or against the Comptroller

Where under the provisions of this Act any proceedings are brought by or against the Comptroller in his or her representative capacity and—

- a) any sum or costs are recovered by the Comptroller, then such sums shall be paid to the Fiji Revenue and Customs Service; and
- b) any damages or costs are ordered to be paid by the Comptroller then such damages or costs shall be paid by the Fiji Revenue and Customs Service and the Comptroller shall not be personally liable therefor.

[s 166 am Act 9 of 1998 s 55 and Sch 2, effective 1 January 1999; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 167] Limitation of proceedings (Repealed)

[s 167 rep Act 37 of 2017 s 47, effective 30 June 2017]

[Section 167A] Burden of proof

In any proceedings under this Act, the burden of proof lies with the defendant in the proceedings.
[s 167A insrt Act 37 of 2017 s 48, effective 30 June 2017]

[Section 168] Special application of Evidence Act 1944

In any criminal proceedings relating to the customs laws the provisions of section 4 of the Evidence Act 1944 shall apply to markings contained on goods, bags, boxes or containers as though such marks were statements contained in documents and the goods, bags, boxes or containers were documents.

[Section 169] Proof of certain documents etc

(1) If in any court any book or document in the official custody of the Comptroller or any officer is required to be used as evidence as to the transactions to which it refers, copies thereof or extracts therefrom certified by the Comptroller or the proper officer shall be admissible for that purpose, without production of the original.

(2) In any proceedings under the customs laws, certificates and copies of official documents purporting to be certified under the hand and seal or stamp of office of any of the principal officers of Customs or of Customs and Excise in a British possession or Commonwealth country or of any overseas representative of Fiji or of any British Consul or Vice-Consul in any foreign country, shall be sufficient evidence of the matters therein stated unless the contrary is proved.

(3) In any proceedings under the customs laws, the production of a certificate purporting to be signed by a Government analyst or assistant Government analyst, shall be sufficient evidence of all the matters therein stated unless the contrary is proved.

PART 22 GENERAL PROVISIONS AS TO LEGAL PROCEEDINGS

(Sections 170–173)

[Section 170] Place of offence

Every offence under the customs laws shall be deemed to have been committed and every cause of action to have arisen either in the place in which it actually was committed or arose or in any place on land where the person charged with the offence may be or be brought.

[Section 171] Comptroller may levy on goods in his or her possession

When any pecuniary penalty adjudged against any person is unpaid, the Comptroller may levy the same by sale of any goods belonging to such person which may then or thereafter be subject to the control of the Fiji Revenue and Customs Service.

[s 171 am Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Section 172] Jurisdiction of Resident Magistrates

(1) If any Resident Magistrate hears and determines any prosecution for any offence under the customs laws, then, notwithstanding anything contained in any other Act, he or she shall have jurisdiction to impose any fine or any sentence of imprisonment which may be imposed under the customs laws on any person convicted of the offence.

(2) Without prejudice to the powers of any other court of competent jurisdiction, any proceedings for condemnation or for the recovery of any duty or other sum payable under the customs laws may be heard and determined, without limit of amount, by a Resident Magistrate.

[Section 173] Incidental provisions as to legal proceedings

(1) Where liability for any offence under the customs laws is incurred by 2 or more persons jointly, those persons shall each and every one be liable for the full amount of any fine and may be proceeded against jointly or severally.

(2) In any proceedings for an offence or for the condemnation of any thing as being forfeited under the customs laws, the fact that security has been given by bond or otherwise for the payment of any duty or for compliance with any condition, in respect of the non payment of which or non-compliance with which the proceedings are instituted, shall not be a defence.

(3) Where under any provision of the customs laws a punishment is prescribed for an offence and any person is convicted in the same proceedings of more than one such offence, that person shall be liable to that punishment for each such offence of which he or she is convicted.

(4) Where a fine for any offence under the customs laws is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might reasonably

be expected to have fetched, after payment of any duty chargeable thereon if they had been sold in the open market in Fiji at or about the date of the commission of the offence for which the fine is imposed. A certificate as to the value of such goods under the hand of an officer shall be accepted as proof of such value and shall be conclusive unless challenged by the person charged, in which event the court may proceed to hear evidence of value.

(5) Where an offence under the customs laws which has been committed by a company or other 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 officer of such company or other body corporate or any person purporting to act in any such capacity, he or she, as well as the company or other body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. For the purpose of this subsection, "officer" shall include any director, manager, secretary or other similar officer of a company and any member, manager, secretary or other similar officer of a body corporate other than a company.

(6) Where, in any proceedings for an offence under the customs laws, any question arises as to the duty or the rate thereof chargeable on any goods and it is not possible to ascertain the relevant time of importation or exportation, that duty or rate shall be determined as if the goods had been imported or exported, as the case may be, without entry at the time when the proceedings were commenced.

PART 23 APPEALS

(Sections 174–180)

[Section 174] Establishment of Court of Review

The Minister may on the recommendation of the Judicial Service Commission appoint a person of legal knowledge and substantial experience for the purpose of hearing and determining appeals from the decisions of the Comptroller upon any of the matters specified in the Schedule, for dealing with such other matters as are assigned to the said person under the provisions of this Act, the Customs Tariff Act 1986 and the Excise Act 1986 and the person so appointed shall hold a court to be called the Court of Review and the said Court of Review shall, for the purpose of hearing and determining the appeals under this Act referred to it, have powers and authority similar to those vested in the High Court as if such appeal were an action between the appellant and the Comptroller.

[s 174 am Promulgation 14 of 2007 s 36, effective 1 July 2007]

[Section 175] Rules of court

The Chief Justice shall have the power to make rules of court generally for regulating any matters relating to the practice and procedure of the Court of Review or the fees to be charged, the forms to be used and the costs of proceedings therein.

[Section 176] Court sittings

The Court of Review shall fix the date and place of hearing of appeals and shall notify the parties accordingly, provided that the hearing of the appeal by the Court of Review shall commence before the expiration of one month from such notification as aforesaid.

[Section 177] Court of Review to decide

- (1) The Court of Review, after hearing any evidence adduced and upon such other inquiry as it considers advisable, shall determine to matter and confirm or amend the decision of the Comptroller accordingly.

- (2) The Court of Review shall send a copy of its decision by registered post to the Comptroller and to the appellant or his or her agent.

[Section 178] Proceedings ex parte

If the appellant fails to appear either in person or by agent the Court of Review may proceed ex parte or may defer the hearing.

[Section 179] Costs

In any case where the appeal is unsuccessful, the Court of Review may direct that the appellant shall pay the costs or part of the costs of such appeal and if such appeal is successful, the Court of Review may direct that the costs or any part thereof be paid by the Government.

[Section 180] Appeal to High Court

If the appellant is dissatisfied with the decision of the Court of Review he or she may, within one month after the date of such decision, give a written notice to the Comptroller in the form prescribed by the Chief Justice under the provisions of section 175, that he or she desires to appeal the decision. If the appellant gives such notice or if the Comptroller is dissatisfied with the decision, the Comptroller shall refer the matter to the High Court for hearing and determination whereupon the Comptroller shall notify the appellant by registered letter that he or she has made such reference. On any such reference the High Court shall hear and consider such matter upon the papers and evidence referred and upon any further evidence which the appellant or the Comptroller produces under the direction of the said court.

PART 24 MISCELLANEOUS

(Sections 181–192)

[Section 181] Commissioned aircraft or ships to be reported

The person in command of any aircraft or ship holding commission from the State or from any foreign state and having on board any goods, other than aircraft or ship's stores, laden outside Fiji shall—

- a) deliver to the proper officer an account in writing of the quantity of such goods, the marks and numbers thereof and the names of the shippers and consignees and declare to the truth thereof; and
- b) answer all questions relating to such goods.

[Section 182] Commissioned aircraft or ships may be boarded and searched

Aircraft or ships under commission from the State or from any foreign state having on board any goods, other than aircraft or ship's stores laden outside Fiji, may be boarded and searched by any officer specially authorised by the Comptroller in the same manner as other aircraft or ships and the officer may bring any such goods ashore and place them in a customs warehouse.

[Section 183] Commanding officer responsible for due observance of customs laws

The officer in command of any aircraft or ship holding commission from the State or any foreign state shall be responsible for the due performance of all acts required under the provisions of this Act in relation to any goods carried by or landed or discharged from such ship and shall be liable to any penalty or fine provided for non compliance with the provisions of this Act.

[Section 184] Comptroller may pay rewards (Repealed)

[s 184 rep Act 23 of 2015 s 19, effective 6 November 2015]

[Section 185] Application of penalties

All moneys recovered by way of penalties, the sale of goods seized and compounded fines recovered under this Act shall be paid into the Consolidated Fund.

[Section 186] Sales under customs laws

Any Act relating to the licensing of businesses shall not apply to sales under the customs laws when conducted by an officer authorised by the Comptroller to conduct such sales.

[Section 187] Value of goods sold

When the duty on any goods sold at any Fiji Revenue and Customs Service sale shall be stated to be ad valorem, the value of such goods shall, if approved by the Comptroller, be taken to be the value as shown by the sale.

[Section 188] Service of notices

Every notice or document required by this Act to be served on any person may be served personally upon such person or may be served by sending such notice or document to such person by registered post at his or her usual or last place of abode and in the latter case, shall be deemed to have been served on him or her at the time at which it would have been delivered to him or her in the ordinary course of the post.

[Section 189] Presentation and passing of entries

(1) Imported goods, other than goods in transit or for trans-shipment and goods intended for export, shall be entered on the appropriate prescribed forms or by means of an electronic message transmitted to the system.

[subs (1) am Act 57 of 1998 s 24, effective 20 September 1999]

(2) If more than one entry is presented at any Customs House for payment of duties and charges, such entries shall be accompanied by a schedule showing the amount of money due on each entry.

(3) An entry is not deemed to have been made until a lodgement number has been allocated either manually or electronically.

[subs (3) subst Act 57 of 1998 s 24, effective 20 September 1999]

[Section 190] Abandoned goods and sweepings

(1) Where an importer intends to abandon any goods for the duty thereon, he or she shall so inform the Comptroller in writing without delay and give full particulars of the goods in question.

(2) All abandoned goods and any other goods for destruction or disposal shall be destroyed or disposed of in the presence of an officer at the expense of the owner of the goods.

(3) Any goods stored in a bonded warehouse and abandoned by an importer shall be removed by such importer at his or her expense to a customs warehouse or such other place as the Comptroller may direct.

(4) Any application made by the agent of an importing aircraft or ship for the delivery of sweepings or remnants of the cargo without the payment of duty will be granted only when duty has already been paid in full on all manifest consignments of which the sweepings or remnants are satisfactorily proved to be part.

[Section 191] Regulations

(1) The Minister may make regulations generally for the purpose of carrying out the provisions of this Act and in particular such regulations may provide for—

- a) the flag to be flown by the Fiji Revenue and Customs Service and a customs seal;
- b) the powers, duties and hours of attendance of any officer or other person employed in carrying out the provisions of this Act;
- c) the services for which charges or fees shall be payable on account of the attendance of officers on aircraft or ships or in any port, warehouse or other place and the conditions applicable to such services;
- d) the conduct of all matters relating to the assessment and collection of customs duties, including the time of payment thereof;
- e) the days and hours during which aircraft and ships may arrive and depart from ports and the procedure in connection therewith and the procedure in connection with the embarkation and disembarkation of passengers, the discharge, landing and loading of goods from and in aircraft and ships and with regard to aircraft stores and ship's stores;
- f) the conditions under which temporary importation of goods may be permitted;
- g) the conditions under which bonded warehouses may be approved and for the control and regulation of bonded warehouses;
- h) the control and regulation of customs warehouses, export warehouses, customs areas, customs sheds and other customs establishments;
- i) the manner in which goods may be transhipped or goods in transit may be moved;
- j) the conditions for the licensing of the carriage of goods under customs control;
- k) the procedure for the examination of postal parcels and postal packets for the purposes of the customs laws and for the collection of any duty chargeable on the importation or exportation of goods contained in postal parcels or postal packets;
- l) the conditions under which refunds of duty may be made on goods purchased locally by particular bodies or authorities;
- m) the conditions under which drawback shall be allowed and the determination and variation of the rates of such drawback;
- n) the nature, size, material and marking of packages and the minimum or maximum weight which may be contained in any one package;
- o) the forms, bills and documents necessary for the carrying out of the provisions of this Act;
- p) the issue of licences;
- q) the charging of rent, fees and other charges and the amounts thereof;
- r) the manner in which goods may be sold in accordance with the provisions of this Act;
- s) the conditions for the denaturation of spirits;
- t) the procedure under which samples may be taken and the methods of accounting for such samples and disposing thereof;
- u) any other matter which may be prescribed under the provisions of this Act.

[subs (1) am Act 23 of 1996 s 5, effective 25 October 1996; Act 31 of 2016 s 51, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) Such regulations made under this section may provide—

- a) that any breach thereof shall be punishable by a fine not exceeding \$10,000;
- b) that goods, if any, being the subject of the contravention shall be liable to forfeiture; and
- c) that forms, certificated and other documents to be used for the purposes of this Act may be such as may be approved by the Comptroller.

[subs (2) am Decree 9 of 2010 s 46, effective 1 January 2010]

(3) Regulations made under this section may provide for the Comptroller to exercise a discretion in respect of any matter or for the requirement of his or her approval in respect of any matter.

[Section 192] Repeal, savings and transitional provisions

(1) The Customs Act is repealed.

(2) Without prejudice to section 18 of the Interpretation Act 1967, notwithstanding the repeal of the Customs Act by subsection (1), any instrument made or any other thing done under the provisions of the Customs Act shall continue in force and shall, so far as it could have been made or done under this Act, have effect as if made or done under the corresponding provision of this Act.

(3) The repeal of the Customs Act by subsection (1) shall not affect the terms and conditions subject to which any person held any office immediately before the commencement of this Act and any officer appointed under the provisions of the repealed Act and holding office immediately before the commencement of this Act is deemed to be an officer for the purposes of this Act.

(4) The Minister may by regulations make provision for any other savings or transitional matter connected with the coming into force of this Act.

SCHEDULES

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[Sch 1 am Act 57 of 1998 s 25, effective 20 September 1999; Act 9 of 2002 s 7, effective 1 July 2002; Promulgation 32 of 2008 s 5, effective 1 January 2009; Act 37 of 2017 s 49, effective 30 June 2017]

Decisions of the Comptroller on—

- i. the interpretation of the customs tariff;
- ii. the classification of goods under the customs tariff;
- iii. any penalty imposed under section 137A;
- iv. any amended assessment imposed under section 101A;
- v. the Water Resource Tax Act 2008;
- vi. customs rulings, in accordance with section 154G.

CUSTOMS REGULATIONS 1986

Table of Amendments

Customs Regulations 1986 (LN 108 of 1986) commenced on 31 October 1986, as amended by:

Amending Legislation	Date of Commencement
Customs (Amendment) Regulations 1988 (LN 111 of 1988)	1 January 1989
Customs (Amendment) Regulations 1991 (LN 68 of 1991)	1 January 1992
Customs (Amendment) (No 2) Regulations 1991 (LN 94 of 1991)	1 January 1992
Customs (Amendment) Regulations 1992 (LN 139 of 1992)	6 November 1992
Customs (Amendment) Regulations 1992 (LN 144 of 1992)	6 November 1992
Customs (Amendment) Regulations 1997 (LN 135 of 1997)	21 November 1997
Customs (Fees Amendment) Regulations 2000 (LN 4 of 2000)	21 January 2000
Customs (Amendment) Regulations 2004 (LN 102 of 2004)	1 January 2005
Customs (Amendment) Regulations 2005 (LN 1 of 2005)	1 January 2005
Customs (Amendment) Regulations 2007 (LN 62 of 2007)	1 July 2007
Customs (Budget Amendment) Regulations 2010 (LN 4 of 2010)	1 January 2010
Customs (Amendment) Regulations 2011 (LN 5 of 2011)	26 November 2010
Customs (Amendment) Regulations 2011 (LN 62 of 2011)	25 July 2011
Customs (Amendment) Regulations 2012 (LN 6 of 2012)	25 November 2011
Customs (Amendment) (No 2) Regulations 2012 (LN 9 of 2012)	1 January 2012
Customs (Amendment) (No 3) Regulations 2012 (LN 52 of 2012)	1 January 2012
Customs (Amendment) Regulations 2014 (LN 16 of 2014)	31 March 2014
Customs (Amendment) (No 2) Regulations 2014 (LN 69 of 2014)	21 November 2014
Customs (Amendment) Regulations 2015 (LN 88 of 2015)	21 November 2014
Customs (Amendment) (No 2) Regulations 2015 (LN 90 of 2015)	6 November 2015
Customs (Amendment) Regulations 2016 (LN 49 of 2016)	1 August 2016; reg 36: 1 January 2017
Customs (Amendment) (No 2) Regulations 2016 (LN 66 of 2016)	1 August 2016
Revised Edition of the Laws (Consequential Amendments) Regulations 2016 (LN 99 of 2016)	1 December 2016
Customs (Amendment) Regulations 2017 (LN 42 of 2017)	30 June 2017
Fiji Revenue and Customs Authority (Budget Amendment) Act 2017 (No 38 of 2017)	1 August 2017
Customs (Amendment) Regulations 2018 (LN 51 of 2018)	1 August 2018

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PART 1 PRELIMINARY

(Regulations 1–3)

[Regulation 1] Short title

These Regulations may be cited as the Customs Regulations 1986.

[Regulation 2] Interpretation

In these Regulations, unless the context otherwise requires, “Act” means the Customs Act 1986.

[Regulation 3] Penalty

A person who commits an offence against these Regulations for which no specific penalty is provided is liable to a fine not exceeding \$10,000.

[reg 3 am LN 4 of 2010 reg 2, effective 1 January 2010]

PART 2 ADMINISTRATION

(Regulations 4–18)

[Regulation 4] Customs flag

The customs flag shall be the Fiji ensign with the addition in the fly of the letters and word “H.M. Customs” in bold white characters.

[Regulation 5] Working days and hours

The working days for the Fiji Revenue and Customs Service officers are every day except for a Saturday, Sunday or public holiday.

[reg 5 am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Regulation 6] Working hours

(1) Subject to this regulation, the working hours for the transaction of business with the Fiji Revenue and Customs Service shall be as follows—

(a) Indoor—

Monday to Thursday	8.00 am to 1.00 pm
	2.00 pm to 4.30 pm

Friday	8.00 am to 1.00 pm
	2.00 pm to 4.00 pm

provided that revenue and other charges may be paid at any customs house only between the following hours—

Monday to Thursday	8.30 am to 12.30 pm
	2.00 pm to 4.00 pm

Friday	8.30 am to 12.30 pm
	2.00 pm to 3.30 pm

(b) Outdoor—

Monday to Thursday	8.00 am to 5.00 pm
Friday	8.00 am to 4.00 pm

(c) Customs warehouse—

Monday to Thursday	8.00 am to 1.00 pm
	2.00 pm to 4.30 pm

Friday	8.00 am to 1.00 pm
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[subreg (1) am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) For the purpose of this regulation, “outdoor” includes—

- a) boarding of ships and aircraft;
- b) clearing of passengers and passengers’ baggage;
- c) landing and shipping operations, including the clearing of cargo; and
- d) entry inwards and clearance outwards of ships and aircraft.

(3) Subject to regulation 7, no work shall be permitted on a Saturday, Sunday, or public holiday.

(4) The Comptroller may vary the hours of general attendance of officers to meet any exceptional circumstances.

(5) The Comptroller shall exhibit at a port or place appointed and specified under section 4 of the Act, a notice specifying the hours of general attendance of officers at that port or place.

[Regulation 7] Work on holidays etc

(1) If the attendance of an officer is required on Saturdays, Sundays, public holidays, or at any time outside the working hours specified in regulation 6 or for any special service within those hours, the person requiring such attendance shall make application to the Comptroller or other proper officer on the approved Form (C.1) and shall undertake to pay the prescribed fee on demand. The Comptroller or other proper officer may, at his or her discretion, prior to allowing such attendance, demand a deposit of an amount sufficient to cover the charges that may be incurred and the travelling expenses, if any.

(2) Every application under subregulation (1) shall be made before 12.00 pm on any weekday and shall specify the extra period during which the attendance is required and the nature of the work to be performed. The number of officers required for such work shall be determined by the Comptroller.

(3) Any special attendance given at the request of any person during the working hours prescribed by regulation 6 shall be paid for at the rate of \$25 per hour for each officer employed.
[subreg (3) am LN 111 of 1988 reg 2, effective 1 January 1989 ; LN 68 of 1991 reg 2, effective 1 January 1992 ; LN 102 of 2004 reg 2, effective 1 January 2005 ; LN 9 of 2012 reg 2, effective 1 January 2012; LN 49 of 2016 reg 2, effective 1 August 2016]

(4) In subregulation (3) “special attendance”, in respect of an officer, means attendance by that officer other than for the purpose of carrying out a routine inspection of goods or premises in the normal course of his or her duties under the Act.

[Regulation 8] Overtime

Whenever, for the purpose of carrying out any provision of the customs laws, an officer attends at any time outside working hours, the person who makes application under regulation 7(1) or, if no application is made, the master or owner of an aircraft or ship, importer, exporter or other person concerned shall pay, in respect of each officer, a charge calculated at the following rates—

- a) at any time on a Saturday, Sunday and a public holiday, \$35 for each hour or portion of an hour;
- b) outside working hours on any other day, \$25 for each hour or portion of an hour,

provided that—

- i. in respect of the attendance of an officer at any time on a Saturday, Sunday, public holiday or between the hours of 8.00 pm and 6.00 am on any weekday, a minimum charge shall be made equivalent to the charge for 3 hours attendance; and
- ii. in respect of each entry inwards or clearance outwards of an aircraft and its passengers, cargo and stores at an airport on a Saturday, Sunday, public holiday or outside working hours on any other day, the charge shall be \$400 per aircraft for each such entry or clearance, except where both such entry and clearance are completed within one period of 3 hours, in which case only one charge shall be made.

[reg 8 am LN 111 of 1988 reg 3, effective 1 January 1989 ; LN 68 of 1991 reg 3, effective 1 January 1992 ; LN 102 of 2004 reg 3, effective 1 January 2005 ; LN 5 of 2011 reg 2, effective 26 November 2010; LN 9 of 2012 reg 3, effective 1 January 2012; LN 49 of 2016 reg 3, effective 1 August 2016]

[Regulation 9] Expenses of officers

Whenever, for the purpose of carrying out any provision of the customs laws, it is necessary that any travelling or other expenses be incurred by an officer, the Comptroller may require those expenses to be paid by the master or owner of an aircraft or ship or by the importer, exporter, warehouse keeper, remover or other person concerned.

[Regulation 10] Attendance required at places other than a port or airport

(1) Where an officer is required to attend for any work connected with the customs at any place other than a port or an airport, the charges set out in regulation 8 shall not be payable and the following amounts shall be charged for such attendance—

- a) the actual cost incurred by the Government for the transportation of the officer to and from such place for such attendance;

- b) the amount of any subsistence allowance or out-of-pocket expenses paid by the Government to the officer in respect of his or her absence from his or her normal station for such attendance; and
- c) a fee of \$500 for each period of 24 hours or part thereof during which the officer is necessarily absent from a port for such attendance.

[subreg (1) am LN 111 of 1988 reg 4, effective 1 January 1989 ; LN 68 of 1991 reg 4, effective 1 January 1992 ; LN 102 of 2004 reg 4, effective 1 January 2005 ; LN 9 of 2012 reg 4, effective 1 January 2012; LN 49 of 2016 reg 4, effective 1 August 2016]

(2) The provisions of regulations 10(1)(c) shall not apply—

- a) in the case of a sufferance wharf with an approved boarding station expressly for foreign pleasure yachts, approved for temporary import under Code 228 of Part 3 of Schedule 2 to the Customs Tariff Act 1986 and, such place is licensed by the Comptroller under the provisions of section 4(3) of the Customs Act 1986.
- b) if the attendance of the officer is requested within the scope of regulation 6.

[subreg (2) insrt LN 4 of 2010 reg 3, effective 1 January 2010]

[Regulation 11] Mode of charge

The unit of time for the purpose of calculating overtime shall be one hour, and any portion of one hour shall count as a complete unit.

[Regulation 12] Exemption from charges

Notwithstanding the other provisions of these Regulations, no overtime fees shall be charged in respect of the attendance of officers in connection with any military aircraft or ship of war or any other aircraft or ship approved for this purpose by the Minister.

[Regulation 13] Fees etc to be paid into Consolidated Fund

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

[Regulation 14] Remuneration of officers

(1) There shall be paid to all proper officers, for duty performed outside or in excess of the hours specified in regulation 6, overtime allowances at such rates as the Comptroller, with the approval of the Minister, may permit.

[subreg (1) am LN 99 of 2016 reg 57, effective 1 December 2016]

(2) In the case of an officer who is working the hours set out in paragraphs 6(1)(a) and (c) no overtime shall be paid for work performed between 4.30 pm and 5.00 pm from Monday to Thursday.

(3) A minimum of 3 hours of overtime shall be paid to officers for—

- a) work performed between 8.00 pm and 6.00 am on weekdays; and
- b) work performed on Saturdays, Sundays and public holidays.

(4) If an officer is required to attend at a place other than a port or airport, the rates for overtime which may be paid under the provisions of subregulation (1) shall, for work outside the normal hours performed by such officer at such place, be increased by 25%.

(5) Notwithstanding any other provisions of these Regulations the Comptroller may—

- a) require any officer to work 7.5 hours from Mondays to Thursdays and 7 hours on Fridays, within times other than those prescribed in regulation 6 and without being liable to pay any overtime for such work;
- b) in special cases grant a consolidated overtime allowance to officers in lieu of the hourly overtime rates which maybe paid under subregulation (1);
- c) refuse the payment of overtime allowance to any officer; and
- d) grant leave of absence in lieu of overtime.

[Regulation 15] Officers not eligible for overtime when travelling on duty

An officer shall not be eligible for overtime for the time spent in travelling on duty.

[Regulation 16] Forms

- (1) Forms shall be as may from time to time be approved by the Comptroller.
- (2) Where a form approved by the Comptroller contains by way of note or otherwise, a clear direction or indication of any requirement as to the colour, size or manner of use thereof, the requirements so directed or indicated are deemed to be prescribed.
- (3) Specimens of all forms referred to in these Regulations shall be available for inspection on application at any Custom House.

[subreg (3) am LN 135 of 1997 reg 3, effective 21 November 1997]

[Regulation 17] Comptroller may require additional copies of forms or additional particulars

The Comptroller may require that he or she be provided with copies 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.

[Regulation 90] Forms to be completed in typewriting or computer printing

- (1) Except where the Comptroller otherwise permits, all documents presented to the Fiji Revenue and Customs Service shall have the necessary particulars typewritten or generated by a computer printing process but copies other than the original may be prepared by carbon or other duplicating process.

[subreg (1) am LN 135 of 1997 reg 4, effective 21 November 1997 ; LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) The Comptroller may refuse to accept any document which is not legible.

[reg 18 am LN 135 of 1997 reg 4, effective 21 November 1997]

PART 3 ARRIVAL AND REPORT OF AIRCRAFT AND SHIPS

(Regulations 19–37)

[Regulation 19] Information as to time of arrival

(1) The master, owner or agent of a ship shall, not less than 2 days before the expected arrival of the ship at any port in Fiji, inform the proper officer at that port of the expected time of arrival.
[subreg (1) am LN 62 of 2007 reg 2, effective 1 July 2007]

(2) The pilot, owner or agent of an aircraft shall, not less than 9 hours or the actual flight time before the expected arrival of the aircraft at any airport in Fiji, inform the proper officer at that airport of the expected time of arrival.

[subreg (2) insrt LN 62 of 2007 reg 2, effective 1 July 2007]

(3) The person who informs the proper officer must first register the inward manifests immediately before the information required under subregulations (1) or (2) is provided.

[subreg (3) insrt LN 62 of 2007 reg 2, effective 1 July 2007]

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

[subreg (4) insrt LN 62 of 2007 reg 2, effective 1 July 2007]

[reg 19 am LN 62 of 2007 reg 2, effective 1 July 2007]

[Regulation 20] Report of ships and cargo

(1) The inward report by the master of a ship arriving from a port outside Fiji shall be in the approved Form (C.2) and signed by the master or the authorised agent. The report shall be made to the proper officer at the port or place of arrival. The master of a ship shall if required by the proper officer produce the certificate of registry of the ship at the time of making his or her report.

(2) An inward manifest shall in the like manner be declared and shall be on the approved Form (C.3).

(3) All packages for which no bill of lading has been issued shall be declared on the Parcels List on the approved Form (C.4) which shall be produced with the goods to the officer boarding the ship on arrival.

[Regulation 21] Report of aircraft

(1) The inward report by the master of an aircraft arriving from outside Fiji shall be in the approved Form (C.5) and shall be made to the proper officer at the airport or place of arrival.

(2) The report of the cargo of an aircraft shall be made in the approved Form (C.6) and shall be attached to the approved Form (C.5) of the inward report. A report of consumable stores on board the aircraft shall be submitted in the approved form.

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

(4) Notwithstanding the requirements in subregulations (1), (2) and (3), the Comptroller may dispense with the prescribed forms and instead accept the International Civil Aviation Organisation's General Declaration Form in lieu.

[subreg (4) insrt LN 62 of 2007 reg 4, effective 1 July 2007]

[Regulation 22] Manifest: aircraft and ships

(1) The bill of lading or airway bill number shall be shown against each item on the manifest or cargo report of every aircraft or ship.

(2) On one of the copies of the manifest or cargo report the particulars of cargo to be landed shall be shown on one side of the sheet only.

(3) An electronic copy of the manifest shall be registered on the Fiji Revenue and Customs Service computer system before an aircraft or ship may commence unloading or loading goods or disembarkation or embarkation of crew and passengers.

[subreg (3) insrt LN 62 of 2007 reg 5, effective 1 July 2007 ; am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(4) The advanced information of arrival for cargo ships and cruise ships shall be in the approved Form No C.2.A.

[subreg (4) insrt LN 62 of 2007 reg 5, effective 1 July 2007]

(5) The advanced information of arrival for fishing ships shall be in the approved Form No C.2.B.

[subreg (5) insrt LN 62 of 2007 reg 5, effective 1 July 2007]

(6) The advanced information of arrival for yachts and small ships shall be in the approved Form No C.2.C.

[subreg (6) insrt LN 62 of 2007 reg 5, effective 1 July 2007]

(7) The advanced information of arrival for aircrafts of all types shall be in the approved Form No C.2.D.

[subreg (7) insrt LN 62 of 2007 reg 5, effective 1 July 2007]

[Regulation 23] List of passengers, report of stores and crews' declaration

(1) The master of an aircraft arriving from a place outside Fiji shall, immediately on demand, present to the proper officer a list in the approved Form (C.7) of those passengers disembarking and those remaining on board, a statement of the stores of the aircraft in the approved Form (C.8) and a declaration in the approved Form (C.9) by each member of the crew of all dutiable goods in their possession.

(2) The master of a ship arriving from a place outside Fiji shall, immediately on demand, present to the proper officer a list in the approved Form (C.10) of those passengers disembarking and those remaining on board.

(3) If the proper officer so requires, a stores list in the approved Form (C.11) and a declaration in the approved Form (C.12) by each member of the crew, of all dutiable goods in his or her possession, shall be delivered by the master of every ship arriving from a place outside Fiji.

[Regulation 23A] Additional information required from master, owner, agent or operator of an international passenger air service

For the purpose of section 19, the proper officer's request may be either orally or in writing to the master, owner, agent or operator of an international passenger air service on passenger information kept electronically.

[reg 23A insrt LN 62 of 2007 reg 6, effective 1 July 2007]

[Regulation 24] Arrival at 2 or more ports

When an aircraft or ship calls at more than one airport, port or place in Fiji, as the case may be, a separate report shall be made at each airport, port or place.

[Regulation 25] Ballast

Aircraft and ships not having on board any goods other than stores and passengers' baggage shall be reported "in ballast".

[Regulation 26] 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 if no freight has been charged, the weight or measurement normally chargeable for the like kind and quantity of goods.

[Regulation 27] Description of cargo reports

The contents of every package and of all cargo in bulk intended for discharge at an airport, port or place in Fiji, shall be reported in accordance with the description thereof in the relevant bill of lading or freight note, as the case may be.

[Regulation 28] Reporting cargo for other ports in Fiji

(1) Cargo intended for discharge at other airports, ports or places in Fiji shall be shown separately in the inward report in the following manner—

“The undernoted cargo is hereby reported for discharge at other ports or places in Fiji
..... tonnes.”

(2) If the proper officer so requires, cargo for discharge at other ports and places in Fiji shall be reported in the same manner as cargo to which the provisions of regulation 27 apply.

[Regulation 29] Discharge of goods during working hours

The proper officer may require that the discharge of goods subject to the control of the Fiji Revenue and Customs Service shall cease at any time during working hours to enable goods which have been discharged to be received, before the conclusion of working hours, into an examining place, transit shed or other place of security.

[reg 29 am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Regulation 30] Breaking of bulk before report

Application to break bulk prior to making report and to unload goods prior to entry shall be made to the proper officer in the following forms—

- a) for cargo ships and cruise ships, in the approved Form No C.13.A;
- b) for fishing ships, in the approved Form C.13.B;
- c) for small ships under 500 tonnes net tonnage, in the approved Form No C.13.C;
- d) for any type of aircraft, in the approved Form No C.13.D,

provided the master, owner or agent has already registered the manifest electronically on the Fiji Revenue and Customs Service computer system.

[reg 30 am LN 62 of 2007 reg 7, effective 1 July 2007; LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Regulation 31] Cargo remaining on board

Cargo remaining on board an aircraft or ship for exportation may be reported as

“General cargo remaining on board for exportation:
..... tonnes”,

unless the proper officer in any particular case otherwise directs.

[Regulation 32] Declaration of aircraft and ship's stores

(1) The master of every aircraft arriving from a place outside Fiji shall, if required to do so by the proper officer, make a declaration in the approved Form (C.8) to the officer who boards the aircraft on arrival of all such unconsumed stores of the aircraft as may be specified by the form.

(2) The master of every ship arriving from a place outside Fiji shall make a declaration, in the approved Form (C.11), to the officer who boards the ship on arrival, of all such unconsumed stores of the ship as may be specified by the form.

(3) The term "stores" in these Regulations includes unconsumed liquor, tobacco goods, provisions and other goods carried by an aircraft or ship for consumption by the master, passengers and crew.

[Regulation 33] Stores to be produced

All stores which are required for the use of the crew and passengers of an aircraft or ship during its stay in Fiji shall, on request, be produced separately to the proper officer.

[Regulation 34] Allowance for the master and crew

The master and the members of the crew may be allowed to retain for their own consumption on board a ship whilst in Fiji without payment of duty thereon the following quantities of—

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

or such quantity as the Comptroller, in special circumstances, may allow but such quantity shall not exceed the maximum allowance for 4 consecutive days.

[reg 34 am LN 62 of 2007 reg 8, effective 1 July 2007]

[Regulation 35] Security of stores

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

(2) The proper officer may secure and seal any quantities of dutiable goods in excess of the scale set out in regulation 34, 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 will be claimed, provided that the proper

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.

[Regulation 36] Amending inward reports

(1) Where cargo reported for discharge at an airport, port or place in Fiji is found to be in excess or short of that stated in the report, the master or his or her agent may make application to the proper officer for permission to amend the report.

(2) The application referred to in subregulation (1) shall be on the approved form (C.14) and shall set out the reasons for the discrepancies and shall be accompanied by the fee prescribed in subregulation (3).

(3) A fee of \$50 per application per bill of lading or airway bill, shall be payable to the Comptroller.

[subreg (3) am LN 135 of 1997 reg 5, effective 21 November 1997; LN 102 of 2004 reg 5, effective 1 January 2005 ; LN 9 of 2012 reg 5, effective 1 January 2012; LN 49 of 2016 reg 5, effective 1 August 2016]

[reg 36 subst LN 94 of 1991 reg 2, effective 1 January 1992]

[Regulation 37] Conditions precedent to amendment of the report

Before the proper officer permits the amendment of a report pursuant to regulation 36, the master or agent shall satisfy him or her in the case of goods found to be short of that stated in the report, that such goods—

- a) were not shipped;
- b) were discharged and landed at a previous port or place;
- c) were over carried and landed at a subsequent port or place;
- d) having been over carried, have been returned to and landed at an airport or port in Fiji on the return voyage, or by some other aircraft or ship which loaded them at the port or place to which they were over carried;
- e) were lost at sea; or
- f) were stolen or destroyed before the aircraft or ship arrived within Fiji,

provided that the proper officer may, subject to the production of such documentary evidence as the Comptroller may direct, permit the amendment of a report where the master or agent is unable to comply with the aforesaid requirements.

PART 3A LICENSING OF AIRPORTS AND PORTS OF ENTRY

(Regulations 37A–37C)

[Regulation 37A] Port and airport of entry licence fee

(1) If the Minister has appointed an airport or port pursuant to section 4 of the Act, the Comptroller shall issue a licence, in the approved Form No C.28A, for such airport or a port of entry subject to payment of a fee of \$9,000 for a term of 3 years.

[subreg (1) am LN 9 of 2012 reg 6, effective 1 January 2012; LN 49 of 2016 reg 6, effective 1 August 2016 ; LN 51 of 2018 reg 2, effective 1 August 2018]

(2) A licence issued under subregulation (1) expires on 31 December of the third year of the term of the licence issued in accordance with subregulation (1).

[subreg (2) am LN 51 of 2018 reg 2, effective 1 August 2018]

(3) A licence that has expired but not renewed by 31 December may continue to be in force until 7 January of the following year in order for the application for renewal to be determined, and the licence fees to be paid.

[subreg (3) am LN 51 of 2018 reg 2, effective 1 August 2018]

[Regulation 37B] Rescinding licence for ports etc

(1) If the Minister has decided, in consultation with the other relevant Ministers in concurrence with the Comptroller, not to renew or to rescind the appointment of an airport or a port of entry, such decision shall become effective after the expiration of 3 months prior notice given by the Minister to the airport or port operator.

(2) Fees paid for any current licence shall not be refunded to the licensee.

(3) An order rescinding the appointment of a port or sea ports of entry shall be in the approved Form No C 28B, and such order is to be published in the Gazette.

[Regulation 37C] Licensing of bonded consol freight stations, bonded export freight stations or bonded customs areas licence fee

(1) For the purposes of section 4(6), the Comptroller shall issue a licence for a term of 3 years, in the approved Form No C.28C, for the bonded consol freight stations, bonded export freight stations or bonded customs areas subject to payment of a licence fee of \$9,000 for the full term of the licence.

[subreg (1) am LN 9 of 2012 reg 7, effective 1 January 2012; LN 49 of 2016 reg 7, effective 1 August 2016 ; LN 51 of 2018 reg 3, effective 1 August 2018]

(2) Regulation 37A(2) and (3) apply to this regulation.

PART 4 LANDING AND LOADING OF GOODS

(Regulations 38–46)

[Regulation 38] Sufferance wharves and unapproved places

(1) If the master of an aircraft or ship wishes to proceed to a sufferance airport, sufferance wharf or any place other than an approved place of loading or unloading for the purpose of loading or unloading cargo, he or she shall apply to the proper officer for permission in the approved Form (C.15).

[subreg (1) am LN 62 of 2007 reg 9, effective 1 July 2007]

(2) Applications referred to in subregulation (1) shall be accompanied by the fee prescribed in subregulation (3).

(3) A fee of \$100 per application per visit and per aircraft or per ship shall be payable to the Comptroller in addition to any other fees payable under this Act or these Regulations.

[subreg (3) am LN 102 of 2004 reg 6, effective 1 January 2005 ; LN 62 of 2007 reg 8, effective 1 July 2007 ; LN 9 of 2012 reg 8, effective 1 January 2012 ; LN 49 of 2016 reg 8, effective 1 August 2016]

[reg 38 subst LN 94 of 1991 reg 3, effective 1 January 1992]

[Regulation 38A] Sufferance airport and sufferance wharf licence fees

(1) The licence fee payable for sufferance airport or sufferance wharf is \$9,000 for a term of 3 years.

[subreg (1) am LN 9 of 2012 reg 9, effective 1 January 2012; LN 49 of 2016 reg 9, effective 1 August 2016 ; LN 51 of 2018 reg 4, effective 1 August 2018]

(2) A licence issued under subregulation (1) expires on 31 December of the third year from the date of the issuance of the licence.

[subreg (2) am LN 51 of 2018 reg 4, effective 1 August 2018]

(3) A licence that has expired but not renewed by 31 December may continue to be in force until January of the following year in order for the application for renewal to be determined, and the licence fees to be paid.

[subreg (3) am LN 51 of 2018 reg 4, effective 1 August 2018]

(4) A licence for a sufferance airport or sufferance wharf shall be in the approved Form No C.28.A.

[reg 38A insrt LN 62 of 2007 reg 10, effective 1 July 2007]

[Regulation 39] Accommodation and transport to be provided

(1) Upon application under regulation 38, the proper officer may grant such permission subject to such conditions and directions as he or she may see fit to impose.

(2) If permission is granted under subregulation (1), the master or his or her agent shall provide or pay the cost of accommodation and such travel expenses as the proper officer decides, of each officer required at such sufferance wharf or other place.

(3) The proper officer may, if he or she thinks fit, require the master of an aircraft or ship proceeding to a sufferance wharf or other place pursuant to permission granted under this regulation to deposit with him or her in advance a sum sufficient to cover the said expenses.

[Regulation 40] Goods not to be unloaded at a sufferance wharf until entered

No goods shall be unloaded at a sufferance wharf or any place other than an approved place of unloading until they have been entered, provided that the Comptroller may generally in regard to any particular sufferance wharf or other place or in any particular case waive or modify this requirement.

[Regulation 41] Boat or tally note

(1) If goods are discharged from an importing aircraft or ship into another aircraft or ship to be landed, the master or agent of such importing aircraft or ship shall sign and transmit with each shipment an account of the goods, and before any such goods are discharged from such importing ship or aircraft, the account shall be delivered to the proper officer at the place at which the goods are to be landed, provided that the Comptroller may dispense with the furnishing of such an account either generally or in any particular case if he or she shall see fit so to do.

(2) In the case of trans-shipment cargo the account referred to in subregulation (1) shall be headed "Trans-shipment cargo only".

[Regulation 42] Permission to leave place of unloading

An aircraft or ship to which the provisions of regulation 41 apply which has arrived at any place of unloading, shall not depart therefrom except with the permission of the proper officer and where any goods remain on board any such aircraft or ship so permitted to depart, the person in charge of such aircraft or ship shall observe such directions as the proper officer may give.

[Regulation 43] Permit to re-land goods

Before any goods which have been put into any aircraft or ship may be re-landed, the owner shall apply in writing to the proper officer and obtain permission to unload the goods, and shall thereupon land such goods and dispose of them as directed by the proper officer.

[Regulation 44] Certificate of landing

The proper officer may issue to any person who satisfies him or her that he or she is so entitled a certificate of landing of any goods in the approved Form (C.16) or in such other form as may be required by the authorities in the country requiring the certificate.

[Regulation 45] Landing and stacking

The master of an aircraft or ship, or his or her agent or other person discharging cargo, shall land and store the same at the place specified by the Comptroller, and the goods shall be stacked according to their marks and in such manner as will readily enable a complete check of all packages to be made. The goods shall be rearranged or restacked whenever required by the proper officer and trans-shipment cargo or cargo marked for another port shall be kept entirely separate from any cargo for Fiji.

[Regulation 46] Transit sheds

(1) Every building used as a transit shed shall be constructed and secured to the satisfaction of the Comptroller.

(2) In addition to any fastening which may be affixed by the Fiji Revenue and Customs Service to any building used as a transit shed, the doors of such building shall be secured by one or more locks by the master or agent of the aircraft or ship responsible for the goods stored in such building.

[subreg (2) am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

PART 5 ENTRY, EXAMINATION AND DELIVERY

(Regulations 47–58)

[Regulation 47] Forms of entry

(1) Imported goods other than goods in transit or for trans-shipment which are not entered for warehousing, shall be entered on whichever of the undermentioned approved forms is appropriate—

- a) import for home consumption Form (C.18);
- b) provisional import for home consumption Form (C.17); and
- c) import for warehousing Form (C.19) for normal or provisional warehousing or warehousing for trans-shipment.

(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 (C.20); and
- b) perfecting provisional import for warehousing Form (C.19).

(3) Subject to subregulation (4) a fee of \$15 per entry, per assessment, shall be payable to the Comptroller for each entry lodged and processed by the Fiji Revenue and Customs Service.

[subreg (3) am LN 4 of 2000 reg 3, effective 21 January 2000; LN 102 of 2004 reg 3, effective 1 January 2005 ; LN 9 of 2012 reg 10, effective 1 January 2012; LN 49 of 2016 reg 10, effective 1 August 2016; LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(4) In addition to the fee prescribed in subregulation (3), the agent, importer, exporter or owner as the case may be, shall pay to the Comptroller an additional fee of \$100 per entry, if entries are not paid within 4 working days after assessment.

[subreg (4) am LN 135 of 1997 reg 6, effective 21 November 1997; LN 102 of 2004 reg 7, effective 1 January 2005 ; LN 9 of 2012 reg 10, effective 1 January 2012; LN 49 of 2016 reg 10, effective 1 August 2016; LN 66 of 2016 reg 2, effective 1 August 2016]

(4A) Pursuant to regulation 155, the Comptroller may exempt an authorised economic operator from the fees levied under subregulation (4).

[subreg (4A) insrt LN 51 of 2018 reg 5, effective 1 August 2018]

(5) Where before the Comptroller has processed entry documents, the agent, importer, exporter or owner notifies in writing, within 4 working days from the date of assessment, to the Comptroller that the documents are no longer required due to goods being over carried, short landed etc, the Comptroller may at the Comptroller's discretion, refund or remit in whole or in part the fee paid or payable pursuant to this regulation.

[subreg(5)amLN135of1997reg6,effective21November1997;LN66of2016reg2,effective1August2016;LN99of2016reg57,effective1December2016]

[Regulation 48] Disembarkation of persons

(1) No person shall land from any aircraft or ship except at a place appointed under section 4 of the Act.

(2) The following persons on landing at any airport, port or place from an aircraft or ship which has arrived from or called at a place outside Fiji shall proceed forthwith to the baggage room or other place set aside for the examination of baggage—

- a) any person who is disembarking at such airport, port or place;
- b) any person who has any uncustomed goods in his or her possession whether upon his or her person or in his or her baggage;
- c) the crew of any aircraft or ship who are leaving such aircraft or ship, either temporarily or otherwise and wish to remove their baggage, or any part thereof, from the aircraft or ship;
- d) any passenger who is temporarily leaving the aircraft or ship and wishes to remove his or her baggage or any part thereof, from the aircraft or ship; and
- e) any other person who may be required by the proper officer so to do.

(3) A person who contravenes any of the provisions of this regulation commits an offence.

[Regulation 49] Simplified entry procedure

Where a notice headed “HOW TO GO THROUGH CUSTOMS” is displayed a person entering Fiji shall proceed through the appropriate channel according to the notice and shall make orally to the proper officer the declaration required under section 116 of the Act.

[Regulation 50] Access to baggage room

(1) No person shall enter the baggage room or other place set aside for the examination of baggage, except the persons specified in regulation 48, those required by the Fiji Revenue and Customs Service to enter it, the proper officers, and such other persons permitted by the proper officer.

[subreg (1) am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

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

[Regulation 51] Baggage to be taken to examination place

(1) The baggage and any uncustomed goods in the possession, whether upon his or her person or in his or her baggage, of any person to whom regulation 48 applies shall be taken without delay to the nearest place appointed for the examination of baggage or such other place as the proper officer may direct, and shall not be removed therefrom, except by the Fiji Revenue and

Customs Service, until the baggage or goods have been examined and passed by, and any duty due thereon paid to, the proper officer.

[subreg (1) am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) No person shall remove any baggage or goods out of the baggage room or other place until the proper officer authorises its removal.

[subreg (2) am LN 135 of 1997 reg 7, effective 21 November 1997]

(3) A person who contravenes this regulation commits an offence.

(4) In the case of a person referred to in regulation 48(2)(c) or (d), 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.

[Regulation 52] Baggage examination

Except in the case of unaccompanied baggage or baggage which is short shipped, the proper officer may refuse to attend to any person until 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, until all the owners thereof are present before him or her.

[Regulation 53] Unclaimed baggage

All baggage unclaimed or uncleared after one day shall be removed by the master or agent of the aircraft or ship to a customs warehouse.

[Regulation 54] Unaccompanied baggage declaration

The owner of any passenger's unaccompanied baggage shall make a declaration in the approved Form (C.22) of such baggage and the articles contained therein.

[Regulation 55] Passengers' baggage shipped separately

(1) Passengers' personal unmanifested baggage shall be unshipped from an aircraft or ship only when authorised by the proper officer, and shall be landed only at a place approved by a proper officer and shall not be removed from the place of examination except by the authority of a proper officer.

(2) The personal unmanifested baggage of each passenger shall be landed immediately on the arrival of the aircraft or ship at the port of destination of that passenger and shall not be permitted to remain on board pending the convenience of the passenger.

(3) Each passenger arriving from a place outside Fiji shall when required to do so make an oral declaration to an officer of any personal unmanifested baggage, provided that should the proper officer consider it necessary he or she may require the passenger to make a written declaration in the approved Form (C.22) to this effect.

[Regulation 56] Goods delivered in special circumstances

(1) If, in any special circumstances, the owner of perishable 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 proper officer on the approved form in accordance with regulation 16 and furnish such security as may be required, in such amount as the proper officer may decide. Where goods have not previously been entered, the importer shall enter the goods within 48 hours of taking delivery of the goods.

[subreg (1) am LN 6 of 2012 reg 2, effective 25 November 2011]

(2) Applications referred to in subregulation (1) shall be accompanied by the fee prescribed in subregulation (3).

(3) A fee of \$100 per application per bill of lading or airway bill, shall be payable to the Comptroller.

[subs (3) am LN 135 of 1997 reg 8 , effective 21 November 1997; LN 102 of 2004 reg 8, effective 1 January 2005 ; LN 9 of 2012 reg 11, effective 1 January 2012; LN 49 of 2016 reg 11, effective 1 August 2016]

[reg 56 subst LN 94 of 1991 reg 5, effective 1 January 1992]

[Regulation 57] Goods delivered in special circumstances under customs control

Any goods authorised for delivery in special circumstances under the provisions of regulation 56 are deemed to be under the control of the Fiji Revenue and Customs Service and the owner of such goods shall be responsible to the Fiji Revenue and Customs Service until the goods have been entered and duty thereon paid and, where required by the proper officer, the goods have been examined and duly released.

[reg 57 am LN 99 of 2016 reg 57, effective 1 December 2016 ; Act 38 of 2017 s 7, effective 1 August 2017]

[Regulation 58] Seizure or detention of goods delivered in special circumstances

Where a proper officer has a reasonable ground to believe that any goods to which the provisions of regulation 56 or 57 apply are liable to forfeiture, he or she may seize or detain such goods and cause such goods to be removed to a customs warehouse or to such other place as he or she may approve, at the expense of the owner of such goods.

PART 6 PROVISIONS RELATING TO BONDED WAREHOUSES

(Regulations 59–75)

[Regulation 59] 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 (C.38).

[Regulation 60] 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 must 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.

[Regulation 61] Construction

- (1) Bonded warehouses shall be constructed of substantial materials to the satisfaction of the Comptroller.
- (2) No person shall make any alteration or addition to any bonded warehouse without first obtaining the permission of the Comptroller.
- (3) A person who contravenes this regulation commits an offence.

[Regulation 62] Locks

Every bonded warehouse shall, if required by the Comptroller, have 2 sets of locks, one provided by the Fiji Revenue and Customs Service and the other by the warehouse keeper. The keys of the Fiji Revenue and Customs Service locks shall be kept in the custody of the proper officer, and the keys of the other locks shall be kept in the custody of the occupier of the warehouse.

[reg 62 am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Regulation 63] Bonded warehouse licence fee

- (1) The licence fee payable for each bonded warehouse shall be a minimum of \$9,000 for a term of 3 years, and if the building, storage tank or enclosure in respect of which such licence is issued has a capacity of more than 50 cubic metres the amount to be paid for such licence shall increase at the rate of \$6 for every additional cubic metre of storage space above 50 cubic metres but shall not in any one case exceed \$15,000 for the full term of the licence.

[subreg (1) am LN 111 of 1988 reg 5, effective 1 January 1989 ; LN 68 of 1991 reg 5, effective 1 January 1992 ; LN 102 of 2004 reg 9, effective 1 January 2005 ; LN 9 of 2012 reg 12, effective 1 January 2012 ; LN 49 of 2016 reg 12, effective 1 August 2016 ; LN 51 of 2018 reg 6, effective 1 August 2018]

(2) In accordance with subregulation (1), a licence shall be valid for 3 years and expires on 31 December of the third year from the date of the issuance of the licence.

[subreg (2) subst LN 51 of 2018 reg 6, effective 1 August 2018]

(3) If a licence fee has not been paid within 7 days from the date the licence was approved or issued, the Comptroller may refuse to allow any transactions to take place in the warehouse enclosure, building or storage tank in respect of which the fee may be due, until the outstanding fees have been paid.

[subreg (3) subst LN 51 of 2018 reg 6, effective 1 August 2018]

(4) A licence for a bonded warehouse shall be in the approved Form (C.28).

[Regulation 64] Bonded warehouses to be numbered

(1) Bonded warehouses shall be distinguished by numbers allocated by the Comptroller.

(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 proper officer shall approve and shall be removed when the warehouse ceases to be licensed as a bonded warehouse.

(3) A person who contravenes this regulation commits an offence.

[Regulation 65] 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 proper 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 available for examination by the proper officer.

(2) Any warehouse keeper who contravenes any of the provisions of this regulation or any requirement of the Comptroller under this regulation commits an offence.

[Regulation 66] Only approved goods in a bonded warehouse

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

[Regulation 67] 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.

[Regulation 68] Goods refused for warehousing

(1) If goods to be warehoused are found by the officer examining them to be insecurely packed, he or she may refuse to permit them to be warehoused.

(2) If, in accordance with the provisions of the Act, an 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. If the goods have been removed from a transit shed or a customs area, they shall be returned thereto without delay by, or at the expense of, the owner, unless the proper officer allows them to be entered for home consumption forthwith.

(3) The owner shall be responsible for any loss or damage which may take place between the time the goods are removed from, to the time they are returned to, a transit shed or a customs area and examined by the proper officer.

[Regulation 69] Clearance of warehoused goods — minimum quantities

The minimum quantities of the classes of goods enumerated in the table which may be entered for warehousing, or entered for removal from a bonded warehouse on any one of the relevant approved forms, shall be—

Beer, in bottle or can	5 cartons
Cigarettes, cigars or snuff	4.5 kg
Spirits, in bottle—	
(a) bitters, cordials or liqueurs	1 case
(b) other kinds	45 litres
Spirits, in bulk	45 litres
Tobacco	4.5 kg
Wine, in bottle	9 litres
Wine, in bulk	45 litres
Other goods	in such quantities that the duty payable thereon will be not less than \$100,

provided that goods may be cleared for export for ship's stores or otherwise in such quantities as the Comptroller may approve.

[Regulation 70] Time during which goods may be removed for warehousing

Unless the proper officer in any special circumstances otherwise allows, goods shall not be removed from a transit shed or a customs area to a bonded warehouse or from one bonded warehouse to another, unless the warehousing of the goods can be completed during the working days and hours prescribed in regulation 6.

[Regulation 71] Conditions of repacking in warehouse

(1) Permission to repack warehoused goods may be granted on application being made to the proper officer on the approved Form (C.27), and accompanied by the fee prescribed in subregulation (2) to this regulation, by the owner of the goods, who shall observe all the requirements of the officer in regard to opening, removing, marking, stacking, sorting, weighing, measuring and closing the packages in which the goods to be repacked are, or are to be, contained, and as to the payment of duty on any part of such goods.

(2) A fee of \$50 shall be payable to the Comptroller in respect of each application under subregulation (1).

[subreg (2) am LN 102 of 2004 reg 10, effective 1 January 2005 ; LN 9 of 2012 reg 13, effective 1 January 2012 ; LN 49 of 2016 reg 13, effective 1 August 2016]

[reg 71 subst LN 94 of 1991 reg 6, effective 1 January 1992]

[Regulation 72] Transfer of ownership of goods

(1) When the owner of any goods deposited in a bonded warehouse desires to transfer ownership of those goods to another 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 (C.39).

(2) The completed approved form shall be accompanied with the fee prescribed in subregulation (3).

(3) A fee of \$50 shall be payable to the Comptroller in respect of each application under subregulation (1).

[subreg (3) am LN 102 of 2004 reg 11, effective 1 January 2005 ; LN 9 of 2012 reg 14, effective 1 January 2012; LN 49 of 2016 reg 14, effective 1 August 2016]

[reg 72 subst LN 94 of 1991 reg 14, effective 1 January 1992]

[Regulation 73] Entries for warehoused goods

(1) Warehoused goods shall be entered in whichever of the undermentioned approved forms is appropriate—

- a) ex-warehouse for home consumption Form (C.23);

- b) removal from warehouse to warehouse Form (C.24);
- c) export or trans-shipment ex-warehouse Form (C.25); and
- d) import warehousing Form (C.19) for re-warehousing.

[subreg (1) am LN 135 of 1997 reg 9, effective 21 November 1997]

(2) Subject to subregulation (3) a fee of \$15 per entry, per lodgement, shall be payable to the Comptroller for each entry lodged and processed by the Fiji Revenue and Customs Service.

[subreg (2) am LN 4 of 2000 reg 3, effective 21 January 2000; LN 102 of 2004 reg 12, effective 1 January 2005 ; LN 9 of 2012 reg 15, effective 1 January 2012 ; LN 49 of 2016 reg 15, effective 1 August 2016; LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(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 Comptroller an additional fee of \$100 per entry, if entries are not paid within 4 working days after assessment.

[subreg (3) insrt LN 135 of 1997 reg 9, effective 21 November 1997 ; am LN 102 of 2004 reg 12, effective 1 January 2005 ; LN 9 of 2012 reg 15, effective 1 January 2012; LN 49 of 2016 reg 15, effective 1 August 2016; LN 66 of 2016 reg 3, effective 1 August 2016]

(4) Where before the Comptroller has processed entry documents, the agent, importer, exporter or owner notifies in writing, within 4 working days from the date of assessment, to the Comptroller that the documents are no longer required due to goods being over carried, short landed etc, the Comptroller may at the Comptroller's discretion, refund or remit in whole or in part the fee paid or payable pursuant to this Regulation.

[subreg (4) am LN 135 of 1997 reg 9, effective 21 November 1997 ; LN 102 of 2004 reg 12, effective 1 January 2005 ; LN 66 of 2016 reg 3, effective 1 August 2016; LN 99 of 2016 reg 57, effective 1 December 2016]

[reg 73 subst LN 94 of 1991 reg 8, effective 1 January 1992]

[Regulation 74] Acceptance by warehouse keeper

Entries for goods for warehousing or for removal from warehouse to warehouse or for re-warehousing, other than entries in respect of goods to be warehoused or to be removed to another warehouse or to be re-warehoused in a bonded warehouse of which the owner of such goods is the licensed warehouse keeper, shall not be accepted by the proper officer unless the warehouse keeper signifies thereon in writing that he or she agrees to accept such goods into the warehouse for which they are entered.

[Regulation 75] Goods to be consigned to the proper officer

(1) All goods entered—

- a) for warehousing at an airport or port for removal to a bonded warehouse; or
- b) for removal from a bonded warehouse at one airport or port to a bonded warehouse at another airport or port,

shall be consigned care of the proper officer at the airport or port at which the goods are to be so warehoused, and the relative consignment note in the approved Form (C.30) relating to the movement of such goods shall be delivered to the proper officer.

(2) The goods referred to in sub regulation (1) shall not be delivered to any person without the authority of the proper officer.

PART 7 PROVISIONS RELATING TO CUSTOMS WAREHOUSE (Regulations 76–79S)

[Regulation 76] Customs warehouse charges

(1) Rent shall be charged on all goods deposited in a customs warehouse at the rate of \$2 per tonne or cubic metre or part thereof, per day or part thereof, provided that rent shall not be charged on seized or detained goods or on passengers baggage if such goods or baggage is removed within 8 days of the date of deposit in a customs warehouse.

[subreg (1) am LN 68 of 1991 reg 6, effective 1 January 1992 ; LN 102 of 2004 reg 13, effective 1 January 2005 ; LN 9 of 2012 reg 16, effective 1 January 2012 ; LN 49 of 2016 reg 16, effective 1 August 2016]

(2) Rent payable on goods under this regulation and all other charges due to the customs on goods deposited in a customs warehouse shall be paid to the proper officer before the delivery of the goods.

(3) Where the rent calculated by weight differs from the rent calculated by measurement, the higher rent shall be charged.

(4) Measurement of a package shall be calculated by multiplying together the greatest length, width and depth of the package.

(5) For the purposes of this regulation, “day” includes Saturdays, Sundays and public holidays.

(6) Goods deposited in a customs warehouse pursuant to a warehouse entry shall be charged with rent from the date on which the relevant entry was passed.

(7) Goods other than those referred to in subregulation (6) which are removed to or stored at a customs warehouse shall be charged with rent as from the date the proper officer directs that such goods shall be so removed or stored.

[Regulation 77] Comptroller may waive rent in certain cases

If the Comptroller is of the opinion that the strict enforcement of the regulations regarding the payment of rent on any goods would cause hardship owing to the nature of the goods or to any emergency or to the fact that the goods have been seized or detained or to any other exceptional cause, he or she may waive the whole or any part of the rent.

[Regulation 78] Damaged packages to be repaired

(1) The external packing of any goods for storage in a customs warehouse must be in good condition and if damaged, the package shall be repaired, wired and sealed by the agents of the aircraft or ship from which the goods were landed before the package is removed to the

warehouse. The proper officer may refuse to accept for storage, packages which in his or her opinion are not in good condition.

(2) Whenever goods are removed from a customs warehouse a receipt for the goods must be given to the proper officer by the importer or his or her agent.

[Regulation 79] Customs houses or customs offices deemed to be customs warehouses

If at any airport, port or place in Fiji where an officer is stationed, a building has not been specifically approved by the Comptroller for use as a customs warehouse, the customs house or a customs office shall be deemed to be a customs warehouse.

[Regulation 79A] Downtown duty free shop licence fee

(1) The licence fee payable for a downtown duty free shop shall be \$15,000 for a term of 3 years.

[subreg (1) am LN 51 of 2018 reg 7, effective 1 August 2018]

(2) A licence issued under section 63K of the Act shall be renewable after every 3 years.

[subreg (2) am LN 51 of 2018 reg 7, effective 1 August 2018]

(3)

[subreg (3) rep LN 51 of 2018 reg 7, effective 1 August 2018]

[reg 79A insrt LN 49 of 2016 reg 17, effective 1 August 2016]

[Regulation 79B] Interpretation

(1) For the purpose of regulations 79A to 79S, unless the context otherwise requires—

approved form means the form approved by the Comptroller;

authorised person means any person who is authorised by the downtown duty free goods shop owner and Comptroller to act on their behalf to enter customs areas and transport goods under customs control to the downtown duty free goods shop;

duty free goods means no duty is payable on import or excise goods;

[def am LN 99 of 2016 reg 57, effective 1 December 2016]

downtown duty free goods shops means a downtown duty free licensed under the Customs Act 1986; and

relevant traveler means a person who intends to make an international flight or voyage whether, as a passenger on, or as the pilot, master or a member of the crew of, an aircraft or ship.

[reg 79B insrt LN 66 of 2016 reg 4, effective 1 August 2016 ; am LN 99 of 2016 reg 57, effective 1 December 2016]

[Regulation 79C] Downtown duty free shop licence

(1) A person who applies for a downtown duty free licence shall submit the approved form.
[subreg (1) am LN 99 of 2016 reg 57, effective 1 December 2016]

(2) The approved form shall be accompanied with a fee specified in regulation 79A.

(3) The security to be given by a downtown duty free shop owner shall be by way of bond or other form of security.

(4) If the licence fee has not been paid by within 7 days from the date of approval by the Comptroller, the Comptroller may refuse to allow any customs transaction or business relating to the sale of duty free goods to be carried out by the downtown duty free shop owner until such fee is paid.

[subreg (4) am LN 51 of 2018 reg 8, effective 1 August 2018]

[reg 79C insrt LN 66 of 2016 reg 4, effective 1 August 2016; am LN 99 of 2016 reg 57, effective 1 December 2016]

[Regulation 79D] Condition to downtown duty free shop licence

(1) All duty free goods that are meant to be sold by a licensed downtown duty free shop shall be intended for sale to a relevant traveller for exportation from Fiji.

(2) No duty free goods may be sold to a relevant traveller without the production of—

- a) a current passport in the name of the relevant traveller;
- b) an airline or shipping ticket which indicates that the relevant traveller will be departing Fiji; and
- c) other prescribed conditions relating to sales to the relevant traveller which must be adhered to and despite anything to the contrary contained in these Regulations, the Comptroller may impose further conditions to meet the urgent cases to which the provision of these Regulations may not be strictly applicable.

(3) A downtown duty free shop shall—

- a) have a bonded or export warehouse;
- b) for each sale of duty free goods a receipt shall be issued and shall have such particulars as the Comptroller may direct;
- c) the receipt shall be attached to the special packing containing the duty free goods;
- d) only release the purchased duty free good by the relevant traveller from the bonded or export warehouse; and
- e) ensure that the purchased duty free good is delivered directly to the allocated customs area at any designated international airport or wharf intended for export.

[subreg (3) am LN 99 of 2016 reg 57, effective 1 December 2016]

[reg 79D insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79E] Marks on duty free goods

The Comptroller may direct that duty free goods be suitably marked.

[reg 79E insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79F] Packaging of duty free goods

(1) A duty free good shall be wrapped in a special packing approved by the Comptroller to ensure the packaging cannot be opened without damage to the seal.

[subreg (1) am LN 99 of 2016 reg 57, effective 1 December 2016]

(2) The package under subregulation (1) must bear in clear print instructions to the relevant traveller that the package is not to be opened before the aircraft or vessel departs Fiji.

[reg 79F insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79G] Control of stocks and records to be kept by the downtown duty free shop owners

The downtown duty free shop owner shall maintain current records of duty free goods in stock and shall make available such records to the Comptroller upon request or inspection, where applicable.

[reg 79G insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79H] Security to cover duty on stocks

(1) The downtown duty free shop owner shall deposit with the Comptroller a sum equivalent to the amount of duty payable on the quantity of goods stored in the duty free shop or shall give an alternative security as the Comptroller may require.

(2) The amount of any security consisting in a monetary deposit or bank guarantee shall be reconstituted to the original amount wherever any part of it is deducted for the recovery of any amount of duty claimed under regulation 79I.

[reg 79H insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79I] Liability for payment of duty on shortage

Where the Comptroller, on examination of the goods in a downtown duty free shop, finds that such goods are less than the quantity recorded under regulation 79G, the Comptroller shall inform the downtown duty free shop owner, and the latter shall forthwith pay the amount of duty payable on the shortages.

[reg 79I insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79J] Delivery of goods from bonded, customs, export warehouse

An authorised person who transports or causes to be transported within Fiji duty free goods is liable for all duty payable on the goods unless the authorised person proves, within the time that may be prescribed, that the duty free goods were received in an allocated customs area.

[reg 79J insrt LN 66 of 2016 reg 4, effective 1 August 2016 ; am LN 99 of 2016 reg 57, effective 1 December 2016]

[Regulation 79K] Price of goods sold in downtown duty free shop

The downtown duty free shop owner shall ensure that the prices of goods offered for sale at the downtown duty free shop reflect the extent to which the goods have not been subject to duties.

[reg 79K insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79L] Evidence of export

Where a downtown duty free shop owner does not produce the proof of evidence that the goods delivered by him or her to the relevant traveller have been exported by that relevant traveller, the goods shall be deemed to have been entered, and delivered, for home consumption by the downtown duty free shop owner, as the owner of the goods, on the day on which the goods were delivered to the relevant traveller.

[reg 79L insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79M] Liability of the downtown duty free shop owner

The downtown duty free shop owner is liable for all duties or taxes levied under the Customs Tariff Act 1986, the Excise Act 1986c or any other law relating to customs on goods that have been received in the downtown duty free shop, unless the downtown duty free shop owner proves that the goods—

- a) are still in the downtown duty free shop;
- b) have been destroyed while in the downtown duty free shop; or
- c) have been removed from the downtown duty free shop.

[reg 79M insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79N] Rates

The rates of duties payable on goods that have been received in a downtown duty free shop shall be the rates applicable to such goods at the time they were removed therein.

[reg 79N insrt LN 66 of 2016 reg 4, effective 1 August 2016 ; am LN 99 of 2016 reg 57, effective 1 December 2016]

[Regulation 79O] Release

(1) No goods shall be released from a downtown duty free shop by any person, other than the authorised person.

(2) The authorised person shall ensure that goods released under subregulation (1), are delivered directly to the area within the airport or seaport approved by the Comptroller.

[reg 79O insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79P] Unclaimed goods

(1) Unclaimed duty free goods that have not been removed from a customs area in the international airport or seaport with 30 consecutive days may be deposited by the authorised person in a customs warehouse.

[subreg (1) subst LN 99 of 2016 reg 57, effective 1 December 2016]

(2) Any unclaimed goods may be disposed of in any manner determined by the Comptroller.

[reg 79P insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79Q] Risk and storage charges

Duty free goods that are deposited in a customs warehouse shall be kept there at the risk of the downtown duty free shop owner, and the licensee is liable for any storage charges or expenses incurred in moving the goods from the downtown duty free shop to the customs warehouse and any expenses as determined by the Comptroller.

[reg 79Q insrt LN 66 of 2016 reg 4, effective 1 August 2016 ; am LN 99 of 2016 reg 57, effective 1 December 2016]

[Regulation 79R] Unlawful removal of goods from downtown duty free shops

Any person who unlawfully removes goods from a downtown duty free shop commits an offence and is liable upon conviction to a fine not exceeding \$200,000 or imprisonment for a term not exceeding 10 years, or both.

[reg 79R insrt LN 66 of 2016 reg 4, effective 1 August 2016]

[Regulation 79S] Opening and unpacking goods; breaking seals

Any person who, without lawful authority or excuse, the proof of which lies on him or her, breaks or tampers with, or causes to be broken or tampered with, any seals, locks or fastenings that have been placed on goods sold by downtown duty free shops pursuant to the Act or regulations, commits an offence and is liable upon conviction to a fine not exceeding \$200,000 or imprisonment for a term not exceeding 10 years, or both.

[regs79S insrt LN 66 of 2016 reg 4, effective 1 August 2016]

PART 8 ENTRY OUTWARDS AND LOADING OF AIRCRAFTS AND SHIPS (Regulations 80–92)

[Regulation 80] Entry outwards of ships

(1) A ship's report outwards and the outward manifest shall be in the approved Forms (C.30) and (C.31) respectively.

[subreg (1) am LN 135 of 1997 reg 10, effective 21 November 1997]

(2) The master of any ship reporting outwards shall, immediately on demand, present to the proper officer a list of passengers embarking and of stores shipped in the appropriate approved Forms (C.10) and (C.11), together with such other documents or further particulars as the proper officer may require in connection with the voyage on which the ship is about to embark.

[Regulation 81] Entry outwards of aircraft

(1) An aircraft report outwards and the outward manifest shall be in the relevant approved Forms (C.5) and (C.6) respectively.

(2) The master of any aircraft reporting outwards shall, immediately on demand, present to the proper officer a list of passengers embarking and stores shipped in the appropriate approved Form (C.7) or (C.8), together with such other documents or further particulars as the proper officer may require in connection with the flight on which the aircraft is about to depart.

[Regulation 82] Entries for exportation

(1) Goods for exportation, other than—

- a) warehoused goods;
- b) goods under drawback; or
- c) goods for trans-shipment,

shall be entered in the approved Form (C32).

(2) Subject to subregulation (3) a fee of \$10 per entry, per assessment, shall be payable to the Comptroller for each entry lodged and processed by the Fiji Revenue and Customs Service.

[subreg (2) am LN 4 of 2000 reg 3, effective 21 January 2000 ; LN 102 of 2004 reg 14, effective 1 January 2005 ; LN 9 of 2012 reg 17, effective 1 January 2012 ; LN 49 of 2016 reg 18, effective 1 August 2016; LN 66 of 2016 reg 5, effective 1 August 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(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 Comptroller an additional fee of \$100 per entry, if entries are not paid within 4 working days after assessment.

[subreg (3) am LN 135 of 1997 reg 11, effective 21 November 1997; LN 102 of 2004 reg 14, effective 1 January 2005 ; LN 9 of 2012 reg 17, effective 1 January 2012 ; LN 49 of 2016 reg 18, effective 1 August 2016 ; LN 66 of 2016 reg 5, effective 1 August 2016; LN 99 of 2016 reg 57, effective 1 December 2016]

(3A) Pursuant to regulation 155, the Comptroller may exempt an authorised economic operator from the fees levied under subregulation (3).

[subreg (3A) insrt LN 51 of 2018 reg 9, effective 1 August 2018]

(4) Where before the Comptroller has processed entry documents, the agent, importer, exporter or owner notifies in writing, within 4 working days from the date of assessment, to the Comptroller that the documents are no longer required due to goods being over-carried, short landed etc, the Comptroller may at the Comptroller's discretion, refund or remit in whole or in part the fee paid or payable pursuant to this regulation.

[subreg (4) am LN 135 of 1997 reg 11, effective 21 November 1997; LN 66 of 2016 reg 5, effective 1 August 2016; LN 99 of 2016 reg 57, effective 1 December 2016]

[reg 82 subst LN 94 of 1991 reg 9, effective 1 January 1992]

[Regulation 83] Place of embarkation

(1) No person shall embark on any aircraft or ship, except at a place appointed under section 4 of the Act, nor, in the case of a passenger, until permission to embark has been granted by the proper officer.

(2) The baggage of passengers of an aircraft or ship proceeding to a place outside Fiji shall be loaded at such place as the proper officer may direct, and unless the proper officer otherwise allows, shall not be loaded until it has been examined and passed by him or her for shipment.

(3) A person who contravenes any of the provisions of this regulation commits an offence.

[Regulation 84] Loading before entry

(1) Where, under the provisions of the Act, the proper officer permits the loading, prior to entry, of goods, whether liable to or free of export duty, application shall be made by the exporter on the approved Form (C.47) and in the case of goods liable to export duty such security as the proper 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 \$50 shall be payable to the Comptroller in respect of each application per bill of lading or airway bill, referred to in subregulation (1) of this regulation.

[subreg (3) am LN 135 of 1997 reg 12, effective 21 November 1997 ; LN 102 of 2004 reg 15, effective 1 January 2005 ; LN 9 of 2012 reg 18, effective 1 January 2012 ; LN 49 of 2016 reg 19, effective 1 August 2016]

[reg 84 subst LN 94 of 1991 reg 10, effective 1 January 1992]

[Regulation 85] Cargo landed in error

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

[Regulation 86] Transfer of stores

(1) The master of an aircraft or ship who desires to transfer stores from one aircraft or ship to another shall make application to the proper officer on the approved form (C.33).

(2) The application to transfer stores shall be accompanied with the fee prescribed in subregulation (3).

(3) A fee of \$50 shall be payable to the Comptroller in respect, of each application under subregulation (1).

[subreg (3) am LN 102 of 2004 reg 16, effective 1 January 2005 ; LN 9 of 2012 reg 19, effective 1 January 2012 ; LN 49 of 2016 reg 20, effective 1 August 2016]

(4) Stores subject to import duty shall not be transferred from one aircraft or ship to another until a bond has been given on the approved form (C.34).

[subs (4) am LN 135 of 1997 reg 13, effective 21 November 1997]

(5) A person who contravenes any of the provisions of this regulation commits an offence.

[reg 86 subst LN 94 of 1991 reg 11, effective 1 January 1992]

[Regulation 87] 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 proper officer and shall not commence until the appropriate entry has been passed or approval has been granted.

[Regulation 88] Production of stores before loading

(1) All stores shall be produced to the proper officer before being put on board an aircraft or 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 within Fiji without the express permission of the proper 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) A person who contravenes any of the provisions of this regulation commits an offence.

[Regulation 89] 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 on the approved Form (C.35);
- b) a bond in the approved Form (C.34), has been given for the due exportation of the goods as stores in accordance with the provisions of section 80;
- c) an export entry in the approved Form (C.25) has been passed for stores allowed on the requisition.

[Regulation 90] Restriction as to quantity

(1) Tobacco, wine and spirits may be shipped free of duty as stores in such quantities as will bring the quantity on board an aircraft or ship up to the maximum authorised for the voyage about to be undertaken.

(2) No limitation will be placed on the quantity of other goods delivered free of duty as stores from a bonded warehouse or a customs warehouse unless the Comptroller has reason to believe that the goods are being exported as merchandise under the guise of aircraft or ship's stores.

[Regulation 91] Trans-shipment entry and bond

(1) Goods reported for trans-shipment shall be entered on the approved form (C.19) and the owner or the agent thereof shall enter into such security as the proper officer may require for the due observance of the provisions of the customs laws and shall pay the fee prescribed in subregulation (2).

(2) A fee of \$10 per entry shall be payable to the Comptroller in respect of each lodgement made.

[subreg (2) am LN 4 of 2000 reg 3, effective 21 January 2000 ; LN 102 of 2004 reg 17, effective 1 January 2005 ; LN 9 of 2012 reg 20, effective 1 January 2012; LN 49 of 2016 reg 21, effective 1 August 2016]

(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 Comptroller an additional fee of \$100 per entry, if entries are not paid within 4 working days after assessment.

[subreg (3) am LN 135 of 1997 reg 14, effective 21 November 1997 ; LN 102 of 2004 reg 17, effective 1 January 2005 ; LN 9 of 2012 reg 20, effective 1 January 2012; LN 49 of 2016 reg 21, effective 1 August 2016; LN 66 of 2016 reg 6, effective 1 August 2016; LN 99 of 2016 reg 57, effective 1 December 2016]

(4) Where before the Comptroller has processed entry documents, the agent, importer, exporter or owner notifies in writing, within 4 working days from the date of assessment, to the Comptroller that the documents are no longer required due to goods being over carried, short landed etc, the Comptroller may at the Comptroller's discretion, refund or remit in whole or in part the fee paid or payable pursuant to this regulation.

[subreg (4) am LN 135 of 1997 reg 14, effective 21 November 1997 ; am LN 66 of 2016 reg 6, effective 1 August 2016; LN 99 of 2016 reg 57, effective 1 December 2016]

(5) Goods which have not been reported for trans-shipment and have been unloaded may be entered for trans-shipment in accordance with this regulation if—

- a) they have not been entered under the customs laws; and
- b) the master or agent applies for and obtains the permission of the proper officer to amend the inward report of the importing aircraft or ship.

[reg 91 subst LN 94 of 1991 reg 12, effective 1 January 1992]

[Regulation 91A] Trans-shipment Levy — Fish

The consignor of fish intended for trans-shipment, or his or her agent, shall pay a levy of \$450 per tonne on all fish to be transhipped from Fiji onto any other vessel other than a mother vessel providing facilities and supplies to a number of smaller vessels.

[reg 91A insrt LN 62 of 2011 reg 2, effective 25 July 2011 ; am LN 16 of 2014 reg 2, effective 31 March 2014; LN 42 of 2017 reg 2, effective 30 June 2017]

[Regulation 92] Trans-shipment direct

Goods entered for trans-shipment may, with the permission of the proper officer and subject to such conditions as he or she may impose, be transhipped direct from an importing aircraft or ship to an exporting aircraft or ship, if such goods are reported by the master for such importing aircraft or ship for trans-shipment.

PART 8A LICENSING OF SECURE EXPORTS SCHEME IN FIJI (Regulation 92A)

[Regulation 92A] Appointment of premises for secure exports scheme

(1) The Comptroller may, in the approved Form No C.28.D, issue a licence for a term of 3 years for any approved premises under the secure exports, subject to payment of the licence fees of \$9,000 for the full term of the licence.

[subreg (1) am LN 9 of 2012 reg 21, effective 1 January 2012; LN 49 of 2016 reg 22, effective 1 August 2016 ; LN 51 of 2018 reg 10, effective 1 August 2018]

(2) A licence issued under subsection (1) expires on 31 December of the third year from the date of the issuance of the licence.

[subreg (2) am LN 51 of 2018 reg 10, effective 1 August 2018]

(3) A licence that has expired but not renewed by 31 December may continue to be in force until 7 January of the following year in order for the application for renewal to be determined and the licence fees to be paid.

[subreg (3) am LN 51 of 2018 reg 10, effective 1 August 2018]

PART 9 DEPARTURE AND CLEARANCE OF AIRCRAFT AND SHIPS (Regulations 93 - 94)

[Regulation 93] Form of clearance of aircraft and ships

The certificate of clearance of aircraft and ships departing to a place outside Fiji shall be in the approved Form (C.29).

[Regulation 94] Shipment short or in excess of manifest

(1) On application being made on the approved Form (C.14) and subject to payment of the prescribed fee, the proper officer may allow the master or agent of an aircraft or ship to amend the cargo manifest in the appropriate approved Form (C.3) or (C.6) in respect of any goods found to have been shipped short or in excess of the manifest.

(2) A fee of \$50 shall be payable to the Comptroller in respect of each application per bill of lading or airway bill, made under subregulation (1).

[subreg (2) am LN 135 of 1997 reg 15, effective 21 November 1997; LN 102 of 2004 reg 18, effective 1 January 2005 ; LN 9 of 2012 reg 22, effective 1 January 2012; LN 49 of 2016 reg 23, effective 1 August 2016]

[reg 94 subst LN 94 of 1991 reg 13, effective 1 January 1992]

PART 10 CARRIAGE OF GOODS COASTWISE

(Regulation 95)

[Regulation 95] Transire

(1) The proper officer may, if he or she sees fit, and subject to payment of the prescribed fee, grant to the master or owner of any ship a general transire, in the approved Form (C.40), which shall empower such ship to make coasting voyages for any period not exceeding 12 months without being required to enter or clear at a port.

[subreg (1) am LN 90 of 2015 reg 2, effective 6 November 2015]

(2) A fee of \$100 per application shall be payable to the Comptroller in respect of each application per bill of lading or airway bill, made under subregulation (1).

[subreg (2) am LN 102 of 2004 reg 19, effective 1 January 2005 ; am LN 9 of 2012 reg 23, effective 1 January 2012; LN 49 of 2016 reg 24, effective 1 August 2016 ; LN 49 of 2016 reg 24, effective 1 August 2016]

(3) The holding of the general transire referred to in subregulation (1) shall not relieve such master or owner from any liability or responsibility placed upon him or her by any law for the time being in force.

(4) The transire may, for good cause shown, be withdrawn by the proper officer at his or her discretion.

[reg 95 subst LN 94 of 1991 reg 14, effective 1 January 1992 ; LN 102 of 2004 reg 19, effective 1 January 2005]

**PART 10A CARRIAGE AND ACCOUNTABILITY OF EXPORT UNDER BOND GOODS
TRANSFERRED WITHIN FIJI
(Regulation 95A)**

[Regulation 95A] Carriage and accountability of export under bond goods transferred within Fiji

(1) The proper officer shall require the owner of any export under bond goods or the appointed agent, who removes such goods for carriage between ports within Fiji—

- a) to submit a transfer manifest in the approved Form No C.3 (as modified accordingly); and
- b) to ensure that the conveyance used for transfer of such goods complies with Part 17.

(2) A fee of \$50 per manifest is payable to the Comptroller in respect of any transfer made under subregulation (1).

[subreg (2) am LN 9 of 2012 reg 24, effective 1 January 2012 ; LN 49 of 2016 reg 25, effective 1 August 2016]

(3) The owner or agent that contravenes paragraph (a) or (b) commits an offence.

PART 11 RE-IMPORTED GOODS

(Regulation 96)

[Regulation 96] Export certificate for goods intended for re-importation

- (1) Any person desiring to export goods temporarily and intending to re-import them in accordance with the Act shall produce them for examination to the proper officer at the port or place of exportation.
- (2) If the proper officer is satisfied that on re-importation it will be possible to identify the goods by reason of marks or numbers indelibly marked thereon or by affixing a customs seal thereto, he or she shall issue an export certificate in the approved Form (C.48).
- (3) On re-importation, the goods shall be produced to the proper officer at the airport, port or place of importation together with the certificate of export for examination and identification of the goods and if the proper 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.

PART 12 TEMPORARY IMPORTATION ETC **(Regulations 97–106)**

[Regulation 97] Privileged goods

(1) For the purpose of this Part of the Regulations, “privileged goods” means—

- a) goods for display or use at exhibitions, fairs, meetings or similar events;
- b) goods for alteration or repair;
- c) goods imported by bona fide tourists for their own use while in Fiji;
- d) goods which are imported solely for use in connection with some particular project or occasion;
- e) goods of a specialised nature or which are of a kind covered by approved international convention concerning temporary importation;
- f) travellers’ samples.

(2) The Comptroller may in his or her absolute discretion allow goods to be entered as privileged goods.

[Regulation 98] Application to import privileged goods

(1) Any person desiring to import privileged goods shall, if required by the proper officer, make application in writing in the approved Form (C. 21) to the proper officer at the port of importation giving such information as the proper officer may require.

(2) Applications made under subregulation (1) shall be accompanied with the fee prescribed in subregulation (3).

(3) A fee of \$25 shall be payable to the Comptroller in respect of each application made under subregulation (1).

[subreg (3) am LN 102 of 2004 reg 20, effective 1 January 2005 ; LN 9 of 2012 reg 25, effective 1 January 2012; LN 49 of 2016 reg 26, effective 1 August 2016]

[reg 98 subst LN 94 of 1991 reg 15, effective 1 January 1992]

[Regulation 99] Examination and marking of goods

Privileged goods shall be examined upon importation or exportation and such identification marks may be made thereon as may reasonably be deemed necessary by the proper officer.

[Regulation 100] Deposit of duty

The proper officer may require security to be given for the payment of duty on privileged goods or may, in his or her discretion, require that the duty payable on such goods be deposited with him or her.

[Regulation 101] Time for re-exportation of privileged goods

(1) Privileged goods shall be exported from Fiji within 12 months from the date of release from the control of the Fiji Revenue and Customs Service or within such further period approved by the Comptroller from the date of importation as the Comptroller in his or her absolute discretion may allow, provided that the Comptroller may waive the requirements of this subregulation on payment by the importer of the full amount of duty payable on the goods.

[subreg (1) am LN 5 of 2011 reg 3, effective 26 November 2010 ; LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) Privileged goods when exported shall be in the same condition as when imported, reasonable wear and tear and approved alterations excepted.

[Regulation 102] Refund of deposit etc

(1) Any deposit paid in respect of privileged goods shall be refunded or if security is given, that security shall be surrendered or cancelled when the privileged goods are exported in accordance with the provisions of these Regulations.

(2) If privileged goods are dealt with in a manner contrary to these Regulations, or if a condition imposed with respect to those goods is breached then the duty deposited shall be forfeited or the security accepted in respect of the privileged goods shall be enforced.

[Regulation 103] Goods by post or airfreight for persons about to leave Fiji

Goods arriving by post or air freight for passengers departing on aircraft or ships about to leave Fiji may be placed on such aircraft or ships' bond under such conditions as the Comptroller may direct.

[Regulation 104] Re-exportation by post of goods under bond etc

Goods under bond or under drawback may, subject to the Post Office Regulations 1936, be exported by post. The wrapper of all such goods shall be distinctly marked "under bond" or "under drawback", as the case may be, and the goods shall not be delivered from a Post Office to any person within Fiji without authority being first obtained from an officer.

[Regulation 105] Entries and securities for privileged and re-exported goods

Entries and securities required for privileged goods or goods dealt with under the provisions of regulation 103 or 104 shall be in such form as the Comptroller may direct.

[Regulation 106] Firearms and ammunition

(1) Every person importing firearms or ammunition in his or her baggage shall deliver the firearms or ammunition to the proper officer for detention until he or she receives the necessary

permit to enable delivery to be taken of such firearms or ammunition. The proper officer shall issue to every such person a receipt for the firearms or ammunition left in his or her charge.

(2) A person who contravenes this regulation is guilty of an offence.

PART 13 APPLICATION OF DUTIES

(Regulations 107–110)

[Regulation 107] Delivery of declaration, invoices and other documents with entry

(1) For the determination of the value of goods for the purpose of the customs laws, there shall be delivered to the Comptroller—

- 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 (C.45) or (C.46) 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 Comptroller 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 Comptroller may reasonably deem necessary.

(2) All invoices, declarations and other documents shall contain the particulars specified in regulation 108 and the Comptroller 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 Comptroller 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.

(4) Any goods sold to a person that has been granted a duty concession, the seller of the goods shall provide a copy of the paid customs entry or warrant of the goods to the buyer.

[subreg (4) insrt LN 5 of 2011 reg 4, effective 26 November 2010]

(5) Any person who fails to comply with the provisions of subregulation (4) is guilty of an offence and is liable upon conviction to a fine not exceeding \$10,000.

[subreg (5) insrt LN 5 of 2011 reg 4, effective 26 November 2010]

[Regulation 108] Particulars on invoices

(1) Any invoice delivered to the Comptroller, shall be from the seller of 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 Fiji;
- j) the terms of delivery (ex-factory, FOB, CIF etc);
- k) the costs, charges and expenses specified in paragraph 6 of Schedule 1 to the Customs Tariff Act 1986.

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

[Regulation 109] Powers of Comptroller in special cases

If the Comptroller 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 respect of imported goods or in any case in which he or she considers it necessary, he or she may examine the goods and assess the amount of duty leviable thereon. 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.

[Regulation 110] Production of books of account and other documents

The Comptroller may require the owner or any person concerned with the importation of any goods liable to duty ad valorem to produce, at that person's premises or at such other place as he or she may require, all or any books of account or other documents of whatsoever nature relating to the purchase, importation or sale of the goods.

PART 14 DRAWBACK, REFUND, REMISSION AND REBATE **(Regulations 111–126)**

[Regulation 111] 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.

[Regulation 112] When drawback is not payable

Drawback shall not be allowed on any goods—

- a) if 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 proper officer;
- c) unless the person claiming drawback enters the goods for exportation on the approved Form (C.36) and establishes the claim to drawback by completion of the relevant certificate thereon prior to the passing of the entry;
- d) unless the Comptroller is satisfied that they are being re-exported from Fiji for use for trade, commerce or industry;
- e) unless security by bond or in such other form as the proper officer may require has been given that the goods shall be shipped and exported, or otherwise accounted for to the satisfaction of the proper 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;
- h) unless such goods are produced to the proper officer for examination at the approved place of examination prior to exportation and also, if required by a proper officer, on board the aircraft or ship on which they are to be exported;
- i) unless such goods are conveyed directly and without delay from the place of examination to the aircraft or ship in which they are to be exported, provided that the proper officer may, in his or her discretion, allow any goods to remain in official custody for a reasonable time at the risk and expense of the exporter in which case drawback shall not be allowed unless the goods are thereafter conveyed directly and without delay to such aircraft or ship;
- j) unless the proper officer certifies on the export entry that the goods have been exported;

- k) unless the person claiming drawback on the goods entered for exportation produces, if required, within the time allowed by the proper officer, a certificate in respect of the landing of such goods from the competent authority at the port or place of discharge.

[Regulation 113] Documents required in relation to drawback

The owner of any goods intended to be cleared for drawback shall submit an export notice of claim for drawback on the approved Form (C.36) to the proper officer together with—

- a) the export invoice relating to the goods;
- b) a working slip;
- c) a copy of the relevant import entry, where applicable, on which the goods being exported were originally imported into Fiji, together with a copy of the invoice tendered with such entry when such goods were entered for importation; and
- d) an export licence, where applicable.

[Regulation 114] Packing in relation to drawback

- (1) Goods upon which drawback is not claimed shall not be packed with goods exported under drawback.
- (2) All external packages shall to the satisfaction of the proper officer be of sound condition and clearly and permanently marked "EXPORTED UNDER DRAWBACK".

[Regulation 115] Delivery of goods under drawback for shipment and examination

- (1) Subject to such exceptions as the Comptroller may allow for the purposes of drawback—
 - a) goods shall be delivered to the place of loading for export not less than one and not more than 4 working days prior to the expected time of departure of the ship on which the goods are to be exported; and
 - b) notice of not less than one working day shall be given to the proper officer for the purpose of obtaining the attendance of an officer for examination of the goods at the time of delivery for shipment.
- (2) The place and time of examination shall be determined by the proper officer.

[Regulation 116] Repacking of goods under drawback

The repacking of goods under drawback shall be performed in such manner as to enable the goods to be clearly identified against the drawback entry, the export invoice and the invoices and other documents relevant to the importation of such goods into Fiji.

[Regulation 117] Identification of goods under drawback

- (1) Where sizes, brands, trade marks, reference numbers, colours, patterns, country of manufacture or origin or other distinctive details form identification of the repacked goods under drawback in the normal course of trade, the goods shall bear such details as are necessary to establish clear identification of such goods against the same details quoted on invoices or other documents relevant to the importation of such goods into Fiji.
- (2) To establish the identity of any goods exported under drawback, the exporter shall produce with the export entry, a copy of the original import entry and invoice.

[Regulation 118] Unidentifiable goods for the purposes of drawback

Unless the contrary is proven, goods shall be deemed to be not identifiable for the purposes of drawback where identification details shown on goods are not shown on invoices or other documents relevant to the importation of such goods into Fiji or where identification details are shown on such invoices and other documents but not on the goods.

[Regulation 119] Charges for services of an officer for examination of goods under drawback

There shall be paid to the proper officer before any goods are exported under drawback a charge of \$35 per hour or part thereof during the time that any officer is employed in the examination of any goods for export under drawback, together with any other expenses incurred by the Fiji Revenue and Customs Service in respect of such examination as certified by the proper officer.

[reg 119 am LN 111 of 1988 reg 6, effective 1 January 1989 ; LN 68 of 1991 reg 7, effective 1 January 1992 ; LN 102 of 2004 reg 21, effective 1 January 2005 ; LN 9 of 2012 reg 26, effective 1 January 2012 ; LN 49 of 2016 reg 27, effective 1 August 2016; LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Regulation 120] Goods under drawback to be secured and sealed

When the repacking of goods under drawback is completed, the packages shall be secured by the exporter and sealed by an officer and shall be forthwith conveyed to the place of shipment, there to be shipped under the immediate superintendence of the proper officer, or, if not so forthwith conveyed and shipped, the packages shall be removed at the risk and expense of the exporter to a customs warehouse, or to some other place of security approved by the proper officer.

[Regulation 121] Drawback goods to be examined prior to shipment

No claim to the payment of drawback on any goods which have been re-exported shall be accepted unless the goods have been examined by the proper officer prior to shipment.

[Regulation 122] Application by exporter for drawback on goods

- (1) Any exporter or his or her agent claiming drawback shall, after the departure of the exporting aircraft or ship, apply for the drawback on the approved Form (C.37) and shall pay the fees prescribed in subregulation (2).

(2) A fee of \$25 per application, per entry, shall be payable to the Comptroller in respect of each application made under subregulation (1).

[subreg (2) am LN 102 of 2004 reg 22, effective 1 January 2005 ; LN 9 of 2012 reg 27, effective 10 January 2012 ; LN 49 of 2016 reg 28, effective 1 August 2016]

[reg 122 subst LN 94 of 1991 reg 16, effective 1 January 1992]

[Regulation 123] Articles on which no drawback shall be allowed

Drawback shall not be allowed on the following—

- a) cigars;
- b) cigarettes;
- c) tobacco;
- d) liqueurs;
- e) spirits and spirituous compounds;
- f) wines;
- g) other alcoholic beverages; and
- h) cinematograph films for public exhibition except films banned by the censors and not exhibited.

[Regulation 124] Drawback on goods used for manufacture in Fiji

(1) Subject to the provisions of this Part, on the export to any country of any goods manufactured or produced in Fiji from any articles or materials imported into Fiji, a drawback of the duty paid on such materials shall be granted to the manufacturer or producer of such goods to the extent approved by the Comptroller.

(2) The Comptroller may, after consultation with any manufacturer or producer, determine the quantity of any article or material required for the purpose of manufacturing or producing any goods in respect of which drawback may be granted and the quantity so determined shall be presumed, in the absence of evidence to the contrary, to have been used in the manufacture or production of such goods.

(3) The Comptroller may require any manufacturer or producer of any goods upon which drawback is claimed, to produce at the premises of such manufacturer or producer or at such other place as he or she may require, all or any books of account or other documents of whatsoever nature relating to the manufacture or the production of the goods on which drawback is claimed.

[Regulation 125] Refund, remission or rebate

(1) Application for refund of duty, fee or other charge shall be made on the approved Form (C.44).

(2) Application for remission or rebate of duty shall be made in such form as the Comptroller may direct and shall be accompanied with the fee prescribed in subregulation (3).

(3) A fee of \$25 shall be payable to the Comptroller in respect of each application made under subregulation (1).

[subreg (3) am LN 102 of 2004 reg 23, effective 1 January 2005 ; LN 9 of 2012 reg 28, effective 1 January 2012; LN 49 of 2016 reg 29, effective 1 August 2016]

[reg 125 subst LN 94 of 1991 reg 17, effective 1 January 1992]

[Regulation 126] Alleged error in packing or alleged misdescription or omission

(1) No refund of or exemption from duty shall be allowed unless any alleged shortage in a package has been verified by an officer prior to the removal of the package from the control of the Fiji Revenue and Customs Service, provided that—

- a) if the proper officer receives from the owner of any package an allegation in writing within one month of such package being cleared that an error in packing has been made by the exporter thereof, the proper officer shall cause such package to be examined and if it is proved to his or her satisfaction that the error as alleged by the owner has occurred a refund or adjustment of the duty involved shall be made;
- b) if the proper officer reports that the goods in question cannot be identified, no refund or adjustment shall be made.

[subreg (1) am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) No refund of duty shall be allowed for any misdescription of goods or because of the omission in the invoice of any discount or other matter or thing which might have the effect of reducing the quantity or value of such goods for duty unless the proper officer receives from the owner of the goods within one month of such goods being cleared a notification in writing of any alleged misdescription or omission. The proper officer on receiving any such notification may cause all evidence and particulars to be examined and if necessary cause the goods to be examined and if it is proved to his or her satisfaction that a misdescription or omission has occurred as alleged, may allow an adjustment to be made in accordance with the provisions of section 96 of the Act.

(3) No claim for refund of duty on goods entered for trade, commerce or industry shall be made under this regulation if the amount claimed is less than \$50.

[subreg (3) am LN 49 of 2016 reg 30, effective 1 August 2016]

PART 15 SEIZURES AND COMPOUNDING OF OFFENCES

(Regulations 127 - 128)

[Regulation 127] Seizure notice

The notice of seizure of any aircraft, ship, vehicle, goods or other thing shall be in the approved Form (C.49).

[Regulation 128] Request for compounding of offence

The written request by a person that a contravention of the customs laws be dealt with by the Comptroller under the Act shall be in the approved Form (C.50).

PART 16 CUSTOMS AGENTS (Regulations 129 - 129A)

[Regulation 129] Customs agent's licence

(1) A licence for a customs agent shall be in the approved Form (C.41) and shall be issued for a term of 3 years.

[subreg (1) am LN 51 of 2018 reg 11, effective 1 August 2018]

(2) The licence fee payable by a customs agent shall be \$4,500 for the full term of the licence.

[subreg (2) am LN 111 of 1988 reg 7, effective 1 January 1989 ; LN 68 of 1991 reg 8, effective 1 January 1992 ; LN 102 of 2004 reg 24, effective 1 January 2005 ; LN 9 of 2012 reg 29, effective 1 January 2012 ; LN 49 of 2016 reg 31, effective 1 August 2016 ; LN 51 of 2018 reg 11, effective 1 August 2018]

(3) The security to be given by a customs agent pursuant to section 146 of the Act shall be by way of bond in the approved Form (C.51).

(4) Whenever any licence fee has not been paid by 7 January, the Comptroller may refuse to allow any customs transaction or business to be carried out by the agent until such fee is paid.

[subreg (4) am LN 51 of 2018 reg 11, effective 1 August 2018]

[Regulation 129A] Application to appear for Customs Agents' and Clerks' Examination

The Comptroller may, upon written application, grant an approval to any person to appear for the Customs Agents' and Clerks' Examination, provided that—

(a)the application is made to the Comptroller; and

(b)a fee of \$50 per candidate, for each such examination shall be paid to the Comptroller.

[reg 129A insrt LN 135 of 1997 reg 16, effective 21 November 1997 ; am LN 102 of 2004 reg 25, effective 1 January 2005 ; LN 9 of 2012 reg 30, effective 10 January 2012 ; LN 49 of 2016 reg 32, effective 1 August 2016]

PART 17 CUSTOMS CARRIERS

(Regulations 130–136)

[Regulation 130] Customs carriers

The Comptroller may, upon written application, grant a licence for a term of 3 years to any person approved by him or her to act as a customs carrier, whether by water or by land and any such licence may be revoked by the Comptroller by notice in writing at any time.

[reg 130 am LN 51 of 2018 reg 12, effective 1 August 2018]

[Regulation 131] Security by carrier

Before any customs carrier's licence is granted, the person applying for the licence shall, when the Comptroller so requires, give security in the approved Form (C.42) to the satisfaction of the Comptroller.

[Regulation 132] Customs carrier's licence

(1) A customs carrier's licence shall be issued by the Comptroller for a term of 3 years in the approved Form (C.43) and shall expire on 31 December of the third year from the date of the issuance of the licence unless previously revoked.

[subreg (1) am LN 51 of 2018 reg 13, effective 1 August 2018]

(2) A licence fee of \$3,000 for the full term of the licence is payable for each carrier's licence.

[subreg (2) am LN 51 of 2018 reg 13, effective 1 August 2018]

[reg 132 am LN 68 of 1991 reg 9, effective 1 January 1992 ; LN 102 of 2004 reg 26, effective 1 January 2005 ; LN 9 of 2012 reg 31, effective 1 January 2012 ; LN 49 of 2016 reg 33, effective 1 August 2016]

[Regulation 133] Licences for vehicles and boats used by carrier

Each vehicle or boat employed for the carriage of goods subject to customs control shall be separately licensed for such purpose and the customs carrier concerned shall pay a licence fee of \$150 for a term of 3 years in respect of each such vehicle or boat.

[reg 133 am LN 68 of 1991 reg 10, effective 1 January 1992 ; LN 102 of 2004 reg 27, effective 1 January 2005 ; LN 9 of 2012 reg 32, effective 1 January 2012 ; LN 49 of 2016 reg 34, effective 1 August 2016 ; LN 51 of 2018 reg 14, effective 1 August 2018]

[Regulation 134] Name of licensed carrier etc to be marked on vehicles and boats

No vehicle or boat shall be used by any customs carrier in the carriage of goods subject to the control of the Fiji Revenue and Customs Service, unless the licensee's name and the letters "H.M.C" are painted thereon to the satisfaction of the Comptroller together with the number for each individual vehicle or boat, as specified by the Comptroller.

[reg 134 am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Regulation 135] Conditions of customs carrier's licence

(1) In addition to any special conditions which the Comptroller may impose on any customs carrier, each customs carrier's licence shall be subject to the following general conditions—

- a) the licensee shall not use a licensed vehicle or boat in contravention of any law relating to customs;
- b) when the vehicles or boat is being used in the conveyance of goods subject to the control of the Fiji Revenue and Customs Service, the driver or operator shall proceed to his or her destination as quickly and directly as possible and shall hand over the goods to the proper officer together with any customs documents handed to him or her in connection therewith;
- c) the proper officer may, should he or she deem it necessary, give directions as to the route to be followed by any licensed vehicle or boat conveying goods under the control of the Fiji Revenue and Customs Service;
- d) the licensee shall be responsible for the duty, if any, on any deficiency between the quantity of goods loaded on, and that delivered from, the vehicle or boat;
- e) all entrances to the hold of a licensed customs carrier's boat shall be capable of being firmly secured, and locks and fittings approved by the proper officer shall be supplied and fitted to such boat at the expense of the licensee.

[subreg (1) am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(2) Any licensed carrier who fails without just cause to carry out a direction given under regulation 135(1)(c) by the proper officer shall be guilty of an offence.

[Regulation 136] Return etc of licence

If a licensee sells or loses his or her vehicle or boat, or if such vehicle or boat is rendered unfit for the purpose for which it is licensed, the licence issued for such vehicle or boat shall be returned to the proper officer and shall be revoked.

PART 18 MISCELLANEOUS **(Regulations 137–155)**

[Regulation 137] Forms

All persons doing business with the Fiji Revenue and Customs Service which necessitates the use of any form which is prescribed or required under the provisions of any law relating to customs shall provide the necessary form at their own expense.

[reg 137 am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Regulation 138] Making of entries

Entries 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 Comptroller and any person making any entry shall, if so required by the Comptroller, answer questions relating to the goods referred to in the entry.

[reg 138 subst LN 94 of 1991 reg 18, effective 1 January 1992]

[Regulation 139] Passing of entries

Entries shall be processed and, where they are found to be satisfactory, shall be passed by the Comptroller and, on the passing of the entry, the goods shall be deemed to have been entered, and any entry so passed shall be the warrant to the proper officer for dealing with the goods in accordance with the entry.

[Regulation 140] Fees for certificates etc

The following certificates or copies of any documents may be issued by the Comptroller to any entitled person, upon payment of the fees shown in the following table, provided that the Comptroller may, in his or her discretion, remit any such fee entirely—

TABLE OF FEES		
Item	Document	Fee
1	Landing certificate for each original bill of entry on which goods are entered	\$50
2	Certificate of examination and verification of the contents of the package, per package	\$50
3	Certificate of weight for each consignment	\$50
4	Any other certificate issued by the Fiji Revenue and Customs Service	\$50
5	Certification of exports, per certificate	\$50
6	EUR — one certificate and similar certificate, per certificate	\$50
7	Certified copy of any document (for every 100 words or part thereof)	\$50

[reg 140 subst LN 102 of 2004 reg 28, effective 1 January 2005; am LN 9 of 2012 reg 33, effective 1 January 2012; LN 49 of 2016 reg 35, effective 1 August 2016; LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Regulation 140A] Fee on fuel for ships bunker

(1) Fuel for ships bunker may be loaded on board the vessel departing for foreign destinations upon a requisition made by the master or agent on the approved form (C35) and upon approval granted by the proper officer for such request.

(2) A fee of 6 cents per litre for fuel loaded on board a foreign fishing vessel shall be payable as prescribed by the Comptroller.

[subreg (2) subst LN 69 of 2014 reg 2, effective 21 November 2014]

(2A) A fee of 2 cents per litre for fuel loaded on board a vessel that is other than a vessel specified in subregulation (2) shall be payable as prescribed by the Comptroller.

[subreg (2A) insrt LN 69 of 2014 reg 2, effective 21 November 2014]

(2B) Any Fiji fishing vessel that is not subsidised by any foreign government shall be exempted from paying any fee specified in subregulation (2A).

[subreg (2B) insrt LN 69 of 2014 reg 2, effective 21 November 2014]

(2C) For the purpose of this regulation, “foreign fishing vessel” and “fishing vessel” have the meanings given to them in the Offshore Fisheries Management Act 2012.

[subreg (2C) insrt LN 69 of 2014 reg 2, effective 21 November 2014]

(3) A person who contravenes subregulation (1), (2) or (2A) commits an offence.

[reg 140A insrt LN 1 of 2005 reg 2, effective 1 January 2005 ; am LN 69 of 2014, effective 21 November 2014]

[Regulation 140B] Levy imposed on imported luxury cars

(1) Subject to subregulation (2), a levy known as a luxury car levy shall be imposed on all new or re-conditioned vehicles and shall be applicable at the time of importation or clearance from bonded warehouse.

(2) The luxury car levy shall be imposed on the engine capacity as follows—

- a) \$7,500 per unit on vehicles exceeding 2,500 cc but not exceeding 3,000 cc classified under tariff items 8703.23.24, 8703.23.25, 8703.33.14 and 8703.33.15;
- b) \$20,000 per unit on vehicles exceeding 3,000 cc classified under tariff items 8703.24.40, 8703.24.50, 8703.33.24 and 8703.33.25.
- c) \$3,500 per unit on hybrid vehicles exceeding 2500 cc but not exceeding 3000 cc; and
- d) \$10,000 per unit on hybrid vehicles exceeding 3000 cc.

[subreg (2) am LN 49 of 2016 reg 36, effective 1 August 2016]

(3) Notwithstanding this regulation, the luxury car levy may not be applicable on Liquid Petroleum Gas, Compressed Natural Gas, Solar Vehicles, Electric Vehicles, and vehicles procured by anyone under concession codes 201A, 203, 204, 205, 206, 220 column 2 paragraph (iii) and 287 of Part 3 of Schedule 2 to the Customs Tariff Act 1986.

[subreg (3) am LN 88 of 2015 reg 2, effective 21 November 2014 ; LN 49 of 2016 reg 36, effective 1 August 2016; LN 42 of 2017 reg 3, effective 30 June 2017]

(4) Any person or body exempted from paying the luxury car levy for vehicles procured under concession codes 201A, 203, 204, 205, 206, 220 column 2 paragraph (iii) and 287 Part 3 of Schedule 2 to the Customs Tariff Act 1986, who at any time within 5 years from the date of importation or delivery from warehouse of such vehicles, sells or disposes such vehicles to any non-entitled persons or bodies other than those specified under the above concession codes, shall be liable to pay the luxury car levy on a pro rata basis for the unused period of the vehicle.

[subreg (4) am LN 88 of 2015 reg 2, effective 21 November 2014; LN 42 of 2017 reg 3, effective 30 June 2017]

[reg 140B insrt LN 52 of 2012 reg 2, effective 1 January 2012 ; am LN 88 of 2015 reg 2, effective 21 November 2014]

[Regulation 141] Smoking etc in customs areas

(1) The Comptroller may prohibit smoking, the lighting of fires or the use of naked lights in any part of a customs area.

(2) Any person who should reasonably be aware that a prohibition under the provisions of subregulation (1) is in force in any part of a customs area, smokes, lights a fire or uses a naked light in such part of a customs area shall be guilty of an offence.

[Regulation 142] Damage to building etc in customs areas, customs warehouses etc

Any person who causes any damage to any customs warehouse or other building or equipment in the possession of the Fiji Revenue and Customs Service shall pay the cost of such damage and such person, if the damage was caused wilfully, shall be guilty of an offence.

[reg 142 am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

[Regulation 143] Unauthorised persons not to board ships

Subject to the provisions of the Act, no person shall without the permission of an officer, board or leave any ship arriving from outside Fiji until the ship has, with the permission of such officer, come alongside a wharf or landing place or until after the expiry of such further time as may be required by the officer for the inspection and examination of the passenger and crew.

[Regulation 144] Loitering in customs area etc

(1) If the proper officer considers that any person in any customs area is not engaged in any legitimate business connected with customs, port or marine matters, he or she may interrogate such person and if not satisfied with any explanation given by such person concerning his or her presence, he or she may direct that person to leave the customs area.

(2) If such person fails to comply promptly with any such direction given by the proper officer he or she shall be guilty of an offence.

[Regulation 145] Entrances and exits

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

[Regulation 146] Goods delivered from customs areas and from customs control

(1) All goods removed from customs areas or from customs control shall be accompanied by a permit or pass in such form as the Comptroller may direct. The permit or pass shall be delivered to the proper officer on duty at places of exit.

(2) A person contravening the provisions of this regulation shall be guilty of an offence.

[Regulation 147] Methylated spirits

The importer of any spirit purporting to be methylated spirit or in respect of which the rate of duty charged for methylated spirit is sought to be paid shall, unless he or she produces to the proper officer on demand a certificate signed by an officer of the relevant customs authority in the country from which such spirit has been exported to the effect that such spirit has been denatured to the standard prescribed, be required at his or her own expense to have such spirit denatured as provided in regulation 148.

[reg 147 am LN 99 of 2016 reg 57, effective 1 December 2016]

[Regulation 148] Standard of denaturation

The prescribed standard of denaturation in relation to methylated spirits shall be that the spirit before methylation shall contain not less than 94.09% by volume of alcohol and shall be methylated by the addition of either—

- a) one-fifth% of wood naphtha, one-half% of pyridine, and one-half% of either petrol, gasoline, petroleum benzine, petroleum naphtha, coal tar naphtha or shale naphtha;
- b) one-fifth% of wood naphtha, one-quarter% pyridine, 2 to 20% of benzine, and one-quarter% of a solution of aniline violet or blue dye;
- c) one-quarter% of methanol, one-eighth% of pyridine and 1% of petroleum; or
- d) 6.6 parts per million (W/W) Bitrex (denatonium benzoate), one-quarter% (W/W) methyl isobutyl ketone and one part per million (W/W) fluorescein.

[Regulation 149] Standard for motor fuel

The prescribed standard of denaturation for use as motor fuel shall be that the spirits before methylation shall contain not less than 94.09% by volume of alcohol and shall be methylated by the addition of one-fifth% per cent of wood naphtha, one-half per cent pyridine and not less than 2% of one of the following—

petrol, gasoline, petroleum benzine, petroleum naphtha, coal tar naphtha,

shale naphtha, benzole, sulphuric ether or the like substances.

[Regulation 150] Persons authorised to denature spirits

(1) The Comptroller or any person appointed in writing by him or her may denature any spirit imported into Fiji purporting to be methylated spirit or in respect of which the rate of duty charged for methylated spirit is sought to be paid.

(2) Any person, other than the Comptroller or a person appointed in writing by him or her, who denatures any such spirit as aforesaid shall be guilty of an offence.

[Regulation 151] Bonds and securities

Whenever the Comptroller shall require a bond or other form of security, such bond or security shall be furnished on the approved form.

[Regulation 152] Sale prohibited in customs area and goods to be advertised before sale

(1) Except with the authorisation of the Comptroller, no goods shall be exposed or offered for sale in any customs area or bonded warehouse.

(2) Abandoned goods or goods of a perishable nature may be sold by the Comptroller at any time when he or she deems it to be practicable.

[subreg (2) am LN 51 of 2018 reg 15, effective 1 August 2018]

(3) Subject to the Act, all other goods which may be sold under the provisions of the Act shall be sold after 2 weeks' notice of sale published in any national daily newspaper.

[subreg (3) am LN 51 of 2018 reg 15, effective 1 August 2018]

(4) 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 Comptroller may direct.

(5) Goods advertised for sale in any national daily newspaper may in exceptional circumstances, at the sole discretion of the Comptroller, 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. 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.

[subreg (5) am LN 51 of 2018 reg 15, effective 1 August 2018]

(6) The purchaser of any goods at any customs sale shall pay the purchase price and remove the goods from the control of the Fiji Revenue and Customs Service within 48 hours of the time and date of sale.

[subreg (6) am LN 99 of 2016 reg 57, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

(7) The Comptroller shall not be liable to compensate any person in respect of any sale made pursuant to the Act.

[Regulation 153] Comptroller may waive underpayments

The Comptroller may in his or her discretion waive collection of underpayments of duty made in error, if the amount underpaid does not exceed \$10.

[reg 153 am LN 90 of 2015 reg 3, effective 1 August 2016]

[Regulation 154] Revocation and saving

(1) The Customs Regulations are revoked.

(2) Without prejudice to section 18 of the Interpretation Act, notwithstanding the revocation of the Customs Regulations by subregulation (1) and unless the contrary intention appears in these Regulations—

- a) all persons, things and circumstances appointed or created by or under the Customs Regulations or existing or continuing under those Regulations immediately before the commencement of these Regulations shall, under and subject to these Regulations, continue to have the same status, operation and effect as they respectively would have had as if the Customs Regulations had not been revoked; and
- b) in particular and without affecting the generality of paragraph (a), the repeal 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 Regulations and in force immediately before the commencement of these Regulations; and those licences, permits, bonds, securities, appointments, orders and rules shall remain in force, until replaced or revoked by a licence, permit, bond, security, appointment, order or rule made under or by virtue of these Regulations.

(3) The Comptroller's Directions; Baggage Examination, Passengers Entering, Self Selection and General, made under section 156 of the repealed Customs Act, and published at page 38 of the subsidiary legislation to the Customs Act Chapter 196, in the 1978 Revised Edition of the Laws of Fiji, are hereby revoked.

(4) The Customs (Repacking for Drawback) Rules published as Legal Notice No 139 of 1968 are hereby revoked.

(5) The Delegation of Comptroller's Powers to Compound Offences published as Legal Notice No 131 of 1968 is hereby revoked.

[Regulation 155] Comptroller may remit or waive fees and charges in certain circumstances

The Comptroller may, in his or her discretion, and having regard to any special or exceptional circumstance remit, refund, or exempt any fee or charge paid or payable, pursuant to these Regulations.

[reg 155 insrt LN 144 of 1992 reg 4, effective 6 November 1992]

CUSTOMS (INFRINGEMENT NOTICES) REGULATIONS 2018

Table of Amendments

Customs (Infringement Notices) Regulations 2018 (LN 50 of 2018) commenced on 1 August 2018, as amended by:

Amending Legislation	Date of Commencement

PART 1 PRELIMINARY

(Regulations 1–4)

[Regulation 1] Short title and commencement

- (1) These Regulations may be cited as the Customs (Infringement Notices) Regulations 2018.
- (2) These Regulations come into force on 1 August 2018.

[Regulation 2] Interpretation

In these Regulations, unless the context otherwise requires—

Act means the Customs Act 1986;

court means a court of competent jurisdiction;

Customs Infringement Notice means the notice prescribed in Schedule 1 to the revoked Regulations;

fixed penalty means a penalty prescribed in column 4 of Schedule 1;

fixed penalty offence means an offence prescribed in columns 1 and 2 of Schedule 1;

Infringement Notice means the notice issued under regulation 5;

late payment fee means 50% of the fixed penalty a person is liable to pay;

revoked Regulations means the Customs (Infringement) Regulations 2016; and

Service means the Fiji Revenue and Customs Service.

[Regulation 3] Objectives

The objectives of these Regulations are to—

- (a) ensure compliance with the Act; and
- (b) address breaches of the Act.

[Regulation 4] Application

These Regulations apply throughout Fiji irrespective of a person's nationality, citizenship or place of registration or incorporation.

PART 2 PROCEEDINGS FOR INFRINGEMENT NOTICES (Regulations 5–9)

[Regulation 5] Issuance of Infringement Notice

(1) A proper officer may issue an Infringement Notice to a person alleged to have committed a fixed penalty offence by serving the Infringement Notice—

- a) personally upon the person;
- b) through registered mail sent to the person's postal address last recorded by the Service;
- c) at the registered office of the person;
- d) upon a person who resides at the person's physical address last recorded by the Service, provided that the first mentioned person is of or over the age of 18 years; or
- e) through any electronic means as approved by the Service, including by electronic mail to a valid electronic mailing address submitted by the person to the Service and verified by the Service.

(2) In these Regulations, service of the Infringement Notice is deemed to have been effected if the Infringement Notice is—

- a) in the form prescribed in Schedule 2; and
- b) served in accordance with this regulation.

(3) The Service may notify a person to whom an Infringement Notice is issued of the person's alleged commission of a fixed penalty offence and such notification may be made by—

- a) Short Message Service (SMS) messaging to a registered mobile phone contact; or
- b) electronic mail to a valid electronic mailing address,

submitted by the person to the Service and verified by the Service.

[Regulation 6] Fixed penalty

A person to whom an Infringement Notice is issued is liable to a fixed penalty and must, within 30 days from the date the Infringement Notice is issued, undertake one of the following actions—

- a) pay the fixed penalty in a single payment or by instalments; or
- b) elect to dispute the Infringement Notice in a court.

[Regulation 7] Failure to pay fixed penalty

(1) If a person to whom an Infringement Notice is issued does not undertake any of the actions in regulation 6 within the prescribed period, the person is liable to pay the late payment fee in addition to the fixed penalty and where the person is—

- a) an individual, the individual shall be issued a departure prohibition order preventing the individual from leaving Fiji; or
- b) a company, all the directors of the company in Fiji shall be issued a departure prohibition order preventing the directors from leaving Fiji,

unless the person undertakes one of the following actions—

- i. pays the fixed penalty and late payment fee in a single payment or by instalments; or
- ii. elects to dispute the Infringement Notice in court.

(2) If a person to whom an Infringement Notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the Infringement Notice in a court, the person must notify the Service, on or before the payment of the fixed penalty and late payment fee, if applicable, of the person's intention to dispute the Infringement Notice.

(3) If a person to whom an Infringement Notice is issued pays the fixed penalty and late payment fee, if applicable, and also elects to dispute the Infringement Notice and the court subsequently makes a final determination in the person's favour, including the determination of any appeal in any appellate court, the Service must refund the fixed penalty and late payment fee, if applicable, to that person.

(4) If a person to whom an Infringement Notice is issued does not undertake any of the actions in regulation 6 within the prescribed period, the Service must notify the Director of Immigration immediately after the expiration of the prescribed period.

(5) Upon receipt of the notification from the Service under subregulation (4), the Director of Immigration must issue to—

- a) where the person is an individual, the individual; or
- b) where the person is a company, all the directors of the company in Fiji,

a departure prohibition order stating—

- i. the reasons for the issue of the departure prohibition order;
- ii. the fixed penalty and late payment fee that the person is required to pay; and
- iii. that the departure prohibition order may be revoked if the person undertakes any of the actions listed in subregulation (1)(i) and (ii).

(6) If a departure prohibition order is issued to a person under this regulation, the person to whom the departure prohibition order is issued may pay in full the fixed penalty and late payment fee that the person is liable to, to the Service or, if the person intends to leave Fiji, to the Department of Immigration at an international airport in Fiji.

(7) Pursuant to subregulation (6), if a person pays in full the fixed penalty and late payment fee that the person is liable to, the departure prohibition order is deemed to have been revoked and the person must not be prevented from leaving Fiji on the basis of the departure prohibition order issued under this regulation.

[Regulation 8] Failure to take action within 3 months

If a person to whom an Infringement Notice is issued does not undertake any of the actions provided in regulation 7(1)(i) and (ii) within 3 months from the date the Infringement Notice is issued, the Infringement Notice takes effect as a conviction and the Service may seek the maximum penalty for the prescribed offence from a court.

[Regulation 9] Evidence of matters in certificate

A certificate signed by a proper officer stating that the fixed penalty was or was not paid must, unless the contrary is proved, be conclusive evidence of the matters stated in the certificate.

PART 3 MISCELLANEOUS (Regulations 10 - 11)

[Regulation 10] Revocation

The Customs (Infringement) Regulations 2016 is revoked.

[Regulation 11] Transition

The provisions of the revoked Regulations continue to apply to any Customs Infringement Notice issued by the Service prior to the commencement of these Regulations until such time that—

- a) the fixed penalty specified in the Customs Infringement Notice is paid to the Service; or
- b) the trader specified in the Customs Infringement Notice is required to appear before the Magistrates Court to answer to the charge specified in the Customs Infringement Notice.

SCHEDULE 1
(Regulation 2) - CUSTOMS ACT 1986

Section	Fixed Penalty Offence	Maximum Penalty Fine Imprisonment	Fixed Penalty						
			Individuals				Body Corporate		
			1 st Offender	2 nd Offender	3 rd Offender	4 th or more	1 st Offender	2 nd Offender	3 rd or more
11A(5)	Failure to comply with section 11A for advanced notification of arrival of aircraft or ship	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
13	Failure to comply with section 13 in refusing or not facilitating the boarding or disembarkation of or neglecting to receive any officer at any place in Fiji on board such aircraft or ship etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
14(4)	Failure to comply with procedures under section 14 on arrival	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
16(2)	Failure to comply with restriction on boarding before proper officer	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
17(2)	Provisions as to persons disembarking from or going on board an aircraft, ship etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
27(2)	Failure to comply with section 27 in relation to unentered goods	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
31(3)	Failure to uphold an undertaking	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000

37(3)	Failure to comply with the criteria for a bonded warehouse under section 37	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
38	Failure to comply with section 38(5) or (6) for bonded warehouses	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
40(3)	Failure to comply with directions given by the Comptroller	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
47(5)	Failure to comply with section 47 on entry of warehoused goods etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
55	General offences relating to bonded warehouses	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
63G	Failure to comply with conditions imposed under section 63F(1)	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
65(2)	Failure to comply with requirements under section 65 for loading etc	A fine of 3 times the value of the export declared on the export entry declaration or a fine not more than \$50,000, whichever is greater 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
66H(1)	Penalty when goods under secure exports scheme are found contrary to declaration	A fine of 3 times the value of the export declared on the export entry declaration or a fine not more than \$50,000,	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000

		whichever is greater 10 years							
71	Giving incorrect material particulars	\$25,000 plus 10% of the export value 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
72(5)	Failure of aircraft or ship to depart from Fiji within specified time	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
74(2)	Failure to comply with section 74 on discharge of goods for export	A fine of 3 times the value of the export declared on the export entry declaration or a fine not more than \$50,000, whichever is greater 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
95D(1)	Failure to comply with garnishee order	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
100(1)	Failure to comply with section 100 on drawbacks	\$25,000 or 3 times the amount of the drawbacks claimed whichever is greater 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$10,000	\$25,000
100(2)	Wilfully claiming more drawback on any goods than is legally due etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$10,000	\$25,000
102(3)	Failure to comply with section 102 on power of Comptroller with regard to invoices	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000

103(4)	Failure to comply with section 103 by the master of a ship or an aircraft	(a) For the master of a light aircraft or ship of less than 250 tonnes, a fine of not more than \$40,000 10 years b) For the master of an aircraft other than a light craft or ship of more than 250 tonnes, a fine of not more than \$200,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
104(4)	Failure to comply with section 104(4) on powers to board ship etc and search	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
104(5)	Failure to comply with section 104(5) by the master of a ship or aircraft	\$25,000 or 3 times the value of any goods found to be missing, whichever is greater 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
113(1)	Penalty for interfering with Customs ships etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
116(3)	Failure to comply with section 116 on power to require declaration	\$25,000 or 3 treble the value of the thing not declared or of the baggage or thing not produced, whichever is greater 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
122(2)	Failure to comply with section 122 on powers to	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000

	prevent flight of aircraft								
124	Offences in relation to violence etc	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
134(1)	Various penalties associated with owners of aircraft and ships	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
136	Removal or destruction of dutiable goods	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
137	(a) Providing documents that are incorrect for Custom purposes. (b) Making false entries (c) Making false declarations (d) Misleading an Officer (e) Not providing correct name or address (f) Selling of goods on board an aircraft or any place under Customs Control without authorisation. (g) Delivering, removal or withdrawal of goods under customs control without prior examination. (h) Unlawful conveyance or possession of smuggled goods (i) Refuses or fails to stop any means of conveyance when called to do so.	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000

137E	Failure to reflect duty decrease in price of goods	\$100,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
137F	Failure to reflect duty protection in price of goods	\$100,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
143	General penalties	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000
149(4)	Failure to comply with section 149(2)	\$25,000 10 years	\$1,000	\$5,000	\$10,000	\$25,000	\$10,000	\$15,000	\$25,000

SCHEDULE 2
Regulation 5(2)(a))
FIJI REVENUE AND CUSTOMS SERVICE - Infringement Notice

Infringement Notice Number:

Details of Offender	
Name:	
Address:	
TIN:	
Details of Offence	
Statement of Offence:	
Particulars of Offence:	
Contrary to:	
<p>This offence carries a maximum penalty of [\\$]. If you do not wish to contest this Infringement Notice, you are required to pay the fixed penalty of [\$1 to the Fiji Revenue and Customs Service.</p>	
<p>The payment of the fixed penalty is due within 30 days from the date of issue of this Infringement Notice and is payable at any Fiji Revenue and Customs Service office. If you pay the fixed penalty, all liability in respect of the offence will be discharged and no further action will be taken against you with respect to this particular offence.</p>	
<p>If you wish to contest this Infringement Notice, you may elect to dispute this Infringement Notice in court within 30 days from the date of issue of this Infringement Notice.</p>	
<p>If you fail to pay the fixed penalty or dispute this Infringement Notice in court within 30 days from the date of issue of this Infringement Notice, you will be—</p> <ul style="list-style-type: none">(i) liable to a late payment fee equivalent to 50% of the fixed penalty, in addition to the fixed penalty; and(ii) issued a departure prohibition order preventing you from leaving Fiji.	
<p>You may pay your fixed penalty and late payment fee in a single payment or in instalments.</p>	
<p>The departure prohibition order will continue until you pay your fixed penalty and late payment fee in full or elect to dispute this Infringement Notice in court.</p>	
<p>If you do not pay your fixed penalty and late payment fee in full or elect to dispute this Infringement Notice in court within 3 months from the date this Infringement Notice is issued to you, this Infringement Notice will take effect as a conviction from the court and the Fiji Revenue and Customs Service may seek the maximum penalty from the court.</p>	
3. Details of Proper Officer	

Name: Signature:	Date: [day/month /year]
4. Affidavit of Service	
I, [name of Proper Officer whose signature appears in section 3], make oath and say that, on the [specify day] day of [specify month], 20 [specify year] at [specify address] I did serve upon the offender specified therein.	
[signature of Proper Officer]	
Sworn by the above named Proper Officer this [specify day] day of [specify month] 20 [specify year].	
Before:	
[name and signature of Commissioner for Oaths/Justice of the Peace]	
Commissioner for Oaths/Justice of the Peace	

CUSTOMS (PROHIBITED IMPORTS AND EXPORTS) REGULATIONS 1986

Table of Amendments

Customs (Prohibited Imports and Exports) Regulations 1986 (LN 109 of 1986) commenced on 31 October 1986, as amended by:

Amending Legislation	Date of Commencement
Customs (Prohibited Imports and Exports) (Amendment) Regulations 1986 (LN 116 of 1986)	4 November 1986
Customs (Prohibited Imports and Exports) (Amendment) Regulations 1987 (LN 55 of 1987)	28 August 1987
Customs (Prohibited Imports and Exports) (Amendment) (No 2) Regulations 1987 (LN 58 of 1987)	4 September 1987
Customs (Prohibited Imports and Exports) (Amendment) Regulations 1988 (LN 114 of 1988)	1 January 1989
Customs (Prohibited Imports and Exports) (Amendment) Regulations 1989 (LN 49 of 1989)	10 August 1989
Customs (Prohibited Imports and Exports) (Amendment) (No 2) Regulations 1989 (LN 64 of 1989)	6 October 1989
Customs (Prohibited Imports and Exports) (Amendment) (No 3) Regulations 1989 (LN 71 of 1989)	1 December 1989
Customs (Prohibited Imports and Exports) (Amendment) (No 1) Regulations 1990 (LN 50 of 1990)	30 March 1990
Customs (Prohibited Imports and Exports) (Amendment) (No 2) Regulations 1990 (LN 51 of 1990)	30 March 1990
Customs (Prohibited Imports and Exports) (Amendment) (No 3) Regulations 1990 (LN 100 of 1990)	21 November 1990
Customs (Prohibited Imports and Exports) (Amendment) Regulations 1991 (LN 37 of 1991)	4 July 1991
Customs (Prohibited Imports and Exports) (Amendment) (No 2) Regulations 1991 (LN 67 of 1991)	26 November 1991
Customs (Prohibited Imports and Exports) (Amendment) (No 3) Regulations 1991 (LN 70 of 1991)	26 November 1991
Customs (Prohibited Imports and Exports) (Amendment) (No 3) Regulations 1991 (LN 96 of 1991)	26 November 1991
Customs (Prohibited Imports and Exports) Regulations 1992 (LN 64 of 1992)	29 May 1992
Customs (Prohibited Imports and Exports) (No 2) Regulations 1992 (LN 138 of 1992)	6 November 1992

Customs (Prohibited Imports and Exports) (Amendment) (No 2) Regulations 1992 (LN 146 of 1992)	6 November 1992
Customs (Prohibited Imports and Exports) (Amendment) Regulations 1993 (LN 97 of 1993)	5 November 1993
Customs (Prohibited Imports and Exports) (Amendment) (No 2) Regulations 1993 (LN 107 of 1993)	10 December 1993
Customs (Prohibited Imports and Exports) (Amendment) Regulations 1994 (LN 6 of 1994)	14 January 1994
Customs (Prohibited Imports and Exports) (Amendment) (No 2) Regulations 1994 (LN 36 of 1994)	6 April 1994
Customs (Prohibited Imports and Exports) (Amendment) Regulations 1995 (LN 16 of 1995)	20 January 1995
Customs (Prohibited Imports and Exports) (Amendment) Regulations 1996 (LN 13 of 1996)	2 February 1996
Customs (Prohibited Imports and Exports) (Amendment) Regulations 1997 (LN 138 of 1997)	21 November 1997
Customs (Prohibited Imports and Exports) (Amendment) (No 2) Regulations 1999 (LN 4 of 1999)	20 January 1999
Customs (Prohibited Imports and Exports) (Amendment) Regulations 1999 (LN 7 of 1999)	22 January 1999
Customs (Prohibited Imports and Exports) (Amendment) (No 3) Regulations 1999 (LN 134 of 1999)	5 November 1999
Customs (Prohibited Imports and Exports) (Licensing of Rice Imports Amendment) Regulations 2000 (LN 23 of 2000)	17 March 2000
Customs (Prohibited Imports and Exports) (Revocation of Licensing of Rice Imports Amendment) Regulations 2001 (LN 19 of 2001)	16 March 2001
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2002 (LN 113 of 2002)	1 January 2003
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2005 (LN 38 of 2005)	17 August 2005
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2005 (LN 76 of 2005)	22 December 2005
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2007 (LN 84 of 2007)	1 September 2007
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2007 (LN 119 of 2007)	1 January 2008
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2008 (LN 104 of 2008)	1 September 2008
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2008 (LN 7 of 2008)	21 November 2008

Customs (Prohibited Imports and Exports) (Amendment) Regulations 2009 (LN 16 of 2009) ²	1 June 2009
Customs (Prohibited Imports and Exports) (Budget Amendment) Regulations 2010 (LN 5 of 2010)	1 January 2010
Customs (Prohibited Imports and Exports) (Revised Budget Amendment) Regulations 2010 (LN 82 of 2010)	2 July 2010
Customs (Prohibited Imports and Exports) (Budget Amendment) Regulations 2011 (LN 6 of 2011)	26 November 2010
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2011 (LN 55 of 2011)	1 May 2011
Customs (Prohibited Imports and Exports) Regulations 2011 (LN 69 of 2011) ³	10 August 2011
Prisons and Corrections (Amendment) Decree 2011 (No 11 of 2011)	27 June 2008
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2011 (LN 116 of 2011)	28 October 2011
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2012 (LN 12 of 2012)	13 January 2012
Customs (Prohibited Imports and Exports) (Amendment) (No 2) Regulations 2012 (LN 45 of 2012)	4 May 2012
Customs (Prohibited Imports and Exports) (Amendment) (No 3) Regulations 2012 (LN 7 of 2013)	1 November 2012
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2014 (LN 66 of 2014)	21 November 2014
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2015 (LN 89 of 2015)	6 November 2015
Customs (Prohibited Imports and Exports) (Amendment) (No 2) Regulations 2015 (LN 98 of 2015)	6 November 2015
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2016 (LN 17 of 2016)	6 November 2015
Customs (Prohibited Imports and Exports) (Amendment) (No 2) Regulations 2016 (LN 48 of 2016)	1 August 2016
Revised Edition of the Laws (Consequential Amendments) Regulations 2016 (LN 99 of 2016)	1 December 2016
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2017 (LN 43 of 2017)	30 June 2017
Fiji Revenue and Customs Authority (Budget Amendment) Act 2017 (No 38 of 2017)	1 August 2017
Customs (Prohibited Imports and Exports) (Amendment) Regulations 2018 (LN 47 of 2018)	1 August 2018

² This was rectified by the Corrigendum published on 28 May 2009 (LN 18 of 2009).

³ This was rectified by the Corrigendum published on 8 September 2011.

[Regulation 1] Short title

These Regulations may be cited as the Customs (Prohibited Imports and Exports) Regulations 1986.

[Regulation 2] These Regulations to be in addition to other lawful requirements

- (1) The provisions of these Regulations are, unless the context otherwise requires, in addition to, and not in substitution for, the provisions of any written law relating to the importation of goods into and the exportation of goods from Fiji.
- (2) The grant of any licence under these Regulations to import goods into Fiji or export goods from Fiji and the exemption of goods from application of these Regulations, shall not absolve any person from the obligation to comply with the provisions of any other written law relating to the importation or exportation of those goods.

[Regulation 3] Goods the importation of which is absolutely prohibited

- (1) The importation into Fiji of the goods specified in Schedule 1 is prohibited absolutely.
- (2) If any substance to which these Regulations apply is unlawfully imported, in a very small quantity, the same be peremptorily seized, and destroyed in any way the Comptroller may direct without any further proceedings.

[subreg (2) insrt LN 5 of 2010 reg 2, effective 1 January 2010]

[Regulation 4] Goods which may be imported only on conditions etc

The importation into Fiji of the goods specified in the second column of Schedule 2 is prohibited unless the conditions, restrictions or requirements specified in the third column of that schedule for that item are complied with.

[Regulation 5] Importation of goods for which a licence from the Minister is required

- (1) The importation into Fiji of the goods specified in Schedule 3 is prohibited unless—
 - a) they are imported pursuant to a valid and subsisting licence to import the goods, issued by the Minister or Comptroller pursuant to these Regulations; and
 - b) any conditions and restrictions to which the licence is subject are complied with.

(2) The Minister or Comptroller may grant a licence in respect of the goods specified in Schedule 3 subject to specific conditions, restrictions or requirements, which must be, as specified, complied with either before or after the importation of the goods in respect of which the licence is granted.

(2A)

[subs (2A) rep LN 76 of 2005 reg 2, effective 22 December 2005]

(3) After the grant of any licence under these Regulations, the Minister or Comptroller may at any time, and without assigning any reason, by notice in writing served on the licensee—

- a) if the licence was granted subject to any conditions, restrictions or requirements, vary or add to any or all of such conditions, restrictions or requirements; or
- b) where the licence was granted without being subject to any conditions, restrictions or requirements, direct that the licence shall in future be subject to specified conditions, restrictions or requirements,

and the conditions, restrictions or requirements as so altered or directed shall thereafter be conditions, restrictions and requirements to which the licence is subject.

(4) The Minister or Comptroller may at any time, without notice and without assigning any reason therefor, revoke any licence issued under these Regulations.

[reg 5 am LN 116 of 2011 reg 2, effective 28 October 2011]

[Regulation 6] Importation of goods for which a licence from the permanent secretary is required

The importation into Fiji of the goods specified in Schedule 4 is prohibited except under and in accordance with the terms and conditions of a licence granted by the permanent secretary responsible for economic development, planning and tourism.

[Regulation 7] Goods prohibited from importation under other laws

The importation into Fiji of the goods specified in the third column of Schedule 5 is prohibited under the provisions of the written law specified in the second column of that schedule for that item.

[Regulation 8] Exemptions

Notwithstanding the provisions of regulations 5 and 6 a licence shall not be required for the importation from any country of any of the goods or articles specified in Schedule 3 or 4 which are—

- a) goods or articles which are entered out through the Customs Department for repair or as samples, when the same articles are re-imported;
- b) goods or articles which are entered out through the Customs Department by residents of Fiji for their own personal use while they are absent from Fiji, when the same articles are re-imported;
- c) goods or articles for the personal use of the addressee or importer to a value not exceeding \$400 in any one parcel or consignment and which are not for sale or otherwise to be used commercially, provided that the Comptroller may, at his or her absolute discretion, determine that more than one parcel or consignment addressed to the same addressee may be treated as a single parcel or consignment for the purpose of this paragraph;
- d) goods and personal and household effects as defined in Codes 212, 218, 219 and 220 of Part 3 of Schedule 2 to the Customs Tariff Act 1986.

[reg 8 am LN 138 of 1992 reg 3, effective 6 November 1992 ; LN 146 of 1992 reg 3, effective 6 November 1992; LN 89 of 2015 reg 2, effective 6 November 2015]

[Regulation 9] Prohibited imports consigned to places outside Fiji

Prohibited goods on board an aircraft or ship calling at any port in Fiji, but intended for and consigned to some port or place outside Fiji, shall be deemed not to be unlawfully imported into Fiji if the goods are specified on the aircraft or ship manifest and are not transhipped or landed in Fiji or are transhipped or landed by authority. Such goods when imported or landed for transhipment shall be duly re-exported within such time as the Comptroller may direct, and if such goods are not so re-exported, then as from the last date on which they should have been so re-exported, they shall be deemed to be prohibited or restricted goods, as the case may be, and to have been imported on that date.

[Regulation 10] Goods absolutely prohibited for export

- (1) The exportation from Fiji of the goods specified in Schedule 6 is prohibited absolutely.
- (2) If any substance to which this regulation applies is unlawfully exported even, in very small quantity, the same shall be peremptorily seized, and destroyed in any way the Comptroller may direct without any further proceedings.

[subreg (2) insrt LN 5 of 2010 reg 3, effective 1 January 2010]

[Regulation 11] Goods which may be exported only on conditions etc

The exportation from Fiji of the goods specified in the second column of Schedule 7 is prohibited unless the conditions, restrictions or requirements specified in the third column of that schedule for that item are complied with.

[Regulation 12] Goods for exportation for which licences are required

The exportation from Fiji of the goods specified in Schedule 8 is prohibited except under and in accordance with the terms and conditions of a licence granted by the permanent secretary responsible for economic development, planning and tourism.

[Regulation 13] Goods prohibited from export under other laws

The exportation from Fiji of the goods specified in the third column of Schedule 9 is prohibited except under and in accordance with the provisions of the written law relating to the exportation of those goods specified in the second column of that schedule for that item.

[Regulation 14] Licences etc not transferable

No licence or permit issued under any of the provisions of these Regulations shall be transferable.

[Regulation 15] Penalty

A person who contravenes any provision of these Regulations or who contravenes any of the conditions for the time being specified in a licence issued pursuant to these Regulations or specified in the Schedules to these Regulations shall be guilty of an offence and shall be liable to a fine not exceeding \$10,000, and any goods forming the subject matter of any such contravention shall be liable to forfeiture.

[reg 15 am LN 64 of 1992 reg 2, effective 29 May 1992 ; LN 138 of 1997 reg 3, effective 21 November 1997 ; LN 5 of 2010 reg 4, effective 1 January 2010]

[Regulation 16] Revocation

- (1) The Customs (Prohibited Imports) Order is hereby revoked.
- (2) The Customs (Prohibited Exports) Order is hereby revoked.

SCHEDULE 1

GOODS THE IMPORTATION OF WHICH IS ABSOLUTELY PROHIBITED

[Sch 1 am LN 51 of 1990 reg 2, effective 30 March 1990 ; LN 100 of 1990 reg 3, effective 21 November 1990 ; LN 138 of 1992 reg 4, effective 6 November 1992 ; LN 146 of 1992 reg 4, effective 6 November 1992 ; LN 6 of 1994 reg 3, effective 14 January 1994; LN 138 of 1997 reg 4, effective 21 November 1997; LN 76 of 2005 reg 2, effective 22 December 2005 ; LN 84 of 2007 reg 2, effective 1 September 2007 ; LN 12 of 2012 reg 2, effective 13 January 2012 ; LN 7 of 2013 reg 2, effective 1 November 2012 ; LN 99 of 2016 reg 56, effective 1 December 2016; LN 43 of 2017 reg 2, effective 30 June 2017]

Goods the importation of which is prohibited absolutely.

<i>Item No</i>	<i>Description of goods</i>
1.	All goods having thereon or on the cover thereof any words, marks or designs of a seditious nature, or of a nature calculated in the opinion of the Minister to disturb the peace and order of Fiji.
2.	All statutory written-off vehicles: The importing of all statutory written-off vehicles is absolutely prohibited and is not allowed for importation.
3.	Counterfeit coin, imitation or counterfeit bank notes.
4.	Dangerous Drugs including— Raw Opium. Any seed of the opium poppy (<i>Pa paver somniferum</i>) or any portion of the plant except any product containing seed or part of the plant (<i>Papaver somniferum</i>) that is no longer capable of germination, as certified under the Biosecurity Act 2008 that the product has been sterilised and no longer capable of germination, including an exemption certificate issued under the Illicit Drugs Control Act 2004. Indian Hemp (<i>Cannabis Saliva</i> or <i>Cannabis Indica</i>). Any resin obtained from Indian Hemp and preparation of which such resins form the base. Any seed of Indian Hemp or any portion of the plant. Coca Leaf. Any seed of Coca Leaf or any portion of the plant. Prepared Opium. Opium pipes or other utensils for use in connection with the smoking of Opium or any utensil for use in connection with the preparation of Opium for consumption. <i>Lysergide (N.N. Diethyl-lysergamide);</i> <i>Mescaline (3, 4, 5-trimethoxy-phenethylamine);</i> Peyotl (Namely, any part of the plant of the species ' <i>laphophora williamsi</i> or <i>laphophora</i> ')

5. Goods which in the opinion of the Minister are of a dangerous character and a menace to the community, including—
 - (a) daggers;
 - (b) electric shock sticks;
 - (c) flick knives;
 - (d) gravity knives;
 - (e) knuckle dusters;
 - (f) sword sticks;
 - (g) attache cases capable of discharging electric shock of 30,000 volts; and
 - (h) taser public defender.
6. Goods that, whether of their own nature or having regard to any literary or other work or matter that is embodied, recorded or reproduced in, or can be reproduced from, the goods—
 - (a) are blasphemous, indecent, or obscene; or
 - (b) unduly emphasise matters of sex, horror, violence or crime, or are likely to encourage depravity, and advertising matter relating to such goods.
7. Machines for playing games of chance, being games which require no action by any player other than the actuation or manipulation of the machine.
8. Manufactured fireworks containing potassium chlorate or other chlorates in admixture with sulphur or any sulphides, phosphorus or aluminium powder with or without the addition of any other substances.
9. Matches made with a substance usually known as yellow or white phosphorus.
10. The drug Thalidomide and any preparation containing that drug.
11. Chemical warfare gas and devices and apparatus designed for use with that gas.
12. The following—
 - a) all tubers, bulbs, corms, rhizomes, peanuts and other oil seeds not including any product composed of or made therefrom, intended for human consumption, which has been subjected to a manufacturing process other than or in addition to rolling, flaking, pearling or milling;
 - b) all cereal grains, pulses and legumes and products composed or made therefrom including stock feed, not including—
 - i. polished rice and pulses intended for human consumption;
 - ii. products composed of or made from cereal grains, pulses and legumes intended for human consumption which have been subject to any manufacturing process other than or in addition to rolling, flaking, pearling or milling, from all countries except Australia, Canada, Japan, Mexico, New Zealand, Taiwan, the United States of America and all Pacific Territories other than the French Pacific Territories and Vanuatu, provided that flour and sharps manufactured in mills and by a process approved by the Biosecurity Authority of Fiji may be imported from France;
 - c) in the last preceding subparagraph the word "pulses" means "dried leguminous vegetables, shelled, whether or not skinned or split".

13. The drug Phenacetin or of any drug combination or any other substances whatsoever containing phenacetin.
14. Weights or measures, or weighing or measuring instruments, graduated in imperial or in both imperial and metric units, and used for the purpose of trade.
15. The drug Novalgin containing the active ingredient Dipyrone or of any drug combination or any other substance whatsoever containing Dipyrone.

SCHEDULE 2

GOODS WHICH MAY BE IMPORTED ONLY ON CONDITIONS

[Sch 2 am LN 114 of 1988 ; LN 49 of 1989, effective 1 January 1989 ; LN 16 of 1995 reg 3, effective 20 January 1995 ; LN 13 of 1996 reg 3, effective 2 February 1996 ; LN 138 of 1997, effective 21 November 1997 ; LN 69 of 2011 reg 2, effective 10 August 2011 ; LN 116 of 2011 reg 3, effective 28 October 2011 ; LN 12 of 2012 reg 3, effective 13 January 2012 ; LN 7 of 2013 reg 3, effective 1 November 2012 ; LN 66 of 2014 reg 2, effective 21 November 2014 ; LN 89 of 2015 reg 3, effective 6 November 2015 ; LN 99 of 2016 reg 56, effective 1 December 2016; LN 43 of 2017 reg 3, effective 30 June 2017]

Goods the importation of which is prohibited unless specified conditions, restrictions or requirements are complied with.

<i>Item No</i>	<i>Description of Goods</i>	<i>Conditions, Restrictions or Requirements</i>
1.	Fireworks (other than those described in Schedule 1).	The importer shall produce to the Comptroller a licence to import issued by the Principal Inspector of Mines. The goods shall be imported through the Port of Suva and shall be subject to a physical examination and to the issue of a removal licence by the principal inspector of mines.
2.	Margarine or marjarine or any other mixture of edible fats, oils and water prepared in the form of a solid or semi-solid emulsion, including every substance made in the imitation of butter or ghee, (clarified butter) and every other preparation resembling butter or ghee, the fat content of which is not derived from milk.	The goods shall comply with all the provisions of the Food Safety Act 2003 and all legislation made thereunder.
3.	Unsweetened condensed milk, sweetened condensed milk, dried milk, reconstituted milk, unsweetened condensed skim or separated milk, dried separated milk, and milk substitute or any other product which contains skim milk and also contains (whether or not in addition to other substances) any fat other than butter fat.	The goods shall comply with the provisions of the Food Safety Act 2003 and all regulations made thereunder.
4.	Methylated spirits.	The importer shall produce to the Comptroller a licence to import issued under the Methylated Spirits Act 1962.
5.	Radio communication equipment constructed or adapted for emission.	The importer shall produce to the Comptroller a licence to import issued by the telecommunications authority.
6.	Radioactive substance other than luminous dials of watches, clocks and other instruments.	The importer shall produce to the Comptroller the written permission of the permanent secretary

		responsible for health and shall fulfil such conditions as may be laid down.
7.	Spirits — brandy, whisky and rum.	<p>The importer shall prove to the satisfaction of the Comptroller that the spirits have matured by storage in wood for a period not less than 3 years in respect of brandy and whisky and not less than 2 years in respect of rum, provided that the Comptroller may—</p> <p>(a) permit either that the spirit may be exported within a specified time or that it may be stored in bond until such time as he or she is satisfied that the spirits have so matured for 3 years in respect of whisky and brandy, and 2 years in respect of rum; and</p> <p>(b) accept as proof that the spirit is not less than 3 years old in respect of whisky and brandy and 2 years old in respect of rum, a certificate to that effect issued by a proper officer at the port of shipment or a certificate to that effect issued by a public authority having knowledge of the fact.</p>
8.	Whale's teeth (commonly known as "Tabua")	Imported by the Ministry responsible for iTaukei affairs and rural development or in accordance with the conditions of a licence issued by that Ministry produced to the Comptroller. The exporter shall produce to the Comptroller an export permit issued by the Department of Environment as required under the Endangered and Protected Species Act 2002.
9.	[Repealed]	
10.	Mechanical cane harvesters classified in items 8433.51.00, 8433.52.00, 8433.53.00 and 8433.59.00 of Schedule 2 to the	The importer shall produce to the Comptroller a licence to import issued by the Biosecurity Authority of Fiji.
	Customs Tariff Act 1986.	
11.	Branches and leaves of all trees originating in Queensland, Papua New Guinea or the Solomon Islands.	The importer shall produce to the Comptroller a certificate from the appropriate Agricultural authority stating that such branches and leaves are free from pests and disease and do not belong to the family Meliaceae or the Group Coniferae.
12.	Any apparatus or device designed, constructed or adapted solely or principally for the purpose of receiving radio or television transmission, other than domestic broadcast transmission	The importer shall produce to the Comptroller a licence to import issued by the telecommunications authority.

13. Salt classified in item No 2501.00.00 of Schedule 2 to the Customs Tariff Act 1986. The importer shall produce to the Comptroller a permit to import issued by the permanent secretary responsible for health.

14(a) Used and reconditioned: road tractors; motor vehicles for the transport of persons; motor cars and other motor vehicles, principally designed for the transport of persons including station wagons and racing cars; motor vehicles for the transport of goods; special purpose motor vehicles; dual-purpose motor vehicles; chassis fitted with engines; trailers and semi-trailers with or without self-loading self-unloading devices; motor vehicles chassis; which are more than 5 years of their year of manufacture and which are falling to be classified in tariff items:

8701.20.90; 8701.92.90; 8701.95.90;
 8702.10.29; 8702.20.29; 8702.30.29;
 8702.40.29; 8702.90.99; 8703.21.30;
 8703.21.50; 8703.22.10; 8703.22.30;
 8703.22.90; 8703.23.11; 8703.23.15;
 8703.23.19; 8703.23.23; 8703.23.25;
 8703.24.10;

8701.30.90; 8701.93.90; 8702.10.21;
 8702.20.21; 8702.30.21; 8702.40.21;
 8702.90.91; 8703.21.10;

8703.21.90; 8703.22.50; 8703.23.13;
 8703.23.21; 8703.23.29;

8701.91.90; 8701.94.90; 8702.10.22;
 8702.20.22; 8702.30.22; 8702.40.22;
 8702.90.92;

8703.24.30; 8703.24.50; 8703.24.90;
 8703.31.10; 8703.31.30; 8703.31.50;

8703.31.90; 8703.32.10; 8703.32.30;

8703.32.50; 8703.32.90; 8703.33.11;

8703.33.13; 8703.33.15; 8703.33.19;

8703.33.21; 8703.33.23; 8703.33.25;

The importer shall prove to the Comptroller that the vehicles imported will be used for the following purposes—

(i) medical; or

(ii) tourism and tourism investment related projects, provided however, that any such vehicle must not be transferred, sold or used for any purpose other than the purpose for which it has been imported and in the case of tourism and tourism investment related projects, all vehicles shall be discarded upon completion of the project and shall not be used in Fiji.

For the purposes of the following paragraph, "mining purposes" refer to entities that have been granted a mining licence or permit in accordance with the Mining Act 1965.

The importer shall prove to the Comptroller that the—

(i) quad bike and all-terrain vehicle imported will be used for agricultural and tourism purposes only;

(ii) skidder imported will be used for forestry or logging purposes only; or (iii) articulated dumper truck imported will be used for mining purposes only, provided however, that any such quad bike, all-terrain vehicle, skidder or articulated dumper truck imported must not be transferred, sold or used for any purpose other than the purpose for which it has been imported

8703.33.29; 8703.40.20; 8703.40.40;
8703.40.60; 8703.50.20; 8703.50.80;
8703.60.15; 8703.60.29; 8703.70.19;
8703.40.80; 8703.50.40; 8703.50.99;
8703.60.19; 8703.70.11; 8703.70.23;
8703.40.99; 8703.50.60; 8703.60.11;
8703.60.23; 8703.70.15; 8703.70.29;
8703.80.11; 8703.80.15; 8703.80.19;
8703.80.23; 8703.80.29; 8704.10.90;
8704.21.12; 8704.21.19; 8704.21.32;
8704.21.34; 8704.21.36; 8704.21.38;
8704.21.41; 8704.21.43; 8704.21.45;
8704.21.49; 8704.21.52; 8704.21.54;
8704.21.56; 8704.21.58; 8704.21.61;
8704.21.63; 8704.21.65; 8704.21.69;
8704.21.72; 8704.21.79; 8704.21.99;
8704.22.13; 8704.22.19; 8704.22.30;
8704.22.99; 8704.23.40;
8704.23.20;
8704.23.99; 8704.31.12;
8704.23.99; 8704.31.12; 8704.31.19;
8704.31.32; 8704.31.34; 8704.31.36;
8704.31.38; 8704.31.41; 8704.31.43;
8704.31.45; 8704.31.49; 8704.31.52;
8704.31.54; 8704.31.56; 8704.31.58;
8704.31.61; 8704.31.63; 8704.31.65;
8704.31.69; 8704.31.72; 8704.31.79;
8704.31.99; 8704.32.12; 8704.32.19;

8704.32.30; 8704.32.50; 8704.32.90;

8704.90.90; 8706.00.20; 8706.00.99;

14(b). Used or reconditioned Special Purpose vehicles that perform certain non-transport function consuming any type of fuel and Liquefied Petroleum Gas (LPG), Compressed Natural Gas (CNG) and Solar road tractors; motor vehicles for the transport of persons; motor cars and other motor vehicles, principally designed for the transport of persons including station wagons and racing cars; motor vehicles for the transport of goods; dual-purpose motor vehicles; vehicle chassis; vehicle chassis fitted with engines which are more than 8 years of their year of manufacture. The vehicles subject to licence are classified under the tariff items—

The importer shall prove to the Comptroller that the vehicles imported will be used for the following purposes—

- (i) medical; or
- (ii) tourism and tourism investment related projects,

provided however, that any such vehicle must not be transferred, sold or used for any purpose other than the purpose for which it has been imported and in the case of tourism and tourism investment related projects, all vehicles shall be discarded upon completion of the project and shall not be used in Fiji.

8701.20.90; 8701.30.90; 8701.91.90;

8701.92.90; 8701.93.90; 8701.94.90;

8701.95.90; 8702.10.21; 8702.10.22;

8702.10.29; 8702.20.21; 8702.20.22;

8702.20.29; 8702.30.21; 8702.30.22;

8702.30.29; 8702.40.21; 8702.40.22;

8702.40.29; 8702.90.91; 8702.90.92;

8702.90.99; 8703.21.10; 8703.21.30;

8703.21.50; 8703.21.90; 8703.22.10;

8703.22.30; 8703.22.50; 8703.22.90;

8703.23.11; 8703.23.13; 8703.23.15;

8703.23.19; 8703.23.21; 8703.23.23;

8703.23.25; 8703.23.29; 8703.24.10;

8703.24.30; 8703.24.50; 8703.24.90;

8703.31.10; 8703.31.30; 8703.31.50;

8703.31.90; 8703.32.10; 8703.32.30;

8703.32.50; 8703.32.90; 8703.33.11;

8703.33.13; 8703.33.15; 8703.33.19;

8703.33.21; 8703.33.23; 8703.33.25;

8703.33.29; 8703.40.20; 8703.40.40;

8703.40.60; 8703.40.80; 8703.40.99;

8703.50.20; 8703.50.40; 8703.50.60;

8703.50.80; 8703.50.99; 8703.60.11;

8703.60.15; 8703.60.19; 8703.60.23;

8703.60.29; 8703.70.11; 8703.70.15;

8703.70.19; 8703.70.23; 8703.70.29;

8703.80.11; 8703.80.15; 8703.80.19;

8703.80.23; 8703.80.29; 8704.10.90;

8704.21.12; 8704.21.19; 8704.21.32;

8704.21.34; 8704.21.36; 8704.21.38;
8704.21.41; 8704.21.43; 8704.21.45;
8704.21.49; 8704.21.52; 8704.21.54;
8704.21.56; 8704.21.58; 8704.21.61;
8704.21.63; 8704.21.65; 8704.21.69;
8704.21.72; 8704.21.79; 8704.21.99;
8704.22.13; 8704.22.19; 8704.22.30;
8704.22.99; 8704.23.20; 8704.23.40;
8704.23.99; 8704.31.12; 8704.31.19;
8704.31.32; 8704.31.34; 8704.31.36;
8704.31.38; 8704.31.41; 8704.31.43;
8704.31.45; 8704.31.49; 8704.31.52;
8704.31.54; 8704.31.56; 8704.31.58;
8704.31.61; 8704.31.63; 8704.31.65;
8704.31.69; 8704.31.72; 8704.31.79;
8704.31.99; 8704.32.12; 8704.32.19;
8704.32.30; 8704.32.50; 8704.32.90;
8704.90.90; 8705.10.90; 8705.20.90;
8705.30.90; 8705.40.90; 8705.90.20;
8705.90.99; 8706.00.20; 8706.00.99

15. (i) Biodegradable High and Low Density Plastic Bags of Polyethylene or other types of Plastics or Plastics in rolls or sheets. The importer shall produce to the Comptroller an import permit with conditions or standards issued by the Director of Environment.

(ii) Biodegradable High and Low Density Plastic Bags of Polyethylene or other Plastic in rolls or sheets. For the purpose of these Regulations, 'biodegradable plastic' means a plastic capable of natural decomposition and is capable of being broken down by bacteria and other micro-organisms to microscopic particles within 2 years of production.

15(a) (i) Non-biodegradable High and Low Density Plastic Bags of Polyethylene or of other Plastics. The importer shall produce to the Comptroller an import permit indicating that the item imported is used for the following trade purposes—

(ii) Nan-biodegradable High and Low Density Plastics of Polyethylene or other Plastics in rolls or sheet. i. packaging or preserving food and beverages;
ii. packaging or preserving medicine and pharmaceutical products;
iii. for uses wholly or as components for exports and/or re-exports; and
iv. for processing, manufacturing and/or packing of exports and/or re-exports.

16. Any product containing chewing tobacco or labelled as containing tobacco which is marked as suitable for chewing or for any other oral use. The importer shall produce to the Comptroller, a permit to import, issued by the permanent secretary responsible for health.

17. Any goods worth more than the value of \$400. The importer shall produce to the Comptroller the import permit.

SCHEDULE 3

IMPORTATION OF GOODS FOR WHICH A LICENCE FROM THE MINISTER IS REQUIRED

[Sch 3 subst LN 146 of 1992 reg 5, effective 6 November 1992 ; am LN 6 of 1994 reg 4, effective 14 January 1994 ; LN 138 of 1997, effective 21 November 1997 ; LN 4 of 1999 reg 2, effective 20 January 1999; LN 134 of 1999 reg 2, effective 5 November 1999; LN 38 of 2005 reg 3, effective 17 August 2005 ; LN 119 of 2007 reg 2, effective 1 January 2008 ; LN 7 of 2008 reg 2, effective 21 November 2008 ; LN 104 of 2008 reg 2, effective 1 September 2008 ; LN 82 of 2010 reg 2, effective 2 July 2010 ; LN 6 of 2011 reg 2, effective 26 November 2010 ; LN 69 of 2011 reg 3, effective 10 August 2011 ; LN 116 of 2011 reg 2, effective 28 October 2011 ; LN 7 of 2013 reg 4, effective 1 November 2012 ; LN 89 of 2015 regs 3, effective 6 November 2015 ; LN 98 of 2015 reg 2, effective 6 November 2015 ; LN 17 of 2016 reg 2, effective 6 November 2015 ; LN 48 of 2016 reg 2, effective 1 August 2016; LN 43 of 2017 reg 4, effective 30 June 2017 ; LN 47 of 2018 reg 2, effective 1 August 2018]

Goods that are imported under this Schedule are prohibited, except where a licence is issued by the Minister with the conditions specified in the licence or in the case of goods such as vehicles listed in paragraph 5, a licence is issued by the Comptroller with the conditions specified in the licence.

1. Gold classified in items 7108.11.00, 7108.12.00, 7108.13.00, 7108.20.00 and 7109.00.00, sweepings, residues, lemens and other waste and scraps of gold classified in item 7112.30.00 and gold coin classified in Items 7118.10.00 and 7118.90.00 of Schedule 2 to the Customs Tariff Act 1986.
2. Galvanised or zincalume precoated metal coil sheet classified items 7210.20.10, 7210.20.90, 7210.30.10, 7210.30.90, 7210.41.10, 7210.41.90, 7210.49.10, 7210.49.90, 7210.50.10, 7210.50.90, 7210.61.10, 7210.61.90, 7210.69.10, 7210.69.90, 7210.70.10, 7210.70.90, 7210.90.10 and 7210.90.90 of Schedule 2 to the Customs Tariff Act 1986.
3. Cyclonic screw fasteners, washers and seals for roof and wall cladding classified in Items 7317.00.00, 7318.15.00, 7318.19.00, 7318.22.00 and 7318.29.00 of Schedule 2 to the Customs Tariff Act 1986.
4. [Repealed]
5. (a)Used or reconditioned road tractors; motor vehicles for the transport of persons; motor cars and other motor vehicles, principally designed for the transport of persons including station wagons and racing cars; motor vehicles for the transport of goods; dual-purpose motor vehicles; vehicle chassis; vehicle chassis fitted with engines unless they are Euro 4 standardised vehicles which are not more than 5 years from their year of manufacture for diesel and unleaded fuel vehicles, and Euro 4 standardised vehicles which are not more than 8 years from their year of manufacture for LPG, CNG, solar vehicles, electric vehicles and hybrid vehicles. The vehicles subject to licence are classified under tariff items—

8701.20.90; 8701.30.90; 8701.91.90; 8701.92.90; 8701.93.90; 8701.94.90; 8701.95.90
8702.10.21; 8702.10.22; 8702.10.29; 8702.20.21; 8702.20.22; 8702.20.29; 8702.30.21;
8702.30.22; 8702.30.29; 8702.40.21; 8702.40.22; 8702.40.29; 8702.90.91; 8702.90.92;
8702.90.99; 8703.21.10; 8703.21.30; 8703.21.50; 8703.21.90; 8703.22.10; 8703.22.30;
8703.22.50; 8703.22.90; 8703.23.11; 8703.23.13; 8703.23.15; 8703.23.19; 8703.23.21;
8703.23.23; 8703.23.25; 8703.23.29; 8703.24.10; 8703.24.30; 8703.24.50; 8703.24.90;
8703.31.10; 8703.31.30; 8703.31.50; 8703.31.90; 8703.32.10; 8703.32.30; 8703.32.50;
8703.32.90; 8703.33.11; 8703.33.13; 8703.33.15; 8703.33.19; 8703.33.21; 8703.33.23;
8703.33.25; 8703.33.29; 8703.40.20; 8703.40.40; 8703.40.60; 8703.40.80; 8703.40.99;
8703.50.20; 8703.50.40; 8703.50.60; 8703.50.80; 8703.50.99; 8703.60.11; 8703.60.15;
8703.60.19; 8703.60.23; 8703.60.29; 8703.70.11; 8703.70.15; 8703.70.19; 8703.70.23;
8703.70.29; 8703.80.11; 8703.80.15; 8703.80.19; 8703.80.23; 8703.80.29; 8704.10.90;
8704.21.12; 8704.21.19; 8704.21.32; 8704.21.34; 8704.21.36; 8704.21.38; 8704.21.41;
8704.21.43; 8704.21.45; 8704.21.49; 8704.21.52; 8704.21.54; 8704.21.56; 8704.21.58;
8704.21.61; 8704.21.63; 8704.21.65; 8704.21.69; 8704.21.72; 8704.21.79; 8704.21.99;
8704.22.13; 8704.22.19; 8704.22.30; 8704.22.99; 8704.23.20; 8704.23.30; 8704.23.40;
8704.23.99; 8704.31.12; 8704.31.19; 8704.31.32; 8704.31.34; 8704.31.36; 8704.31.38;
8704.31.41; 8704.31.43; 8704.31.45; 8704.31.49; 8704.31.52; 8704.31.54; 8704.31.56;
8704.31.58; 8704.31.61; 8704.31.63; 8704.31.65; 8704.31.69; 8704.31.72; 8704.31.79;
8704.31.99; 8704.32.12; 8704.32.19; 8704.32.30; 8704.32.50; 8704.32.60; 8704.32.90;
8704.90.90; 8706.00.20; 8706.00.99; 8708.99.30;

of Schedule 2 to the Customs Tariff Act 1986.

5.(b) Used or reconditioned Special Purpose vehicles that perform certain nontransport functions consuming any type of fuel and Liquefied Petroleum Gas (LPG), Compressed Natural Gas (CNG) and Solar road tractors; motor vehicles for the transport of persons; motor cars and other motor vehicles, principally designed for the transport of persons including station wagons and racing cars; motor vehicles for the transport of goods; dual-purpose motor vehicles; vehicle chassis; vehicle chassis fitted with engines which are more than 8 years of their year of manufacture unless they are Euro 4 standardised vehicles. The vehicles subject to licence are classified under tariff items—

8701.20.90; 8701.30.90; 8701.91.90; 8701.92.90; 8701.93.90; 8701.94.90; 8701.95.90
8702.10.21; 8702.10.22; 8702.10.29; 8702.20.21; 8702.20.22; 8702.20.29; 8702.30.21;
8702.30.22; 8702.30.29; 8702.40.21; 8702.40.22; 8702.40.29; 8702.90.91; 8702.90.92;
8702.90.99; 8703.21.10; 8703.21.30; 8703.21.50; 8703.21.90; 8703.22.10; 8703.22.30;
8703.22.50; 8703.22.90; 8703.23.11; 8703.23.13; 8703.23.15; 8703.23.19; 8703.23.21;
8703.23.23; 8703.23.25; 8703.23.29; 8703.24.10; 8703.24.30; 8703.24.50; 8703.24.90;

8703.31.10; 8703.31.30; 8703.31.50; 8703.31.90; 8703.32.10; 8703.32.30; 8703.32.50; 8703.32.90; 8703.33.11; 8703.33.13; 8703.33.15; 8703.33.19; 8703.33.21; 8703.33.23; 8703.33.25; 8703.33.29; 8703.40.20; 8703.40.40; 8703.40.60; 8703.40.80; 8703.40.99; 8703.50.20; 8703.50.40; 8703.50.60; 8703.50.80; 8703.50.99; 8703.60.11; 8703.60.15; 8703.60.19; 8703.60.23; 8703.60.29; 8703.70.11; 8703.70.15; 8703.70.19; 8703.70.23; 8703.70.29; 8703.80.11; 8703.80.15; 8703.80.19; 8703.80.23; 8703.80.29; 8704.10.90; 8704.21.12; 8704.21.19; 8704.21.32; 8704.21.34; 8704.21.36; 8704.21.38; 8704.21.41; 8704.21.43; 8704.21.45; 8704.21.49; 8704.21.52; 8704.21.54; 8704.21.56; 8704.21.58; 8704.21.61; 8704.21.63; 8704.21.65; 8704.21.69; 8704.21.72; 8704.21.79; 8704.21.99; 8704.22.13; 8704.22.19; 8704.22.30; 8704.22.99; 8704.23.20; 8704.23.40; 8704.23.99; 8704.31.12; 8704.31.19; 8704.31.32; 8704.31.34; 8704.31.36; 8704.31.38; 8704.31.41; 8704.31.43; 8704.31.45; 8704.31.49; 8704.31.52; 8704.31.54; 8704.31.56; 8704.31.58; 8704.31.61; 8704.31.63; 8704.31.65; 8704.31.69; 8704.31.72; 8704.31.79; 8704.31.99; 8704.32.12; 8704.32.19; 8704.32.30; 8704.32.50; 8704.32.90; 8704.90.90; 8705.10.90; 8705.20.90; 8705.30.90; 8705.40.90; 8705.90.20; 8705.90.99; 8706.00.20; 8706.00.99; 8708.99.30;

of Schedule 2 to the Customs Tariff Act 1986.

6. New vehicles; road tractors; motor vehicles for the transport of persons; motor cars and other motor vehicles, principally designed for the transport of persons including station wagons and racing cars; motor vehicles for the transport of goods; dual-purpose motor vehicles; vehicle chassis; or vehicle chassis fitted with engines unless they are Euro 4 standardised vehicles. Provided however, that new vehicles which run on diesel fuel and which are not Euro 4 standardised vehicles may be imported until such time as approved by the Minister.
7. New insertion tyre casing imported by approved manufacturers who are engaged in the manufacturing of retread tyres under tariff items—

4012.11.00; 4012.12.00; 4012.13.00; 4012.19.00; 4012.20.00;
4012.90.00; 8708.70.10.

SCHEDULE 4

**IMPORTATION OF GOODS FOR WHICH A LICENCE FROM THE PERMANENT
SECRETARY IS REQUIRED**

[Sch 4 subst LN 36 of 1994 reg 3, effective 6 April 1994 ; am LN 16 of 1995 reg 4, effective 20 January 1995 ; LN 23 of 2000 reg 3, effective 17 March 2000 ; LN 19 of 2001 reg 2, effective 16 March 2001 ; LN 16 of 2009 reg 2, effective 1 June 2009 ; LN 45 of 2012 reg 2, effective 4 May 2012; LN 43 of 2017 reg 5, effective 30 June 2017]

Goods the importation of which is prohibited except in accordance with the terms of a licence granted by the permanent secretary responsible for trade or any other person authorised by the permanent secretary to act on his or her behalf.

1. [Repealed]
2. Gas-oil (diesel) having sulphur content exceeding 500 ppm classified in Tariff item 2710.12.32 in Schedule 2 to the Customs Tariff Act 1986.

SCHEDULE 5

GOODS PROHIBITED FROM IMPORTATION UNDER OTHER LAWS

[Sch 5 am LN 138 of 1997 reg 7, effective 21 November 1997; LN 113 of 2002 reg 3, effective 1 January 2003 ; LN 55 of 2011 reg 2, effective 1 May 2011 ; Decree 11 of 2011 s 4, effective 27 June 2008; LN 89 of 2015 reg 5, effective 6 November 2015 ; LN 99 of 2016 reg 56, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

Goods the importation of which is prohibited under other laws relating to the importation of goods into Fiji. (NOTE: This Schedule is set out for information only and its contents must not be taken to vary or exclude any written law either referred to therein or omitted therefrom. Any misdescription or error or any omission must not be taken as either abrogating or prejudicing the contents of any such other written law).

<i>Item</i>	<i>Act</i>	<i>Description of Goods and Conditions, Restrictions or Requirements</i>
1.	Biosecurity Act 2008	<p>Any animal, animal products, animal manure, packing-material, fittings or fodder;</p> <p>(a) without the written permission of the Assistant Director of Agriculture (Animal Health and Production) or of a person authorised by him or her in that behalf; or</p> <p>(b) in contravention of any regulations made under the provisions of the Biosecurity Act 2008.</p>
2.	Arms and Ammunition Act 2003	<p>Arms or ammunition or parts of arms or ammunition unless the importer holds a licence in that behalf issued by the Commissioner of Police. Except the following—</p> <p>(1) (a) any antique or obsolete arm imported or exported, carried and kept with the permission in writing of the Commissioner of Police and in accordance with such conditions as he or she may specify therein, as a curiosity or ornament, provided that such arm on account of the lack of ammunition or otherwise shall be incapable of being discharged;</p> <p>(b) ammunition from which all explosive has been removed, imported or exported, carried, kept or used solely as ornaments or decorations;</p> <p>(c) arrows which when discharged are dangerous to persons, imported or exported, carried, kept or used solely for sport or recreation; and</p> <p>(d) for the purpose of avoiding doubt, all bows, imported or exported, carried, kept or used solely for sport or recreation.</p>

(2) (a) humane killers, captive bolt pistols or any arm specially designed for the humane killing or stunning of animals and blank cartridges therefore, imported or exported, carried, kept or used solely for the killing or for the killing or stunning of animals;

(b) verey pistols and line throwing projectors and ammunition therefore, being part of the equipment of any ship or aircraft and retain thereon;

(c) verey pistols and line throwing projectors and ammunition therefore, imported or exported, carried, kept or used solely for warning or life saving purposes in connection with ships or aircraft;

(d) blank cartridges, imported or exported, carried, kept or used solely for starting track or sporting events or for purposes connected therewith.

(3) (a) arms and ammunition carried by members of the Republic of Fiji Military Forces or of foreign armed forces lawfully in Fiji in their capacity as such;

(b) arms and ammunition which are part of the ordinary armament of a vessel;

(c) arms and ammunition belonging to any member of the crew of a foreign going vessel, provided that—

(i) such arms and ammunition are retained in safe custody on board such vessel under customs seal; or

(ii) where in the opinion of an officer of customs no proper facilities for safe custody exist, such arms and ammunition are handed to a police officer for safe keeping;

(d) arms and ammunition the property of the State, consigned to or by a unit or member of the Republic of Fiji Military Forces;

(e) arms and ammunition the property of the State, consigned to or by the Fiji Police Force or a member thereof;

(f) arms and ammunition the property of the State, consigned to or by the Fiji Corrections Service or a member thereof, provided that when any arm is imported into Fiji without an import licence or interim licence having been obtained authorising the importation thereof, such importation shall not be deemed to contravene the provisions of the Arms and Ammunition Act 2009 when such arm on importation is left in the possession of the Fiji Revenue and Customs Service.

3. Copyright Act 1999

Copyright in any published literary, dramatic or musical work in respect of which a notice under the regulations has been given.

4.	Illicit Drugs Control Act 2004	Schedule 1 — Illicit Drugs, Schedule 2 — Controlled Chemicals and Schedule 3 — Controlled Equipment. Except in accordance with the provisions of the Illicit Drugs Control Act 2004.
5.	Excise Act 1986	Any still: Except in accordance with the terms and conditions of licence issued by the Comptroller of Customs.
6.	Exchange Control Act 1950	Currency notes and certificate of title to any security. Except in accordance with the terms of the Exchange Control regulations as advised by the Reserve Bank of Fiji.
7.	Explosives Act 1937	Explosives within the meaning of the Explosives Act 1937.
8.	Merchandise Marks Act 1933	Goods to which any forged trademark or false trade description is applied or to which any trademark or mark so nearly resembling a trademark as to be calculated to deceive is falsely applied. Subject to the Merchandise Marks (Detention of Goods) Regulations 1956.
9.	Biosecurity Act 2008	All plants and plant material, bacteria, virus, soil, sand, clay, earth, plant pests or other invertebrate animals.
10.	Quarantine Act 1964	Except in accordance with the terms of the Biosecurity Act 2008 and regulations made thereunder. Rags, second-hand clothing or second-hand bedding. Unless such rags, second-hand clothing or second-hand bedding: (a) have been properly disinfected under official supervision at the expense of the importer; or (b) are accompanied by a certificate from a health authority in the country of origin stating that such rags, second-hand clothing or second-hand bedding have been properly disinfected immediately prior to being exported from such country of origin.
11.	Pharmacy and Poisons Act 1937	Drugs, medicines, poisons, instruments and appliances. Except in accordance with the Pharmacy and Poisons Act 1937.
12.	Trade Standards and Quality Control Act	Any Household Electric Refrigerating Appliance that does not comply with the Trade Standards (Household Electric Refrigerating Appliances) Order (LN 91 of 2007).

13. Ozone Depleting Substances [See below]
Act 1998 — controlled substances

Description of Goods and Conditions, Restrictions or Requirements for controlled substances under the Ozone Depleting Substances Act 1998

PART 1 CHLOROFLUOROCARBONS

Group 1 — any of the following chlorofluorocarbons whether virgin, recycled or in a mixture—

Chemical Formula	Substance	Ozone Depleting Potential
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Group 2 — any Bromofluorocarbon or “Halon”, including

Chemical Formula	Substance	Ozone Depleting Potential
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Group 3 — Carbon tetrachloride

Chemical Formula	Substance	Ozone Depleting Potential
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Group 4 — Methylchloroform

Chemical Formula	Substance	Ozone Depleting Potential
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This formula does not refer to 1,1,2-trichloroethane

PART 2 HYDROCHLOROFLUOROCARBONS

Group 1 — any of the following hydrochlorofluorocarbons whether virgin, recycled or in a mixture—

Substance	Chemical Formula	Common Name	Ozone Depleting Potential
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PART 3 FIRE EXTINGUISHERS ETC

- a) import halons or halon fire extinguishers;
- b) import any motor vehicle that incorporates automotive air-conditioners which contain any controlled substance listed in Part 1;
- c) import any automotive air-conditioner which contains any controlled substance listed in Part 1; and
- d) import any air-conditioner, air conditioner unit, refrigerator or refrigeration unit including any compressor, that contains or uses any controlled substance listed in Part 1.

SCHEDULE 6

GOODS ABSOLUTELY PROHIBITED FOR EXPORT

[Sch 6 am LN 138 of 1997 reg 8, effective 21 November 1997; LN 84 of 2007 reg 2, effective 1 September 2007 ; LN 99 of 2016 reg 56, effective 1 December 2016]

Goods the exportation of which is prohibited absolutely.

1. [Repealed]
2. Dangerous Drugs.

Any seed of the opium poppy (*Papaver somniferum*) or any portion of the plant except any product containing seed or part of the plant (*Papaver somniferum*) that is no longer capable of germination, as certified under the Biosecurity Act 2008 that the product has been sterilised and no longer capable of germination, including an exemption certificate issued under the Illicit Drugs Control Act 2004.

Raw Opium.

Any seed of the opium poppy or any portion of the plant.

Indian Hemp (*Cannabis Sativa* or *Cannabis Indica*).

Any resin obtained from Indian Hemp and preparations of which such resins form the base.

Any seed of Indian Hemp or any portion of the plant.

Coca leaf.

Any seed of Coca leaf or any portion of the plant.

Prepared Opium.

Opium pipes or other utensils for use in connection with the smoking of opium or any utensil for use in connection with the preparation of opium for consumption.

SCHEDULE 7

GOODS WHICH MAY BE EXPORTED ONLY ON CONDITIONS

[Sch 7 am LN 116 of 1986 reg 4, effective 4 November 1986 ; LN 114 of 1988, effective 1 January 1989 ; LN 49 of 1989 reg 5 ; LN 138 of 1997 ; LN 89 of 2015 reg 3, effective 6 November 2015 ; LN 99 of 2016 reg 56, effective 1 December 2016; LN 43 of 2017 reg 6, effective 30 June 2017]

Goods the exportation of which is prohibited unless specified conditions, restrictions or requirements are complied with.

SCHEDULE 8

GOODS FOR EXPORTATION FOR WHICH LICENCES ARE REQUIRED

[Sch 8 subst LN 36 of 1994 reg 4, effective 6 April 1974 ; LN 89 of 2015 reg 7, effective 6 November 2015; LN 43 of 2017 reg 7, effective 30 June 2017]

Goods the exportation of which is prohibited except and in accordance with the terms and conditions of a licence granted by the export permit issued by the Management Authority as required under the Endangered and Protected Species Act 2002.

1. [Repealed]
2. [Repealed]
3. Unprocessed trochus shells classified in Tariff Item No 0508.00.00 in Schedule 2 to the Customs and Tariff Act 1986.

SCHEDULE 9

GOODS PROHIBITED FROM EXPORT UNDER OTHER LAWS

[Sch 9 am LN 50 of 1990 reg 4, effective 30 March 1990 ; LN 7 of 1999 reg 2, effective 22 January 1999 ; LN 113 of 2002 reg 2, effective 1 January 2003; Decree 11 of 2011 s 4, effective 27 June 2008; LN 66 of 2014 reg 3, effective 21 November 2014 ; LN 89 of 2015 reg 8, effective 6 November 2015 ; LN 99 of 2016 reg 56, effective 1 December 2016; Act 38 of 2017 s 7, effective 1 August 2017]

Goods the exportation of which is prohibited under other laws relating to the exportation of goods from Fiji. (Note: This Schedule is set out for information only and its contents must not be taken to vary or exclude any written law either referred to therein or omitted therefrom. Any misdescription or error or any omission must not be taken as either abrogating or prejudicing the contents of any such other written law).

CUSTOMS (COURT OF REVIEW) RULES 1969

Table of Amendments

Customs (Court of Review) Rules 1969 (LN 15 of 1969), commenced on 17 January 1969, as amended by:

Amending Legislation	Date of Commencement
Revised Edition of Laws (Consequential Amendments) Regulations 2016 (LN 99 of 2016)	1 December 2016

[Rule 1] Short title

These Rules may be cited as the Customs (Court of Review) Rules 1969.

[Rule 2] Interpretation

In these Rules, unless the context otherwise requires—

court means the Court of Review as for the time being constituted under section 174 of the Act; and

[def am LN 99 of 2016 reg 55, effective 1 December 2016]

Registrar means the Registrar of the court.

[Rule 3] Registrar of the court

The Chief Registrar of the High Court shall be the Registrar of the court.

[Rule 4] Office of the court

The office of the court shall be at the High Court Registry at Suva.

[Rule 5] Place of sittings

The court may sit for the hearing of an appeal, or for the hearing of any interlocutory application incidental to an appeal, at any place within Fiji which the court from time to time or at any time may deem convenient for the sitting.

[Rule 6] Notice of appeal

(1) Every appeal to the court shall be brought by notice of motion (in these Rules referred to as "the notice of appeal") in the form appearing in Schedule 1.

(2) The notice of appeal shall state clearly and concisely the grounds of the appeal. The notice shall be signed by the appellant or his or her agent or barrister and solicitor and shall state therein an address for service in Fiji to or at which notices, process, and other documents and written communications relating to the appeal may be sent by registered post or left for the appellant. Service by post or delivery as aforesaid shall be deemed to be good service on the appellant.

(3) The original notice of appeal and one copy thereof shall be filed in the office of the court within the time permitted by section 94(2) of the Act as that within which the appellant may enter an appeal to the court.

[para (3) am LN 99 of 2016 reg 55, effective 1 December 2016]

(4) The appellant shall cause a copy of the notice of appeal to be served upon the Comptroller at his or her office at Suva, either personally or by registered post, within the time referred to in subrule (3).

[Rule 7] Entry of appeal and direction for hearing

(1) Upon the filing of the notice of appeal, the Registrar shall cause the appeal to be entered in the books of the court and shall obtain a direction by the court as to the day, time and place to be appointed for the hearing of the appeal.

(2) Unless, on the application of the appellant, it is otherwise directed, the place of the hearing of the appeal shall be at Suva. An appellant may apply at any time to the court for a direction that the appeal be entered for hearing at any place other than at Suva or, if the appeal has been entered for hearing at Suva, to change the place of hearing. Any such application may be made by motion on not less than 4 days' notice to the Comptroller.

[Rule 8] Notice of hearing of appeal

The Registrar shall give not less than one month's notice in writing (in these Rules referred to as "the notice of hearing") to the appellant and to the Comptroller, of the day, time and place appointed for the hearing of the appeal

[Rule 9] Service

Service of the notice of hearing on the Comptroller may be effected by sending a copy of the notice by registered post to him or her at his or her office at Suva, or by leaving a copy of the notice at that office. Service on the appellant may be effected in accordance with the provisions of rule 6(2).

[Rule 10] Amendment of notice of appeal

A notice of appeal may be amended at any time by or with the leave of the court on such terms and conditions as the court may think just.

[Rule 11] Attendance of witness under subpoena

At the request of the appellant or the Comptroller or by the direction of the court itself, a subpoena may be issued requiring any person to attend to give evidence or to produce documents in connection with the appeal.

[Rule 12] Hearing of appeal

(1) Subject to the provisions of section 178 of the Act, on the day fixed for the hearing of the appeal or on any other day to which the hearing may be adjourned, the appellant, or his or her agent or his or her barrister and solicitor, shall be heard in support of the appeal.

[para (1) am LN 99 of 2016 reg 55, effective 1 December 2016]

(2) The court shall then, if it does not dismiss the appeal at once, hear the Comptroller or his or her officer or barrister and solicitor, and in such case the appellant shall have the right of reply.

(3) Subject to the provisions of the Act or of these Rules, the ordinary practice and the Rules of the High Court shall apply, with the necessary modifications, in relation to an appeal under these Rules.

[Rule 13] Fees of court

(1) The fee set out in Schedule 2 shall be charged and paid in respect of the matter therein specified.

(2) The fees to be charged and paid in respect of matters not specified in the said Schedule shall be the fees payable in respect of similar matters in civil proceedings in the High Court.

(3) No fees shall be charged to or be payable by the Comptroller in relation to any act, application or proceeding by him or her in relation to an appeal.

[Rule 14] Costs

(1) Subject to the provisions of section 179 of the Act, the costs of and incidental to an appeal shall be in the discretion of the court but, unless the court in any particular case for good reason shall think fit otherwise to order, barristers' and solicitors' costs shall not exceed the maximum allowances prescribed by the scale of costs set out in Appendix 4 to the High Court Rules 1988.

[para (1) am LN 99 of 2016 reg 55, effective 1 December 2016]

(2) When the court directs that the costs, or any part of the costs, of an appeal be paid by the appellant or by the State, the court may specify the amount of such costs to be paid or may direct that the costs be taxed by the Registrar.

(3) The court may allow as costs of an appeal the allowances and expenses of witnesses attending the hearing of the appeal in accordance with the Rules for the time being in force in the High Court of Fiji in relation to allowances and expenses of witnesses attending at trials before the High Court and for that purpose any reference in such Rules to the Chief Registrar of the High Court shall be deemed to be a reference to the Registrar of the Court of Review.

(4) The court may allow such other necessary costs or allowances as may seem to the court to be fair and reasonable.

SCHEDULE 1

(Rule 6(1)) - Notice of Appeal

CUSTOMS ACT 1986

In the matter of an appeal to the Court of Review
by the Appellant.

WHEREAS the Comptroller of Customs and Excise decided that—

(summarise the decision which is disputed)

and, consequent upon that decision, demanded the payment of the sum of as duty,
which sum the appellant has on (date) paid under protest;

TAKE NOTICE that the Court of Review will be moved that the said decision of the Comptroller be revised or set aside and that the State do pay to the appellant the costs of this appeal;

AND FURTHER take notice that the grounds of this appeal are as follows—

[set out clearly and concisely the grounds of appeal]

Dated this day of 20 .

(Signature of appellant, or his or her agent, or barrister and solicitor)

Address for service:

To the Comptroller of Customs and Excise, Suva.

**SCHEDULE 2
(Rule 13) - Fee**

On filing notice of appeal and copy \$10