

# PART I PRELIMINARY

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### 1 Short title.

Short title.

1.

This Act may be cited as the States of Malaya Customs Duties Collection Act.

### 2 Interpretation.

Interpretation.

2.

In this Act, unless the context otherwise requires —

"aircraft" includes any kind of craft which may be used for the conveyance of passengers or goods by air;

"collection station" means a station or other place established by the President under section 8;

"Collector" means any officer appointed by the President to be the Collector of Federal Customs Duties under section 3 (1);

"customs duty" means any import duty, export duty, surtax or cess imposed by or under the Customs Act 1967 of Malaysia or any other written law in force in Malaysia and includes any royalty payable in lieu of an export duty under any written law or a contract, lease or agreement to which the government of Malaysia or of any State within Malaysia is a party or to which such government has consented;

M. 235 (1980).

"dutiabale goods" means all goods which are subject to the payment of customs duty on import into or export from Malaysia and on which such duty has not yet been paid;

"export" with its grammatical variations and cognate expressions, means to

take or cause to be taken out of Malaysia by land or air, otherwise than by post;

"exporter" includes any owner or other person for the time being beneficially interested in any goods at the time at which such goods enter Singapore from Malaysia by land or air;

"Federal Customs Officer" means any officer whose appointment is approved under section 5;

"Federal officer of customs" means —

(a) any Collector;

(b) any Federal Superintendent of Customs and Excise; and

(c) any Federal Customs Officer;

"Federal Superintendent of Customs and Excise" means any officer appointed by the President under section 3 (2);

"goods" includes animals, birds, fish, plants and all kinds of movable property

"import" with its grammatical variations and cognate expressions, means to take or cause to be taken into Malaysia by land, air or post;

"importer" includes any person, company, firm, society or other body of persons in Malaysia to whom, or to which, goods are consigned by land, air or post;

"other charges" includes warehouse rent, weighing fees, handling charges and overtime fees, and any other moneys payable under the provisions of this Act or any regulations made thereunder, except customs duty;

"passenger" means a person travelling by railway or aircraft from Singapore to Malaysia or vice versa;

"prohibited goods" means goods the import of which into or the export of which from Malaysia is prohibited either absolutely or conditionally by any written law for the time being in force in Malaysia;

"railway" has the same meaning as in the Railways Act;

"value" , in relation to goods declared for import, means the price which an importer would give at the time of declaration for import for the goods on a purchase in the open market if the goods were delivered to him at the place of payment of customs duty and if freight, insurance, commission and all other costs, charges and expenses (except any customs duty) incidental to the purchase and delivery at such place had been paid.

## **PART II APPOINTMENTS AND POWERS OF OFFICERS**

### **PART II APPOINTMENTS AND POWERS OF OFFICERS**

#### **3 Appointment of Collector and Federal Superintendents of Customs and Excise.**

Appointment of Collector and Federal Superintendents of Customs and Excise.

3.

— (1) The President may, on the nomination of the Yang di-Pertuan Agong, by notification in the *Gazette*, appoint an officer to be the Collector of Federal Customs Duties who shall be in charge of all collection stations and have superintendence of all matters relating thereto.

(2) The President may, on the nominations of the Yang di-Pertuan Agong, by notification in the *Gazette*, appoint so many officers as he may consider necessary to be Federal Superintendents of Customs and Excise for the purpose of this Act.

#### **4 Powers of Collector and Federal Superintendents.**

Powers of Collector and Federal Superintendents.

4.

The Collector and all Federal Superintendents of Customs and Excise shall have and exercise all the powers conferred by this Act on Federal Superintendents of Customs and Excise and Federal Customs Officers.

#### **5 Appointment of Federal Customs Officers.**

Appointment of Federal Customs Officers.

5.

The President may approve the appointment by the Yang di-Pertuan Agong of officers to be Federal Customs Officers and any such officer shall by virtue of such approval have and exercise all the powers conferred by this Act on Federal Customs Officers.

## **6 Officers to be public servants.**

Officers to be public servants.

6.

The Collector, all Federal Superintendents of Customs and Excise and all Federal Customs Officers appointed or approved under the provisions of this Act shall be deemed to be public servants within the meaning of the Penal Code.

Cap. 224.

## **7 Authority cards to be produced.**

Authority cards to be produced.

7.

— (1) Every Federal officer of customs when acting against any person under this Act shall, if not in uniform, on demand declare his office and produce to the person against whom he is acting such authority card as the Collector may direct to be carried by that officer.

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any Federal officer of customs acting or purporting to act under this Act if that officer is not in uniform and refuses to declare his office and produce his authority card, on demand being made by that person.

# **PART III ESTABLISHMENT OF COLLECTION STATIONS**

## PART III

### ESTABLISHMENT OF COLLECTION STATIONS

## **8 Establishment of collection stations.**

Establishment of collection stations.

8.

—(1) The President may, in accordance with a request of the Yang di-Pertuan Agong, establish collection stations in order to facilitate —

(a) the collection of customs duty and other charges on goods exported from or to be imported into Malaysia;

(b) the conduct of any other business and the exercise of any powers conferred by the provisions of this Act.

(2) A Federal officer of customs may collect at any collection station the customs duty and other charges due to the government of Malaysia on the import or export of goods and all moneys so collected shall be paid into the general revenue of Malaysia.

## **9 Valuation of goods.**

Valuation of goods.

9.

—(1) For the purpose of ascertaining the customs duty, if any, leviable thereon, any Federal officer of customs may value, weigh, measure, or otherwise examine, or cause to be valued, weighed, measured or otherwise examined any goods or passengers' baggage delivered to a collection station.

(2) When a valuation of any goods has been made by a Federal officer of customs, the valuation shall be presumed to be correct until the contrary is proved.

## **10 Return of customs duty or other charges overpaid.**

Return of customs duty or other charges overpaid.

10.

It shall be lawful for the Collector, if it is proved to his satisfaction that any money has been overpaid as customs duty or other charges under this Act, to order the refund of the money so overpaid:

Provided that no such refund shall be allowed unless a claim in respect thereof is made within one year after the overpayment was made.

## 11 Payment of customs duty etc. short paid or erroneously refunded.

Payment of customs duty, etc., short paid or erroneously refunded.

11.

— (1) Whenever —

(a) through inadvertence, error, collusion or misconstruction on the part of any Federal officer of customs, or through mis-statement as to value, quantity or description by any person, or for any other reason, the whole or any part of any customs duty or other charges payable under this Act has not been paid; or

(b) the whole or any part of such customs duty or other charges, after having been paid, has been, owing to any cause, erroneously refunded,

the person liable to pay such customs duty or other charges or the person to whom such refund has erroneously been made, as the case may be, shall pay the deficiency or repay the amount paid to him in excess, on demand being made within 12 months from the date on which customs duty was payable or deficient customs duty was paid or the refund was made, as the case may be, and without prejudice to any other remedy for the recovery of the amount due, any dutiable goods belonging to that person which may be in any collection station may be detained until the customs duty or deficiency is paid or the refund is repaid, as the case may be.

(2) When any goods have been detained in accordance with subsection (1), the Collector may after giving not less than 14 days notice in writing to the owner (if the name and address of the owner are known to him), or after giving not less than 14 days notice in the *Gazette* (if the name and address of the owner are not known to him) sell the goods.

(3) The proceeds of the sale of any such goods shall be applied to the payment of the charges that have been occasioned by the sale and of the customs duty and other charges leviable in accordance with subsection (1), and the surplus,

if any, shall be paid to the owner of such goods, and if the owner cannot be found within one month of the sale, the surplus shall be paid to the general revenue of Malaysia.

(4) If at the sale of any such goods no sufficient bid is forthcoming to satisfy the customs duty and charges which are due in respect of the goods, the goods shall be forfeited to the government of Malaysia and shall be disposed of in such manner as the Collector may direct.

## 12 Abatement of customs duty.

Abatement of customs duty.

12.

After payment of customs duty, no abatement of such duty shall be allowed on any goods on account of damage, or on account of any account of any claim —

(a) to pay duty at a preferential rate; or

(b) that the weight, measure, volume or value as determined by a Federal officer of customs for the purpose of ascertaining the duty on the goods or any other factor affecting the goods is incorrect,

unless notice in writing of the claim has been given at or before the time of the payment of the customs duty.

## 13 Calculation of customs duty.

Calculation of customs duty.

13.

The rate of customs duty and the valuation, if any, applicable to any dutiable goods shall be determined in accordance with the provisions of the Customs Act 1967 of Malaysia or any other Act of Malaysia amending or replacing that Act.

M. 235 (1980).

# PART IV DECLARATION OF GOODS AND

# PAYMENT OF CUSTOMS DUTY

## PART IV

### DECLARATION OF GOODS AND PAYMENT OF CUSTOMS DUTY

## 14 Declaration of goods imported and payment of duty.

Declaration of goods imported and payment of duty.

14.

— (1) Subject to this Act, goods to be imported into Malaysia through a collection station shall not be loaded for despatch at or through the collection station until the importer or the consignor has, personally or by his agent —

(a) made to a Federal officer of customs at the collection station a declaration in the prescribed form giving particulars of the goods to be imported; and

(b) paid any import duty and other charged leviable on such goods:

Provided that such declaration and payment of import duty shall not be required if the owner of any goods to be imported through a collection station consents, either personally or by his agent, to consign the goods in a manner satisfactory to a Federal officer of customs to a customs warehouse or a licensed warehouse in Malaysia established in accordance with the law of Malaysia.

(2) Every passenger shall at a collection station or at any point between the Malayan Railway Station at Keppel Road, Singapore and the limits of Singapore declare to a Federal officer of customs all dutiable or prohibited goods in his possession, either on his person or in any baggage and shall pay any import duty leviable thereon.

## 15 Declaration of goods exported and payment of duty.

Declaration of goods exported and payment of duty.

15.



—(1) Whenever goods are exported through a collection station, the exporter or the consignee thereof shall make, personally or by his agent, to a Federal officer of customs at the collection station a declaration in the prescribed form, giving particulars of the goods exported, and shall pay to the Federal officer of customs any export duty and other charges leviable on the goods:

Provided that such declaration shall not be required in respect of any goods on which it is shown to the satisfaction of a Federal officer of customs that export duty has been paid at a customs station in Malaysia prior to the export of the goods.

(2) A Federal officer of customs may refuse delivery of any goods exported through a collection station until the export duty and other charges leviable on the goods have been paid.

(3) If the export duty payable in respect of such goods is not paid within 3 months from the time when possession of them was taken by a Federal officer of customs, the goods shall be sold by public auction, and the proceeds of the sale thereof shall be applied in payment of the charges that have been occasioned by the sale and of the export duty and other charges leviable in accordance with subsection (1), and the surplus thereof, if any, shall be paid to the owner of the goods, and if the owner cannot be found within one month of the sale, the surplus shall be paid to the general revenue of Malaysia.

(4) Particulars of any intended sale shall be published in the *Gazette* not less than 14 days prior to the date of the sale.

(5) If at the sale of any such goods no sufficient bid is forthcoming to defray the export duty and charges which are due in respect of the goods, the goods shall be forfeited to the government of Malaysia and shall be disposed of in such manner as the Collector may direct.

## 16 Control of agents.

Control of agents.

16.

—(1) No person shall act as agent for transacting business relating to the import or export through a collection station of any goods except with the permission of the Collector.

(2) When any person applies to the Collector for permission to act as agent on behalf of another person, the Collector may require the applicant to produce a

written authority from the person on whose behalf he is to act and in default of that authority the Collector may refuse such permission.

(3) Before granting such permission, the Collector may require the agent to give such security as he may consider adequate for the faithful and incorrupt conduct of the agent and of his clerks acting for him both as regard the customs and his employers.

(4) The Collector may suspend or cancel any permission granted under this section, if the agent commits any breach of this Act or of any regulations made thereunder or if he fails to comply with any direction given by a Federal officer of customs with regard to the business transacted by the agent.

(5) Any person who acts as agent when permission has not been granted to him under this section or while such permission is cancelled or suspended, or who makes or causes to be made a declaration of any goods without being duly authorised for that purpose by the importer or exporter or consignor or consignee of the goods shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$500.

(6) The clerk or employee of any person or firm may transact business generally at any collection station on behalf of that person or firm:

Provided that the Collector may refuse to transact business with such clerk or employee unless the person or a member of the firm identifies the clerk or employee to the Collector as empowered to transact the business and deposits with the Collector a signed authority authorising the clerk or employee to transact such business on behalf of that person or firm.

## **PART V DUTIABLE GOODS IMPORTED BY POST**

### **PART V**

#### **DUTIABLE GOODS IMPORTED BY POST**

### **17 Examination of postal articles.**

Examination of postal articles.

17.

All postal articles consigned to Malaysia, whether posted within Singapore or elsewhere, may by arrangement with a duly authorised officer of the Telecommunication Authority of Singapore, be examined while in the custody of the Telecommunication Authority of Singapore by any Federal officer of

customs, and may be opened by an officer of that Authority in the presence of a Federal officer of customs for the purpose of such examination.

Act 12/92 wef 1.4.92 vide S 158/92.

## **18 Assessment of customs duty.**

Assessment of customs duty.

18.

When any postal article consigned to Malaysia is found to contain any dutiable goods, a Federal officer of customs may assess the amount of customs duty leviable thereon.

## **19 Forfeiture of postal articles containing undeclared dutiable goods.**

Forfeiture of postal articles containing undeclared dutiable goods.

19.

— (1) Any postal articles consigned to Malaysia found upon examination to contain dutiable goods, that postal article not having affixed thereto a true declaration of such goods, shall be liable to forfeiture by order of the Collector.

(2) A Federal Superintendent of Customs and Excise may compound the offence by accepting from the addressee or consignor of any postal articles liable to forfeiture under subsection (1) a sum not exceeding \$500 and shall thereupon release that article on payment of the customs duty due thereon.

## **20 Application.**

Application.

20.

The provisions of this Act relating to —

- (a) levy of import duty;
- (b) search and seizure;

(c) trials and proceedings; and

(d) offences and penalties,

shall apply so far as the name can be made applicable and are not inconsistent with the provisions of this Part to the importation of goods by post and to goods imported by post.

## **PART VI MISCELLANEOUS PROVISIONS**

### **PART VI MISCELLANEOUS PROVISIONS**

#### **21 Documents in support of declaration to be produced.**

Documents in support of declaration to be produced.

21.

On demand of a Federal officer of customs, the importer or exporter or consignor or consignee of any goods or his agent shall produce to such officer all invoices, certificates of origin or of analysis and any other document which that officer may require to test the accuracy of any declaration made by the importer or exporter or consignor or consignee or agent to any Federal officer of customs.

#### **22 Taking of samples.**

Taking of samples.

22.

— (1) A Federal officer of customs may at any time, if his duty so requires, take samples of any goods in a collection station in order to ascertain whether they are goods of a description liable to customs duty, or to ascertain the customs duty payable on such goods or for such other purpose as a Federal Superintendent of Customs and Excise may think necessary for the purpose of this Act.

(2) No payment shall be made for the cost of any sample taken, but the Federal officer of customs shall, on demand, give a receipt for any such sample.

(3) Any sample taken in accordance with subsection (1) shall be disposed of in such manner as the Collector shall direct.

## **23 Weighing and handling charges.**

Weighing and handling charges.

23.

All necessary operations relating to the loading, unloading, carrying, weighing, opening, unpacking, repacking, bulking, sorting and marking of goods or passengers' baggage in a collection station shall be performed by or at the expense of the owner, importer, exporter, consignor, consignee or agent, as the case may be:

Provided that a Federal Superintendent of Customs and Excise may at his discretion direct that any such operation be performed by Federal Customs Officers or by any other person under his control, and in any such case the operation shall be performed at the expense of the owner, importer, exporter, consignor, consignee or agent, as the case may be.

## **24 Powers while in transit in relation to baggage.**

Powers while in transit in relation to baggage.

24.

Any Federal officer of customs may in any railway at any point between the Malayan Railway Station at Keppel Road, Singapore and the limits of Singapore exercise in respect of any passenger and the goods and baggage of any passenger in such railway all the powers and perform all the duties which he is authorised by this Act to exercise or perform at a collection station.

## **25 Protection of government of Malaysia and Federal officers of customs from liability.**

Protection of government of Malaysia and Federal officers of customs from liability.

25.

Neither the government of Malaysia nor any Federal officer of customs nor any other person employed in connection with the Malaysia Customs shall be liable

to make good any loss sustained in respect of any goods by fire, theft, damage or any other cause while the goods are in any collection station or in the lawful custody or control of any Federal officer of customs or of any person employed in connection with the Malaysia Customs unless the loss is caused by the wilful neglect or default of such officer or employee.

## 26 Lien over goods deposited.

Lien over goods deposited.

26.

— (1) When any goods have been deposited in a collection station for a period exceeding 4 days reckoned from the date of deposit, the Collector may remove them to such place as he may in his discretion think fit and the Collector shall have a lien on the goods for any expenses incurred.

(2) If any goods are not cleared —

(a) from a collection station; or

(b) from any place to which the Collector has removed them in accordance with subsection (1),

within a period of one month reckoned from the date of deposit of the goods, the Collector may, after giving not less than 14 days notice in writing to the owner (if the name and address of the owner are known to him) or after giving not less than 14 days notice in the *Gazette* (if the name and address of the owner are not known to him), sell the goods.

(3) The proceeds of the sale of any such goods shall be applied to the payment of the charges that have been occasioned by the sale and of any customs duty and other charges which may be due in respect of the goods or any other goods deposited in a collection station by or on behalf of the consignor of the goods, and the surplus, if any, shall be paid to the owner of the goods, and if the owner cannot be found within one month of the sale, the surplus shall be paid into the general revenue of Malaysia.

(4) If at the sale of any such goods no sufficient bid is forthcoming to defray the customs duty and charges which are due in respect of the goods, the goods shall be forfeited to the government of Malaysia and shall be disposed of in such manner as the Collector may direct.

# PART VII SEARCH AND SEIZURE

## PART VII SEARCH AND SEIZURE

### 27 Power to open packages and examine goods and to stop and search conveyances.

Power to open packages and examine goods and to stop and search conveyances.

27.

—(1) For the purposes of carrying out the provisions of section 9, a Federal officer of customs may, within the limits of a collection station —

(a) open or cause to be opened any case, bale or other package and may take samples, and may examine the contents thereof and may seal, mark or secure or cause to be sealed, marked or secured any such case, bale or package or any of its contents in such manner as he may see fit;

(b) stop or detain any conveyance and examine the contents thereof;

(c) if necessary for the purpose of carrying out a proper tally or examination of any goods exported from or intended to be imported into Malaysia, stop or cause to be stopped or otherwise control or direct the loading or unloading of any such goods.

(2) The owner, importer, exporter, consignor, consignee or other person for the time being in charge of any goods shall be permitted to be present at any examination of the goods carried out under this section.

(3) If a Federal officer of customs has in the exercise of his powers under this section stopped the loading or unloading of any goods exported from or intended to be imported into Malaysia, the loading or unloading shall not be resumed without his permission.

### 28 Seizure of goods the subject of an offence.

Seizure of goods the subject of an offence.

28.

—(1) All goods in respect of which any Federal officer of customs reasonably suspects that any offence has been or is being committed under this Act or any

regulations made thereunder, together with any receptacle, package or conveyance in which the goods have been found or which has been used in connection with the offence, and any books or documents which a Federal officer of customs reasonably believes to have a bearing on the case, may be seized by any Federal officer of customs.

(2) All such goods and all such receptacles, packages, conveyances, books and documents shall, as soon as conveniently may be, be delivered into the care of a Federal Superintendent of Customs and Excise.

(3) Whenever any goods, conveyances, books or documents are seized under this Act, the seizing officer shall forthwith give notice in writing of the seizure and the grounds thereof to the owner of such goods, if known, either by delivering the notice to him personally, or by post at any address given by him:

Provided that such notice shall not be required to be given where the seizure is made on the person, or in the presence of the offender or the owner or his agent, as the case may be.

(4) The provisions of this section relating to the seizure of goods shall apply to all the contents of any package or receptacle in which the goods are found and to any conveyance or article used to conceal the goods.

(5) Any goods of a perishable nature seized under this section may be sold forthwith on the orders of a Federal Superintendent of Customs and Excise and the proceeds of sale held to abide the result of any prosecution or claim.

## **29 Search of passengers.**

Search of passengers.

29.

Any person leaving or about to leave Singapore and proceed to Malaysia by aircraft shall at any collection station, and any person leaving or about to leave Singapore and proceed to Malaysia by railway shall at any collection station or any point between the Malayan Railway Station at Keppel Road, Singapore and the limits of Singapore, on demand by any Federal officer of customs permit his person, goods and baggage to be searched by that officer:

Provided that —

(a) any person who requests that his person be searched in the presence of a



Federal Superintendent of Customs and Excise shall not be searched except in the presence of and under the supervision of that officer;

(b) the goods and baggage of any person who requests to be present when they are searched and so presents himself within a reasonable time shall not be searched except in his presence;

(c) no woman shall be searched except by a woman.

## **PART VIII PROVISIONS AS TO TRIALS AND PROCEEDINGS**

### **PART VIII PROVISIONS AS TO TRIALS AND PROCEEDINGS**

#### **30 Who may prosecute.**

Who may prosecute.

30.

Prosecutions in respect of offences committed under this Act or any regulations made thereunder may be conducted by any Federal Superintendent of Customs and Excise.

#### **31 Jurisdiction of District Courts.**

Jurisdiction of District Courts.

31.

Notwithstanding the provisions of any written law to the contrary, a District Court shall have jurisdiction to try any offence under this Act and to award the full punishment for any such offence.

#### **32 Notification in the Malaysia Gazette to be sufficient evidence.**

Notification in the Malaysia *Gazette* to be sufficient evidence.

32.

A notification published in the *Gazette* of the government of Malaysia of the customs duty or any other charges payable to that government under the provisions of the Customs Act 1967 of Malaysia or any other Act of Malaysia amending or replacing that Act or of the value of any goods fixed for the purpose of levying any customs duty, or of the prohibition on import into or export from Malaysia of any goods under any written law of Malaysia for the time being in force, shall be sufficient evidence for the purpose of any proceedings under this Act or any regulations made thereunder of the matters appearing in such notification.

M. 235 (1980).

### **33 Burden of proof.**

Burden of proof.

33.

If, in any prosecution in respect of any goods seized for non-payment of customs duty or for any other cause of forfeiture or for the recovery of any penalty or penalties under this Act, any dispute arises whether the customs duty has been paid in respect of the goods, or whether the goods have been lawfully imported or exported, or lawfully loaded, or concerning the place from where the goods were brought or where the goods were loaded, then and in every such case the burden of proof thereof shall lie on the defendant in the prosecution.

### **34 Proportional examination of goods seized.**

Proportional examination of goods seized.

34.

When any goods suspected of being liable to seizure have been seized, it shall be sufficient to open, examine, and if necessary test the contents of 10% only of each description of package or receptacle in which the goods are contained and the court shall presume that the goods contained in the unopened packages or receptacles are of the same nature, quantity and quality as those found in the similar packages or receptacles which have been opened.

### **35 Certificate of analyst may be accepted.**

Certificate of analyst may be accepted.

35.

—(1) In any prosecution for a breach of a provision of this Act or of any regulations made thereunder, a certificate of analysis purporting to be under the hand of an analyst shall, on production thereof by the prosecutor, be sufficient evidence of the facts stated therein unless the defendant requires that the analyst be called as a witness, in which case he shall give notice thereof to the prosecutor not less than 7 clear days before the commencement of the inquiry, trial or other proceeding.

(2) In like manner a certificate of analysis purporting to be under the hand of an analyst shall, on production thereof by the defendant, be sufficient evidence of the facts stated therein, unless the prosecutor requires that the analyst be called as a witness.

(3) A copy of the certificate referred to in subsection (2) shall be sent to the prosecutor at least 7 clear days before the commencement of the inquiry, trial or other proceeding, and if it is not so sent the court may adjourn the hearing on such terms as it may think proper.

(4) Analysts are by this Act bound to state the truth in certificates of analysis under their hands.

(5) If an analyst is called as a witness by the defendant as provided by subsection (1), he shall be called at the expense of the defendant unless the court otherwise directs.

(6) In this section, “analyst” means a person employed as a chemist by the Government either of Singapore or of Malaysia.

## 36 Imprisonment for non-payment of fine.

Imprisonment for non-payment of fine.

36.

Notwithstanding the provisions of the Criminal Procedure Code, the period of imprisonment imposed by any court in respect of the non-payment of any fine under this Act, or in respect of the default of a sufficient distress to satisfy any such fine, shall be such period as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case the maximum fixed by the following scale:

*Where    The  
the fine:  period*

*may*  
*extend*  
*to:*

(a) does 2  
not months  
exceed  
\$25

(b) 4  
exceeds months  
\$25 but  
does not  
exceed  
\$50

(c) 6  
)exceeds months  
\$50 but  
does not  
exceed  
\$100

with 2 additional months for every \$100 after the first \$100 of the fine until a maximum period of 3 years is reached.

Cap. 68.

### **37 Manner of seizure not to be enquired into.**

Manner of seizure not to be enquired into.

37.

On any trial before any court and in any proceeding on appeal in the Supreme Court, relating to the seizure of goods subject to forfeiture under this Act, the court shall proceed to the trial or hear the appeal on the merits of the case only, without inquiring into the manner or form of making any seizure, except in so far as the manner and form of seizure may be evidence on such merits.

### **38 Protection of informers.**

Protection of informers.

38.

— (1) Except as hereinafter provided, no witness in any civil or criminal

proceeding shall be obliged or permitted to disclose the name or address of an informer or the substance of the information received from him or state any matter which might lead to his discovery.

(2) If any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceeding whatsoever contain any entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

(3) If on the trial for any offence under this Act or any regulations made thereunder the court after full inquiry into the case believes that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding the court is of opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, it shall be lawful for the court to require the production of the original complaint, if in writing, and permit inquiry, and require full disclosure, concerning the informer.

## **39 Goods liable to seizure liable to forfeiture.**

Goods liable to seizure liable to forfeiture.

39.

All goods liable to seizure under the provisions of this Act shall be liable to forfeiture.

## **40 Court to order disposal of goods seized.**

Court to order disposal of goods seized.

40.

—(1) An order for the forfeiture or for the release of anything liable to forfeiture under the provisions of this Act shall be made by the court before which the prosecution with regard thereto has been held, and an order for the forfeiture of goods shall be made if it is proved to the satisfaction of the court that an offence under this Act or any regulations made thereunder has been committed and that the goods were the subject-matter, or were used in the commission, of the offence notwithstanding that no person may have been convicted of the offence.

(2) All goods forfeited under subsection (1) shall be ordered to be delivered into the custody of the Collector.

(3) If such goods are sold, the proceeds of the sale shall be paid into the general revenue of Malaysia.

## **41 Disposal of goods seized in respect of which there is no prosecution.**

Disposal of goods seized in respect of which there is no prosecution.

41.

— (1) If there is no prosecution with regard to any goods seized under this Act, such goods shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure unless a claim thereto is made before that date in the manner hereinafter set forth.

(2) Any person asserting that he is the owner of such goods may personally or by his agent authorised in writing give written notice to the Collector that he claims the goods.

(3) On receipt of such notice the Collector may direct that the goods be released or may, by information in the prescribed form, refer the matter to a District Judge or to a Magistrate for his decision.

(4) The District Judge or the Magistrate shall issue a summons requiring the person asserting that he is the owner of the goods and the person from whom they were seized to appear before him, and upon their appearance or default to appear, due service of the summons being proved, the District Judge or the Magistrate shall proceed to the examination of the matter and on proof that an offence under this Act has been committed and that such goods were the subject-matter, or were used in the commission, of such offence shall order the goods to be forfeited, or may in the absence of such proof order their release.

(5) In any proceedings under subsection (4), section 33 shall apply to the person asserting that he is the owner of the goods and to the person from whom they were seized as if such owner or person had been the defendant in a prosecution under this Act.

## **42 Proceedings under other laws.**

Proceedings under other laws.

42.

Nothing in this Act shall be deemed to prevent the prosecution, conviction and punishment of any person according to the provisions of any other written law for the time being in force in Singapore; but so that no person shall be punished more than once for the same offence.

### **43 Compounding of offences.**

Compounding of offences.

43.

— (1) Any Federal Superintendent of Customs and Excise may compound any offence, which is prescribed to be a compoundable offence, by accepting from the person reasonably suspected of having committed the offence a sum not exceeding \$500.

(2) In like manner any Federal Customs Officer may compound any offence, which is prescribed to be compoundable by that officer, by accepting from the person reasonably suspected of having committed the offence a sum not exceeding \$20.

(3) On the payment of such sum the person reasonably suspected of having committed the offence, if in custody shall be discharged, any property seized shall be released and no further proceedings shall be taken against that person or property.

### **44 No costs or damages in respect of seizure unless without reasonable or probable cause.**

No costs or damages in respect of seizure unless without reasonable or probable cause.

44.

No person shall, in any proceedings before any court in respect of the seizure of any goods seized in exercise or the purported exercise of any power conferred under this Act, be entitled to the costs of the proceedings or to any damages or other relief other than an order for the return of the goods or the payment of their value unless the seizure was made without reasonable or probable cause.

# PART IX OFFENCES AND PENALTIES

## PART IX OFFENCES AND PENALTIES

### 45 Incorrect declaration and documents.

Incorrect declaration and documents.

45.

Whoever makes, orally or in writing, or signs, any declaration, certificate or other document required by this Act which is untrue or incorrect in any material particular shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

### 46 Penalty for various offences.

Penalty for various offences.

46.

Whoever —

(a) unlawfully removes or in any way assists or is concerned in unlawfully removing any goods from a collection station; or

(b) at any time before their importation into Malaysia opens, changes, substitutes, adds to or otherwise tampers with any goods or passengers' baggage which have been duly declared at a collection station,

shall be guilty of an offence and shall be liable on conviction —

(i) in the case of dutiable goods —

(A) for a first offence to a fine of not less than 6 times the amount of the customs duty or \$5,000, whichever is the lesser amount, and of not more than 20 times the amount of the customs duty or \$5,000 whichever is the greater amount:

Provided that when the amount of customs duty cannot be ascertained the penalty may amount to a fine not exceeding \$5,000; and



(B) for a second or any subsequent offence to such fine or to imprisonment for a term not exceeding 2 years or to both;

(ii) in the case of non-dutiable or prohibited goods, to a fine of not less than twice the value of the goods or \$5,000, whichever is the lesser amount, and of not more than 5 times the value of the goods or \$5,000 whichever is the greater amount:

Provided that where the value of the goods cannot be ascertained the penalty may amount to a fine not exceeding \$5,000.

## **47 Assaulting or obstructing Federal officers of customs and rescuing seized goods.**

Assaulting or obstructing Federal officers of customs and rescuing seized goods.

47.

Every person who —

(a) assaults or obstructs any Federal officer of customs or other public servant or any person acting in his aid or assistance or duly employed for the prevention of offences under this Act, in the execution of his duty or in the due seizing of any goods liable to seizure under this Act;

(b) rescues or endeavours to rescue, or causes to be rescued, any goods which have been duly seized; or

(c) before or after any seizure staves, breaks or otherwise destroys any package or goods to prevent the seizure thereof or the securing of the package or goods,

shall be guilty of an offence and shall be liable on conviction —

(i) for a first offence to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 9 months or to both; and

(ii) for a second or any subsequent offence to a fine not exceeding \$5,000 and to imprisonment for a term not exceeding 18 months.

## **48 Offering or receiving bribes.**

Offering or receiving bribes.

48.

— (1) If any Federal officer of customs or other person duly employed for the prevention of offences under this Act —

(a) makes any collusive seizure or delivers up or makes any agreement to deliver up or not to seize any means of conveyance, or any goods liable to seizure;

(b) accepts, agrees to accept, or attempts to obtain, any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty; or

(c) conspires or connives with any person to import or export or is in any way concerned in the importation or exportation of any goods liable to customs duty or any goods prohibited to be imported or exported for the purpose of seizing any conveyance or any goods and obtaining any reward for such seizure or otherwise,

every such officer or such other person so offending shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both and every person who gives or offers or promises to give or procures to be given any bribe, gratuity, recompense or reward to, or makes any collusive agreement with, any such officer or person to induce him in any way to neglect his duty or to do, conceal or connive at any act whereby any of the provisions of any other written law of Malaysia relating to imports or to exports may be evaded, shall be guilty as an abettor and so punishable under this Act.

(2) Any Federal officer of customs who is found when on duty to have in his possession any money in contravention of any departmental regulations issued in writing shall be presumed, until the contrary is proved, to have received the money in contravention of subsection (1) (b).

(3) If a Federal officer of customs has reasonable suspicion that another Federal officer of customs junior in rank to him has in his possession any money received in contravention of subsection (1) (b), he may search that other officer.

## **49 Offences for which no other provision is made.**

Offences for which no other provision is made.

49.

Every omission or neglect to comply with, and every act done or attempted to be done contrary to, the provisions of this Act, or any breach of the conditions and restrictions subject to, or upon which, any licence or permit is issued under this Act, shall be an offence and in respect of any such offence for which no penalty is expressly provided the offender shall be liable on conviction to a fine not exceeding \$2,000.

## **50 Attempt and abetment.**

Attempt and abetment.

50.

Whoever attempts to commit any offence punishable under this Act, or abets the commission of that offence, shall be punished with the punishment for that offence.

## **51 Offences by bodies of persons and by employees or agents.**

Offences by bodies of persons and by employees or agents.

51.

— (1) Where an offence under this Act or any regulations made thereunder has been committed by a company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer or a partner of the company, firm, society or other body of persons or was purporting to act in such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his function in that capacity and to all the circumstances.

(2) Where any person would be liable under this Act to any punishment, penalty or forfeiture for any act, omission, neglect or default, he shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect or default of any clerk, employee or agent, or of the clerk or employee of such agent where such act, omission, neglect or default was committed by that clerk or employee in the course of his employment or by that

agent when acting on behalf of that person or by the clerk or employee of that agent when acting in the course of his employment in such circumstances that had the act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

## **PART X GENERAL**

PART X  
GENERAL

### **52 Rewards.**

Rewards.

52.

The Collector may order such rewards as he may think fit to be paid to any officer or other person for services rendered in connection with the detection of offences under this Act, or in connection with any seizure made under this Act.

### **53 Powers of officers under certain Singapore Acts.**

Powers of officers under certain Singapore Acts.

53.

All Federal Superintendents of Customs and Excise and all Federal Customs Officers shall have and may exercise all or any of the powers of an officer of customs under the Customs Act and the Misuse of Drugs Act.

Cap. 70.  
Cap. 185.

### **54 Persons legally bound to give information.**

Persons legally bound to give information.

54.

Every person required by a Federal officer of customs to give information on any subject into which it is that officer's duty to inquire under this Act and which it is in that person's power to give shall be legally bound to give the information.

## 55 Packing of dutiable goods.

Packing of dutiable goods.

55.

No dutiable goods shall be packed in a manner calculated to deceive a Federal officer of customs so that a proper account of the goods may not be taken.

## 56 Power to make regulations.

Power to make regulations.

56.

The President may at the request of the Yang di-Pertuan Agong make regulations —

- (a) to regulate the powers and duties to be exercised and performed by Federal Superintendents of Customs and Excise and Federal Customs Officers;
- (b) to regulate the conduct of all matters relating to the collection of customs duty;
- (c) to prescribe the days and times during which any collection station or customs warehouse may be open for business;
- (d) to prescribe the rates of overtime fees to be paid by the importers or exporters of goods or their agents in respect of the services of Federal officers of customs rendered on request beyond the ordinary hours prescribed and the conditions under which such overtime may be permitted;
- (e) to regulate the deposit, custody and withdrawal of goods in and from a collection station and the management and control of the same;
- (f) to prescribe the amount to be paid as warehouse rent on goods deposited in a collection station;
- (g) to prescribe the limits of the place or places at which collection stations are situated;
- (h) to prescribe the charges to be paid for operations performed under section 23 by Federal officers of customs or other persons under the control of

Federal officers of customs;

(i) to prescribe the forms to be used under this Act;

(j) to prescribe the offences which may be compounded and the manner in which, and the Federal officers of customs by whom, they may be compounded;

(k) to prescribe the fees to be paid for any act or service done or rendered by any Federal officer of customs which is not required to be done or rendered under this Act and for which no fee is prescribed by any written law; and

(l) generally to give effect to the provisions of this Act.



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