CAYMAN ISLANDS

CUSTOMS AND BORDER CONTROL ACT

(2022 Revision)

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CAYMAN ISLANDS

CUSTOMS AND BORDER CONTROL ACT

(2022 Revision)

Arrangement of Sections

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CAYMAN ISLANDS

CUSTOMS AND BORDER CONTROL ACT

(2022 Revision)

Short title

1. This Act may be cited as the *Customs and Border Control Act (2022 Revision).*

Interpretation

2. In this Act —

"*ad valorem*" has the meaning assigned to it in section 44;

"**airport**" means the Owen Roberts International Airport, the Charles Kirkconnell International Airport or any other area of land or water or of land and water designed, equipped, set apart and commonly used for affording facilities for the landing and departure of aircraft and designated as such under the *Airports Authority Act (2005 Revision)*;

"**approved vaccine course**" means a vaccination course which —

(a) prevents or suppresses any notifiable disease under Part VI of the *Public Health Act (2021 Revision)*;

(b) has been approved for the purposes of this Act by Cabinet, acting on the advice of the Medical Officer of Health; and

(c) has been notified in the Gazette or in any other official Government website or in any other official means of communication;1111

"**apron**" means that part of a port or airport prescribed by the Customs and Border Control Regulations for the loading and unloading of goods and the embarkation or disembarkation of passengers;

"**arms**" means firearms as defined in the *Firearms Act (2008 Revision)* and includes batons and handcuffs;

"**arrival**" means arrival in a port or in an airport or in an area within the territorial limit of the Islands;

"**assigned matter**" means any matter in relation to which the Director of Customs and Border Control is for the time being required in pursuance of any enactment to perform any duties;

"**bearer negotiable instrument**" means a monetary instrument in bearer form and includes —

(a) a traveller's cheque;

(aa) bearer bonds;[2]

(ab) postal orders;[3]

(b) a negotiable instrument (including a cheque, promissory note or money order) that is either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; and

(c) an incomplete instrument (including a cheque, promissory note or money order) signed, but with the payee's name omitted

"**boarding station**" means any location, in or on water or land within the jurisdiction, appointed by the Director under section 14(2), to which vessels may be directed for the purpose of Customs control;

"**bonded warehouse**" means any prescribed building, place or portion of such building or place where uncustomed goods, in respect of which entry has been made, may lawfully be stored for such period and under such conditions as may be prescribed without payment of duty during such storage;

"**captain**" means the pilot of an aircraft designated by the operator, or in the case of general aviation, the owner or pilot designated by the owner, as being in command and charged with the safe conduct of the flight;

"**cash**" means bank notes or coins that are legal tender in any country whether or not convertible;

"**Caymanian**" means a person who possesses Caymanian status under the **repealed** *Immigration Act (2015 Revision)* or any earlier law providing for the same or similar rights, and includes a person who acquired that status under Part 5 of the *Immigration (Transition) Act (2022 Revision)*;

"**chief officer**" means the chief officer appointed pursuant to the *Public Service Management Act* (*2018 Revision*) who has oversight of the Customs and Border Control Service;

"**child**" means a biological or adopted child under the age of eighteen years;

"**cleared**" means cleared by the Customs and Border Control Service;

"**coasting ship**" means a vessel for the time being engaged in, preparing for or completing a coastwise voyage;

"**coastwise**" means appertaining to a journey by sea or air from a place within the jurisdiction to another such place;

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

"**container**" means a receptacle designed for the packing of goods for transportation, and includes any bundle, package, cask or other receptacle;

"**convicted and deportable**", in relation to a person, means a person in respect of whom any court —

(a) certifies to the Cabinet that the person has been convicted by that court, or by an inferior court from which the person's case has been brought by way of appeal, of any offence punishable with imprisonment otherwise than only in default of payment of a fine; and

(b) recommends that a deportation order should be made in the person's case, either in addition to or *in lieu* of sentence;

"**crew**" means persons employed in the working or service of a vessel;

"**customed goods**" means goods which have been submitted to and lawfully released from the charge of the Customs and Border Control Service;

"**Customs and Border Control Service**" , in this Act referred to as Customs and Border Control, means the Customs and Border Control Service established under section 3 and includes any officer authorised to act on its behalf;

"**Customs and Border Control area**" means any place prescribed as such;

"**customs and border control officer**" means a public officer appointed under section 6 and includes any police officer or other person assisting Customs and Border Control in any assigned matter;

"**Customs and Border Control services**" means the making of representations on behalf of a particular individual —

(a) in civil proceedings before a court, tribunal or adjudicator in the Islands; or

(b) in correspondence with a Government department in connection with one or more relevant matters;

"**Director**" means the officer appointed under section 4 to be in charge of Customs and Border Control and includes any officer acting for the Director;

"**dependant**", in relation to a person, other than a person referred to in section 94 means the spouse or civil partner, of that person, or one of the following relations of that person, namely a child, step-child, adopted child, grandchild, parent, step-parent, grandparent, brother, sister, half-brother, half-sister, being, in each case, wholly or substantially dependent upon that person;

"**deportation order**" means an order made or in force under Part 8 requiring the person in respect of whom it is made to leave and remain out of the Islands;

"**destitute person**" means a person who is, or is likely to be, a charge on public funds by reason of mental or bodily ill-health or insufficiency of means to support themselves and that person's dependants, if any;

"**drawback**" means duty repaid or repayable in respect of customed and border controlled goods by reason of the re-export of the same or some other provision of this or any other law;

"**dutiable goods**" means goods of a class or description subject to any duty or tax, whether or not those goods are in fact charged with that duty or tax, and whether or not that duty or tax has been paid thereon;

"**duty**" means the amount or charge leviable on certain classes of goods imported into the Islands as defined and set forth in the *Customs Tariff Act (2017 Revision)*;

"**electronic address**" includes an email address, an internet protocol (IP) address and the address of a digital mailbox;

"**electronically**", in relation to the giving of a document to Customs and Border Control under this Act, means to give it electronically to an electronic address notified by Customs and Border Control for that purpose;

"**employer**" means a person who, for reward, engages the services of another and includes a prospective employer;

"**entry**", in respect of any goods, means a written declaration of the importation or exportation of such goods in such form as Customs and Border Control may require;

"**export**", in relation to goods, means the despatch of such goods from a location within the jurisdiction to a place out of the jurisdiction;

"**exporter**" includes any person having responsibility for or taking part in the export of goods;

"**gallon**" means an imperial gallon;

"**give**", in relation to the giving of a document by Customs and Border Control and *vice versa*, means to deliver, send, transmit or make the document;

"**goods**" includes every moveable thing capable of being owned and includes stores, baggage and personal effects;

"**Health Officer**" means a registered medical practitioner appointed by the Cabinet to be a Health Officer for the purposes of this Act;

"**home use**", with reference to imported goods, means goods which are intended for, or have gone into, consumption, use or retention in the Islands;

"**import**", in relation to goods, means the bringing or arrival of such goods by any means whatsoever into the jurisdiction from any place outside the jurisdiction;

"**importer**" includes any owner or other person for the time being having a right to possession of or being beneficially interested in any imported goods with effect from the time of import of such goods until the same have been duly customed;

"**in ballast**", in relation to a vessel, means a vessel carrying material or water to enhance stability, but otherwise carrying no goods other than stores and the baggage of passengers and crew aboard such vessel;

"**in-transit**", in relation to passengers or goods on an inward, inter-Island or outward ship or aircraft, means that the passengers or goods are ultimately bound for a destination outside the jurisdiction;

"**inter-Island**", in relation to a ship or aircraft, means that it is to journey from one Island in the jurisdiction to another Island in the jurisdiction, or it is about to start such a journey;

"**inward**" in relation to —

(a) a ship or aircraft, means that it is to journey to the jurisdiction from a place outside the jurisdiction, or has just finished such a journey;

(b) passengers on a ship or aircraft, means passengers on board a ship or aircraft who will finish their journey on the ship or aircraft in the jurisdiction, or who are about to start such a journey;

"**jurisdiction**" includes all waters contained within an imaginary line drawn parallel to the shores or outer reefs of the Islands, and distanced twelve nautical miles therefrom;

"**land**" means to go to, to be, to remain or to reside in any place in the Islands other than —

(a) on board a vessel; or

(b) in a place under the control of an officer in the officer's official capacity;

"**landed account**" has the meaning assigned to it in section 18(5);

"**local agent**", in relation to a vessel, means —

(a) the owner of the vessel, if the owner is in the Islands;

(b) any corporate body owning or operating, whether under charter or otherwise, the vessel for the time being, where such corporate body maintains an office in the Islands; or

(c) the agent in the Islands for the person or corporate body for the time being owning or operating the vessel;

"**master**", in relation to a vessel, means the person having or taking command or charge of such ship;

"**medical certificate**" means a certificate —

(a) which certifies that vaccination would be injurious to the health of a person who is eligible to be vaccinated in accordance with the *Public Health Act (2021 Revision)*;

(b) which is —

(i) in the case of a person who is applying to land in or enter into the Islands, signed by a medical doctor in the person's country; and

(ii) in the case of a person who resides in the Islands and who is applying to remain in the Islands, signed by a registered medical practitioner who is a medical doctor referred to under Schedule 4 of the *Health Practice Act (2021 Revision)*; and

(c) which is approved by the Medical Officer of Health;[4]

"**Medical Officer of Health**" has the meaning assigned by section 2 of the *Public Health Act (2021 Revision)*;[5]

"**mile**" means a nautical mile being a distance of six thousand and eighty feet;

"**money**" means cash or a bearer negotiable instrument;

"**notified by Customs and Border Control**", in relation to a person or in relation to a purpose under this Act, means —

(a) notified to the person in a written notice from Customs and Border Control;

(b) as told to the person by Customs and Border Control; or

(c) notified by a post on the Customs and Border Control's website to persons generally for that purpose;

"**officer**" means a customs and border control officer;

"**on board**", in relation to a provision about a ship or aircraft, means on board the ship or aircraft;

"**outward**" in relation to —

(a) a ship or aircraft, means that it is to journey from the jurisdiction to a place outside the jurisdiction, or is about to start such a journey;

(b) passengers on a ship or aircraft, means passengers on board the ship or aircraft who will finish their journey on the ship or aircraft in a place outside the jurisdiction, or who are about to start such a journey;

"**owner**", in relation to any goods, includes any proprietor, importer, exporter, shipper or other person for the time being entitled, as agent or otherwise, to the possession of those goods, or being beneficially interested in those goods, whether or not such goods are subject to any lien;

"**package**" includes everything which contains, or is capable of containing, goods;

"**package tax**" means the tax on imported goods prescribed by section 51;

"**passenger**" means a person, other than a member of the crew, travelling on board a vessel;

"**passport**" means a current valid passport furnished with a photograph and duly issued in favour of the person named in the passport;

"**permanent resident**" means a person who has been granted permission —

(a) under Part 6 of the *Immigration (Transition) Act (2022 Revision)*; or

(b) by virtue of any earlier law,

to remain permanently in the Islands and whose permission to so remain is still current and has not been revoked or lost in any way;

"**port**" means a prescribed area of land or water or both to which vessels on arrival from or departure to a foreign or coastwise location are required to proceed immediately upon such arrival within the jurisdiction or immediately prior to such departure;

"**port authority**", in relation to any port, means the person, corporate or otherwise, for the time being responsible for the management of such port and includes any person delegated by such authority to perform the duties of such management;

"**prescribed**" means prescribed by this Act or any regulations made hereunder;

"**procedural offence**" has the meaning assigned to it in section 67;

"**prohibited immigrant**", has the meaning assigned to it in section 109;

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

"**Queen's Warehouse**" means any building or locality prescribed as such by the Cabinet for the deposit of goods of any class for the security thereof and of the duties chargeable thereon;

"**recreational sports fishing vessel**" means a sports fishing boat based in the Cayman Islands and registered in accordance with prescribed procedure;

"**refugee**" bears the meaning assigned to that expression in the Refugee Convention;

"**Refugee Convention**" means the Convention relating to the Status of Refugees done at Geneva on the 28th July, 1951 and the Protocol to the Convention;

"**Refugee Protection Appeals Tribunal**" means the Refugee Protection Appeals Tribunal established under section 112;

"**registered medical practitioner**" means a person registered to practise medicine under the *Health Practice Act (2021 Revision)*;[6]

"**regulation**" means any rule, order, proclamation, direction, notification or other subsidiary legislation made under this Act;

"**relevant**", in relation to the person by or whom, or the place at which, anything is to be done, means the person or place appointed or authorised in that behalf by the Director;

"**relevant matters**" means any of the following —

(a) a claim for asylum;

(b) an application for an extension of permission to enter or remain in the Islands;

(c) unlawful entry into the Islands;

(d) removal or deportation from the Islands;

(e) an application for bail for a customs and border control offence; or

(f) an appeal against, or an application for judicial review in relation to any decision taken in connection with a matter referred to in paragraphs (a) to (e);

"**report**" means the report required to be made under section 15;

"**required**" in relation to —

(a) the form of a document under this Act, means the form or manner as notified by Customs and Border Control for the document; or

(b) particulars of a document or matter under this Act, means the particulars as notified by Customs and Border Control for the document or matter;

"**ship**" includes any boat or floating craft and any submarine or hovercraft;

"**sponsor**", in relation to a tourist visitor, means a person who accepts responsibility for the tourist visitor's care, upkeep and departure from the Islands;

"**step-child**" means a child of one of the parties to a marriage or civil partnership;

"**stiffening order**" means an order for strengthening the hull of a vessel prior to its taking aboard goods of an unusual kind by reason of the bulk, weight or nature of the same;

"**stop list**" has the meaning assigned to it in section 108;

"**stores**" means goods for use in a vessel such as the following —

(a) fuel;

(b) spare parts;

(c) other articles of equipment, whether or not for immediate use;

(d) consumable stores and other goods for use in or store on a vessel;

(e) any goods for use in a vessel as merchandise for sale by retail to persons carried in a ship or aircraft;

"**student**" means a non-Caymanian who is not the spouse of a Caymanian, a permanent resident of the Islands or the holder of a Residency and Employment Rights Certificate and who —

(a) is eighteen years of age or older;

(b) is seeking to enter the Cayman Islands for the purpose of attending a recognised educational institution on a full-time basis;

(c) intends to leave the Islands at the end of the student's studies; and

(d) is not named as a dependant for the purposes of this Act;

"**tourist visitor**" means a person arriving in the Islands for a visit of not more than six months' duration otherwise than for a professional, financial trade or business purpose or for the purpose of seeking or engaging in employment;

"**transhipment**" means the import and re-export of goods as cargo in another ship or aircraft, or in the same ship or aircraft on a different voyage, from the same Customs area as that into which the goods were imported;

"**transire**" means a written authority issued by Customs and Border Control permitting the carriage of goods on a coastwise voyage;

"**transit**" means the re-export of goods in another ship or aircraft from an area of Customs and Border Control other than that into which the goods were imported;

"**transit passenger**" means a passenger who has arrived in the Islands for a period of not more than twenty-four hours, is in possession of the required travel documents and is on that person's way to a destination other than the country from which the passenger arrived;

"**transit shed**" means any building, place or portion of such building or place which the Director may approve, subject to such conditions as the Director thinks fit, for the deposit of goods imported and not yet cleared out of the charge of Customs and Border Control;

"**uncustomed goods**" means imported goods which have not been submitted to and legally released from the charge of Customs and Border Control;

"**undesirable person**" means a person who in the opinion of the Cabinet is, or has been, so conducting themselves, whether within or outside the Islands, that the person's presence in the Islands is or is likely to be prejudicial to the maintenance of peace, order and good government or public morals in the Islands;

"**vaccination certificate**" means a document which evidences that the person in respect of whom the document is issued completed an approved vaccine course no later than fourteen days before an application is made under this Act in respect of such person;[7]

"**vessel**" includes a ship and an aircraft, and any other thing or device capable of being used for conveying goods or passengers from one place to another, and includes a vessel being carried or towed by another vessel whether as cargo or for any other purpose;

"**voyage**" includes flight;

"**warehouse keeper**" means the person nominated by the Cabinet, when prescribing any building or place to be a bonded warehouse, as the person responsible for the conduct of the business of such warehouse;

"**Workforce Opportunities and Residency Cayman Department**" means the department of Government continued under the *Immigration (Transition) Act (2022 Revision)*; and

"**work permit**" means a work permit granted under the *Immigration (Transition) Act (2022 Revision)*.

Establishment of Customs and Border Control Department

3. There is established a department of Government called the Customs and Border Control Service ("Customs and Border Control") which shall be maintained by such monies as may be voted by the Cayman Islands Parliament.

Appointment of Director

4. The chief officer, in accordance with the *Public Service Management Act (2018 Revision)*, and after consultation with the Minister responsible for Customs and Border Control, shall appoint a suitable person who shall be called the Director of Customs and Border Control, to be the officer in control of the Customs and Border Control.

PART 2 - THE DIRECTOR, CUSTOMS AND BORDER CONTROL OFFICERS AND THEIR DUTIES AND POWERS

Duties of Director

5. In addition to the duties conferred upon the Director by or under any other law, the Director is responsible for —

(a) the management, supervision and control of Customs and Border Control;

(b) the administration and implementation of this Act;

(c) the collection of Customs and Border Control revenue and accounting for the same; and

(d) the care of public and other property under the control of Customs and Border Control, but without having to account for loss thereof unless such loss is due to the Director's personal default.

Officers

6. (1) The chief officer, in accordance with the *Public Service Management Act (2018 Revision)* may, in the chief officer's discretion, appoint such persons to be officers of Customs and Border Control upon special contractual terms or such general terms as the chief officer may, by regulations, determine.

(2) Persons appointed under subsection (1) shall be called customs and border control officers ("officers").

(3) Every police officer shall assist in the enforcement of the law relating to any assigned matter and, for this purpose, every constable shall be *ex-officio* a customs and border control officer.

Powers of Director

7. (1) In addition to the powers incidental to the duties under section 5 and such powers as are conferred upon officers under section 8, the Director may —

(a) extend the period of temporary importation under section 22;

(b) remit or reduce any prescribed fine for a procedural offence;

(c) on payment of prescribed fees or charges, permit —

(i) customs and border control work to proceed during other than prescribed hours; and

(ii) examinations under section 18(2) to be conducted at a place other than an apron or transit shed;

(d) permit the landing of goods in advance of the report as required by section 15;

(e) in any port or airport, approve for such periods and subject to such conditions and restrictions as the Director thinks fit, transit sheds for the deposit of goods imported at that port or airport and not yet cleared from the Customs Border Control, including any goods not yet reported and entered under this Act; and

(f) subject to such conditions as the Director thinks fit, stay or compound any proceeding for an offence under this Act or for the condemnation of anything as liable to forfeiture under this Act or to restore anything seized as forfeited under this Act.

(2) Any reference in this Act to a transit shed shall include a reference to any building except a Queen's Warehouse in the occupation of the Government in which goods imported and not yet cleared are required or permitted by the Director to be deposited.

(3) In addition to the powers stated in subsection (1), the Director may make standing orders or other provision in relation to the governance of officers and, without limiting the generality of this power, may do so in relation to —

(a) training, clothing, equipment and other appointments;

(b) the designation of officers to perform particular types of work within Customs and Border Control; and

(c) the prevention of neglect and for promoting efficiency and discipline.

Duties of officers

8. (1) Officers shall carry out and conform to the lawful commands of the Director and perform the sundry duties assigned to them under this Act and do other lawful things as may be necessary for the enforcement of those duties.

(2) A person to whom a prescribed decision of an officer relates may appeal the decision to the Director in such manner as may be prescribed.

Powers of officers

9. (1) Subject to subsections (2) and (3), without prejudice to any other powers conferred upon them by this or any other law, every officer or any person acting under the direction of an officer may —

(a) when acting within the jurisdiction in the course of the officer's duty prevent the evasion or suspected evasion of any provision of this Act relating to the movement of goods and in particular may —

(i) with or without any warrant in that behalf, detain, board and enter any vessel wherever it may be and any place or thing within any Customs and Border Control area, search any thing or person found thereon or therein and break open any fastened thing or device capable of being used for the concealment of goods;

(ii) when an officer has reasonable grounds to suspect that an offence has been committed under this Act, exercise like powers to those provided by paragraph (i) for the purpose of searching any place, premises, person or thing;

(iii) require any person to furnish orally or in such form as such officer may require any information relating to any goods, and to produce and to allow the officer to inspect and take extracts from or make copies of any invoice, bill of lading or other book or document relating to such goods or the movement or custody thereof; and

(iv) require evidence to be produced to that person's satisfaction in support of any information required by or under this Act to be provided in respect of goods imported or exported;

(b) examine and take account of any goods which are for any purpose in the charge of the Customs and Border Control or subject to scrutiny of the Customs and Border Control or in respect of which any drawback or relief is claimed, and may, for that purpose, require any container to be opened or unpacked;

(c) take samples of any goods which the Director is, by paragraph (b), empowered to examine and to retain such samples on payment on behalf of the Director of such sum as reasonably represents the wholesale value thereof, if so required by the person in possession of the goods;

(d) allow remission of duty for losses as provided by section 39;

(e) arrest with or without a warrant any person contravening or suspected of contravening section 54, ,55, 56, 57 or 58:

(f) in cases of emergency, permit the discharge of goods and the disembarkation of passengers in places other than those prescribed;

(g) permit the delivery of goods from a vessel's side; and

(h) seize and detain any vessel or goods which the person believes to be liable to forfeiture under this Act and hold the vessel or goods in the Queen's Warehouse subject to the right of appeal conferred by section 76(4) or, in default of such appeal, for disposal under section 31(1) or (4).

(2) Any person arrested under subsection (1)(e) shall, as soon as practicable, be handed over by that person to a constable or taken by that person to a police station.

(3) An officer's power of search conferred by subsection (1)(a)(i) and (ii) may be exercised only by an officer of the same sex as the person searched and such search may only be exercised after the officer has sought the permission of a justice of the peace or a superior officer; and the justice or superior has considered the grounds for suspicion and has directed whether or not the search is to take place.

Issue of equipment, etc.

10. (1) The Director may provide officers with equipment, clothing, appointments, cleaning materials, insecticides and such other things as may be necessary for the performance of their duties and, to this end, may issue to officers a double-lock handcuff, 22" to 24" expandable baton and defence spray.

(2) The things issued to officers under subsection (1) are to be used only for customs and border control and related purposes.

(3) Subject to subsection (4), officers who cease to hold office shall forthwith deliver up to the officer in charge of the Customs and Border Control Store or any other officer designated by the Director all things referred to in subsection (1) and all other Government and Customs and Border Control property supplied, issued to or entrusted to them, including identity cards.

(4) The Director may, in the Director's discretion, permit a long serving officer to retain any article of equipment, clothing or appointment, by way of a memento of the officer's service.

(5) The Director may, from such public funds as may be approved for that purpose, provide for the use of officers the things referred to in subsection (1).

(6) Nothing in subsection (1) shall be construed as permitting the Director to issue firearms to officers.

Law enforcement

11. (1) In relation to customs and border control matters, Customs and Border Control shall employ officers in the Islands for the maintenance and enforcement of law and order, the preservation of the peace, the protection of life and property, the prevention and detection of crime, and the apprehension of offenders.

(2) Customs and Border Control shall also perform the functions referred to in subsection (1) where it assists another law enforcement agency in performing that agency's duties.

(3) Subject to subsection (4), an officer performing duties directly relating to customs and border control has, when on duty, the same powers and privileges as are conferred on a constable by the *Police Act (2021 Revision)* but shall not carry a firearm.

(4) An officer, with the authority of the Director given in accordance with the general or special directions of the Cabinet, is entitled in the performance of the officer's duties to carry arms.

(5) For the purposes of subsection (4), the authority of the Director and the Commissioner of Police shall be given under and in accordance with the general or special directions of the Cabinet.

Directions by Cabinet

11A.[8]The Cabinet may give to the Director such directions as the Cabinet thinks fit as to the performance of the functions of Customs and Border Control and the exercise of its powers, and the Director shall give effect to any such directions.

PART 3 - CONTROL OF VESSELS AND GOODS

Prohibited and restricted goods

12. (1) The import or export of —

(a) base or counterfeit coin;

(b) instruments and appliances for gambling;

(c) all goods of which the import or export is prohibited or made an offence by any other law; and

(d) such other goods as may be prescribed by the Cabinet from time to time,

is prohibited.

(2) Unless they are transit goods, the export of lobster, conch or conch meat in any form is prohibited.

(3) The import or export of —

(a) firearms and ammunition, unless accompanied by a permit signed by the Commissioner of Police;

(b) explosives other than gunpowder and blasting powder;

(c) caravans and prefabricated buildings other than storehouses and aircraft hangars; and

(d) all goods of which the import or export is restricted or prohibited by any other law,

is restricted to such goods as may be expressly permitted under this or any other law or under the licence of the Cabinet in that behalf.

(4) The Cabinet may, by regulations, make such provision as it thinks necessary for prohibiting or regulating the import or export of all goods or of any class or description of goods and any provision made in relation to money may be different from the provisions of this Act in relation to goods in general.

(5) The power of the Cabinet to make regulations under subsection (4) includes power to —

(a) make different provision in relation to different classes or description of goods, or in relation to goods of the same class or description in the same or different circumstances;

(b) make different provision in relation to different cases or classes of case (including different provision for different areas or different classes of business);

(c) provide for such exceptions, limitations and conditions, and make such supplementary, incidental, consequential or transitional provisions, as the Cabinet considers necessary or expedient; and

(d) apply, with modifications and adaptations, any other enactment (including one contained in this Act) that deals with matters which, in the opinion of the Cabinet, are similar to those being dealt with by the regulations.

(6)[9] Regulations made under this section may prescribe that the contravention of the regulations constitutes an offence for which a person is liable —

(a) on —

(i) summary conviction, to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both; and

(ii) conviction on indictment, to a fine of fifteen thousand dollars or to imprisonment for three years, or to both; or

(b) to an administrative penalty, of a fine not exceeding ten thousand dollars.

(7)[10] Regulations made under this section may also prescribe that the contravention of the regulations constitutes an offence and the goods, in respect of which the offence was committed, are liable to forfeiture.

(8)[11] Notwithstanding subsection 6(b), where a person makes a false declaration or false disclosure under the regulations made under this section, the person is liable to an administrative penalty up to the value of the difference between the amount declared and the total amount being carried.

Advance documentation for inward ships and aircraft

13. (1) The master or commander of an inward ship or aircraft shall give Customs and Border Control the following documents electronically, or cause them to be so given —

(a) a written notice of the ship's or aircraft's expected arrival time;

(b) a passenger and crew manifest; and

(c) if there are or will be any imported or in-transit goods on board, a goods manifest.

(2) A master shall give, or cause the giving of, the documents at least forty-eight hours before the inward journey ends or, in the case of a ship that has been outside the jurisdiction for less than forty-eight hours, at least four hours before the inward journey ends.

(3) A commander shall give, or cause the giving of, the documents before the aircraft's inward journey starts.

(4) The passenger and crew manifest shall state the following for those on board —

(a) the number of inward passengers;

(b) the number of in-transit passengers;

(c) the following particulars for each passenger (inward or in-transfer) —

(i) their first and last names, sex, date of birth and nationality; and

(ii) any other required particulars; and

(d) the first and last names of each crew member and of anyone else on board, including, for example —

(i) a stowaway; and

(ii) for an inward ship, a person rescued at sea.

(5) The goods manifest shall state —

(a) the marks, numbers and contents of each container of imported or in-transit goods; and

(b) if the master or commander knows the name of the consignee of any or all of the imported or in-transit goods, the consignee's name.

Inward bound vessels to proceed direct to a port

14. (1) Unless prevented by mechanical failure, stress of weather or *force majeure*, all vessels bound for the Islands shall first proceed to a port and there be brought to a standstill at a boarding station until released by an officer.

(2) The Director may, in any port, from time to time, appoint boarding stations for the purpose of the boarding of or disembarkation from ships by officers.

(3) At any time while a ship is within the jurisdiction of the Islands or an aircraft is at an airport, any officer and any other person duly engaged in the prevention of smuggling may board such ship or aircraft and remain therein and rummage and search any part thereof.

Arrival report for inward ships and aircraft

15. (1) This section applies to —

(a) the master of an inward ship on arrival if the ship is carrying inward passengers or imported goods, which passengers or goods have not been cleared; and

(b) the commander of an inward aircraft on arrival if the aircraft is carrying —

(i) inward passengers or imported goods, which passengers or goods have not been cleared; or

(ii) in-transit passengers or goods.

(2) The master or commander shall give Customs and Border Control a written report in the form and manner notified by Customs and Border Control —

(a) stating the place at which the ship's or aircraft's journey to the jurisdiction started and any other required particulars; and

(b) producing evidence that the master or commander was given a proper clearance from that place.

(3) The report shall be given —

(a) generally, immediately on arrival; or

(b) if, because of a circumstance beyond the master's or commander's control, the report cannot be made on arrival, immediately after the circumstance ceases.

(4) If the person by whom the report should be made fails to make a report as required under subsection (2), either at all or at the times required under subsection (3) —

(a) the person commits an offence under section 67; and

(b) any goods required to be reported which are not duly reported may be detained by any officer until so reported or until the omission is explained to the satisfaction of the proper officer, and may, in the meantime, be deposited in the Queen's Warehouse.

(5) The person making the report shall, at the time of making it, answer all such questions relating to the ship or aircraft, to the goods carried therein, to the crew and to the journey as may be put to the person by the proper officer, and if the person refuses to answer the person commits an offence under section 67.

(6) If at any time after a ship or aircraft carrying goods arrives from a place outside the jurisdiction of the Islands, and before a report has been made under this section —

(a) the bulk is broken;

(b) any alteration is made in the stowage of any goods carried so as to facilitate the unloading of any part thereof;

(c) any part of the goods is staved, destroyed or thrown overboard; or

(d) any container is opened,

and the matter is not explained to the satisfaction of the proper officer, the master of the ship or commander of the aircraft, as the case may be, commits an offence and is liable on summary conviction —

(i) in the case of an offence under paragraph (a), (b) or (c), to a fine of one thousand dollars; and

(ii) in the case of an offence under paragraph (d), to a fine of one hundred thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2021 Revision)*.

(7) If at any time after a ship or aircraft carrying goods arrives from a place outside the jurisdiction of the Islands, and after a report has been made under this section, any container in the charge of Customs and Border Control is opened before the goods have been duly customed and the matter is not explained to the satisfaction of the proper officer, the importer of the goods commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2021 Revision)*.

Place for discharge of cargo and disembarkation of passengers

16. (1) Subject to section 9(1)(f) and (g) and subsection (2), a person shall not discharge or cause or permit the discharge of goods, or disembark or cause or permit the disembarkation of passengers or crew from any vessel, of passengers otherwise than upon a prescribed apron; and all goods other than passengers' baggage accompanied by a passenger, shall forthwith be removed to a transit shed.

(2) Notwithstanding subsection (1), goods declared and produced to and accepted by Customs and Border Control as mail, bullion, coin or currency may be collected direct by the owner thereof.

Entry of goods

17. (1) The importer of any goods shall, before or within seven days of the landing of the goods, calculated from the date of report, deliver to the relevant officer an entry appropriate to such goods in such form and manner and containing such particulars as Customs and Border Control may require.

(2) Goods entered under subsection (1) shall be entered for one of the following purposes —

(a) home use;

(b) warehousing;

(c) transit or transhipment; or

(d) temporary importation under section 22 with a view to subsequent re-exportation.

Examination of goods

18. (1) Without prejudice to any other power conferred by this or any other law, an officer may examine and take account of any goods —

(a) which are imported;

(b) which are in a warehouse or Queen's Warehouse;

(c) which have been loaded into any ship or aircraft at any place in the Islands;

(d) which are entered for exportation or for use as stores;

(e) which are brought to any place in the Islands for shipment for exportation or as stores; or

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

and may, for that purpose, require any container to be opened or unpacked, and samples of any goods to be drawn.

(2) An examination of goods by an officer shall be made at such place as Customs and Border Control may determine for the purpose.

(3) If any imported goods are, without the authority of the relevant officer, removed from the charge of Customs and Border Control before they have been examined, those goods are liable to forfeiture under section 69.

(4) If any goods falling within subsection (3) are removed by a person with intent to defraud the Customs and Border Control of any duty chargeable thereon or to evade any prohibition or restriction for the time being in force with respect thereto under or by virtue of this enactment, that person commits an offence under section 58.

(5) If, in the course of an examination under subsection (1), there is found to be a deficiency or deterioration of goods as entered by reason of —

(a) damage;

(b) destruction;

(c) pilferage;

(d) faulty packing;

(e) faulty storage,

or other cause, if the goods are entered for warehousing and if the importer so requires, a landed account shall be raised showing the actual amount of dutiable goods available for clearing.

(6) Where Customs and Border Control is satisfied that the full difference between the goods entered and the goods examined under subsection (5) represents a loss which occurred before the landing of such goods, Customs and Border Control shall allow a proportionate rebate of duty on the goods as entered and the goods, subject to the payment of the balance of such duty, shall be known as goods chargeable for duty on landed account.

(7) If, in the course of an examination under subsection (1), there are found to be excess goods of the same description as those entered, the importer shall be notified and, on satisfactory explanation being given of the excess, shall be required to present post entry of such surplus accompanied by payment of the relevant duty within three days of the receipt of such notice; and, in default of such post entry and payment of duty, the goods may be removed to the Queen's Warehouse under section 31(1) or (4).

(8) Where any —

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

(b) imported goods are found, whether before or after delivery, not to correspond with the entry made thereof; or

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

those goods are liable to forfeiture under section 69.

Samples

19. Subject to such conditions as the Director may think fit to impose, importers shall, on request, be permitted to draw samples of imported goods sufficient for any of the following purposes —

(a) to determine liability to duty;

(b) to determine the condition of the goods;

(c) to determine the quality of the goods; or

(d) for the purpose of demonstrating the goods.

Movement of uncustomed goods

20. (1) Subject to such conditions as the relevant officer may require by way of bond or other security, Customs and Border Control may give an importer permission to move uncustomed goods within the area of any port or airport, or from any port or airport to any specified place within the jurisdiction.

(2) Where, in pursuance of any power conferred by this or any other law, a seal, lock or mark is used to secure or identify any goods for the purposes of such law and at any time —

(a) while the goods are in the Islands, the seal, lock or mark is wilfully and prematurely removed or tampered with by any person; or

(b) before the seal, lock or mark is lawfully removed, any of the goods are removed by that person,

that person and the person in charge of the goods commit an offence under this Act.

Release of goods from port or airport of arrival

21. Subject to section 20(1), imported goods shall not be released from the port or airport on their arrival until such goods have been entered and —

(a) found not liable to duty;

(b) full duty thereon has been charged and paid; or

(c) security has been given in such form as Customs and Border Control may require.

Temporary imports

22. (1) Subject to such conditions as the Director may think fit to impose, goods which the Director is satisfied are temporarily imported with a view to subsequent exportation may, at the Director's discretion, be imported free of duty for retention in the Islands for a period not exceeding six months, or, on prior receipt of a written request for retention, for such extended period as the Director may authorise.

(2) Any goods temporarily imported which are not re-exported within the period or extended period permitted under subsection (1) shall become liable to the full duty payable in respect of such goods or such part thereof, as the Director may deem appropriate in the circumstances of the case, as if the same had been imported without reference to this section.

Approval of bonded warehouses

23. (1) The Cabinet may approve, for such periods and subject to such conditions as the Cabinet thinks fit, places of security for the deposit, keeping and securing of uncustomed goods of which entry has been made, without payment of duty during such storage, subject to, and in accordance with, regulations made under this Act; and any place of security so approved is referred to in this Act as a "bonded warehouse".

(2) The Cabinet may, from time to time, give directions as to —

(a) the goods which may or may not be deposited in any particular bonded warehouse; and

(b) the part of any bonded warehouse in which any class or description of goods may be kept or secured.

(3) If, after the approval of a warehouse as a bonded warehouse, the occupier thereof makes, without the consent of the Cabinet, any alteration in or addition to, the bonded warehouse, the occupier commits an offence under this Act.

(4) Subject to section 28 —

(a) the Cabinet may, at any time for reasonable cause, revoke or vary the terms of its approval of any bonded warehouse under this section; and

(b) the Financial Secretary may, by notice, vary the terms of approval of any bonded warehouse granted by the Cabinet, in relation to any of the following matters —

(i) the name, location or size of the bonded warehouse;

(ii) the name of the warehouse keeper; or

(iii) any condition attached to the approval.

(5) Any person contravening or failing to comply with any condition imposed or direction given by the Cabinet under this section commits an offence.

Customs and Border Control regulations

24. (1) The Cabinet may, by regulations, regulate the deposit, keeping, securing and treatment of goods in and the removal of goods from a bonded warehouse.

(2) Regulations may, without prejudice to the generality of subsection (1), include provisions —

(a) imposing or providing for the imposition of conditions and restrictions subject to which goods may be deposited in, kept in or removed from a bonded warehouse or made available there to their owner for any prescribed purpose;

(b) requiring goods deposited in a bonded warehouse to be produced to or made available for inspection by an officer on request by the officer;

(c) permitting the carrying out on warehoused goods of such operations as may be prescribed by, or allowed under the regulations, and in such manner and subject to such conditions and restrictions as may be imposed;

(d) for determining, for the purpose of charging or securing the payment of duty, the rates of customs duty to be applied to bonded goods and in that connection —

(i) for determining the time by reference to which bonded goods are to be classified;

(ii) for determining the time at which warehoused goods are to be treated as having been removed from a bonded warehouse; and

(iii) for ascertaining the quantity which is to be taken as the quantity of bonded goods;

(e) enabling the Director to allow goods to be removed from a bonded warehouse without payment of duty in such circumstances and subject to such conditions as the Director may determine; and

(f) permitting goods to be destroyed or abandoned to Customs without payment of customs duty in such circumstances and subject to such conditions as the Director may determine,

and may contain such incidental or supplementary provisions as the Cabinet may think necessary or expedient for the protection of the revenue.

(3) Regulations may make different provision for bonded warehouses or parts of bonded warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances.

(4) Regulations may provide for the removal of goods from one bonded warehouse to another or from one part of a bonded warehouse to another part or for treating goods remaining in a bonded warehouse as if, for all or any prescribed purposes of this Act, they had been so removed;

(5) Regulations for the removal of goods may, for all or any prescribed purposes of this Act, include provision for treating goods as having been warehoused or removed from a bonded warehouse (where they would not otherwise be so treated).

(6) Regulations made under subsection (2)(a) or (c) may also provide for the forfeiture of goods in the event of non-compliance with any condition or restriction imposed by virtue of either of those paragraphs or in the event of the carrying out of any operation on warehoused goods which is not, by virtue of paragraph (c), permitted to be carried out in a bonded warehouse.

Deposit of goods in bonded warehouse, etc.

25. (1) Before the deposit in a bonded warehouse of any goods, Customs and Border Control shall examine such goods and raise a landed account of the goods.

(2) Goods stored in a bonded warehouse shall be liable for duty upon the landed account raised in respect of such goods, less an allowance for legitimate deficiencies, if any, occurring between the time of taking the landed account and the time of deposit of the said goods in the bonded warehouse.

(3) Customs and Border Control may, for good cause shown, waive the duty on any difference between the landed account and the amount of goods at time of deposit (after allowing for deficiencies, if any, referred to in subsection (2)), but otherwise such duty shall be payable forthwith.

(4) A warehouse keeper shall produce to any officer on request any goods lying in the relevant bonded warehouse.

(5) Without prejudice to any restrictions or conditions imposed by the warehouse keeper, the owner of any warehoused goods may, with the authority of Customs and Border Control, inspect such goods and their packings and prevent any loss therefrom and may draw samples from the goods for any purpose permitted by section 19.

(6) Warehouse keepers and the owners of warehoused goods may conduct prescribed operations for the preservation, separation, packing and repacking of warehoused goods and their preparation for sale, shipment or disposal.

Delivery from bonded warehouse

26. (1) Warehoused goods may be entered as required by Customs and Border Control for release for —

(a) home use on payment of duty;

(b) re-export;

(c) shipment as stores on any vessel or aircraft proceeding out of the jurisdiction; or

(d) transfer to another bonded warehouse.

(2) Goods released under subsection (1) (a) are customed goods.

(3) In the case of small quantities of goods, entry under subsection (1) shall only be permitted —

(a) for samples drawn by importers or their agents;

(b) for shipment as stores on any vessel or aircraft proceeding out of the jurisdiction;

(c) for final clearance of a consignment;

(d) for delivery under item 3 of Schedule 2 to the *Customs Tariff Act (2017 Revision)*; or

(e) at the discretion of Customs and Border Control.

Bonded warehouse deficiencies

27. (1) This section applies where goods have been warehoused and, before they are lawfully removed from a bonded warehouse in accordance with a proper clearance thereof, they are found to be missing or deficient.

(2) In any case where this section applies, unless it is shown to the satisfaction of the Director that the absence of or deficiency in the goods can be accounted for by natural wastage, accident or other legitimate cause, then, without prejudice to any penalty or forfeiture incurred under this or any other law, Customs and Border Control may require the warehouse keeper or the owner of the goods to pay forthwith the whole or any part of the duty due on the missing goods or on the whole or any part of the deficiency.

(3) If, on the written demand of an officer, the warehouse keeper or the owner of the goods refuses to pay any sum which the warehouse keeper or the owner is required to pay under subsection (2) the warehouse keeper or the owner is, in addition, liable on summary conviction to a penalty of double that sum.

(4) This section has effect without prejudice to any penalty or forfeiture incurred under any other provision of this Act.

Revocation of approval of bonded warehouse

28. (1) The Cabinet may, by three months' notice in writing to a warehouse keeper, order that any building or place used as a bonded warehouse shall cease to be so used and, in such case, the owners of any goods stored in the warehouse may deal with the goods under section 26(1).

(2) All warehoused goods found lying in any bonded warehouse at the expiry of a notice given under subsection (1) shall forthwith be removed by Customs and Border Control to the Queen's Warehouse and dealt with there under sections 31 and 32.

Transit and transhipment

29. Where any goods are entered for transit or transhipment the proper officer may, subject to such conditions and restrictions as the officer thinks fit, permit such goods to be removed for such purpose without payment of duty.

Queen's Warehouse

30. (1) All goods found lying in any transit shed, at the expiry of seven days after the reporting of the vessel or aircraft in which such goods were imported, may be removed to the Queen's Warehouse and there dealt with under sections 31 and 32.

(2) All goods forfeited, recovered, seized or detained under this Act shall be stored in the Queen's Warehouse, unless by virtue of the size or nature of such goods

this is impracticable, in which case they shall be stored as the Director may direct.

(3) All apparently uncustomed goods which come into the custody of Customs and Border Control in any manner not otherwise provided for in this Act, and which appear to be abandoned or unclaimed, shall be stored in the Queen's Warehouse.

Disposal of goods held in Queen's Warehouse

31. (1) All perishable goods brought to the Queen's Warehouse may be sold or otherwise disposed of at the discretion of the proper officer as soon as practicable.

(2) The Director may, for the purpose of securing favourable marketability, postpone the sale of goods under subsection (1).

(3) All non-perishable goods brought to the Queen's Warehouse under section 30(1) and (3) may be sold or otherwise disposed of, at the discretion of the relevant officer, after the expiry of three months.

(4) All non-perishable goods brought to the Queen's Warehouse as forfeited under any other provision of this Act may be sold or otherwise disposed of, at the discretion of the proper officer, after the period for appeal, if any, against the forfeiture or seizure has expired.

(5) Goods referred to in subsection (l), (2), (3) or (4) which appear to have no market value may be destroyed.

(6) If the Director is of the opinion that any goods lying in the Queen's Warehouse have remained uncustomed in order to evade the payment of duty thereon the Director may order that the consignee of such goods shall be charged duty thereon as if the goods had been normally customed and may make an order for the disposal of such goods in any way which the Director may think expedient including the forfeiture of such goods.

(7) All non-perishable goods brought to the Queen's Warehouse may, before the time for the sale thereof stipulated in subsection (2), (3) or (4), be cleared by the importer of the goods upon payment by the importer of the duty, handling charges, storage charges, freight and penalties, if any, incidental to such goods.

Mode of sale of goods in Queen's Warehouse and disposal of proceeds of sale

32. (1) Non-perishable goods sold from the Queen's Warehouse under section 31 may be sold by auction or tender at the direction of the Director and such goods, if of an exceptional nature, may be sold by private treaty.

(2) The Director may, for the purpose of securing favourable marketability, postpone the sale of goods under subsection (1).

(3) The balance, if any, of the proceeds of sale under subsection (1) shall, after the deduction of duty, removal expenses, storage charges, expenses of sale, freight and penalties, if any, in that order, be paid to any person claiming the same and proving themselves entitled thereto and, after six months from sale, in default of any such claim, shall be appropriated to general revenue account.

Duties of master of outgoing vessel

33. (1) The master of every vessel which has arrived in the Islands (otherwise than in ballast) in which goods are to be exported shall, before any goods are taken on board (otherwise than under a stiffening order) obtain a certificate in the required form of its due clearance inwards, which certificate shall embody an entry outwards, signed by such master; and if the vessel carries goods taken on board at a port outside the jurisdiction, the master shall deliver to Customs and Border Control the clearance outwards from such other port.

(2) No vessel shall depart from any port for any destination without clearance from Customs and Border Control and such clearance shall be in such form as may be determined by Customs and Border Control.

(3) If it appears to any officer that an aircraft is intended or likely to depart for a destination outside the Islands from any place other than an airport or from a Customs and Border Control area before Customs and Border Control clearance is given therefrom, the officer may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to the officer necessary in order to prevent the flight.

(4) A person who contravenes any instructions given under subsection (3) commits an offence, and any goods carried on the aircraft are liable to forfeiture.

Advance documentation for outward and inter-Island ships and aircraft

34. (1) This section applies to the master or commander of —

(a) an outward ship or aircraft that is to carry outward passengers or exported goods, which passengers or goods have not been cleared; or

(b) an inter-Island ship or aircraft carrying passengers or goods.

(2) For an outward ship, this section applies as well as section 33.

(3) The master or commander shall give Customs and Border Control the following documents electronically, or cause them to be so given —

(a) a written report in the required form stating —

(i) the ship's or aircraft's expected time of departure and its next port or airport of call; and

(ii) any other required particulars; and

(b) a passenger and crew manifest.

(4) The master or commander shall give the report and manifest as soon as possible before the ship or aircraft departs or, if a circumstance beyond the master's or commander's control prevents this, before the ship or aircraft departs.

(5) Notwithstanding subsections (3) and (4) the master or commander are not required to give the report under subsection (3) if the ship or aircraft is not carrying exported goods and the departure is because of an emergency.

(6) The passenger and crew manifest shall state the following for those who are to be on board —

(a) the number of outward passengers;

(b) the number of in-transit passengers;

(c) the following particulars for each passenger (whether outward, in-transit or otherwise) —

(i) the passenger's first and last names, sex, date of birth and nationality; and

(ii) any other required particulars; and

(iii) the first and last names of each crew member and of anyone else who will be on board.

Entry of goods outwards

35. (1) All goods for export shall be deposited in a transit shed and, before such goods are loaded for export, entry shall be made in respect thereof.

(2) The Director may relax any requirement imposed by or under this section as the Director thinks fit in relation to any goods.

(3) A person who contravenes or fails to comply with any directions of the Director given under this section commits an offence under section 67.

(4) If any goods are found not to correspond with any entry thereof made under this section, they are liable to forfeiture.

Clearance of coasting ship and transire

36. (1) Before a coasting ship departs from a port the master of the coasting ship shall deliver to the relevant officer an account in such form and manner and containing such particulars as the proper officer may direct; and that account when signed by the relevant officer shall be the transire, that is to say, the clearance of the ship from that port and the pass for any goods to which the account relates.

(2) If a coasting ship departs from a port without a correct account having been delivered, except as permitted by the relevant officer or under and in compliance with any conditions imposed on the grant of a general transire, the master commits an offence.

(3) The relevant officer may examine any goods carried or to be carried in a coasting ship —

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

(b) at any place in the Islands to which the goods have been brought for shipment in, or at which they have been unloaded from, the ship.

(4) For the purpose of examining any goods under subsection (1), the relevant officer may require any container to be opened or unpacked, and any such opening or unpacking and any repacking shall be done by or at the expense of the proprietor of the goods.

(5) The relevant officer may —

(a) board and search a coasting ship at any time during its voyage; and

(b) at any time, require any document which should properly be on board a coasting ship to be produced or brought to that person for examination,

and if the master of the ship fails to produce or bring any such document to the proper officer, when required, that person commits an offence.

(6) The Director may impose conditions as to the carriage of goods coastwise —

(a) regulating the loading and unloading and the making waterborne for loading of the goods; and

(b) requiring the keeping and production by the master of a coasting ship of such record of the cargo carried in that ship as may be considered necessary by Customs and Border Control.

(7) A person who contravenes or fails to comply with any condition made under subsection (6) commits an offence and the goods, in respect of which the offence was committed, are liable to forfeiture.

(8) If, in the case of any coasting ship —

(a) any goods are taken on board or removed therefrom at sea or at any place outside the Islands;

(b) except for some unavoidable cause, the ship touches at any place outside the Islands or deviates from the ship's voyage; or

(c) the ship touches at any place outside the Islands and the master does not report that fact in writing to the proper officer at the first port within the jurisdiction at which the ship arrives thereafter,

the master commits an offence.

(9) Any goods which are shipped and carried coastwise, or which, having been carried coastwise, are unloaded in any place in the Islands other than in accordance with subsections (1) to (8) or of any condition imposed under subsection (6), or are brought to any place for the purpose of being so shipped and carried coastwise, are liable to forfeiture.

(10) If any goods —

(a) are carried coastwise or shipped as stores in a coasting ship contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any law; or

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

then those goods are liable to forfeiture and the shipper or intending shipper of the goods commits an offence.

Times of import and export

37. (1) The time of importation of any goods shall be deemed to be the time when the ship or aircraft carrying such goods arrives within the jurisdiction.

(2) The time of export of any goods shall be deemed to be the time when the ship or aircraft carrying such goods commences to move on its outward voyage.

Surplus stores

38. Surplus stores brought into the Islands in or on any vessel may, with the approval of the proper officer, be —

(a) retained in such vessel under such security as the proper officer may require;

(b) entered for home use on payment of duty; or

(c) deposited in a bonded warehouse.

Accidental loss of goods under Customs and Border control

39. Where Customs and Border Control is satisfied that goods under or liable to the control of Customs and Border Control have, by reason of fire or accident, suffered total or partial loss, duty shall not be chargeable otherwise than upon the proportionate value that the salvaged part, if any, of such goods bears to the whole.

Liability for fire and accident

40. Except where goods are in the custody of Customs and Border Control no compensation shall be payable in respect of goods under the control of Customs and Border Control which are damaged or destroyed by fire or accident not directly attributable to the fault of Customs and Border Control.

Agents

41. (1) If any person requests an officer to transact any business relating to an assigned matter with that person on behalf of another person, the officer may refuse to transact that business with the person unless written authority from that other person is produced in such form as the officer may require.

(2) Subject to subsection (1), anything required by this Act to be done by the master of a ship, the commander of an aircraft or the importer or exporter of any goods may, except where the Director otherwise requires, be done on the master's, commander's, importer's or exporter's behalf by an agent duly authorised by the master, commander, importer or exporter in writing.

PART 4 - INCIDENCE AND COLLECTION OF DUTY AND PACKAGE TAX

Charge of duty

42. (1) There shall be charged, collected and paid through Customs and Border Control to the Treasury upon all goods imported into the Islands and enumerated in Schedule 1 to the *Customs Tariff Act (2017 Revision)* the several duties therein set forth.

(2) The goods enumerated in Schedule 2 to the *Customs Tariff Act (2017 Revision)* may be admitted into the Islands free of duty subject to such conditions as may be imposed by the Cabinet or the Director.

Liability for duty

43. (1) A person shall not deliver or remove any imported goods until the importer of the goods has paid to the Customs and Border Control any duty chargeable on the imported goods, and that duty shall, in the case of goods of which entry for home use is made, be paid on making the entry.

(2) The rates of duty chargeable on imported goods shall be —

(a) if entry is made of the goods, except where the entry is for warehousing, those in force in respect of such goods at the time of presentation of the entry to Customs and Border Control;

(b) if entry is made of the goods for warehousing, the rates in force at the time of the removal of the goods from the warehouse for home use; or

(c) if no entry is made of the goods, those in force in respect of such goods at the time of their importation.

Basis of valuation

44. Unless otherwise provided in this Act or in the *Customs Tariff Act (2017 Revision)*, all imported goods subject to duty shall be charged to such duty at an *ad valorem* rate expressed as a percentage of the value of such goods as ascertained in accordance with the method of calculation provided in section 45.

Calculation of value

45. (1) The value of any imported goods shall be taken to be the normal price, which is the price which they would fetch at the time when they are entered for home use (or, if they are not so entered, at the time of importation) on a sale in the open market between a buyer and seller independent of each other.

(2) The normal price of imported goods shall be determined on the following assumptions —

(a) that the goods are treated as having been delivered to the buyer at the port or place of importation;

(b) that the seller will bear freight, insurance, commission and all other costs, charges and expenses incidental to the sale and the delivery of the goods at the port or place, except buying commission not exceeding five per cent of the total value which is shown to the satisfaction of Customs and Border Control to have been paid to agents; and

(c) that the buyer will bear any duty or tax payable in the Islands and other post-importation charges.

(3) A sale in the open market between buyer and seller independent of each other pre-supposes —

(a) that the price is the whole consideration;

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

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

(4) Where the goods to be valued —

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

(b) are imported with a foreign trade mark, or are imported for sale (whether or not after further manufacture) under a foreign trade mark,

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

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

(6) For the purpose of determining the price of goods under subsection (2) which are uninsured, there shall be substituted for the cost of insurance a notional insurance cost equal to one per cent of the cost and freight cost of such goods.

(7) Discounts and similar reductions in invoiced values will be deductible from the value for duty only if it can be shown to the satisfaction of Customs and Border Control that the deductions —

(a) are available to any buyer purchasing similar goods from the same supplier;

(b) do not result from a special relationship between buyer and seller; and

(c) do not, in any case, exceed twenty per cent of the invoiced value.

(8) The Director may, for the purposes of this section, require an importer or other person concerned with the importation of goods to furnish, in such form as may be required, such information as is necessary for a proper valuation of the goods, and to produce any books of accounts or documents of whatever nature relating to the purchase, importation or sale of the goods by that person.

Re-imported goods

46. (1) Where any goods, whether or not made or produced within the Islands, are re-imported into the Islands after exportation from the Islands, and it is shown to the satisfaction of Customs and Border Control that any duty chargeable in respect of the goods prior to their exportation has been paid, and —

(a) either that no drawback of such duty has been paid or any duty refunded; or

(b) that any drawback so paid or duty refunded has been repaid to the Director, then —

(i) if it is shown that the goods while abroad have not been subjected to any process, repair, renovation or improvement, they may be delivered without payment of duty for home use; or

(ii) if it is shown that the goods while abroad have been subjected to a process of repair, renovation or improvement and,

(A) if the owner of such goods has, at the time of entering them for export, declared the purpose of such export; and

(B) if such goods are re-imported in repaired, restored or processed form but without there being any substantial change in their form or character,

those goods shall be chargeable with duty as if the increase in the value of the goods attributable to the process were the whole value thereof.

(2) For the purpose of subsection (1)(b) any sum contracted to be paid for the execution of a process or repair on any goods shall be *prima facie* evidence of the increase of the value of the goods attributable to such process or repair; but

this provision shall be without prejudice to any other provision as to the ascertainment of the value of goods.

(3) When goods are re-imported into the Islands after having been processed abroad to such an extent that there has been a substantial change in the form and character of such goods, then duty shall be chargeable on the whole value of the goods, determined under section 45.

Relief from duty

47. The following may be imported free or partially free from any charge to duty —

(a) goods entered for home use which are proved to the satisfaction of Customs and Border Control to have had duty paid in respect of them having been imported into the Islands on a previous occasion;

(b) goods imported by the holder of a duty free franchise in respect of such goods; and

(c) goods imported by or specifically on behalf of a person, entitled to full or partial relief in respect of such goods under this or any other law.

Drawback

48. (1) Subject to subsections (2) and (3), where goods have not been used while in the Islands, drawback shall be payable by Customs and Border Control upon the following —

(a) goods re-exported in the packages in which they were imported;

(b) goods exported as stores on any aircraft or vessel proceeding out of the jurisdiction;

(c) spirits, wines and tobacco sold to passengers actually embarking on a vessel departing from the Islands; and

(d) goods deposited in bonded warehouses.

(2) Subsection (1)(c), does not apply to any spirits, wines or tobacco sold at an airport or port where a bonded duty-free shop system is operated.

(3) No drawback is payable on —

(a) goods remaining in the Islands two years after import; or

(b) goods which, if sold for home use, would realise less than the amount of drawback claimed.

(4) Drawback shall be claimed within one year of the shipment of the goods relevant to the drawback.

(5) No claim for drawback shall be entertained unless the amount claimed exceeds ten dollars.

(6) In subsection (1) —

"**bonded duty-free shop**" means a retail outlet prescribed by the Cabinet at a departure lounge or other place controlled by Customs and Border Control at a port or airport.

Refund of duty where goods are returned or destroyed

49. (1) Subject to such conditions as may be imposed by Customs and Border Control, where it is shown to the satisfaction of Customs and Border Control —

(a) that customed goods were imported under a contract of sale and that the description, quality, state or condition of the goods was not in accordance with the contract, or that the goods were damaged in transit; and

(b) that the importer with the consent of the seller either —

(i) returned the goods unused to the seller and that such goods have been duly entered outwards; or

(ii) with the prior approval of Customs and Border Control destroyed the goods unused,

the importer may obtain from Customs and Border Control repayment of any duty paid on the importation thereof.

(2) Nothing in this section shall apply to goods imported "on approval" or "sale or return" or on similar terms.

Concession to armed forces of the Crown

50. There shall be granted to members of Her Majesty's armed forces in the Islands such pecuniary allowances *in lieu* of relief from duty as the Governor may, from time to time, prescribe subject to such conditions as the Governor may see fit to impose.

Package tax

51. (1) There shall be charged, collected and paid at the time of first entry thereof a package tax on all goods imported into the Islands at the rates shown in Schedule 3 to the *Customs Tariff Act, (2017 Revision)* and, notwithstanding this or any other law (but subject to subsection (2) and section 50) no exemption, relief or drawback shall be given on such tax except in the case of goods imported —

(a) by Government;

(b) under the terms of any inter-governmental agreement; or

(c) under item 3, 5 or 9 of Schedule 2 to the *Customs Tariff Act (2017 Revision)*.

(2) Notwithstanding subsection (1), no package tax is chargeable on imported goods discharged at the Port of George Town or Cayman Brac as prescribed in the *Customs Regulations (2011 Revision)*.

Cabinet may waive or order refund

52. The Cabinet may, in any particular case, waive or order refund of any duty, package tax or part of any duty or package tax which would otherwise be payable or would not be liable to refund under this Act, subject to such conditions as the Cabinet may think fit to impose.

PART 5 - CONTRAVENTIONS AND PENALTIES

Offences by officers

53. An officer who —

(a) solicits or accepts a bribe;

(b) conducts a personal search of any person without a belief in a lawful reason for so doing, the onus of proving which is upon such officer;

(c) imports or connives at the importation of goods into the Islands other than through due Customs and Border Control process;

(d) fails to deliver up to Customs and Border Control any goods which it is the officer's duty to deliver up;

(e) in connection with the officer's duty commits perjury or gives to any person information in the truth of which that officer does not believe; or

(f) conspires with any person to contravene this Act,

commits an offence.

Offences against officers

54. A person who —

(a) bribes or attempts to bribe an officer;

(b) obstructs any officer acting in the course of the officer's duty;

(c) personates any officer;

(d) assaults any officer; or

(e) restricts the liberty of any officer,

commits an offence.

Smuggling

55. A person who —

(a) clandestinely brings into the jurisdiction prohibited, restricted or any other description of goods (other than goods exempt from the Customs and Border Control process); or

(b) exports any goods from the Islands, in respect of which entry is not made within the time or in the form required by Customs and Border Control, or in such manner as to disclose the fact of the import or export of such goods,

commits the offence of smuggling such goods into or out of the Islands, as the case may be.

Engagement in smuggling

56. A person who, in preparation, execution, furtherance or concealment of an act of smuggling —

(a) makes any signal or communication;

(b) jettisons any cargo;

(c) destroys any evidence,

(d) fails to land or heave to when ordered to do so by an officer;

(e) harbours any person, vessel or thing; or

(f) does any other thing by commission or omission calculated to aid, abet, further conceal or facilitate any actual or contemplated smuggling operation,

commits the offence of being engaged in a smuggling operation.

Presumption of being engaged in smuggling

57. (1) A person who (unless without guilty knowledge, the proof of which is upon that person) is found in possession or control of any —

(a) smuggled goods; or

(b) vessel or thing used for or adapted to be used for smuggling or concealing goods,

commits the offence of being engaged in smuggling.

(2) Guilty knowledge, for the purpose of subsection (1), will be presumed unless the person in possession or control of any vessel or thing satisfies the court that that person has exercised every reasonable care and discharged every part of that person's duty with respect to the control or management of such vessel or thing to prevent the use or potential use of the same for any smuggling operation or concealment of goods.

Evading duty

58. A person who, directly or indirectly by any misrepresentation, act, omission or device, evades or attempts to evade payment of the whole or any part of the duty or package tax payable on any goods or who wrongfully obtains or attempts to obtain drawbacks on the duty or package tax is (except in the absence of guilty knowledge, proof of which is upon such person) commits the offence of evading customs and border control duty.

Possession, etc., of goods on which duty has not been paid

59. A person who, without lawful excuse, deals in or has in that person's possession or control any uncustomed goods commits the offence of evading customs and border control duty in respect of such goods.

Offering goods for sale under colour of having been smuggled, etc.

60. A person who, in offering goods for sale, states, in order to induce any person to buy the goods, that the goods are smuggled goods or are uncustomed goods commits the offence of inviting such person to connive in smuggling or evasion of customs and border control process.

Obstruction of persons acting in execution of Law

61. (1) A person who resists arrest or otherwise wilfully obstructs or impedes any officer, constable or other person acting in the execution of that person's duty under this Act commits an offence.

(2) A person who acts in contravention of this section, or is reasonably suspected of having so acted or being about so to act, may be taken into custody without warrant by an officer or constable.

Offences relating to false documents, etc.

62. (1) A person who —

(a) in connection with the carrying into effect of any of the purposes of this Act, makes, causes or allows to be made any return, statement or representation which is false in a material particular and which the person knows to be false or which the person does not believe to be true;

(b) without lawful excuse, the proof of which shall be upon the person, alters, causes or allows to be altered any certificate, licence, permit or other document issued under this Act or any entry in any document lawfully made under this Act; or

(c) without lawful excuse, the proof of which shall be upon the person, uses or possesses, or causes or allows to be used or possessed, any forged, altered or irregular passport, visa, certificate or other connected document or any endorsement on any of such documents which has been altered or forged,

commits an offence.

(2) A person who acts in contravention of subsection (1), or is reasonably suspected of having so acted or being about so to act, may be taken into custody without warrant by an officer or constable.

Possession of Customs and Border Control stamp

63. A person who, without reasonable excuse, has in that person's possession a Customs and Border Control stamp or a replica Customs and Border Control stamp commits an offence.

Assisting entry in breach of deportation, exclusion or removal order

64. (1) A person who —

(a) does an act which facilitates a breach of a deportation order, exclusion order or removal order in force against an individual; and

(b) knows or has reasonable cause for believing that the act facilitates a breach of the deportation, exclusion or removal order,

commits an offence.

(2) Subsection (1) applies to anything done —

(a) in the Islands; or

(b) outside the Islands by a body incorporated under the law of the Islands.

(3) A person who commits an offence under this section is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years, and the court before which the person is convicted may order the forfeiture of a vehicle or vessel used or intended to be used in connection with the offence if the convicted person —

(a) owned the vehicle or vessel at the time the offence was committed;

(b) was at that time a director, secretary, manager or other responsible officer of a company which owned the vehicle or vessel;

(c) was at that time in possession of the vehicle or vessel under a hire-purchase agreement;

(d) was at that time a director, secretary, manager or other responsible officer of a company which was in possession of the vehicle or vessel under a hire-purchase agreement;

(e) was at that time a charterer of the vessel; or

(f) committed the offence while acting as master of a vessel.

(4) Where a person who claims to have an interest in a vehicle or vessel applies to a court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the vehicle or vessel unless the person has been given an opportunity to show cause why the order should not be made.

(5) Where proceedings are instituted against a person for an offence under this section and either —

(a) the proceedings do not result in the person's conviction; or

(b) where the person is convicted of the offence —

(i) the conviction concerned is quashed without a conviction for any other offence under this Act being substituted; or

(ii) the Governor has granted a pardon in respect of the conviction,

the Grand Court may, on an application by a person who held property which was realisable property, order compensation to be paid by the Government to the applicant.

(6) The Grand Court shall not order compensation to be paid in any case unless the Court is satisfied —

(a) that there has been some serious default on the part of a person concerned in the investigation or prosecution of the offence concerned and that, but for that default, the proceedings would not have been instituted or continued; and

(b) that the applicant has suffered substantial loss in consequence of anything done in relation to the property by or in pursuance of an order of the Grand Court.

(7) The amount of compensation to be paid under this section shall be such as the Grand Court thinks just in all the circumstances of the case.

(8) In this section —

"**realisable property**" means any property held by —

(a) a person against whom proceedings have been instituted for an offence under this section; and

(b) another person to whom that person has directly or indirectly made a gift caught by this section,

except that such property is not realisable property if a forfeiture order made by the Court in respect of that property is in force.

(9) A gift is caught by this section if —

(a) it was made by a person against whom proceedings have been instituted under this section at any time since the beginning of the period of six years ending when the proceedings were instituted; or

(b) it was made by the person at any time and was a gift of property —

(i) received by the person in connection with illegal activity carried on by the person at or another; or

(ii) which in whole or in part directly or indirectly represented in the person's hands property received by that person in that connection.

(10) For the purposes of subsection (9), the circumstances in which a person against whom proceedings have been instituted for the offence is to be treated as making a gift include where the person transfers property to another person directly or

indirectly for a consideration the value of which is significantly less than the value of the consideration provided by the person.

Provision of Customs and Border Control services

65. (1) A person shall not provide or purport to provide customs and border control advice or customs and border control services for any fee, gain or reward unless the person is a qualified person.

(2) A person is a qualified person if —

(a) the person is registered with the Director or is employed by, or works under the supervision of, such a person;

(b) the person is a member or employee of a body which is licensed, or exempted by the *Trade and Business Licensing Act (2021 Revision)*, or works under the supervision of such a member or employee; or

(c) the person is a person admitted to practise as an attorney-at-law under the *Legal Practitioners Act (2022 Revision)*.

(3) Subsection (1) does not apply to a person who —

(a) is certified by the Director as exempt (in this section referred to as "an exempt person");

(b) is employed by an exempt person;

(c) works under the supervision of an exempt person or an employee of an exempt person; or

(d) falls within a category of a person specified in an order made by the Cabinet for the purposes of this subsection.

(4) A certificate under subsection (3)(a) may relate only to a specified description of customs and border advice or customs and border services.

(5) Subsection (1) does not apply to a person —

(a) holding an office under the Crown, when acting in that capacity;

(b) employed by, or for the purposes of, a Government department, when acting in that capacity;

(c) acting under the control of a Government department; or

(d) otherwise exercising functions on behalf of the Crown.

(6) An exemption given under subsection (3)(a) may be withdrawn by the Director.

(7) A person who acts in contravention of subsection (1) commits an offence.

Human smuggling

66. (1) A person who, in contravention of this Act and whether for financial or material benefit or not, assists or facilitates the transportation, harbouring or movement into or out of the Islands, of an individual commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years.

(2) Subsection (1) applies to anything done —

(a) in the Islands; or

(b) outside the Islands by a body incorporated under the law of the Islands.

Procedural offences

67. A person who, without intending to smuggle or evade the payment of duty or package tax on any goods, wilfully or negligently contravenes any procedural requirement of this Act, commits a procedural offence.

Miscellaneous offences

68. A person who —

(a) being the master of a vessel, fails when so required to provide any officer with victuals and sleeping accommodation when such officer is not able conveniently to go ashore for the same;

(b) clandestinely, or without lawful authorisation in that behalf, opens any bonded warehouse;

(c) causes loss or damage to, or otherwise interferes with any property in the charge of Customs and Border Control; or

(d) contravenes any other provision of this Act for which no penalty is provided by any other section,

commits an offence.

Forfeiture

69. (1) Where —

(a) except with the permission of Customs and Border Control, any imported goods, being goods chargeable on their importation with customs duty or package tax, are, without payment of that duty or tax —

(i) unshipped in any port;

(ii) unloaded from any aircraft in the Islands; or

(iii) removed from their place of importation or examination or any approved transit shed;

(b) any goods are imported, landed or unloaded contrary to any prohibition or restriction for the time being in force with respect thereto under this or any other law;

(c) any goods being goods chargeable with any duty or goods, the importation of which is for the time being prohibited or restricted by or under any enactment, are found, whether before or after the unloading thereof, to have been concealed in any manner on board any ship or aircraft;

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

(e) any imported goods are found, whether before or after delivery, not to correspond with the entry made thereof; or

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

those goods are liable to forfeiture.

(2) Where anything has become liable to forfeiture under this Act —

(a) any ship, aircraft, vehicle, animal, container (including any article of passengers' baggage) or other thing which has been used for the carriage, handling, deposit or concealment of the thing so liable to forfeiture, either at a time when it was so liable or for the purpose of the commission of the offence for which it later became so liable; and

(b) any other thing mixed, packed or found with the thing so liable,

is also liable to forfeiture.

(3) Where any vessel or thing is used for or adapted to be used for smuggling or concealing goods it is liable to forfeiture.

(4) Where any ship, aircraft, vehicle or animal has become liable to forfeiture, whether by virtue of subsection (1) or otherwise, all tackle, apparel or equipment of the ship, aircraft, vehicle or animal is also liable to forfeiture.

(5) The owner of a vessel forfeited under subsection (2) or (3) may elect to redeem it from forfeiture on payment to the Director of twelve thousand dollars or a sum equal to fifty per cent of the value of the vessel, whichever is the greater.

(6) For the purposes of subsection (5), the value of a vessel is the amount at which it is valued for cover by insurance against total loss, or, in the case of a vessel not insured or not insured fully, such sum as is assessed by the Director.

Mandatory penalty

70. A person who is found guilty of an offence of smuggling or evasion of duty or package tax shall, in addition to the duty payable and to any penalty imposed by this or any other law, be ordered to pay a fine equal to three times the duty and tax on the goods involved, being the subject of such offence, or, in the case of prohibited goods, three times the current saleable value of such goods.

Penalties

71. (1) A person who commits an offence under sections 53 to 60 is liable, in addition to any mandatory penalty and forfeiture, on summary conviction to a fine of six thousand dollars and to imprisonment for five years.

(2) A person who commits an offence under section 67 shall, subject to any ruling of the Director under section 7(b) and subject to a right of appeal to a court of summary jurisdiction, pay to Customs a fine of one thousand dollars.

(3) A person who commits an offence under section 68(a), (b) or (d), is liable on summary conviction to a fine of one thousand two hundred dollars and to imprisonment for six months.

(4) A person who commits an offence under section 68(c) shall, on summary conviction, in addition to any other punishment imposed, be required to make good any damage occasioned to public property by such offence and, in the case of damage to any vessel, *in lieu* of making good such damage, to pay to Customs and Border Control three times the cost of reinstatement thereof.

Administrative penalties[12]

71A. (1) Notwithstanding that certain penalties are by this Act expressed to be mandatory, the Director may, in the Director's discretion, impose instead an administrative penalty set out in Schedule 1.

(2) Where the Director imposes an administrative penalty set out in Schedule 1, the Director shall serve the person with a ticket in the form set out in Schedule 2.

(3) Where a person is served with a ticket under subsection (2), the payment of the administrative penalty stated in the ticket no later than twenty-eight days after being served discharges the person from liability upon conviction for the offence set out in the ticket and payment of any mandatory or other penalties, but does not affect any liability to forfeiture under this Act.

(4) Payment of an administrative penalty under this section shall be made to the Customs and Border Control Service, and all administrative penalties shall, unless otherwise expressly stated, form part of the general revenue of the Islands.

(5) In any proceedings, a certificate that payment of the administrative penalty was or was not made to the Customs and Border Control Service by the date

specified in the certificate shall, where the certificate is signed by the Director, be sufficient evidence of the facts stated unless the contrary is proved.

Service and payment of ticket[13]

71B.(1) Service of a ticket on a person whom an officer has reason to believe committed an offence is effected where the officer —

(a) delivers a copy of the ticket to the person;

(b) leaves a copy of the ticket at the last known place of business or abode of the person; or

(c) sends a copy of the ticket by registered mail to the last known place of business or abode of the person.

(2) An officer who serves a ticket shall complete and sign a certificate of service stating that the ticket was, on the date set out in the certificate, served on the person whom the officer had reason to believe committed the offence and the certificate shall be evidence that, on the date set out in the certificate, a ticket was served on the person whom the officer had reason to believe committed the offence.

(3) Upon being served a ticket, a person may —

(a) pay the total amount set out in the ticket in accordance with subsection (4);

(b) enter a "not guilty" plea in accordance with section 71C(1); or

(c) attend the summary court on the date set out in the ticket and enter a plea.

(4) The payment of the total administrative penalty set out in the ticket within twenty-eight days of being served constitutes a discharge from liability for conviction for the offence.

Trial after not paying ticket or not agreeing to ticket[14]

71C.(1) A person who is served with a ticket and who wishes to enter a "not guilty" plea may request a trial by signing the request for trial in the ticket and delivering the ticket to the Clerk of the Court within twenty-eight days of being served with the ticket and the Clerk of the Court shall enter a plea of "not guilty".

(2) As soon as practicable after a person requests a trial under subsection (1), the Clerk of the Court shall notify the Customs and Border Control Service of the request, request the duplicate ticket, fix the time and place of the trial and notify the defendant and the prosecution of the time and place of the trial.

(3) A person who has been served with a ticket and has not paid the total amount set out in the ticket in accordance with section 71B(4), nor entered a "not guilty" plea in accordance with subsection (1), shall attend at the court on the date specified in the ticket, which shall be no earlier than thirty-eight days after the date that the ticket was served on the person and the notice of the court date in the ticket shall be notice to the defendant and the prosecution of the same.

(4) The Customs and Border Control Service shall, within forty-eight hours of the expiration of the twenty-eight day period after a ticket is served, file with the Clerk of the Court every ticket that remains unpaid after twenty-eight days of having been served.

(5) A ticket filed with the Clerk of the Court is evidence of the facts alleged in the ticket without proof of the signature of the person appearing to have completed the ticket or the person on whom the ticket was served.

(6) Except as otherwise provided, a notice or document required or authorised to be given or delivered under this section may be given or delivered personally by registered mail or by other prescribed means.

(7) Evidence that a notice or document required or authorised to be given or delivered to a person under this section was sent by registered mail or any other prescribed means to the person at the last known place of abode or business address appearing on a ticket, certificate of service or other document in the court file, is sufficient evidence that the notice or document was given or delivered to the person unless the contrary is proved.

(8) A person who is convicted of an administrative offence in a trial requested under subsection (1) or in a trial as a result of a failure to pay the total amount set out in the ticket in accordance with section 71B(4) is liable, in addition to any mandatory penalty and forfeiture, on summary conviction to a fine of one thousand dollars or to imprisonment for a term of six months, or to both.

(9) The ticket, for the purposes of a trial, is deemed to be a complaint within the meaning of section 14 of the *Criminal Procedure Code (2021 Revision)*.

(10) Notwithstanding anything in law to the contrary, where the ticket remains unpaid at the expiration of the time specified for the payment of the administrative penalty or where the person served requests a trial, the ticket shall be deemed to be a summons in accordance with section 15 of the *Criminal Procedure Code (2021 Revision)*.

(11) Proceedings in respect of an offence deemed to be instituted by a ticket under this Act shall not be listed for hearing in court unless —

(a) the officer delivers the duplicate of the ticket with a certificate stating that the payment of the administrative penalty has not been received within the twenty-eight day period within which it was payable; and

(b) a period of ten days has elapsed from the last day on which the administrative penalty was payable.

(12) Where the administrative penalty is not paid within the time specified in the ticket or the person served requests a trial, proceedings in respect of the offence specified in the ticket shall be in accordance with the procedure set out for Category C offences under the *Criminal Procedure Code (2021 Revision)*.

Amendment of Schedules[15]

71D. Cabinet may, by Order, amend Schedules 1 and 2.

Punishment for offences for which no penalty is provided

72. (1) A person who commits an offence for which no penalty is provided is liable on summary conviction —

(a) in respect of a first offence, to a fine of five thousand dollars and to imprisonment for one year or,

(b) in respect of a second or subsequent offence, to a fine of ten thousand dollars and to imprisonment for two years and,

(2) Where any such offence is a continuing offence, the person guilty of the offence shall, in addition to any punishment provided by this section, be liable to a fine of five hundred dollars in respect of each day during which the offence continues.

Customs and Border Control may sue and be sued

73. In any dispute touching any matter arising out of this Act, Customs and Border Control may sue and be sued in its own name and shall be entitled to recover and be liable to pay costs in the same manner as any other litigant.

Power to put questions and require production of documents

74. (1) The Director, any officer, constable or other person lawfully acting in the execution of this Act may —

(a) put any question to any person, being a question reasonably required in connection with the proper discharge of their, its, that person's functions under this Act; and

(b) require any person to produce for inspection any licence, certificate, payroll and other documents relating to gainful employment, permit, work permit identification card or other document which the person may have in that person's possession or under that person's control, being a document of which the inspection is reasonably required in connection with the proper discharge of such function as aforesaid.

(2) A person who fails without lawful excuse, the proof of which shall be upon the person, to answer fully and truthfully to the best of that person's knowledge and belief any such question, or to produce for inspection any such document, without prejudice to section 62, commits an offence.

(3) Any power to require the production of a document for inspection shall be construed as including a power to take copies of such document and to retain such document for a reasonable time for such purpose.

Officers may represent Customs and Border Control in summary courts

75. Officers may exhibit information and conduct prosecutions in any matter arising out of this Act in any court of summary jurisdiction.

Notice of seizure

76. (1) A relevant officer shall, except as provided in subsection (2), give notice of the seizure of anything as liable to forfeiture and of the grounds for such seizure to any person who, to the officer's knowledge was, at the time of the seizure, the owner or one of the owners of the thing seized.

(2) An officer is not required to give notice under subsection (1) if the seizure was made in the presence of —

(a) the person whose offence or suspected offence occasioned the seizure;

(b) the owner or any of the owners of the thing seized or any servant or agent of the owner; or

(c) in the case of anything seized in a ship or aircraft, the master or commander.

(3) An officer shall give notice under subsection (1) in writing and the notice shall be deemed to have been duly served on the person concerned —

(a) if delivered to the person personally;

(b) if addressed to the person and left or forwarded by post to the person at the person's usual or last known place of abode or business, or, in the case of a body corporate, at its registered or principal office; or

(c) where the person has no address within the Islands, or the person's address is unknown, by publication of notice of the seizure in the Gazette or any government website approved by the Director.

(4) Any person claiming that anything seized as liable to forfeiture is not so liable, may, within one month of the date of the notice of seizure or, where no such notice has been served on the person, within one month of the date of the seizure, appeal to a summary court, which court shall, after hearing the parties, make an order with respect to such seizure, including any order for costs, as may be considered appropriate.

(5) An appeal under subsection (4) shall specify the name and address of the appellant and, in the case of a claimant who is outside the Islands, shall specify the name and address of an attorney-at-law in the Islands who is authorised to accept service of process and to act on the appellant's behalf.

(6) If, on the expiration of the relevant period under subsection (4) for the giving of notice of appeal in respect of anything, no such notice has been lodged with a summary court, or if, in the case of any such notice being given, any requirement of subsection (5) is not complied with, the thing in question shall be deemed to have been duly condemned as forfeited.

(7) Where any thing is, in accordance with subsection (6), condemned or deemed to have been condemned as forfeited, then, without prejudice to any delivery up for sale of the thing by the Director under subsection (8), the forfeiture shall have effect as from the date when the liability to forfeiture arose.

(8) Where anything has been seized as liable to forfeiture, the Director may, at any time if the Director thinks fit, and notwithstanding that the thing has not yet been condemned, or is not yet deemed to have been condemned as forfeited —

(a) deliver it up to any claimant upon the claimant paying to Customs and Border Control such sum as the Director thinks proper, being a sum not exceeding that which, in the Director's opinion, represents the value of the thing, including any duty or tax chargeable thereon which has not been paid; or

(b) if the thing seized is a living creature, or is in the opinion of the Director, of a perishable nature, sell or destroy it.

Vicarious liability

77. Where an offence against this Act is committed by a corporation, the president or chairperson or such other type of officer and every director shall each be liable to the penalties provided and guilty of a like offence, unless the president or chairperson and director proves the act or omission constituting the offence took place without the president's or chairperson's and director's knowledge or consent.

Joint responsibility

78. Persons found knowingly to have contributed to the commission of an offence under this Act commit an offence and each person is liable to the penalty for such offence and are jointly and severally liable for the payment of any sum required to be paid as a result of the commission of such offence, including any sum for damages or costs.

Recovery of penalties[16]

79. All charges, fees, administrative penalties, monetary penalties, costs and damages required to be paid in respect of any matter arising out of this Act shall be paid directly to the Director who may enforce payment of the same through the appropriate process of a summary court or a court ordering such payment or by the exercise of a lien on any relevant goods held in the charge of Customs and Border Control and which, but for this section, would be deliverable or returnable to the owner.

Register

80. (1)[17] The Director shall keep and maintain a register of all charges, fees, administrative penalties, monetary penalties, costs and damages imposed under this Act in consequence of the contravention of any of its provisions.

(2) The register shall contain particulars of —

(a) the name and address of the person in contravention;

(b) the nature, location and date of the contravention;

(c) any measures taken by the Director in consequence of the contravention; and

(d) the amount of any charges, fees, administrative penalties, monetary penalties, costs or damages imposed and the date on which they were paid.[18]

(3) The Director shall, within fourteen days of the end of each quarter, provide the Cabinet and the Director of Public Prosecutions with the information contained in the register in relation to that quarter.

Appeals

81. Any person aggrieved by a decision of a court of inferior jurisdiction to that of the Grand Court in any matter arising out of this Act may appeal to the Grand Court against that decision under the usual process provided for such appeals and the decision of the Grand Court shall, subject to section 83, be final and binding on all parties.

Rewards

82. Any person, including an officer, giving information or assistance to the Customs and Border Control leading to —

(a) the detection of smuggling;

(b) the discovery in any unauthorised place of uncustomed goods;

(c) the seizure of any vessel or goods; or

(d) the conviction of any person for an offence under this Act,

may be paid out of Customs and Border Control's funds such reward as the Director, in the Director's discretion, may in each case determine.

Special powers of Cabinet

83. Notwithstanding that certain penalties and forfeitures are by this Act expressed to be mandatory, the Cabinet may reduce or remit any penalty imposed by or under this Act, vary any order made or thing done under this Act and, in order to assist it to arrive at a decision, consult with any neutral and expert person as to any valuation or any other matter under consideration.

PART 6 - ENTRY AND LANDING

Discretion of Director and duty of persons arriving in the Islands

84. (1) The Director, in the Director's discretion, shall determine which arriving vessels are to be met by an officer, and it is the duty of every person in or on every vessel so met to report to an officer.

(2) Where an officer boards the vessel before disembarkation the report referred to in subsection (1) shall be made to that officer, but where no such officer boards the vessel, the report shall be made upon disembarking.

Duty of local agent of vessel to give notice of arrival

85. (1) Every local agent of every vessel arriving in the Islands shall give adequate and timely notification of the arrival of the vessel to the Director or to any officer designated by the Director in that behalf, and, if required, to furnish such particulars as the local agent may then have in the local agent's possession regarding the passengers or crew on board such vessel.

(2) A person who fails to comply with subsection (1), or with any requirement duly given thereunder, commits an offence.

Inward passenger and crew manifests

86. (1) Every master, the local agent or the captain of every vessel arriving in the Islands, other than a recreational sport fishing vessel returning from a sports fishing expedition that took place beyond the Islands' territorial waters, prior to the arrival of such vessel or as soon as practicable thereafter, shall deliver to an officer lists showing separately the names and particulars of —

(a) the passengers on board the vessel;

(b) the passengers whose intention it is to disembark at the Islands;

(c) the crew of the vessel; and

(d) any other person on board the vessel.

(2) A recreational sports fishing vessel arriving in the Islands shall comply with the prescribed arrival procedures.

(3) Where the master or captain of the vessel transports to the Islands passengers or crew —

(a) who are required to have a valid entry visa or proof of citizenship, and are not in possession of such documents; or

(b) in respect of whom the master or captain provides false information in relation to the master's or captain's duty under subsection (1) and subsection (2),

the master or captain is liable to be fined by an officer or a sum of two thousand dollars.

(4) A person aggrieved by or dissatisfied with a decision under this section may appeal to the Director.

Control of landing from vessels

87. (1) It is an offence for the master of a vessel to cause or allow a passenger or member of the crew or other person on board the vessel to disembark in the Islands before permission generally to disembark has been given by an officer.

(2) A person who fails to comply with subsection (1) commits an offence.

(3) It is a defence for a person charged with an offence under this section to prove that such disembarkation took place in an emergency and was, at the earliest time practicable, notified to an officer.

Outward passenger and crew manifests

88. (1) Every master, the local agent or the captain of every vessel leaving the Islands, other than a recreational sport fishing vessel departing the Islands on a fishing expedition beyond the Islands' territorial waters, unless excused from doing so by the Director, shall deliver to an officer, prior to departure of such vessel, lists showing separately the names and particulars of —

(a) the passengers on board the vessel;

(b) the crew on board the vessel; and

(c) any other person on board the vessel.

(2) A recreational sport fishing vessel shall, prior to departure on a fishing expedition beyond the Islands' territorial waters, comply with the prescribed departure procedures.

(3) A person who fails to comply with subsections (1) and (2) commits an offence.

Government vessels

89. Sections 85, 86, 87 and 88 shall not apply to any Government controlled vessel, but the master thereof shall furnish the Director with such particulars as the Director may require.

Cabinet may issue entry permit

90. Notwithstanding anything contained in this Part, the Cabinet may issue a permit for the landing of any person to the Islands, and such person shall be admitted accordingly upon such terms as may be specified in the permit.

Travel documents

91. (1) Unless exempted by this Act, every person entering and leaving the Islands shall, if required to do so by an officer, produce for inspection a relevant passport or some other valid document establishing the identity and nationality or place of permanent residence of such person to the satisfaction of the officer, and, in such cases as may be prescribed, a relevant visa.

(2) An application for a visa shall be in writing and accompanied by the prescribed fee.

(3) Subject to a person complying with the prescribed criteria —

(a) an officer not below the rank of Assistant Director may —

(i) approve or refuse an application for a visa; and

(ii) refuse permission for a person in possession of a current visa to enter the Islands; and

(b) the Director or a Deputy Director acting in person may —

(i) revoke a current visa; or

(ii) waive the requirement for the production of a visa to land in the Islands.

(4) A person who fails to comply with subsection (1) commits an offence.

Certain persons deemed not to have landed in the Islands

92. (1) A person who arrives in the Islands by any vessel shall not be considered to land or to reside or remain in the Islands —

(a) if, as respects an arrival by seagoing vessel, the person does not leave that seagoing vessel or, without leaving the confines of a port or any other place as directed by the Director, the person transfers themselves to another seagoing vessel with the intention of departing from the Islands by such latter seagoing vessel, and does not leave that latter seagoing vessel; or

(b) if, as respects an arrival by aircraft, the person does not leave the airport within which the passengers from that aircraft are disembarked.

(2) A person who is not, *bona fide*, a passenger in-transit in a vessel or a member of the crew of the vessel shall be deemed to have landed in the Islands if the person resides in a vessel, including a yacht or houseboat, within the territorial waters of the Islands.

General prohibition from landing in the Islands without specific permission of an officer

93. It is an offence for any person other than a person —

(a) who is Caymanian; or

(b) who is not a prohibited immigrant and satisfies an immigration officer that the person is —

(i) authorised to carry on a gainful occupation under the relevant provisions of the *Immigration (Transition) Act (2022 Revision)*;

(ii) a person named in a work permit as a dependant of the licensee;

(iii) a person who is exempted under the relevant provisions of the *Immigration (Transition) Act (2022 Revision)* or a dependant of such a person; or

(iv) a person who has permission to reside or to remain permanently in the Islands under the relevant provisions of the *Immigration (Transition) Act (2022 Revision)*,

to land in the Islands, without, in each case, specific permission, with or without the imposition of conditions or limitations, being given by an officer.

Entry by persons other than Caymanians or persons legally and ordinarily resident

94. (1) Persons other than those referred to in section 93, and who are not prohibited immigrants, may be granted permission to land in the Islands as visitors for a period of up to six months, subject to extension, from time to time, for further periods not exceeding six months on each occasion upon application made to the Director in the prescribed manner.

(2) In furtherance of the relevant provisions of the *Immigration (Transition) Act (2022 Revision)* where documentary evidence is produced to the Director to establish that a child is the child of a Caymanian, the child shall be allowed to enter, remain and attend school in the Islands and shall not require a student visa.[19]

(3) Where the effect of such extension is that the person to whom permission is granted will be permitted to remain for a period in excess of twelve months in total, upon such permission being granted the Director shall forthwith notify the Workforce Opportunities and Residency Cayman Department of such extension.

(4) Any permission granted under subsection (1) or any extension thereof may, at any time, be revoked either by the Cabinet, or by the Director acting in person.

(5) Where a passenger is proven to have gained entry into the Islands by deception and is still physically within the confines of the precincts of Customs and Border Control, the person's permission to enter may be revoked by an officer of the rank of Assistant Director or above.

(6) The Cabinet or the Director, so revoking under subsection (4), shall cause to be served upon the person concerned notice of any revocation in which shall be specified a time, not being more than fourteen days, within which such person shall be required to leave the Islands.

(7) In the case of any child born in the Islands in such circumstances that the child does not acquire the right to be Caymanian at birth, the child shall be reported to the Director as soon as practicable and shall thereafter be subject to Customs and Border control in a manner appropriate in all the circumstances and having

regard to the immigration status of the parents or, in the case of a child whose parents are not married, of the mother.

(8) A dependant of a Caymanian may be granted permission to reside in the Islands for a period of up to three years, subject to extension, from time to time, for further periods not exceeding three years on each occasion upon application made to the Director in the prescribed manner.

(9) In considering an application under subsection (8), the Director shall be satisfied —

(a) that the applicant is a dependant of a Caymanian;

(b) as to the character and health of the dependant;

(c) as to the ability of the Caymanian adequately to support the dependant;

(d) that the dependant is covered by health insurance; and

(e) as to such other matters as that Director shall consider relevant.

(10) An application submitted under this section shall be accompanied by the prescribed administrative fee and the prescribed repatriation fee.

(11) Any permission granted under subsection (8) or any extension thereof may, at any time, be revoked by the Director acting in the Director's discretion.

(12) In this section —

"**dependant**", in relation to a Caymanian, means the Caymanian's parent, grandparent, brother or sister being in each case, wholly or substantially dependent upon the Caymanian.

Requirements to be satisfied by visitors

95. (1) Before granting permission to any person under section 94, an officer may require such person to satisfy the officer that the person is in possession of a paid up return ticket or ticket entitling such person and the dependants of the person, if any, to travel to such person's next destination outside the Islands, and is in possession of sufficient funds to maintain themselves and dependants, if any, during the period of the person's stay in the Islands.

(2) An officer, in accordance with general or special directions of the Cabinet or the Director, may attach such conditions or restrictions as the officer may think fit to any permission granted to any person under section 94, and the Cabinet, in respect of its own directions or those of the Director, or the Director in respect of the Director's own directions may, at any time, vary such conditions or restrictions in such manner as the Director thinks fit.

(3) Notwithstanding anything in subsection (1), an officer may, as a condition of granting permission to a person under section 94, require the person to pay such non-refundable repatriation fee as may be prescribed; and the Director, as a condition of granting a variation of any condition or restriction attached to any

such permission, may require the person to pay the non-refundable repatriation fee as may be prescribed.

(4) A person who fails to comply with any condition or restriction imposed by this section commits an offence.

Provisions relating to sponsors

96. (1) A sponsor of a tourist visitor seeking permission to land in the Islands or seeking an extension of the permission may, at the discretion of an officer, be required to give an undertaking in writing to be responsible for that tourist visitor's maintenance and accommodation during the period of the visitor's stay in the Islands.

(2) Where a sponsor has given an undertaking under subsection (1) in respect of any tourist visitor, the sponsor shall, within twenty-four hours of the expiration of the grant of permission, inform the Director in the prescribed manner of any failure by that tourist visitor to depart from the Islands on or before the expiration of the permission granted or any extension thereof.

(3) A sponsor who acts in contravention of subsection (2) commits an offence.

Safeguards regarding permission to land, etc.

97. (1) Without prejudice to this Part, an officer may examine any person who has arrived in the Islands, including any transit passenger, member of the crew of any vessel or other person not seeking to land in the Islands, for the purpose of determining —

(a) whether the person is, or is not, such a transit passenger, crew-member or other person;

(b) if the person is not a Caymanian, whether the person may, or may not, enter the Islands under section 93; and

(c) whether, if the person is not the person should be given permission to land in the Islands and for what period and under what conditions, or should be refused permission.

(2) Where a person to whom subsection (1) refers, other than a person to whom section 93 applies, is seeking to land in the Islands, an officer may require the person to —

(a) provide evidence of the good character of themselves and that person's dependants;

(b) undergo a medical examination or furnish a medical certificate in respect of themselves and that person's dependants, if any, acceptable to the officer and with such particulars as the officer may consider necessary; and

(c) furnish such other particulars as may, in the opinion of the officer, be relevant to the application.

Disembarkation and embarkation cards

98. (1) Subject to subsection (4), a person who, disembarking in or leaving the Islands, fails to complete and hand to an officer, immediately on arrival or departure, a disembarkation card or embarkation card, as the case may be, in the prescribed form commits an offence.

(2) It is the duty of the Director to cause records to be kept and maintained of the entry of all persons into, and the departure of all persons from, the Islands.

(3) Without prejudice to anything contained in the *Evidence Act (2021 Revision)*, any such record shall be received in evidence in any court or in any tribunal in the Islands as evidence, *prima facie*, of any entry or particular entered therein.

(4) Subsection (1) does not apply to any person or category of persons specified in regulations as being exempt from the requirements of those regulations, and the duty of the Director under subsection (2) shall not apply in respect of any person or category of persons so exempted.

Detention of persons who have been refused permission to land, etc.

99. (1) Under the authority of an officer —

(a) a person who may be required to submit to examination under section 97(1), pending the person's examination and pending a decision to give or refuse the person permission to land;

(b) a person to whom permission to land has been refused; or whether the person is, or is not, such a transit passenger, crew-member or other person;

(c) a prohibited immigrant on any vessel not intending or seeking permission to land,

may be temporarily detained at some place approved by the Cabinet for such purpose, and while so detained, shall be deemed to be in legal custody and not to have landed, and a person on board a vessel may, under the authority of an officer, be removed for detention under this subsection.

(2) A person liable to detention or detained under subsection (1) may, with the leave of an officer, be temporarily granted permission to land without being detained or, if detained under that subsection, may be released from detention pending a decision whether to grant that person permission under section 91, but this shall not prejudice a later exercise of the power to detain the person.

(3) For so long as a person has been temporarily granted permission to land under subsection (2), the person shall be deemed not to have landed and shall be subject to such conditions as an officer may determine.

Duty of master with respect to removal of person landing unlawfully where permission to land is refused

100. (1) In any case where —

(a) a person lands in the Islands in contravention of or without complying with this Act; or

(b) a person is refused permission to land,

it is the duty of the master of the vessel in which the person arrived to receive the person on board the same vessel and take the person away from the Islands, or if the vessel has already left or is delayed, then it is the duty of the master of any subsequent vessel, owned or operated by the same company, departing from the Islands, to receive the person on board that vessel and take the person away from the Islands or, with the approval of the Director, make other suitable arrangements for the person's departure from the Islands.

(2) A master of a vessel who fails or refuses to receive any such person and take the person away from the Islands as required by subsection (1) commits an offence.

(3) Any such person may be detained by an officer or constable in such manner and place as may be directed by the Cabinet until the person can be received on board a vessel, and while so detained the person shall be deemed to be in lawful custody and, in the case of a person refused permission to land, shall also be deemed not to have landed.

(4) The owner, operator, master and local agent of any vessel from which any such person landed shall be jointly and severally liable to the Cabinet for all charges incurred in respect of the maintenance of the person while remaining in the Islands or of the person's subsequent repatriation, removal or deportation from the Islands whether in the vessel from which the person was landed or by some other carrier.

(5) Subsections (1) to (4) apply not only to a person referred to in subsection (1) but to the dependants of the person as well.

Removal of certain persons unlawfully in the Islands

101. (1) A person who is not, in accordance with the relevant provisions of the *Immigration (Transition) Act (2022 Revision)*, a Caymanian, a permanent resident, a work permit holder, nor the holder of a Residency and Employment Rights Certificate, a Residency Certificate for Persons of Independent Means or a student visa, may be removed from the Islands, in accordance with directions given under this section by an officer not below the rank of Assistant Director, if —

(a) having been granted permission to enter or remain, the person does not observe a condition attached to the permission or remains beyond the time limited by the permission;

(b) the person has obtained permission to enter or remain by deception; or

(c) the person is a dependant of a person who is being or has been removed from the Islands under the provisions of this section.

(2) Directions may not be given under subsection (1)(a) if the person concerned has made an application for an extension of the person's permission to remain in the Islands in accordance with this Act.

(3) Where a person has overstayed the person's time in the Islands or is otherwise in the Islands illegally, the Director shall cause to be served upon the person concerned written notice in which shall be specified a time, not being more than fourteen days, within which the person shall be removed from the Islands.

(4) If the notice is sent under subsection (3) by the Director by post, addressed to the last known address of the person concerned, it is to be taken to have been received by that person on the third day after the day on which it was posted.

(5) Directions for the removal of a person under subsection (1)(c) cease to have effect if the person ceases to be a dependant of the other person.

(6) Directions for the removal of a person given under this section invalidate any permission to enter or remain in the Islands given to the person before the directions are given or while they are in force.

(7) The Cabinet may apply any money or property of a person against whom an order under this section has been made in payment of the whole or any part of the expenses of or incidental to the journey from the Islands, and of the maintenance until departure of such person and that person's dependants, if any.

Escorts for persons removed from the Islands under directions

102. (1) Directions under section 101 for, or requiring arrangements to be made for, the removal of a person from the Islands may include or be amended to include provision for the person who is to be removed —

(a) to be detained for a reasonable period prior to removal; and

(b) to be accompanied by an escort consisting of one or more persons specified in the directions.

(2) The Cabinet may by regulations make further provision supplementing subsection (1).

(3) The regulations may, in particular, include provision —

(a) requiring the person to whom the directions are given to provide for the return of the escort to the Islands;

(b) requiring the Government to bear such costs in connection with the escort (including, in particular, remuneration) as may be prescribed;

(c) as to the cases in which the Government is to bear those costs; and

(d) prescribing the kinds of expenditure which are to be included in calculating the costs incurred in connection with escorts.

Register to be kept and particulars furnished by hotel keepers and others

103. (1) It is the duty of the keeper of any premises to which this section applies to keep a register in the prescribed form and containing the prescribed particulars of all persons staying at the premises who are not Caymanian.

(2) The keeper of any such premises shall, where directions for the purpose are issued by the Cabinet, make to the Director the returns concerning the persons staying at the premises, at the times and in a form as may be specified in such directions.

(3) It is the duty —

(a) of every person, whether Caymanian or not, staying at any premises to sign, when so required, a statement as to that person's nationality, and, if non-Caymanian, to furnish and sign a statement of the particulars required under this section; and

(b) of the keeper of any such premises to require any person who stays at the premises to sign the statement and furnish the particulars required from that person under this section and to preserve the statements including any statements supplied under this section to any previous keeper of the premises for a period of two years from the date when the statements were signed.

(4) Every register kept, and all particulars furnished, under this section shall, at all reasonable hours, be open for inspection by any constable, officer or person authorised by the Cabinet.

(5) This section applies to any premises, whether furnished or unfurnished, where lodging or sleeping accommodation is provided for reward.

(6) The breach of a duty imposed by this section is an offence.

Re-entry permit

104. (1) A person who is, for the time being, entitled by this Act, or permitted by reason of the exercise of any power under this Act to land in the Islands may apply to the Director for the issue of a re-entry permit.

(2) The Director shall, in respect of a person entitled under subsection (1), issue a re-entry permit in the prescribed form and on payment of the prescribed fees, valid for such periods as the applicant is, at the time of issue, entitled to land in the Islands.

(3) Nothing in subsections (1) and (2) shall have effect so as to authorise any person to land in the Islands notwithstanding the person's possession of a valid re-entry permit, if the person has, since the issue of the permit, become a person who may be refused permission to land in the Islands.

Offences relating to illegal landing and powers of arrest

105. (1) A person who —

(a) lands or attempts to land in the Islands;

(b) does any act preparatory to landing in the Islands; or

(c) remains or resides in the Islands,

where such landing, preparing, remaining or residing is or would be in contravention of this Act, commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for five years.

(2) A person who —

(a) knowingly assists or causes another to land in, or to depart from, the Islands;

(b) connives in such landing or departure; or

(c) wilfully does an act preparatory to paragraph (a) or (b),

whether or not that other person knew that there was a contravention of this Act, in circumstances where such landing or departure is, or would be, in contravention of this Act, commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for seven years.

(3) The court before which a person is convicted of an offence under subsection (2) may order the forfeiture of a vehicle or vessel used or intended to be used in connection with the offence if the convicted person —

(a) owned the vehicle or vessel at the time the offence was committed;

(b) was at that time a director, secretary, manager or other responsible officer of a company which owned the vehicle or vessel;

(c) was at that time in possession of the vehicle or vessel under a hire-purchase agreement;

(d) was at that time a director, secretary, manager or other responsible officer of a company which was in possession of the vehicle or vessel under a hire-purchase agreement;

(e) was at that time a charterer of the vessel; or

(f) committed the offence while acting as master of a vessel.

(4) An officer or constable may arrest without warrant any person who has committed or whom the officer or constable reasonably suspects to have committed an offence under this Act.

(5) The Director may, if the Director intends to recommend the deportation of a person convicted of a criminal offence, detain the person in such place and for such period, not exceeding seven days as the Director may direct, save that a

person to whom the Board has granted permanent residence shall not, while the person continues to enjoy the benefit of the grant, be subject to a deportation order.

(6) Where a person who claims to have an interest in a vehicle or vessel applies to a court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the vehicle or vessel unless the person has been given an opportunity to show cause why the order should not be made.

Register of non-Caymanians

106. There shall be provided and maintained by the Director, under the direction of the Cabinet, a central register of persons who are not Caymanian, in which there shall be registered such particulars and in such form as may be prescribed.

Application of other laws

107. Nothing contained in this Part shall affect the duty of a person to comply with the laws affecting customs and border control, quarantine, public health and statistics, or with an order of the Cabinet, a court of law or a constable in the execution of that person's duty.

Establishment of stop list

108. (1) There continues to be established by the Director a stop list in which shall be recorded the name of any person known to come within a category of section 109.

(2) The Director may cause copies of the stop list or notification of the entry in or removal therefrom of any name to be given to the local agent of vessels arriving in the Islands and to travel agencies.

Prohibited immigrants

109. The following persons, not being Caymanian or permanent residents, are prohibited immigrants —

(a) a destitute person;

(b) a person who is mentally disordered or mentally defective as defined in the *Mental Health Act (2021 Revision)*, or suffers from epilepsy, not controlled by medication, unless in any such case the person, a person accompanying that person or some other person gives security to the satisfaction of the Director for that person's permanent support in the Islands or for that person's removal from the Islands whenever required by the Director;

(c) a person certified by a Health Officer to be suffering from a communicable disease that makes the person's entry into the Islands dangerous to the community;

(d) a person who is reasonably believed to be a prostitute, to have come to the Islands for the purpose of prostitution or to be living on or receiving or to have lived on or received the proceeds of prostitution;

(e) a person who has previously been deported, removed or repatriated from the Islands;

(f) a member of a class of persons deemed by the Cabinet on economic grounds or on account of standard or habit of life to be undesirable immigrants and so declared by Order published in the Gazette;

(g) a person who, from information or advice which, in the opinion of the Cabinet, is reliable information or advice, is deemed by the Cabinet to be an undesirable inhabitant of or visitor to the Islands; or

(h) a person who, not having received a free pardon, has been convicted in any country of an offence for which a sentence of imprisonment of or exceeding twelve months has been passed otherwise than for non-payment of a fine.

Student visas

110. (1) Subject to section 94(2), a student shall not attend an educational institution in the Islands unless that person is a student to whom a student visa has been issued.

(2) Leave to land may be granted for the duration of the student's course, but leave to remain shall not be granted for a period in excess of four years.

(3) Unless the context otherwise requires, a reference to the Director in relation to the granting, extending, varying or revoking of a student visa shall be construed as including a reference to anyone specifically designated by the Director to perform those duties.

(4) A student may apply to the Director for a student visa on the prescribed form accompanied by the prescribed fee and any required documentary evidence.

(5) Any of the powers conferred upon the Director under subsections (7) and (8) may be delegated by the Director to an officer of the rank of Assistant Director or above.

(6) The Director or the Director's designate in considering an application under this section shall, subject to any general directions that the Cabinet may, from time to time, give in respect of the consideration of such application, take particularly into account the following matters —

(a) the character, reputation and health of the applicant and the applicant's dependants, if any;

(b) whether the applicant intends to leave the Island at the end of the applicant's studies;

(c) the sufficiency of the applicant's financial resources and the applicant's ability adequately to maintain the applicant's dependants without recourse to public funds;

(d) the quality of the living accommodation available to the applicant and the applicant's dependants, if any;

(e) the applicant's proficiency in the use of the English language;

(f) whether the applicant intends to engage in business or take up employment, other than unpaid student work undertaken in connection with the intended course of study; and

(g) whether, from information available to the Director regarding the applicant's conduct and associations, the refusal of the application would be conducive to the public good.

(7) The Director or the Director's designate —

(a) may grant, refuse, or defer the application either unconditionally or subject to such conditions as the Director or the Director's designate may think fit; and

(b) where the application is granted, may extend, revoke, vary or modify the student visa.

(8) The holder of a four-year student visa may apply to the Director in the prescribed manner for an extension of stay as a student, which extension, if granted, shall be limited to twelve months.

(9) An applicant under subsection (6) shall satisfy the Director or the Director's designate that —

(a) the applicant was admitted to the Cayman Islands as a student;

(b) the applicant has continued to meet the requirements of such admission;

(c) the applicant has been regular in attendance during the course that the applicant has already begun and any other course for which the applicant was enrolled in the past; and

(d) the applicant has made satisfactory progress in the applicant's course of study and has been successful in the applicant's examinations.

(10) Every educational institution shall —

(a) make available to the Director or the Director's designate, upon request, information concerning the non-Caymanians enrolled at that institution; and

(b) await receipt of a copy of the student visa from the Director or the Director's designate before enrolling the student at the institution.

(11) The holder of a student visa may not engage in gainful occupation in the Islands other than unpaid student work undertaken in connection with the student's course of study.

(12) Notwithstanding anything contained in this section, a child entering the Islands for the express purpose of adoption proceedings shall, with the express permission of the Director, be allowed to remain and attend school in the Islands.

Requirement for mandatory vaccinations for persons under this Part[20]

110A.(1) Subject to section 110B, a person to whom the sections specified in subsection (2) apply, in addition to any documentary evidence, information or prescribed fee required, shall provide the Cabinet or the Director, as applicable, with —

(a) a vaccination certificate relating to that person;

(b) in the case of a person who has been vaccinated with a vaccine course which is not an approved vaccine course, a declaration which is signed by the person and which states that the person will comply with any directions of the Medical Officer of Health given with regard to vaccination; or

(c) in the case of an unvaccinated person —

(i) a declaration which is signed by the person and which states that —

(A) in the case of a person applying to land in, enter into or attend an educational institution in the Islands, the person will complete an approved vaccine course and provide the Cabinet or the Director, as applicable, with a vaccination certificate —

(AA) within forty days of being granted permission to land in, enter into or attend an educational institution in the Islands;

(BB) within forty days of the date of the person's landing in or entry into the Islands; or

(CC) within such other period as directed by the Medical Officer of Health;

(B) in the case of a person applying to remain in the Islands, the person will complete an approved vaccine course and provide the Cabinet or the Director, as applicable, with a vaccination certificate within forty days of being granted permission to remain in the Islands or within such other period as directed by the Medical Officer of Health; and

(C) the person will comply with any directions as are provided by the Medical Officer of Health with regard to vaccination; or —

(ii) a medical certificate.

(2) The sections to which subsection (1) relates are as follows —

(a) section 90; and

(b) section 110.

(3) Subject to section 110B, the Cabinet or the Director, as applicable, shall not consider an application under any of the sections specified in subsection (2), if the application is not accompanied by —

(a) a vaccination certificate;

(b) a declaration referred to under subsection (1)(b) or (c)(i); or

(c) a medical certificate,

as applicable.

(4) Where a person referred to under subsection (1), unless otherwise exempted in accordance with subsection (1)(c)(ii) or section 110B, fails —

(a) to complete an approved vaccine course in accordance with subsection (1)(c)(i)(A) or (B); or

(b) to comply with any directions as are provided by the Medical Officer of Health with regard to vaccination in accordance with subsection (1)(b) or (c)(i)(C),

the Cabinet or the Director, as applicable, shall revoke the relevant permission to land in, enter into, remain in or attend an educational institution in the Islands.

Exemptions by the Medical Officer of Health[21]

110B.(1) A person to whom the sections specified in section 110A(2) apply is not required to provide a vaccination certificate, a declaration or a medical certificate where the Medical Officer of Health grants an exemption to the person from the requirement to provide such vaccination certificate, declaration or medical certificate on the grounds that an emergency situation or an exceptional circumstance exists.

(2) A person who is exempted in accordance with subsection (1) shall comply with any conditions imposed by the Medical Officer of Health when granting an exemption.

(3) Where the Medical Officer of Health exempts a person in accordance with subsection (1), the Medical Officer of Health shall notify the Cabinet of —

(a) the grant of the exemption;

(b) the nature of the exemption; and

(c) the person to whom the exemption has been granted.

(4) The Medical Officer of Health, at least once every three months, shall provide the Cabinet with a report on any exemptions granted under this section.

(5) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of two years, or to both.

PART 7 – ASYLUM

Application for asylum

111. (1) A person who is in legal custody under section 99(1) or a person to whom permission to remain in the Islands has been granted under section 94(1) or 99(2) may apply to the Director for asylum, and in considering such application the Director shall have regard to the Refugee Convention and any directions given by the Cabinet relating to asylum applications.

(2) For the purposes of this Part, a person is eligible to apply for asylum if —

(a) the person is at least eighteen years of age or is an unaccompanied minor;

(b) the person is in the Islands; and

(c) the application for asylum has been made by a person at a place designated by the Cabinet.

(3) A person specified under subsection (4) may also apply for asylum for the person's dependant children under eighteen years of age that are with the person in the Islands.

(4) A person whose application under subsection (1) has been successful shall be granted leave to remain indefinitely in the Islands and the right to work for any employer in any occupation.

(5) The Director may revoke a person's indefinite leave granted under this section if someone of whom the person is a dependant ceases to be a refugee as a result of —

(a) voluntarily availing themselves of the protection of that person's country of nationality;

(b) voluntarily acquiring a lost nationality;

(c) acquiring the nationality of a country other than the Cayman Islands and availing themselves of its protection; or

(d) voluntarily establishing themselves in a country in respect of which that person was a refugee.

(6) A person whose application for asylum has been refused may appeal to the Refugee Protection Appeals Tribunal, within fourteen days of the person being notified of the decision, against the refusal on the grounds that requiring the person to leave the Islands would be contrary to the Refugee Convention.

(7) Neither an applicant for asylum nor an appellant against the decision of the Director shall be required to leave the Islands pending the outcome of the person's application or appeal; and, for the purposes of this section, an application or appeal is pending —

(a) beginning on the date when it is submitted or instituted; and

(b) ending on the date when the applicant or appellant —

(i) is formally notified of the outcome of the application or appeal; or

(ii) withdraws or abandons the application or appeal.

(8) Where an application is made for asylum, it shall be recorded by the Director who, if satisfied that the application was made as soon as reasonably practicable after the applicant's arrival in the Islands, shall —

(a) on being satisfied that for obvious and compelling reasons the applicant cannot be returned to the person's country of origin or nationality, grant the person exceptional leave to remain in the Islands; and

(b) make arrangements for the person's support, accommodation and upkeep.

(9) The grant of exceptional leave under this section —

(a) does not confer on the grantee any right to gainful occupation in the Islands; and

(b) may be revoked, varied or modified by the Director.

(10) Where an applicant under this Part is to be deported to a country of which the person is a national or citizen and —

(a) the person does not possess a passport or other travel document; and

(b) the country to which the person is to be deported requires the Director to provide identification data in respect of the applicant as a condition of the admission of the applicant to that country,

the Director shall provide the requested data but shall not disclose whether the applicant had sought asylum.

(11) The Cabinet's deportation order in respect of a person who has been refused asylum may require the master of a vessel —

(a) to remove the person from the Islands; and

(b) to bear the cost of such removal, including the cost of providing escorts to and from the receiving country.

(12) Where a person who has applied for or intends to apply for asylum is desirous of voluntarily leaving the Islands for a country in which the person hopes to take up residence, the Director may render to that person —

(a) advice and other help in relation to the person's proposed journey; and

(b) financial assistance to defray the cost of the person's travel and upkeep.

(13) For the purposes of this Part, the Cabinet may give directions to the Director in relation to the consideration of applications for asylum and promulgate rules for the hearing of appeals under subsection (6), and such directions and rules shall be published in the Gazette.

Refugee Protection Appeals Tribunal

112. (1) There continues to be established a Refugee Protection Appeals Tribunal ("the Tribunal") for the purpose of hearing appeals from decisions by the Director to refuse applications for asylum under this Part.

(2) The Tribunal shall consist of a chairperson, a deputy chairperson and three other members, all of whom shall be appointed by, and hold office at the pleasure of the Cabinet.

(3) The chairperson shall be an attorney-at-law of at least seven years' call to the bar and the deputy chairperson shall be an attorney-at-law of at least five years' call to the bar.

(4) The Cabinet shall appoint a secretary to the Refugee Protection Appeals Tribunal to record and keep all minutes of the meetings, proceedings and decisions of the Tribunal and who shall have no right to vote.

(5) The Tribunal under this section shall meet on such occasions as, in the opinion of the chairperson, may be necessary or desirable to ensure an efficient and timely disposal of appeals.

(6) Any member of the Refugee Protection Appeals Tribunal who, without obtaining the prior written permission of the chairperson, is absent from more than two out of five consecutive meetings of that Tribunal shall cease to be a member of the Tribunal.

(7) In the temporary absence of the chairperson or in the event of the chairperson's inability to act, the deputy chairperson shall act as chairperson and exercise all the powers and functions of chairperson including the convening of meetings.

(8) At every meeting of the Refugee Protection Appeals Tribunal —

(a) it shall reach its decisions by a majority of the votes of members present and voting;

(b) the chairperson or presiding member shall have no original but only a casting vote; and

(c) three members present shall form a quorum.

(9) Where a member of the Refugee Protection Appeals Tribunal has a personal or pecuniary interest, direct or indirect, in any matter which is to be determined by the Refugee Protection Appeals Tribunal, the member shall, if present at the meeting at which such matter is to be determined, as soon as possible after the commencement thereof, disclose the fact and leave the meeting.

(10) Subject to subsections (5) through (9), the Refugee Protection Appeals Tribunal shall have power to regulate its own procedure.

Remuneration of members of the Refugee Protection Appeals Tribunal; immunity; confidentiality

113. (1) Those members of a Refugee Protection Appeals Tribunal who are not public officers shall receive such remuneration in respect of each meeting attended, and the chairperson and deputy chairperson shall receive such additional remuneration, as may be determined, from time to time, by the Cabinet.

(2) Every member of the Refugee Protection Appeals Tribunal shall be personally indemnified against all claims, damages, costs, charges or expenses incurred by the member in the discharge or purported discharge of the member's functions or duties under this Act except claims, damages, costs, charges or expenses caused by the member's bad faith.

(3) The fact and any particulars of, or relating to, any matter falling for consideration by, or the decision of, the Refugee Protection Appeals Tribunal shall be treated as confidential by each member of the Tribunal and the member shall not disclose any such fact or particular otherwise than in the proper performance of the member's duties under this Act or in compliance with the order of a court of competent jurisdiction.

(4) The failure of any member to comply with subsection (3) —

(a) is an offence; and

(b) constitutes a sufficient ground for the termination of the member's appointment.

(5) Any allegation of a breach of subsection (3) shall be fully investigated by a constable of the rank of Inspector or above.

Procedure for appeals

114. (1) Appeals under section 111(6) shall be by notice in writing addressed to the Secretary of the Refugee Protection Appeals Tribunal and the notice shall set out the decision against which the appeal is made and be accompanied by a copy of the original application which is the subject of the appeal and a copy of the Director's decision.

(2) Any correspondence to the appellant —

(a) by post, shall be deemed to have been received no later than seven days from the date of dispatch; or

(b) by electronic mail, shall be deemed to have been received no later than twenty-four hours after its transmission.

(3) The Refugee Protection Appeals Tribunal shall notify the Director of the decision being appealed against within seven days of receipt of a notice of appeal.

(4) The Director shall deliver to the Refugee Protection Appeals Tribunal and the appellant the reasons for the decision being appealed against within a reasonable period of receipt of the notification under subsection (3).

(5) Upon receipt of the reasons, the appellant shall, within fourteen days, file the details of the grounds of appeal and serve a copy on the Director.

(6) Upon receipt of the appellant's detailed grounds of appeal, the Director may, within fourteen days, provide a written defence which shall be filed with the Refugee Protection Appeals Tribunal and served on the appellant.

(7) Upon receipt by the Refugee Protection Appeals Tribunal of the appellant's detailed grounds of appeal under subsection (5), the Tribunal may request additional information or further particulars from the appellant.

(8) The period within which —

(a) the detailed grounds of appeal shall be filed under subsection (5); and

(b) the Director may file a written defence under subsection (6),

may be extended by the chairperson of the Refugee Protection Appeals Tribunal at the written request of the appellant or the Director for good reason shown.

(9) Upon receipt of the appellant's detailed grounds of appeal, including any additional information or further particulars requested from the appellant, and upon receipt of the Director's written defence, if any, the Refugee Protection Appeals Tribunal shall proceed with the hearing of the appeal.

(10) At the hearing of an appeal, the parties may appear before the Tribunal in person or be represented.

(11) There shall be no fee payable for an appeal under section 111.

(12) The Refugee Protection Appeals Tribunal shall provide an appellant under this Part with a decision within seven days of the conclusion of the hearing of an appeal.

Appeals from decisions of the Refugee Protection Appeals Tribunal

115. An appeal may be made to the Grand Court from a decision of the Refugee Protection Appeals Tribunal on a point of law only.

Limitation on right to appeal under section 111

116. Section 111 does not entitle a person to appeal against a refusal of an application if —

(a) the Cabinet has certified that the appellant's departure and exclusion from the Islands would be in the interest of national security; or

(b) the reason for the refusal was that that person was a person to whom the Refugee Convention did not apply by reason of Article 1(F) of that Convention,

and the Cabinet has certified that the disclosure of material on which the refusal was based is not in the interest of national security.

Helping asylum-seeker to enter the Islands

117. (1) A person who —

(a) knowingly and for gain, facilitates the arrival in the Islands of an individual; and

(b) knows or has reasonable cause to believe that the individual intends to apply for asylum under section 111(1),

commits an offence.

(2) Subsection (1) does not apply to anything done by a person acting on behalf of an organisation which —

(a) aims to assist individuals seeking asylum pursuant to the Refugee Convention; and

(b) does not charge for its services.

PART 8 – DEPORTATION

Non-application of this Part with respect to Caymanians

118. Nothing in this Part shall apply or have effect so as to authorise or empower the making of a deportation order in respect of a Caymanian or a person who is entitled to remain permanently in the Islands.

Report preliminary to deportation order

119. (1) A deportation order shall not be made under this Act, otherwise than in the case of —

(a) a convicted and deportable person;

(b) a person who has been convicted of an offence contrary to section 105; or

(c) a person who has been sentenced in the Islands to imprisonment for not less than six months,

unless a magistrate shall have reported on the case and the Cabinet, having had regard to the findings of fact and conclusions of law and any recommendation contained in such report, is satisfied that such order may properly be made.

(2) Where it is intended to take proceedings against any person for the purpose of obtaining a report under subsection (1), a notice shall be served upon the person —

(a) giving the person reasonable information as to the nature of the facts alleged against the person;

(b) giving the grounds upon which it is alleged that a deportation order should be made;

(c) requiring the person to show cause why such order should not be made; and

(d) naming the time and place for the person's appearance before a summary court in that behalf,

and if such person should fail to appear at the time and place so named, the court may issue a warrant for the person's arrest.

(3) In every proceeding under subsection (2), the court shall take such evidence on oath of the parties (who may be represented by counsel) and their witnesses as may be tendered in chief and upon cross-examination and re-examination and, after considering the evidence adduced before it and making any further investigations which it may consider to be desirable, shall report to the Cabinet setting out its findings of fact, conclusions of law, if any, and making such recommendation as the Cabinet thinks fit.

(4) During the proceedings and pending the decision of the Cabinet, the court, at its discretion, may order the person, the subject of the report, to be detained in legal custody or released on bail.

Power of Cabinet to make, revoke, vary or modify a deportation order and duty to report to Secretary of State

120. (1) Subject to sections 118 and 119, the Cabinet may, if the Cabinet thinks fit, make a deportation order in respect of any person who is —

(a) a convicted and deportable person;

(b) a destitute person;

(c) a prohibited immigrant who has entered the Islands contrary to this or any earlier law;

(d) a person whose permission to land and to remain or reside in the Islands or any extension thereof has expired or has been revoked and who fails to leave the Islands; or

(e) a person whose application for asylum has been refused under section 111.

(2) Where the Cabinet considers that a person is an undesirable person, or that the person's presence in the Islands is not conducive to the public good, the Cabinet may make a deportation order in respect of such person.

(3) The Cabinet —

(a) may, at any time, revoke a deportation order and may vary or modify its terms so as to permit the person in respect of whom it is made, to enter and land in the Islands for such purpose and subject to such conditions as may be specified; and

(b) shall report any deportation order made, varied or modified by the Cabinet, to the Secretary of State for Foreign and Commonwealth Affairs.

Form of deportation order

121. A deportation order shall be in such form as the Cabinet may approve.

Service of deportation order and power to detain deportees

122. (1) A deportation order shall be served upon the person to whom it is directed, by any officer or constable.

(2) A person in respect of whom a deportation order is made or a certificate is given by a court with a view to the making of a deportation order may be detained in such manner and in such place as may be directed by the Cabinet and may be placed on board a vessel about to leave the Islands, and shall be deemed to be in lawful custody while so detained and until the vessel finally leaves the Islands.

(3) Notwithstanding subsection (2), a person who has been convicted of an offence and against whom a deportation order may be made may, whether before or after the making of such order, be allowed to leave the Islands voluntarily, with the permission of the Director and under the supervision of an officer or constable, and that person shall be deemed to be in legal custody while the person is under such supervision.

Duty to comply with deportation order

123. (1) Subject to section 122(3), a person in respect of whom a deportation order is made shall leave the Islands in accordance with the terms of the order, and shall thereafter, so long as the order is in force, remain out of the Islands.

(2) A person who contravenes subsection (1) commits an offence.

(3) A person who returns to the Islands in contravention of a deportation order commits an offence and may again be deported under the original order, and section 122(2) shall apply accordingly in respect of such person.

Duty to afford transportation of deportee to a place outside the Islands

124. (1) The master of a vessel about to call at any place outside these Islands shall, if so required by the Cabinet or by an officer, receive a person against whom a deportation order has been made and that person's dependants, if any, on board the vessel, and shall afford the person and them a passage to that place and proper accommodation and maintenance during the journey.

(2) A person who contravenes subsection (1) commits an offence.

(3) The Cabinet may apply any money or property of a person against whom a deportation order has been made in payment of the whole or any part of the expenses of or incidental to the journey from the Islands and of the maintenance, until departure, of such person and that person's dependants, if any.

(4) Except so far as they are defrayed under subsection (3), any such expenses shall be payable out of public funds.

Harbouring deportee

125. A person who, without lawful excuse, knowingly harbours or conceals any person who is in the Islands in contravention of a deportation order commits an offence.

Arrest of person contravening, etc., this Part

126. A person who acts in contravention of this Part or is reasonably suspected of having so acted or being about so to act, may be taken into custody without warrant by an officer or constable.

Evidence in proceedings taken under this Part

127. In any proceedings taken under, or in connection with, this Part —

(a) the burden of proof that a person charged is exempted from the application of this Part by virtue of section 118 shall be upon such person;

(b) any document purporting to be a deportation order shall, until the contrary is proved, be presumed to be such an order; and

(c) any deportation order shall be presumed, until the contrary is proved, to have been validly made and to have been made on the date upon which it purports to have been made.

Proceedings to be sanctioned by the Director of Public Prosecutions

128. No proceedings shall be instituted under this Part except by the Director of Public Prosecutions or with the Director of Public Prosecutions' previous sanction in writing.

PART 9 – GENERAL

Expenses of implementing Customs and Border Control requirements

129. All expenses incurred in the handling, moving and dealing with goods for the purpose of enabling officers to carry out their duties shall be borne by the owners of such goods, and Customs and Border Control shall be under no obligation to provide instruments or apparatus for the purpose of weighing, measuring, assessing or otherwise dealing with such goods for Customs and Border Control purposes.

Bonds and security

130. (1) Without prejudice to any express requirement as to security contained in this Act, the Director may, if the Director thinks fit, require any person to give security by bond or otherwise for the observance of any condition imposed by Customs and Border Control.

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

(a) shall be taken on behalf of the Minister charged with responsibility for finance under section 54 of Schedule 2 to the *Cayman Islands Constitution Order 2009 [UKSI 1379/2009]*;

(b) shall be valid, notwithstanding that it is entered into by a person under the age of eighteen years; and

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

Electronic notices by Customs and Border Control

131. (1) This section applies to a document that may, under this Act, be given by Customs and Border Control to a person for a purpose under this Act, including a notice of a required form or particulars.

(2) The document may be given to the person by giving it electronically to an electronic address if any of the following has, from that address, electronically communicated with Customs and Border Control for any purpose of this Act —

(a) the person;

(b) someone else who had, or had apparently, been, authorised by the person to communicate with the Customs and Border Control on the person's behalf; or

(c) the person's electronic agent as defined under section 2 of the *Electronic Transactions Act (2003 Revision)*.

(3) If there has been more than one such electronic address for a person mentioned in subsection (2), the document can only be given to the one that the person most recently used to communicate with Customs and Border Control.

(4) This section extends, and does not limit or otherwise affect, the application of the *Electronic Transactions Act (2003 Revision)* to this Act.

Evidentiary provisions

132. (1) In a proceeding relating to this Act, a certificate signed, or purporting to be signed, by the chief officer stating any or all of the following is evidence of that matter —

(a) that a stated document is a copy of a document given under this Act;

(b) that on a stated day the person stated in the document as its recipient was given the document;

(c) that a stated electronic address in a stated document was, when its recipient was given the document, an electronic address under section 131 for the giving of documents to the recipient;

(d) that a stated document was given to its recipient at a stated time;

(e) that a stated form of document, manner of giving a document or particulars required for a document or report was notified by Customs and Border Control at a stated time and in a stated way; and

(f) that a stated document is a copy of a post that appeared on the Customs and Border Control website on a stated day or during a stated period.

(2) For section 17 of the *Electronic Transactions Act (2003 Revision)*, a certificate under subsection (1)(c) is evidence that a document was electronically given to the recipient at the stated time.

General regulations

133. (1)[22] The Cabinet may make regulations for the following purposes —

(a) providing for scales of fees or charges to be levied under section 7(1)(c)(i) and (ii) and in respect of the removal, handling, storage and sale of goods under sections 30, 31 and 32;

(b) providing for fees or charges to be levied in respect of any matter for which fees are required including in respect of the processing of an application for the approval of a place of security as a bonded warehouse or an application for the variation of any such approval;

(ba) any matter or thing relating to mandatory vaccination under this Act;[23]

(c) any matter or thing required to be prescribed under this Act; and

(d) generally for giving effect to this Act.

(2)[24] Regulations made under this section may prescribe that the contravention of the regulations constitutes an offence for which the person is liable —

(a) on —

(i) summary conviction, to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both; and

(ii) conviction on indictment, to a fine of fifteen thousand dollars or to imprisonment for a term of three years, or to both; or

(b) to an administrative penalty, of a fine not exceeding ten thousand dollars.

(3) Regulations made under this section may also prescribe that the contravention of the regulations constitutes an offence and the goods, in respect of which the offence was committed, are liable to forfeiture.[25]

Repeal

134. (1) The *Customs Act (2017 Revision)* is **repealed**.

(2) Parts VI, VII, VIII of the *Immigration Act (2015 Revision)* are **repealed**.

Transitional provisions

135. (1) Until regulations are made under this Act to provide for a matter that may be prescribed, the regulations made under the *Customs Act (2017 Revision)* and those under the *Immigration Act (2015 Revision)* which may relate to Parts VI, VII, VIII that are in force immediately before the commencement of this Act or the repeal of that Act shall have effect until expressly repealed by this Act or by regulations made under this Act.

(2) Where prior to the commencement of this Act an appeal relating to an application for asylum was filed and has not been determined on the date of the commencement of this Act the appeal shall be dealt with as if this Act had not come into force.

(3) Any application made before the commencement of this Act which is not determined on the date of commencement shall be dealt with as if this Act had not come into force.

(4) All proceedings in respect of offences committed or alleged to have been committed against the *Customs Act (2017 Revision)*, all proceedings in respect of offences committed or alleged to have been committed against Parts VI, VII, VIII of the *Immigration Act (2015 Revision)*, all other types of proceedings which may relate to the *Customs Act (2017 Revision)*, and all other proceedings which may relate to Parts VI, VII, VIII of the *Immigration Act (2015 Revision)* which have not been determined on the date of the commencement of this legislation shall be continued and dealt with as if this legislation had not come into force.

Transition of public officers to staff of the Customs and Border Control

136. (1) A person who is appointed or purported to be appointed prior to the date of the commencement of this Act as a public officer of the Customs and Border Control shall be deemed on that date to have been lawfully appointed and shall continue to be appointed under this Act, subject to the *Public Service Management Act (2018 Revision)*.

(2) A person who is appointed or purported to be appointed prior to the date of the commencement of this Act to the post of Director shall be deemed, on that date, to have been lawfully appointed and shall continue to be appointed under this Act, subject to the *Public Service Management Act (2018 Revision)*.

Schedule 1[26]

(section 71A(1) and (2))

Administrative Offences

Description of administrative offence	Administrative Penalty
1. Making a false declaration or false disclosure in respect of money being transported into or exported out of the Islands	A fine of up to the value of the difference between the amount declared and the total amount being carried

Schedule 2[27]

(section 71A(2))

Form of Ticket

FRONT OF TICKET

Ticket Number:	Time:

Date:	Name of Individual: _____
Location: _____	

List of administrative offences

No.	Description of administrative offences	Administrative penalty	Tick relevant box and state particular provision
1	Making a false declaration or false disclosure in respect of money being transported into or exported out of the Islands	A fine of up to the value of the difference between the amount declared and the total amount being carried	□

I, the undersigned customs and border control officer, have reason to believe that _____ has committed the following
(Name of person)
administrative offence described in the second column with the respective administrative penalty in the third column —

_____

the facts being that _____

_____

_____

_____

(Provide a summary of the facts of the offence and the provision contravened)

Time and place at which administrative offence committed:

_____

_____

This administrative offence carries an administrative penalty of $_____

The person to whom this ticket is served —

(a) may pay the administrative penalty prior to the _____ day of _____ 20_____;

(b) may enter a plea of "not guilty" up to twenty-eight days after being served and indicate now an intention to plead "not guilty" by ticking box □; or

(c) upon non-payment, shall attend the Summary Court:

(i) in Grand Cayman, at 10 am on Tuesday, _____20_____; or

(ii) in Cayman Brac, at 10 am on Thursday, _____20 _____.

I am an officer authorised by the Customs and Border Control Service and I certify that I served this ticket on the person named on the date and time stated above.

_____ _____

(Name of Officer) *(Signature)*

Criminal proceedings shall not commence until the expiration of the time specified in the ticket, not being less than thirty-eight days after being served with this ticket. If you fail to pay the administrative penalty or to attend court, a warrant of arrest may be issued and you may be kept in custody until you can be brought before the court.

PLEASE SEE BACK OF TICKET

BACK OF TICKET

PLEASE READ CAREFULLY

1. PAYMENT

You may discharge liability to conviction by delivering a copy of this ticket and the total amount of the penalty set out in this ticket to the Customs and Border Control Service at the address indicated below prior to the date set out at paragraph (a) on the front of the ticket, being twenty-eight days after the service of this ticket.

Payments may be made in cash. Payments by cheque or by money order are to be made payable to the Cayman Islands Government. *Please print the ticket number on the front of the cheque or money order.*

2. PLEA OF NOT GUILTY

If you wish to plead not guilty, deliver a copy of the ticket to the Clerk of the Court within twenty-eight days of being served with this ticket. You must attend court on the date given at paragraph (c) on the front of the ticket. You may deliver the copy of the ticket to the Clerk of the Court —

(i) where the ticket is served in Grand Cayman by taking a copy of the ticket to the Criminal Registry at the court, George Town on any working day between 9 am and 3 pm**;** or

(ii) where the ticket is served in Cayman Brac or Little Cayman, by taking a copy of the ticket to the Customs and Border Control Service at one of the addresses below.

3. FAILURE TO PAY

Consequent on your failure to pay the administrative penalty specified in paragraph (a) or to enter a plea under paragraph (b), you are summoned to appear, where served in Grand Cayman in the Summary Court at George Town, or where served in Cayman Brac or Little Cayman, in the Summary Court in Cayman Brac at 10:00 a.m. on the date set out at paragraph (c) on the front of the ticket.

If you fail to appear, the magistrate may issue a warrant of arrest to compel your attendance. The date of the hearing shall be no less than thirty-eight days after the service of the ticket.

NOTICE **This ticket may be used as evidence of the Customs and Border Control Service.**
Submit or send payment to: The Customs and Border Control Service at Owen Roberts International Airport in the case of Grand Cayman or the Charles Kirkconnell International Airport in the case of Cayman Brac or Little Cayman **Hours of operation :** 6:00 am to 10:00 pm **OR** **Submit or send payment to:** The Customs and Border Control Service at P.O.Box 898, 42 Owen Roberts Drive, Grand Cayman, KY1-1103 or at P.O.Box 240 District Administration Building in Cayman Brac or Little Cayman **Hours of operation :** 8:30 am to 5:00 pm

Publication in consolidated and revised form authorised by the Cabinet this 11th day of January, 2022.

Kim Bullings
Clerk of the Cabinet

ENDNOTES

Table of Legislation history:

SL #	Law/Act #	Legislation	Commencement	Gazette
	1/2021	Customs and Border Control (Amendment) Act, 2021	14-Oct-2021	LG56/2021/s1
		Customs and Border Control Act (2021 Revision)	22-Jan-2021	LG7/2021/s6
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
	35/2020	Civil Partnership Law, 2020	4-Sep-2020	LG64/2020/s1
	13/2020	Customs and Border Control (Amendment) Law, 2020	28-Apr-2020	LG30/2020/s4
1/2020		Customs and Border Control (Amendment) Law, 2019 (Commencement) Order, 2020	5-Feb-2020	LG7/2020/s1
	28/2019	Customs and Border Control (Amendment) Law, 2019	10-Feb-2020	LG1/2020/s2
2/2019		Customs and Border Control Law, 2018 (Commencement) Order, 2019	23-Jan-2019	GE6/2019/s3
	34/2018	Customs and Border Control Law, 2018	1-Feb-2019	GE97/2018/s9

Table of Endnote references:

[1] *S.2*	*amended by s.2 of Act 1 of 2021*
[2] *S.2*	*inserted by s.2 of Law 28 of 2019*
[3] *S.2*	*inserted by s.2 of Law 28 of 2019*
[4] *S.2*	*amended by s.2 of Act 1 of 2021*
[5] *S.2*	*amended by s.2 of Act 1 of 2021*
[6] *S.2*	*amended by s.2 of Act 1 of 2021*
[7] *S.2*	*amended by s.2 of Act 1 of 2021*
[8] *S.2*	*inserted by s.2 of Law 13 of 2020*
[9] *S.12(6)*	*inserted by s.3 of Law 28 of 2019*
[10] *S.12(7)*	*inserted by s.3 of Law 28 of 2019*
[11] *S.12(8)*	*inserted by s.3 of Law 28 of 2019*
[12] *S.71A*	*inserted by s.4 of Law 28 of 2019*
[13] *S.71B*	*inserted by s.4 of Law 28 of 2019*
[14] *S.71C*	*inserted by s.4 of Law 28 of 2019*
[15] *S.71D*	*inserted by s.4 of Law 28 of 2019*
[16] *S.71D*	*inserted by s.4 of Law 28 of 2019*
[17] *S.80(1)*	*amended by s.6 of Law 28 of 2019*
[18] *S.80(2)(d)*	*amended by s.6 of Law 28 of 2019*
[19] *S.94(2)*	*amended by s.3 of Act 1 of 2021*
[20] *S.110A*	*inserted by s.4 of Act 1 of 2021*
[21] *S.110B*	*inserted by s.4 of Act 1 of 2021*
[22] *S.133(1)*	*amended by s.7 of Law 28 of 2019*
[23] *S. 133(ba*)	*inserted by s.5 of Act 1 of 2021*
[24] *S.133(2)*	*inserted by s.7 of Law 28 of 2019*
[25] *S.133(3)*	*inserted by s.7 of Law 28 of 2019*
[26] *Sch 1*	*inserted by s.8 of Law 28 of 2019*
[27] *Sch 2*	*inserted by s.8 of Law 28 of 2019*

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