FALKLAND ISLANDS

Customs Ordinance 2003

(ORDINANCE No. 9 OF 2003)

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[Revision w.e.f. 31/07/2017]

FALKLAND ISLANDS

Customs Ordinance 2003

AN ORDINANCE To repeal and replace the Customs Ordinance (Title 26.1).

[DATE OF COMMENCEMENT: 1ST JULY 2004]
(Unless otherwise indicated)

[In respect of postcards and postal packets, the Ordinance is subject to the modifications set out in the Postal Packets (Customs) Regulations 2004]

PART I
PRELIMINARY

1 Short title and commencement

This Ordinance may be cited as the Customs Ordinance 2003 and shall come into force on such date as the Governor may appoint by notice published in the Gazette.

2 Interpretation

(1) In this Ordinance and for the purposes of any relevant enactment-

"alcohol", except in relation to perfume, means ethyl alcohol;

"approved wharf" means a wharf approved pursuant to section 14;

"armed forces" means the Royal Navy, the Royal Marines, the regular army and the regular air force, and any reserve or auxiliary force of any of those services which has been called out on permanent service, or called into actual service, or embodied;

"assigned matter" means any matter in relation to which the Collector of Customs is for the time being required in pursuance of any enactment to perform any duties;

"beer" includes ale, spruce, porter, stout and any liquor which is made or sold as a description of beer or as cider and any other description of beer including worts of beer or of any of the

foregoing, and which in any of the foregoing cases does not contain more than 12% alcohol by volume;

"British ship" has the same meaning as it has for the purposes of the Merchant Shipping Act 1995 in its application to the Falkland Islands;

"case", in relation to dutiable alcoholic liquor, means one dozen units each consisting of a container holding not less than 65 centilitres nor more than 1 litre, or the equivalent of that number of such units made up wholly or partly of containers of a larger or smaller size;

"cider" means cider or perry obtained from the fermentation of apple or pear juice without the addition at any time of any alcoholic liquor or of any liquor or substance which communicates colour or flavour other than such as the Collector allows as appearing to him to be necessary to make cider (or perry);

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

"cleared out of charge", in relation to any goods, means any goods which are no longer subject to customs control by reason of customs formalities having been completed in respect of them and the duty payable in respect thereof (if any) having been paid or secured to the satisfaction of the Collector;

"coasting ship" has the meaning given by section 61;

"Collector" means the person holding office under section 6 as the Collector of Customs, and any Deputy Collector of Customs or customs officer exercising, in accordance with this Ordinance, the powers and duties of the Collector;

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

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

"contravenes" includes fails to comply with;

"customs airport" has the meaning given by section 15(7);

"customs" includes excise;

"customs officer" means any person holding office under section 7 as a customs officer and every police officer and includes the Collector and any Deputy Collector;

"customs resolution" means a resolution of the Legislative Assembly pursuant to section 113 for the time being in force;

[Revision w.e.f. 19/09/2024]

"customs station" has the meaning given by section 15(7);

"drawback" means a refund of all or part of any duty authorized by law;

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

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

"dutiable or restricted goods" has the meaning given by section 44;

"duty" includes both a duty of customs and a duty of excise;

"examination station" has the meaning given by section 16(1);

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

"fortified wine" means any liquor-

(a) which is not within the definitions contained in this subsection of beer, wine, strong liquor or spirituous beverage, and

(b) which contains more than 15% alcohol by volume but does not contain more than 22% alcohol by volume,

"goods" includes stores and baggage and all kinds of goods, wares, merchandise and live stock;

"gravity", in relation to any liquid (and unless otherwise provided), means the ratio of the weight of a volume of the liquid to the weight of an equal volume of distilled water, the volume of each liquid being computed at 20ºC, and where the gravity of any liquid is expressed as a number of degrees that number is the said ratio multiplied by 1000;

"importer", in relation to any goods at any time between their importation and the time when they are delivered out of charge, includes any owner or other person for the time being possessed of or beneficially interested in the goods and, in relation to goods imported by means of a pipe-line, includes the owner of the pipe-line;

"land" and **"landing"**, in relation to an aircraft, include alighting on water;

"liquor" means any liquor containing more than 2% alcohol by volume and which has not been rendered impotable by denaturing (that is to say, by the addition thereto of methanol or any other nauseous substance);

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

"methylated spirits", in the case of methylated spirits imported from the United Kingdom or spirits mixed in the Falkland Islands means spirits mixed with some other substance in accordance with the law for the time being in force in the United Kingdom in relation to the methylation of spirits;

"night" means the period between 10 p.m. and 6.00 a.m.;

"occupier" in respect of bonded premises, includes any person who has given security to the Crown in respect of those premises;

"original gravity", in relation to any liquid in which fermentation has taken place, means its gravity before fermentation;

"other strong liquor" means any liquor-

(a) which is not beer, wine or fortified wine, spirituous beverage or spirits (each as defined in this subsection);

(b) which, if it did not contain more than 12% alcohol by volume would be beer as defined in this subsection; and

(c) which contains less than 22% alcohol by volume;

"perfume" means any mixture of alcohol and essential oils or alcohol and synthetic materials intended, in either case, to be applied to a person, animal or thing to impart a pleasant fragrance to that person, animal or thing:

"port" without prejudice to subsection (2) means a port appointed under section 13;

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

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

"Queen's warehouse" means any place provided by the Crown or appointed by the Collector for the deposit of goods for security thereof and of the duties chargeable thereon;

"relevant enactment" means this Ordinance, any provision of this Ordinance and any other enactment relating to customs and any proclamation or subsidiary legislation, and any resolution made under the authority of any such enactment;

"revenue trader" means-

(a) any person carrying on a trade or business which consists of or includes-

(i) the buying, selling, importation, exportation, dealing in or handling of any goods of a class or description which is subject to duty;

(ii) the financing or facilitation of any such transaction or activities; and

(b) any person who is a wholesaler or an occupier of a warehouse and who is not a revenue trader by virtue of paragraph (a) of this definition;

"ship" and **"vessel"** includes any boat or other vessel whatsoever;

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

"spirit", except in relation to methylated spirits, means any liquor containing more than 22% alcohol by volume;

"spirituous beverage" means any liquor-

(a) in which the majority of the alcohol contained therein is distilled alcohol, and

(b) which does not contain more than 22% alcohol by volume;

"stiffening order" means permission granted by a customs officer to load goods by way of ballast to steady a ship;

"stores" means goods for use in a ship or aircraft, including merchandise for sale by retail to persons carried therein, fuel and spare parts and other articles of equipment, whether or not for immediate fitting;

"strength" in relation to any liquor, means its alcoholic strength computed in accordance with section 122, with the ratio referred to in section 122(2)(c) being computed as a percentage;

"tobacco" includes manufactured and unmanufactured tobacco of every description, including snuff, tobacco stalks and tobacco refuse;

"tons register" means the tons of a ship's net tonnage as ascertained and registered according to the tonnage regulations for the time being in force in relation to ships registered in the Falkland Islands and, in relation to ships not so registered, ascertained in like manner as if it were to be so registered;

"transit goods" means imported goods entered on importation for transit or transshipment;

"transit or transshipment", in relation to the entry of goods, means transit through the Falkland Islands or transshipment with a view to the re-exportation of the goods in question or transshipment of those goods for use as stores;

"transit shed" means a transit shed for the time being approved under section 18(1);

"warehouse", except in the expression "Queen's warehouse" means a place of security approved by the Collector under section 84(1) and "warehoused" and cognate expressions shall, subject to any regulations made by virtue of section 85(2)(e)(i), 85(2)(h) or 85(5) be construed accordingly;

"warehousing regulations" has the meaning given by section 85(1);

"wine" means any liquor-

(a) which is not beer as defined by this subsection and which (but for the limitation by that definition of the percentage of alcohol by volume which a liquor may contain if it is to be beer) would not otherwise be beer as so defined; and

(b) which does not contain more than 15% alcohol by volume;

"worts", in relation to any liquid or liquor, means a liquid or liquor which is unfermented or in the course of fermentation;

(2) Wherever the context so admits, "port" in any provision of this Ordinance includes any place within the Falkland Islands or its territorial sea at which the Collector may permit any ship to load or discharge goods or embark or disembark any person;

(3) Methyl alcohol, notwithstanding that it is so purified or prepared as to be drinkable, shall be deemed not to be spirits, neither shall naphtha or any mixture or preparation containing naphtha or methyl alcohol not containing an admixture of ethyl alcohol.

(4) The gravity of any liquid at any time shall be ascertained by such means as the Collector may approve, and the gravity so ascertained shall be deemed to be the true gravity of the liquid.

(5) Where for any purposes of a relevant enactment it is necessary to ascertain the original gravity of worts in which fermentation has commenced or of any liquid produced from such worts, that gravity shall be determined in such a manner as the Governor may by regulations prescribe.

(6) Different regulations may be made under subsection (5) in relation to different liquids.

(7) Wherever it is provided in this Ordinance that a person commits an offence if he contravenes a provision of this Ordinance, any order or regulation made thereunder or any condition, limitation, or restriction subject to which any approval or authorisation is given under any provision of this Ordinance or any other relevant enactment, as the case may be ("the requirement"), that person commits the same offence if he fails to comply with the requirement.

(8) Where by any provision of this Ordinance it is provided that a person convicted of an offence specified in that provision is liable to a fine of, or not exceeding, the amount specified in the first-mentioned provision or to imprisonment for a term not exceeding that specified therein, a person convicted of such an offence may, if the court sees fit, in respect of one and the same offence be ordered both to pay a fine not exceeding that amount and to a term of imprisonment not exceeding that term.

3 Treatment of goods for use in a ship or aircraft

Subject to section 119 (by which goods for use in naval ships or establishments may be required to be treated as exported), any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein shall be treated for the purposes of the relevant enactments as stores, and any reference in those enactments to the consumption of stores shall, in relation to goods so treated, be construed as referring to the sale thereof as aforesaid.

4 Application to certain Crown aircraft

(1) The provisions of this Ordinance relating to aircraft shall apply to any aircraft belonging to or employed in the service of Her Majesty other than a military aircraft.

(2) In this section "military aircraft" includes naval and air force aircraft and any aircraft commanded by a person in naval, military or air force service detailed for the purpose of such command.

5 Time of importation, exportation, etc.

(1) The time of importation of any goods shall be deemed to be-

(a) where the goods are brought in by sea, the time when the ship carrying them comes within the limits of a port or unloads the goods, whichever is the earlier; or

(b) where the goods are brought in by air, the time when the aircraft carrying them lands in the Falkland Islands or the time when the goods are unloaded in the Falkland Islands, whichever is the earlier.

(2) Subject to subsection (3), the time of exportation of any goods, whether the goods are exported by sea or by air, shall be deemed to be the time when the goods are shipped for exportation.

(3) In the case of goods of a class or description with respect to the exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment which are exported by sea or air, the time of exportation shall be deemed to be the time when the exporting ship or aircraft departs from the last port or customs or excise airport at which it is cleared before departing for a destination outside the Falkland Islands.

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

PART II
ADMINISTRATION

Appointment and duties of Collector of Customs, customs officers, etc.

6 Appointment of Collector of Customs and Deputy Collectors of Customs

(1) The Governor may appoint a person to be the Collector of Customs, who shall have such powers and duties as are conferred upon him by this Ordinance and any other relevant enactment.

(2) Until such time as an appointment is made pursuant to subsection (1) or he ceases for any reason to be a public officer, the person who held office as Collector of Customs at the commencement of this Ordinance shall be the Collector of Customs.

(3) The Governor may appoint a person or persons to be a Deputy Collector of Customs, and except as may otherwise be provided by or under this Ordinance or any other enactment, a Deputy Collector of Customs may exercise any of the powers and duties of the Collector.

7 Appointment of customs officers

(1) The Governor may appoint any person to be a customs officer.

(2) Every police officer and every person at the commencement of this Ordinance holding office as a customs officer under the provisions of the repealed Ordinance shall be deemed to have been appointed to be a customs officer under the provisions of subsection (1).

(3) The Collector may in writing authorize any person in the service of Her Majesty, whether in right of Her Government of the Falkland Islands or in right of Her Government of the United Kingdom, to exercise the powers and duties of a customs officer for such period, and subject to such conditions and limitations, as may be specified by him in writing. A person authorized under this section shall not be entitled, either by reason of that authorization or by the exercise in accordance therewith of any powers or duties of a customs officer, to remuneration payable out of the public funds of the Falkland Islands.

8 Duties of Collector

(1) The Collector shall-

(a) subject to the general control of the Financial Secretary under the provisions of the Finance and Audit Ordinance, collect and account for all revenues of the Falkland Islands by way of customs;

(b) administer, subject to such general or special directions not inconsistent with the provisions of this Ordinance as the Governor may give to him, the provisions of this Ordinance and of every other enactment relating to customs.

(2) All revenues collected pursuant to subsection (1) shall be paid into, and form part of, the Consolidated Fund.

(3) In subsection (1), "revenues of the Falkland Islands by way of customs" includes any sum received under a relevant enactment, including any sum so received by way of excise and any pecuniary penalties or the pecuniary proceeds of any forfeiture, costs, fees or otherwise howsoever.

(4) Any security for money taken by or under the authority of the Collector shall be taken and shall be held for and on behalf of Her Majesty in right of Her Government of the Falkland Islands and in accordance with the general or special directions of the Financial Secretary.

(5) Every Deputy Collector and every customs officer (including every police officer) shall assist the Collector with the performance of his duties under every relevant enactment.

9 Disclosure by the Collector of certain information as to imported goods

(1) The Collector may, if so authorized by the Governor, disclose through such person or persons as the Governor may specify, such information as to which this section applies in respect of imported goods, in respect of imported goods of such descriptions, as may be so specified.

(2) The information to which this section applies is information contained in any document with which the Collector has been provided in pursuance of any relevant enactment, being information of the following descriptions-

(a) the description of the goods, including any maker's catalogue number;

(b) the quantity of the goods imported in a particular period so if any quantity is given by value it shall not also be given in any other form;

(c) the name of the maker of the goods;

(d) the country of origin of the goods;

(e) the country from which the goods were consigned.

(3) The Governor may by order add to the descriptions of information to which this section applies any further description of information contained in any document such as is mentioned in subsection (2) other than the price of the goods or the name of the importer of the goods.

Offences in connection with Collector, Deputy Collectors, customs officers, etc.

10 Unlawful assumption of character of officer

If, for the purpose of obtaining admission to any house or other place or of doing or procuring to be done any act which he would not be entitled to do or procure to be done on his own authority or for any other unlawful purpose, any person falsely assumes the name, designation or character of the Collector, any Deputy Collector or customs officer he commits an offence in respect of which he may be arrested without warrant and is liable on conviction to a fine not exceeding the maximum of level 10 on the standard scale and to imprisonment for two years.

11 Bribery and collusion

(1) A customs officer commits an offence under this section who-

(a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive; or

(b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing whereby Her Majesty is or may be defrauded or which is otherwise unlawful being a thing related to customs,

and a person reasonably suspected of having committed an offence under this subsection may be arrested without warrant.

(2) A person who commits an offence under this section who-

(a) directly or indirectly offers or gives to any customs officer any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward; or

(b) proposes or enters into any agreement with any customs officer,

in order to induce him to do, abstain from doing, permit, conceal or connive at any act or thing whereby Her Majesty is or may be defrauded or which is otherwise unlawful, being an act or thing relating to customs, or otherwise to take any course contrary to his duty, and a person

reasonably suspected of having committed an offence under this section may be arrested without warrant.

(3) A person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 5 on the standard scale.

12 Obstruction of customs officers, etc.

(1) A person commits an offence who-

(a) obstructs, hinders, molests or assaults any person engaged in the performance of any duty or the exercise of any power imposed or conferred on him by any relevant enactment, or any person acting in his aid;

(b) does anything which impedes or is calculated to impede the carrying out of any search for anything liable to forfeiture under any such enactment or the detention, seizure or removal of any such thing;

(c) rescues, damages or destroys any thing so liable to forfeiture or does anything calculated to prevent the procuring or giving of evidence as to whether or not any thing is so liable to forfeiture; or

(d) prevents the arrest of any person by a person duly engaged or acting as aforesaid or rescues any person so arrested,

or who attempts to do any of the aforementioned things.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for two years.

(3) A customs officer may arrest without a warrant any person whom he reasonably suspects to have committed or be committing an offence under subsection (1).

PART III
CUSTOMS CONTROL AREAS

13 Appointment of ports, etc.

(1) The Governor may by order appoint and name as a port for the purpose of customs any area in the Falkland Islands specified in the order.

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

(3) Any port which was a port named or appointed as such, and any boarding station appointed, under the provisions of the repealed Ordinance and, in either case, remaining so named or appointed immediately before the commencement of this Ordinance, shall be deemed to have been appointed and named, or as the case may be appointed, under the provisions of this section.

(4) Save as permitted by the Collector, the master of a ship arriving in the Falkland Islands from a place outside the Falkland Islands or departing from the Falkland Islands shall not cause or permit the ship to load or discharge any goods or embark or disembark any person after its arrival in Falkland Islands waters or before its departure therefrom except at a port.

[S. 2/Ord. 14/04/w.e.f. 13/8/04.]

(5) Save as permitted by the Collector, no person shall depart on a voyage to a destination outside the Falkland Islands from any place in the Falkland Islands other than a port.

(6) Subsection (4) shall not apply in relation to any ship voyaging from or to any place outside the Falkland Islands which is compelled by accident, stress of weather or other unavoidable cause to discharge goods or disembark any person at a place other than a port; but the master of the ship-

(a) shall take all steps within his power to report the landing or disembarkation to a customs officer or police officer at the earliest possible moment; and

(b) shall comply with any directions given by a customs officer with respect to any goods which have been discharged.

[S. 2/Ord. 14/04/w.e.f. 13/8/04.]

14 Approval of wharves

(1) The Collector may approve, for such periods and subject to such reservations and conditions as he thinks fit, places for the loading or unloading of goods of any class or description and the embarkation or disembarkation of passengers and may from time to time revoke or vary the terms and conditions of any such approval.

(2) Any approval, reservation or condition, revocation or variation made under subsection (1) shall be notified in the Gazette.

(3) A person who contravenes any condition or restriction attaching to an approval by virtue of which a place is an approved wharf commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

(4) A customs officer may at any time enter an approved wharf and inspect it and any goods for the time being at the wharf.

15 Control of movement of aircraft, etc. into and out of the Falkland Islands

(1) Save as permitted by the Collector, the commander of an aircraft entering the Falkland Islands from a place outside the Falkland Islands shall not cause or permit the aircraft to land-

(a) for the first time after its arrival in the Falkland Islands; or

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

at any place other than a customs airport.

(2) Save as permitted by the Collector, no person importing or concerned in importing any goods in any aircraft shall bring the goods into the Falkland Islands at any place other than a customs airport.

(3) Save as permitted by the Collector-

(a) no person shall depart on a flight to a place or area outside the Falkland Islands from any place in the Falkland Islands other than a customs airport;

(b) the commander of any aircraft engaged in a flight from a customs airport to a place or area outside the Falkland Islands shall not cause or permit it to land at any place in the Falkland Islands other than a customs airport specified in the application for a clearance for that flight.

(4) Subsections (1) to (3) shall not apply in relation to any aircraft flying from or to any place or area outside the Falkland Islands to or from any place in the Falkland Islands which is required by or under any enactment relating to air navigation, or is compelled by accident, stress of weather or other unavoidable cause, to land at a place other than a customs airport; but, subject to subsection (5)-

(a) the commander of any such aircraft-

(i) shall immediately report the landing to a customs officer or to a police officer and shall on demand produce to him the journey log book belonging to the aircraft;

(ii) shall not without the consent of a customs officer permit any goods carried in the aircraft to be unloaded from, or any of the crew or passengers to depart from the vicinity of, the aircraft,

(iii) shall comply with any directions given by a customs officer in relation to such goods; and

(b) no passenger or member of the crew shall without the consent of a customs officer or police officer leave the immediate vicinity of the aircraft.

(5) Nothing in subsection (4) shall prohibit-

(a) the departure of passengers or crew from the vicinity of an aircraft; or

(b) the removal of goods from an aircraft,

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

(6) A person who contravenes any provision commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding three months.

(7) In this Ordinance "customs airport" means Mount Pleasant Airport and Stanley Airport and any other airport designated by the Governor as a customs airport by order made under this subsection.

16 Approval of examination stations at customs airports

(1) The Collector may approve, for such periods and subject to such conditions as he thinks fit, a part of, or a place at, any customs airport for the loading or unloading of goods and the embarkation and disembarkation of passengers and may at any time revoke or vary the terms of any approval given under this section.

(2) A person who contravenes any condition or restriction attaching to an approval by virtue of which a part of, or place at, a customs airport is an examination station commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

17 Control of movement of goods by pipe-line

(1) Goods shall not be imported by means of a pipe-line that is not for the time being approved by the Governor for the purpose.

(2) Uncleared goods, that is to say-

(a) imported goods, whether or not chargeable with duty, which have not been cleared out of charge, and in particular goods which are, or are to be, moved under section 23; or

(b) dutiable goods moved from the warehouse without payment of duty,

shall not be moved by means of a pipe-line that is not for the time being approved by the Governor for the purposes of this section.

(3) The Governor may give his approval under this section for such period and subject to such conditions as he thinks fit, and may at any time-

(a) vary the terms of his approval; and

(b) after having given to the owner of the pipe-line not less than three months' notice of his intention to do so, revoke his approval.

(4) Section 79 of the Offshore Minerals Ordinance 1994 applies in relation to the service of notices under subsection (3)(b).

(5) A person commits an offence who-

(a) contravenes subsection (1) or (2), or contravenes a condition imposed by the Governor under subsection (3);

(b) except with the authority of the Collector or for just and sufficient cause, obtains access to goods which are in, or are in the course of conveyance by, a pipe-line approved under this section, and-

(i) may be arrested without warrant in respect of that offence;

(ii) any goods in respect of which the offence was committed are liable to forfeiture.

(6) A person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for two years.

18 Transit sheds

(1) The Collector may approve, for such periods and subject to such conditions and restrictions as he thinks fit, places for the deposit of goods imported and not yet cleared out of charge, including goods not yet reported and entered and may from time to time revoke or vary the terms of any approval given under this section.

(2) A person who contravenes with any conditions or restriction attaching to an approval by virtue of which a place is a transit shed commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

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

19 Hovercraft and hydrofoils

(1) If it shall at any time appear to the Governor necessary or expedient to do so, he may by regulations under this section-

(a) impose conditions and restrictions as respects the movement of hovercraft and hydrofoils and the carriage of goods by them;

(b) make such additional or consequential provision as he may consider necessary in relation to the foregoing or the application of the provisions of this Ordinance to or in relation to hovercraft and hydrofoils.

(2) If any person contravenes any provision of any regulations made under subsection (1), he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

20 Customs officers' powers of boarding

(1) At any time while a ship is within the limits of a port, or an aircraft is at an aerodrome, or a vehicle is-

(a) within the limits of or entering or leaving a port or any land adjacent to a port and occupied wholly or mainly for the purpose of activities carried on at a port;

(b) at, entering or leaving an aerodrome; or

(c) at, entering or leaving an approved wharf or transit shed,

any customs officer and any person duly engaged in the prevention of smuggling may board the ship, aircraft or vehicle and remain therein and rummage and search any part thereof.

[S. 2/Ord. 14/04/w.e.f. 13/8/04.]

(2) The Collector may station officers in any ship at any time while it is within the limits of a port, and if the master of any ship neglects or refuses to provide-

(a) reasonable accommodation below decks for any customs officer stationed therein; or

(b) means of safe access to and egress from the ship in accordance with the requirements of any such officer,

the master commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale.

21 Customs officers' powers of access, etc.

(1) Without prejudice to section 20, the proper officer shall have free access to every part of any ship or aircraft at a port or aerodrome, and of any vehicle which is brought to a customs station, and may-

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

(b) lock up, seal, mark or otherwise secure any goods carried on the ship, aircraft or vehicle or any place or container in which they are so carried; and

(c) break open any place or container which is locked and of which the keys are withheld.

(2) Any goods found concealed on board any such ship, aircraft or vehicle are liable to forfeiture.

22 Customs officers' power of detention of ships, etc.

(1) Where, in the case of any ship or aircraft of which due report has been made under section 28, any goods are still on board that ship or aircraft at the expiration of the relevant period, the proper officer may detain that ship or aircraft until there have been paid to the Collector-

(a) any expenses properly incurred in watching and guarding the goods beyond the relevant period, except in the case of a ship or aircraft, in respect of the day of the clearance inwards; and

(b) where the goods are removed from the ship, aircraft or vehicle to a Queen's warehouse, the expenses of that removal.

(2) In subsection (1), "the relevant period" means-

(a) in the case of a ship or vehicle, twenty-one clear days from the date of making due report of the ship or vehicle under section 28 or such longer period as the Collector may in any case allow;

(b) in the case of an aircraft, seven clear days from the date of making due report of the aircraft under that section or such longer period as the Collector may in any case allow.

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

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

(1) The Collector may from time to time give general or special directions as to the manner in which, and the conditions under which, goods to which this section applies, or any class or description of such goods, may be moved within the limits of any port or customs airport or between any port or customs airport and any other place.

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

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

(a) by persons licensed by the Collector for the purpose;

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

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

(4) A person who contravenes any direction given by the Collector under this section commits an offence and is liable to a fine not exceeding the maximum of level 2 on the standard scale.

24 Control of movement of goods to and from inland clearance depot, etc.

(1) The Governor may by regulations impose conditions and restrictions as respects-

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

(b) the movement of goods intended for export between a place approved by the Collector for the examination of such goods and the place of exportation.

(2) Regulations under subsection (1) may in particular-

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

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

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

(3) If any person contravenes any regulation under subsection (1) or any requirement imposed by or under any such regulation, he and any person then in charge of the goods is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

25 Penalty for carrying away officers

(1) If any ship or aircraft departs from any place carrying on board without his consent any customs officer or other Government officer, the master of the ship or the commander of the aircraft shall be liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(2) Without prejudice to the liability of any person under subsection (1), the amount of any expenses incurred by the Crown by the reason of the carrying away of the customs officer or other Government officer may be recovered summarily as a civil debt from that person or from the owner of the ship or aircraft concerned.

26 Power to inspect aircraft, aerodromes, records etc.

(1) The commander of an aircraft shall permit an officer at any time to board the aircraft and inspect-

(a) the aircraft and any goods loaded therein;

(b) all documents relating to the aircraft or to goods or persons carried therein;

and an officer shall have the right of access at any time to any place to which access is required for the purpose of any such inspection.

(2) The person in control of an aerodrome shall permit a customs officer at any time to enter upon and inspect the aerodrome and all buildings and goods thereon.

(3) The person in control of an aerodrome licensed under any enactment relating to air navigation and, if so required by the Collector, the person in control of any other aerodrome shall-

(a) keep a record in such form and manner as the Collector may approve of all aircraft arriving or departing from the aerodrome;

(b) keep that record available and produce it on demand to any customs officer, together with all other documents kept at the aerodrome which relate to the movement of aircraft; and

(c) permit any officer to make copies of and take extracts from any such record or document.

(4) Any person who contravenes any of the provisions commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding three months.

27 Power to prevent flight of aircraft

(1) If it appears to any customs officer or police officer that an aircraft is intended or likely to depart for a destination outside the Falkland Islands from-

(a) any place other than a customs airport;

(b) a customs airport before clearance outwards is given,

he may give such instructions and take such steps by way of detention of the aircraft or otherwise as appear to him necessary in order to prevent the flight.

(2) A person who contravenes any instructions given under subsection (1) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding three months.

(3) If an aircraft flies in contravention of any instructions given under subsection (1) or notwithstanding any steps taken to prevent the flight, the owner and commander of the aircraft, each commits an offence under subsection (2), without prejudice to the liability of any other person under that subsection; but it is a defence for the owner or commander to prove that the flight took place without his knowledge or connivance.

PART IV
CONTROL OF IMPORTATION

Inward entry and clearance

28 Report inwards

(1) Report shall be made within twenty-four hours of the arrival of every ship and aircraft to which this section applies in such form and in such manner and containing such particulars as the Collector may direct.

(2) This section applies to every ship arriving at a port-

(a) from any place outside the Falkland Islands; or

(b) carrying any goods brought in that ship from some place outside the Falkland Islands and not yet cleared on importation.

(3) This section applies to every aircraft arriving at any place in the Falkland Islands-

(a) from any place or area outside the Falkland Islands;

(b) carrying passengers or goods taken on board that aircraft at a place outside the Falkland Islands, being passengers or goods either-

(i) bound for a destination in the Falkland Islands and not already cleared at a customs airport; or

(ii) bound for a destination outside the Falkland Islands.

(4) The Governor may make regulations prescribing the procedure for making report under this section.

(5) If the person by whom the report should be made fails to make report as required by or under this section-

(a) he is liable on summary conviction to a fine not exceeding the maximum of level 3 on the standard scale; and

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

(6) 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 voyage or flight as may be put to him by the proper officer; and if he refuses to answer he commits an offence and is liable on conviction not exceeding the maximum of level 3 on the standard scale.

(7) If at any time after a ship or aircraft carrying goods brought therein from any place outside the Falkland Islands arrives in or over Falkland Islands waters, and before report has been made in accordance with this section-

(a) 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 before due report has been made; or

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

and the matter is not explained to the satisfaction of the Collector, the master of the ship or the commander of the aircraft commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

29 Provisions as to Her Majesty's ships, etc.

(1) The person in command of any ship having a commission from Her Majesty or any foreign State which has on board goods loaded in any place outside the Falkland Islands shall, before any such goods are unloaded, or at any time when called upon to do so by the proper officer, deliver to the proper officer an account of the goods in accordance with subsection (2) and if he fails to do so he shall be liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(2) An account of goods under subsection (1) shall be in such form, and shall contain to the best of the knowledge of the person delivering the account such particulars, and shall be delivered in such manner, as the Collector may direct.

(3) The person delivering such an account shall, when delivering it answer all such questions relating to the goods as may be put to him by the proper officer and if he refuses to answer he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale.

(4) Subject in the case of ships having a commission from Her Majesty to the regulations (if any) made by Her Majesty's Treasury in the United Kingdom and having effect for the purposes of section 36(4) of the Customs and Excise Management Act 1979 (which Regulations shall have effect in the Falkland Islands, with all necessary modifications as to localities and authorities as if they were Regulations made under this Ordinance), the provisions of Parts III to VII of this

Ordinance as to the boarding and search of ships shall have effect in relation to such a ship as they have effect in relation to any other ship, and any customs officer may remove to the Queen's warehouse any goods loaded as aforesaid found on board such a ship.

30 Entry of goods on importation

(1) The importer of any goods, other than goods which are exempt from the requirements of this section, shall deliver to the proper officer an entry thereof in such form and manner and containing such particulars as the Collector may direct.

(2) The following goods are exempt from the requirements of this section:

(a) fresh fish (or fish frozen when fresh) (including shell-fish) of the Falkland Islands brought by ships registered in the Falkland Islands; and

(b) passengers' baggage.

(3) Subject to subsections (4) and (5) of this section, goods may be entered under this section-

(a) for home use, if so eligible;

(b) for warehousing;

(c) for transit or transhipment;

(d) for inward processing; or

(e) in such cases as the Collector may permit, for temporary retention with a view to subsequent re-exportation.

(4) All good imported by means of a pipe-line and chargeable with duty shall be entered for warehousing.

(5) The Collector may-

(a) refuse to accept an entry of any goods if he is not satisfied that those goods were imported before the time of the delivery of the entry;

(b) subject to subsection (4) of this section, direct that goods of any class or description specified in the direction shall not be permitted to be entered for warehousing.

(6) If, in the case of any goods which are not dutiable goods, any such entry as aforesaid is inaccurate in any particular, the importer shall, within fourteen clear days of the delivery of the entry or such longer period as the Collector may in any case allow, deliver to the proper officer a full and accurate account of the goods.

(7) If an account of the goods is delivered in accordance with subsection (6) of this section and the Collector is satisfied that the inaccuracy was inadvertent and immaterial except for statistical purposes, then notwithstanding anything in any other legislation relating to customs, the goods shall not be liable to forfeiture, or the importer to any penalty, by reason only of the inaccuracy of the entry.

31 Entry by bill of sight

(1) Without prejudice to section 30, where on the importation of any goods the importer is unable for want of full information to make immediately perfect entry thereof, he may, subject to subsection (2), on making a signed declaration to the effect before the proper officer, deliver to that officer an entry of the goods by bill of sight in such form and manner and containing such particulars as the Collector may direct.

(2) Notwithstanding subsection (1) of this section, the Collector may refuse to accept an entry by bill of sight of any goods if he is not satisfied that those goods were imported before the delivery of the entry.

(3) An entry of any goods by bill of sight under subsection (1) above when signed by the proper officer shall be the warrant of the examination of the goods by the importer in the presence of the proper officer with a view to making perfect entry thereof.

(4) If, within such a period from the date of the entry of any goods by bill of sight as the Collector may allow, no entry purporting to be a perfect entry has been made of those goods, the proper officer may cause the goods to be deposited in a Queen's warehouse; and, without prejudice to section 91(3), if any goods so deposited are not cleared within twenty-eight days from the date of the deposit the Collector may sell them.

32 Entry of surplus stores

(1) With the permission of the proper officer, surplus stores of any ship or aircraft-

(a) if intended for private use and in quantities which do not appear to him to be excessive, may be entered and otherwise treated as if they were goods imported in the ship or aircraft; or

(b) in any other case may, subject to subsection (2), be entered for warehousing notwithstanding that they could not lawfully be imported as merchandise.

(2) Goods entered for warehousing by virtue of subsection (1)(b), shall not, except with the sanction of the Collector, be further entered, or be removed from the warehouse, otherwise than for use as stores.

33 Removal of uncleared goods to Queen's warehouse

(1) Where in the case of any imported goods-

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

(b) at the expiration of twenty-one clear days from the date when they were presented at the proper office of Customs and Excise they have not been produced for examination and clearance and the failure to produce them is attributable to an act or omission for which the importer is responsible; or

(c) being goods imported by sea and not being in large quantity, they are at any time after the arrival of the importing ship at the port or place at which they are to be unloaded the only goods remaining to be unloaded from the ship at that port,

the proper officer may cause the goods to be deposited in a Queen's warehouse.

(2) Where any small package or consignment of goods is imported, the proper officer may at any time after the relevant date cause that package or consignment to be deposited in a Queen's warehouse to await entry.

(3) Without prejudice to section 89(3), if any goods deposited in a Queen's warehouse by the proper officer under this section are not cleared by the importer thereof-

(a) in the case of goods which are in the opinion of the Collector of a perishable nature, forthwith; or

(b) in any other case, within three months after they have been so deposited or such longer time as the Collector may in any case allow,

the Collector may sell them.

(4) In this section-

(a) "the relevant period" means a period of, in the case of goods imported by air, seven, and in any other case, fourteen, clear days from the relevant date; and

(b) "the relevant date" means, subject to subsection (5), the date when report was made of the importing ship or aircraft under section 28, or where no such report was made, the date when it should properly have been made.

(5) Where any restriction is placed on the unloading of goods from any ship or aircraft by virtue of any enactment relating to the prevention of epidemic and infectious diseases, then, in relation to that ship or aircraft, "the relevant date" in this section means the date of removal of the restriction.

34 Failure to comply with provisions as to entry

Without prejudice to any liability under any other provision of any relevant enactment, any person making entry of goods on their importation who fails to comply with any of the requirements of this Part commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale, and the goods in question shall be liable to forfeiture.

35 Power to regulate unloading, removal, etc., of imported goods

(1) The Governor may make regulations-

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

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

and different regulations may be made with respect to importation by sea and air, respectively.

(2) A person who contravenes any regulation made under this section or any direction given by the Collector or the proper officer in pursuance of any such regulation and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

Provisions as to duty on imported goods

36 Duty on imported goods

(1) Save as permitted by any relevant enactment, no imported goods shall be delivered or removed on importation until the importer has paid to the proper officer any duty chargeable thereon, and that duty shall, in the case of goods of which entry is made, be paid on making the entry.

(2) Subject to subsections (3) to (5), the duties of customs and the rates thereof chargeable on imported goods-

(a) if entry is made thereof, except where entry is for warehousing, or if they are declared under section 71, shall be those in force with respect to such goods at the time when entry is accepted or the declaration is made;

(b) if entry or, in the case of goods entered by bill of sight, perfect entry is made for warehousing, shall be ascertained in accordance with warehousing regulations;

(c) if no entry is made thereof and the goods are not declared under section 69, shall be those in force with respect to such goods at the time of their importation.

(3) Where the Collector requires a duty of customs to be paid because of a failure to comply with a condition or other obligation imposed under section 38 or 39 (not being a condition or obligation required to be complied with before the goods were allowed to be removed or delivered) the duty shall be charged as if entry of the goods had been accepted at the time when non-compliance occurred.

(4) Where any duties of customs are chargeable in respect of waste or debris resulting from the destruction of imported goods in free circulation, those duties and their rates shall be those in force at the time when the goods were destroyed.

(5) As respects goods which have been unlawfully removed from customs charge, subsection (2)(c) shall have effect with respect to any duties of customs as if they had been imported at the time of their removal.

(6) Any goods brought or coming into the Falkland Islands by sea otherwise than as cargo, stores or baggage carried in a ship shall be chargeable with the like duty, if any, as would be applicable to those goods if they had been imported as merchandise; and if any question arises as to the origin of the goods they shall, unless that question is determined under section 121, be deemed to be the produce of such country as the Collector may determine.

(7) Where entry of goods is made otherwise than for warehousing and there is a reduction in the rate of duty of customs chargeable on the goods between-

(a) the time mentioned in subsection 2(a); and

(b) the time when the goods are cleared from customs charge,

the rate of duty chargeable on the goods shall, if the importer so requests, be that in force at the time mentioned in paragraph (b) unless clearance of the goods has been delayed by reason of any act or omission for which the importer is responsible.

37 Exclusion of section 36(1) for importers, etc. keeping standing deposits

Where the Financial Secretary so directs, section 36(1) shall not apply if and so long as the importer or his agent pays to, and keeps deposited with, the Treasury a sum by way of standing deposit sufficient in the Financial Secretary's opinion to cover any duty which may become payable in respect of goods entered by that importer or agent, and if the importer or agent complies with such other conditions as the Financial Secretary, after consulting the Collector, may impose.

38 Deferred payment of customs duty

(1) The Governor may, by regulations, provide for the payment of customs duty to be deferred in such cases as may be specified by the regulations and subject to such conditions as may be imposed by or under the regulations; and duty of which payment is deferred under the regulations shall be treated, for such purposes as may be specified thereby, as if it had been paid.

(2) Regulations under this section may make different provision for goods of different descriptions or for goods of the same description in different circumstances.

39 Goods to be warehoused without payment of duty

Any goods which are on their importation permitted to be entered for warehousing shall be allowed, subject to such conditions or restrictions as may be imposed under warehousing regulations, to be warehoused without payment of duty.

40 Relief from payment of duty of goods entered for transit or transshipment

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

41 Relief from payment of duty of goods temporarily imported

In such cases as the Governor may by regulations prescribe, where the Collector is satisfied that goods are imported only temporarily with a view to subsequent re-exportation, the Collector may permit the goods to be delivered on importation, subject to such conditions as the Collector sees fit to impose, without payment of duty.

Forfeiture, offences, etc., in connection with importation

42 Forfeiture of goods improperly imported

(1) Where-

(a) except as provided by or under any relevant enactment, any imported goods, being goods chargeable on their importation with customs duty, are, without payment of that duty-

(i) unshipped in any port;

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

(iii) removed from their place of importation or from any approved wharf, examination station or 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 or by virtue of any enactment;

(c) any goods, being goods chargeable with duty, 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 a customs officer,

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

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

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

(b) entered for transit or transshipment; or

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

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

43 Penalty for improper importation of goods

(1) Subsection (2) applies to goods of the following descriptions, that is to say-

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

(b) goods the importation, landing or unloading of which is for the time being prohibited or restricted by or under any enactment.

(2) Any person who, with intent to defraud Her Majesty of any such duty or to evade any such prohibition or restriction as is mentioned in subsection (1)-

(a) unships or lands at any port or unloads from any aircraft in the Falkland Islands any goods to which this subsection applies, or assists or is otherwise concerned in such unshipping, landing or unloading; or

(b) removes from their place of importation or from any approved wharf, examination station, transit shed or customs station and goods to which this subsection applies or assists or is otherwise concerned in such removal,

commits an offence under this subsection and may be arrested without warrant.

(3) Any person who imports or is concerned in importing any goods contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods, whether or not those goods are unloaded, and does so with intent to evade the prohibition or restriction, commits an offence under this subsection and may be arrested without warrant.

(4) Subject to subsection (5) or (6), a person convicted of an offence under subsection (2) or (3) is liable to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding seven years.

(5) In the case of an offence under subsection (2) or (3) in connection with a prohibition or restriction having effect by virtue of section 3 of the Misuse of Drugs Ordinance 1987, subsection (4) has effect subject to the modifications specified in Schedule 1 to this Ordinance.

[Revision w.e.f. 31/07/2017]

(6) In the case of an offence under subsection (2) or (3) in connection with the prohibition contained in section 20 of the Forgery and Counterfeiting Act 1981 in its application to the Falkland Islands, subsection (4) of this Ordinance shall have effect as if the words "seven years" were replaced by the words "ten years".

(7) Any person who-

(a) imports or causes to be imported any goods concealed in a container holding goods of a different description;

(b) directly or indirectly imports or causes to be imported or entered any goods found, whether before or after delivery, not to correspond with the entry made thereof,

commits an offence and is liable on conviction to a fine not exceeding three times the value of the goods or the maximum of level 3 on the standard scale, whichever is the greater.

PART V
CONTROL OF EXPORTATION

Outward entry and clearance of goods

44 Meaning for this Part of "dutiable or restricted goods"

For the purposes of this Part, "dutiable or restricted goods" are goods of the following descriptions, that is to say-

(a) goods from warehouse;

(b) transit goods;

(c) any other goods chargeable with duty which has not been paid;

(d) drawback goods;

(e) goods with respect to the exportation of which any restriction is for the time being in force under or by virtue of any enactment; or

(f) any goods required by or under any provision of this Ordinance other than a provision of this Part or by or under any provision of any other Ordinance to be entered before exportation or before shipment for exportation or as stores.

45 Entry outwards of dutiable or restricted goods

(1) Where any dutiable or restricted goods are to be shipped for exportation or as stores for use on a voyage or a flight to an eventual destination outside the Falkland Islands or are brought to any customs station for exportation, the exporter shall, subject to subsection (2)-

(a) deliver to the proper officer an entry outwards of the goods under this section in such form and in such manner and containing such particulars as the Collector may direct;

(b) give security to the satisfaction of the Collector that the goods will be duly shipped or exported and discharged at the destination for which they are entered outwards within such time as the Collector considers reasonable, or, in the case of goods for use as stores, will be duly so used, or that they will be otherwise accounted for to the satisfaction of the Collector.

(2) The Collector may relax all or any of the requirements imposed by or under subsection (1) as he thinks fit in relation to any goods.

(3) If any goods of which entry is required under this section are shipped for exportation or as stores or are waterborne for such shipment before entry thereof has been duly made, the goods are liable to forfeiture and, where shipping or making waterborne is done with fraudulent intent, any person concerned therein with knowledge of that intent commits an offence under this section and may be arrested without warrant.

(4) A person who is convicted of an offence under subsection (3) is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or three times the value of the goods, whichever is greater, and to imprisonment for a term not exceeding two years

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

46 Entry outwards of goods which are not dutiable or restricted goods

(1) Subject to subsection (5), before any goods which are not dutiable or restricted goods are exported or shipped for exportation, the exporter shall deliver to the proper officer an entry outwards of the goods under this section.

(2) The form of entries under this section, the particulars to be contained therein and the manner of their delivery shall be such as the Collector may from time to time direct.

(3) Where the particulars contained in any entry delivered under this section are in any way incorrect or inaccurate, the person delivering it shall notify the proper officer of any necessary correction within fourteen days beginning with the day of delivery.

(4) The Collector may give directions under this section imposing on persons specified in the directions requirements as to the giving of information with respect to, and the furnishing of documents in connection with, goods which have been entered under this section but are not exported or shipped for exportation within a specified period beginning with the day of delivery of the entry.

(5) The Collector may relax any requirement imposed by or under this section as he thinks fit in relation to any goods.

(6) Subject to this section and to section 45, a person commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale if-

(a) being the exporter of goods, those goods are exported or shipped before delivery of an entry in respect thereof;

(b) he fails to comply with subsection (3) in respect of any entry; or

(c) he contravenes any direction given under this section.

47 Acceptance of incomplete entry

(1) The proper officer may, if he thinks fit, accept an entry which does not in every respect comply with section 45 or 46, but he shall not do so in a case in which the goods have not been presented.

(2) Where an entry is accepted under this section, the exporter shall, within such time as the Collector may allow, deliver to the Collector such of the particulars or documents as were required to be but were not contained in or delivered with the entry or, if the Collector so permits, deliver to him a substituted entry complying in all respects with section 45 or 46.

(3) Any person who fails to comply with subsection (2) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

48 Correction and cancellation of entry

(1) The exporter may correct any of the particulars contained in an entry of goods under section 45 or 46 after it has been accepted if-

(a) the appropriate authority has not been given for the removal of the goods;

(b) the exporter has not been notified by a customs officer that the goods are to be examined; and

(c) the entry has not been found by a customs officer to be incorrect;

and in paragraph (a) "the appropriate authority" means, in the case of goods which have been presented to the proper officer at a place approved by the Collector under section 24(1)(b), any authority to remove the goods from the place where they were presented to the proper officer which is required under section 24.

(2) Particulars in an entry may be corrected after the giving of such authority as mentioned in subsection (1)(a) if they relate to a matter which can be established in the absence of the goods.

(3) The proper officer may permit or require any correction allowed by subsection (1) to be made by the delivery of a substituted entry.

(4) Subject to subsection (5), an entry which has been accepted may be cancelled at the request of the exporter if he delivers to the proper officer all copies of the entry and such other documents delivered to him on or in connection with the entry as the Collector may require and shows to the satisfaction of the Collector that the goods are in the Falkland Islands and the arrangements for exporting them have been cancelled.

(5) An entry shall not be cancelled under subsection (4)-

(a) in a case where the exporter is informed by a customs officer that the goods are to be examined, until the examination has taken place;

(b) until the exporter has complied with any requirements imposed by the Collector as to the movement of the goods in respect of which the entry was made to such places as he may specify.

(6) Where an entry in respect of goods which are not dutiable or restricted goods is cancelled under subsection (4), the exporter shall within such period as may be specified by directions given by the Collector furnish him with such information and such documents relating to the goods as may be specified in the directions.

(7) A person who contravenes subsection (6) commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

49 Failure to export

(1) Where any goods in respect of which an entry has been accepted have not been shipped, an officer may by notice given to the exporter require the goods to be exported within such time as is specified in the notice; and if the notice is not complied with the entry shall be treated as cancelled.

(2) Where, in the case of any such goods as are mentioned in subsection (1) which are due to be loaded into a ship or aircraft specified in the entry or by the person having charge of them at the port or customs airport for intended shipment, no notice has been served under that subsection and the goods have not been shipped by the time the ship or aircraft departs from the port or airport at which it has been cleared by the proper officer, then-

(a) the entry shall be treated as cancelled at that time; and

(b) if the goods are dutiable or restricted goods, they are liable to forfeiture unless notice of the failure to export them is given to the proper officer immediately after that time.

(3) Where an entry in respect of dutiable or restricted goods is treated as cancelled by virtue of this section-

(a) the exporter shall within such period as may be specified by directions given by the Collector furnish him with such information and such documents as may be specified in the directions; and

(b) if the goods have not been forfeited under subsection (1)(b), they shall be warehoused or, if the Collector shall so require, shall be moved to such place as the Collector may specify.

(4) Where an entry in respect of goods which are not dutiable or restricted goods is treated as cancelled by virtue of this section, the exporter shall within such time as may be specified by directions given by the Collector furnish him with such information and such documents relating to the goods as may be specified in the directions.

(5) A person commits an offence who contravenes subsection (3) or (4) and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

50 Simplified clearance procedure

(1) Goods which are not dutiable or restricted goods may be shipped for exportation without entry under section 46 if-

(a) the exporter is registered in a register of exporters maintained by the Collector for the purposes of this section; and

(b) before the goods are shipped the conditions mentioned in subsection (3) are satisfied.

(2) The Collector may for the purposes of this section-

(a) enter in a register maintained by him any person applying for registration and appearing to the Collector to be concerned in the exportation of goods and to satisfy such requirements for registration as he may think fit to impose;

(b) give directions imposing requirements on registered persons, including, in particular, requirements as to the keeping of accounts and the giving of access to them; or

(c) suspend or cancel the registration of any person if it appears to him that he has failed to comply with any direction under this section or with section 51(1) or (2) or that there is other reasonable cause for the suspension or cancellation.

(3) The conditions referred to in subsection (1) are-

(a) that the goods are presented to the proper officer;

(b) that the exporter delivers to the proper officer and the proper officer accepts such document relating to the goods as the direction may require;

(c) that the exporter complies with such other requirements as the directions may impose,

and goods may be treated as presented to the proper officer if notice is given, in such form and manner as the Collector may direct, to the proper officer of the presence of the goods at the place designated by him.

(4) The document referred to in subsection (3)(b) shall be delivered and accepted in such manner as the directions may require and once acceptance of that document by the proper officer has been signified the goods shall not be removed without his consent from the place they were at the time of acceptance.

(5) The Collector may relax any requirement imposed under this section as he thinks fit in relation to any goods and, if he does, may impose substituted requirements.

(6) Section 48 shall apply in relation to a document required to be delivered under subsection (3)(b) as it applies in relation to an entry and section 49 shall apply in relation to goods in respect of which such a document has been accepted under that subsection as it applies to goods in respect of which an entry has been accepted.

51 Provisions supplementary to section 50

(1) Where by virtue of section 50 goods have been shipped for exportation without entry under section 44, the exporter shall deliver to the proper officer a specification of the goods containing, as the Collector may direct, either the particulars that would have been required to have been contained in the entry or such other particulars as may be so directed.

(2) The specification referred to in subsection (1) above may, if the Collector permits, be a single specification relating to the goods exported during a particular period and shall be delivered at such place and in such manner and by such time as the Collector may allow.

(3) A person commits an offence who-

(a) fails to deliver a specification in accordance with the foregoing provisions of this section or delivers a specification which is incorrect and does not correct it within the fourteen days following delivery; or

(b) without reasonable excuse fails to comply with a requirement imposed on him by section 50.

52 Pipe-lines

(1) For the purposes of this Part goods which are to be exported by means of a pipe-line shall be treated as having been presented to the proper officer when notice of the goods to be exported has been given to the proper officer and accepted by him.

(2) Notice under subsection (1) shall be given by such person and in such form and manner and shall contain such particulars as the Governor may direct.

53 Provisions as to stores

(1) The Financial Secretary may give directions-

(a) as to the quantity of any goods which may be carried in any ship or aircraft as stores for use on a voyage or flight to an eventual destination outside the Falkland Islands;

(b) as to the descriptions of vessel on which goods carried as stores may be used in port without payment of duty;

(c) as to the quantity of any goods which may be carried as stores for use in port as mentioned in paragraph (b) and as to the time within which such goods or any specified quantities of them may be so used; and

(d) as to the authorization to be obtained for the supply and carriage of, and the procedure to be followed in supplying, any goods as stores for use as mentioned in paragraph (a) or (b), whether or not any duty is chargeable or has been paid, or any drawback is payable, in respect of those goods.

(2) Save as provided in subsection (3), goods shall not be permitted to be shipped as stores without payment of duty or on drawback except in a ship of not less than 40 tons register departing on a voyage, or in an aircraft departing on a flight, to a country outside the Falkland Islands.

(3) The Financial Secretary may, in such cases and subject to such conditions and restrictions as he sees fit, permit goods to be shipped as mentioned in subsection (2) in-

(a) any ship departing from the Falkland Islands, being a ship of not less than 40 tons register departing for a voyage not falling within subsection (2) or a ship of less than 40 tons register; or

(b) any aircraft departing from the Falkland Islands for a flight not falling within that subsection.

(4) If any goods shipped or carried as stores for use on a voyage or flight to an eventual destination outside the Falkland Islands or for use in a port without payment of duty are without the authority of the proper officer landed or unloaded at any place in the Falkland Islands-

(a) the goods are liable to forfeiture; and

(b) the master or commander and the owner of the ship or aircraft each commit an offence and are each liable on conviction to a fine not exceeding the greater of three times the value of the goods or level 3 on the standard scale.

(5) The proper officer may lock up, mark, seal or otherwise secure any goods entered, shipped or carried as stores for use as mentioned in subsection (4) or any place or container in which such goods are kept or held.

(6) If any ship or aircraft which has departed from any port or customs airport for a destination outside the Falkland Islands carrying stores fails to reach the destination for which it was cleared outwards and returns to any place within the Falkland Islands-

(a) if the failure was not due to stress of weather, mechanical defect or any other unavoidable cause and any deficiency is found in the said goods; or

(b) if the failure was due to any such cause as is mentioned in paragraph (a) and any deficiency is discovered in the said goods which, in the opinion of the Collector, exceeds the quantity which might fairly have been consumed having regard to the length of time between the ship's or aircraft's departure and return as aforesaid,

the master of the ship or commander of the aircraft commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale, and shall also pay on the deficiency or, as the case may be, on the excess deficiency any duty chargeable on the importation of the goods (and any such duty shall be recoverable as a civil debt).

54 Information, documentation, etc., as to export goods

(1) The Collector may give directions under this subsection imposing on persons specified in the directions, requirements as to the giving of information with respect to, or the furnishing of documents in connection with goods exported, or intended to be exported, in any such container as is specified in the directions, or by such other means, or in accordance with any such commercial procedure, as is so specified.

(2) The Collector may relax any requirement imposed under subsection (1) as he thinks fit in relation to any goods.

(3) Subject to subsection (2), a person commits an offence who fails to comply with a direction under subsection (1) and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

Outward entry and clearance of ships, etc.

55 Entry outwards of exporting ships

(1) Where a ship is to load any goods at a port or other place exceptionally approved by the Collector of Customs for exportation or as stores for use on a voyage to an eventual destination outside the Falkland Islands, the master of the ship shall, before any goods are taken on board that ship at that port or other place, other than goods for exportation loaded in accordance with a stiffening order issued by the proper officer, deliver to the proper officer-

(a) an entry outwards of the ship in such form and manner and containing such particulars as the Collector may direct;

(b) a certificate from the proper officer of the clearance inwards or coastwise of the ship of her last voyage with cargo; and

(c) if the ship has already loaded goods at some other port or place for exportation or use as stores for use as aforesaid or has been cleared in ballast from some other port or place, the clearance outwards of the ship from that other port or place.

(2) If, on the arrival at any port of a ship carrying goods coastwise from one place in the Falkland Islands to another such place, it is desired that the ship shall proceed with those goods or any of them to a place outside the Falkland Islands entry outwards shall be made of that ship (whether or not any other goods are to be loaded at that port) and of any of those goods which are dutiable or restricted goods as if the goods were to be loaded for exportation at that port; but any such entry may, subject to such conditions as the Collector sees fit to impose, be made without the goods first being discharged.

(3) A ship may, subject to subsection (4), be entered outwards from a port under this section notwithstanding that before departing for any place outside the Falkland Islands the ship is to go to another port.

(4) A ship carrying cargo brought in that ship from some place outside the Falkland Islands and intended to be discharged in the Falkland Islands may only be entered outwards by virtue of subsection (3) subject to such conditions as the Collector sees fit to impose.

(5) If, when a ship is required by this section to be entered outwards from any port, any goods are taken on board that ship at that port except in accordance with such a stiffening order as is mentioned in subsection (1), before the ship is so entered the goods are liable to forfeiture and the master of the ship commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(6) Where goods are taken on board a ship as mentioned in subsection (5) or made waterborne for that purpose with fraudulent intent, any person concerned therein with knowledge of that intent commits an offence in respect of which he may be arrested without warrant and is liable on conviction to a fine not exceeding the greater of three times the value of the goods and the maximum of level 12 on the standard scale and to imprisonment for a term not exceeding seven years.

56 Clearance outwards of ships and aircraft

(1) Save as permitted by the Collector, no ship or aircraft shall depart from any port or customs airport from which it commences, or at which it touches during, a voyage or flight to an eventual destination outside the Falkland Islands until clearance of the ship or aircraft for the departure has been obtained from the proper officer at that port or airport.

(2) The Collector may give directions-

(a) as to the procedure for obtaining clearance under this section;

(b) as to the documents to be produced and the information to be furnished by any person applying for such a clearance.

(3) Where clearance is sought under this section for any ship which is in ballast or has on board no goods other than stores, the baggage of passengers carried in that ship, chalk, slate, or empty returned containers upon which no freight or profit is earned, the proper officer in granting clearance thereof shall, on the application of the master, clear the ship as in ballast.

(4) Any customs officer may board any ship which is cleared outwards from a port at any time while the ship is in the Falkland Islands and require the production of the ship's clearance, and if the master refuses to produce it or to answer such questions as the customs officer may put to him concerning the ship, cargo or intended voyage, he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 1 on the standard scale.

(5) Every ship departing from a port shall, if so required, for the purpose of disembarking a customs officer or of further examination, bring to at the boarding station, and if any ship fails to comply with any such requirement the master commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale.

(6) If any ship or aircraft required to be cleared under this section departs from any port or customs airport without a valid clearance, the master or commander commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(7) If, when any aircraft is required to obtain clearance from any customs airport under this section, any goods are loaded, or are waterborne for loading in that aircraft at that airport before application for clearance has been made, the goods are liable for forfeiture and, where the loading or making waterborne is done with fraudulent intent any person concerned therein commits an offence under this subsection, may be arrested without warrant and is liable on conviction to a fine not exceeding the greater of three times the value of the goods concerned or the maximum of level 12 on the standard scale, or to imprisonment for a term not exceeding seven years.

57 Power to refuse or cancel clearance of ship or aircraft

(1) For the purpose of its detention in pursuance of any power or duty conferred or imposed by or under any enactment, or for the purpose of securing compliance with any provision of the relevant enactments or of any other enactment or of any instrument made thereunder, being a provision relating to the importation or exportation of goods-

(a) the proper officer may at any time refuse clearance of a ship or aircraft; and

(b) where clearance has been granted to a ship or aircraft, any customs officer may at any time while the ship is within the limits of any port or the aircraft is at any customs airport demand that the clearance be returned to him.

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

(a) by delivering it to him personally;

(b) by leaving it at his last known place of abode;

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

(3) Where a demand for the return of a clearance is made as aforesaid-

(a) the clearance forthwith becomes void; and

(b) if the demand is not complied with, the master of the ship or the commander of the aircraft commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

General regulation of exportation, etc.

58 Power to make regulations as to exportation, etc.

(1) The Governor may make regulations-

(a) regulating with respect to ships and aircraft respectively the loading and making waterborne for loading of goods for exportation or as stores and the embarking of passengers for a destination outside the Falkland Islands;

(b) requiring delivery of a manifest containing such particulars as the Collector may direct of all cargo carried in an exporting ship and, if the Collector so directs, such other documents relating to the cargo as are specified in the direction;

(c) requiring delivery of a certificate of the fuel shipped in any ship departing from a port for a place outside the Falkland Islands.

(2) A person who contravenes any regulation made under this section commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

Offences in relation to exportation

59 Offences in relation to the exportation of goods

(1) If any goods which have been loaded or retained on board any ship or aircraft for exportation are not exported to and discharged at a place outside the Falkland Islands but are unloaded in the Falkland Islands, then, unless-

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

(b) except where that officer otherwise permits, any duty chargeable and unpaid on the goods is paid and any drawback or allowance paid in respect thereof is repaid,

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

(2) The Collector may impose such conditions as he sees fit with respect to any goods loaded or retained as mentioned in subsection (1) which are permitted to be unloaded in the Falkland

Islands and any person who contravenes or is concerned in any contravention of any condition imposed under this subsection commits an offence under this section.

(3) Where any goods loaded or retained as mentioned in subsection (1) are-

(a) goods from warehouse;

(b) transit goods;

(c) other goods chargeable with duty which has not been paid; or

(d) drawback goods,

then if any container in which the goods are held is without the authority of the proper officer opened, or any mark, letter or device on such container or on any lot of the goods is without that authority cancelled, obliterated or altered, every person concerned in the opening, cancellation, obliteration or alteration commits an offence under this section.

(4) Any goods in respect of which an offence under this section is committed are liable to forfeiture and any person convicted of an offence under this section is liable to a fine not exceeding three times the value of the goods concerned or the maximum of level 3 on the standard scale, whichever is the greater.

60 Offences in relation to exportation of prohibited or restricted goods

(1) If any goods are-

(a) exported or shipped as stores;

(b) brought to any place in the Falkland Islands for the purpose of being exported or shipped as stores,

and the exportation or shipment is or would be contrary to any prohibition or restriction for the time being in force with respect to those goods under or by virtue of any enactment, the goods are liable to forfeiture and the exporter or intending exporter of the goods and any agent of his concerned in the exportation or shipment or intended exportation or shipment each commits an offence and is liable on conviction to a fine not exceeding three times the value of the goods or the maximum of level 3 on the standard scale, whichever is the greater.

(2) A person who is knowingly concerned in the exportation or shipment as stores, or in the attempted exportation or shipment as stores, of any goods with intent to evade any such prohibition or restriction as is mentioned in subsection (1) commits an offence and may be arrested without warrant.

(3) Subject to subsection (4) or (5), a person convicted of an offence under this section is liable to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding seven years.

(4) In the case of an offence under subsection (2) in connection with the prohibition contained in section 21 of the Forgery and Counterfeiting Act 1981 in its application to the Falkland Islands, subsection (3) of this section shall have effect as if the words "seven years" were replaced by the words "ten years".

(5) If by virtue of any such restriction as is mentioned in subsection (1) any goods may be exported only when consigned to a particular place or person and any goods so consigned are delivered to some other place or person, the ship or aircraft in which they were exported is liable to forfeiture unless it is proved to the satisfaction of the Governor that both the owner of the ship or aircraft and the master of the ship or commander of the aircraft-

(a) took all reasonable steps to secure that the goods were delivered to the particular place to which or person to whom they were consigned; and

(b) did not connive at or, except under duress, consent to the delivery of the goods to that other place or person.

(6) In any case where a person would, apart from this subsection, be guilty of-

(a) an offence under this section in connection with a prohibition or restriction; and

(b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction, being an offence for which a fine or other penalty is expressly provided for by that enactment or other instrument,

he shall not be guilty of the offence mentioned in paragraph (a) of this subsection.

[S. 2/Ord. 7/04/w.e.f. 11/6/04.]

(7) Where any person commits an offence under this section, the goods in respect of which the offence was committed are liable to forfeiture.

[S. 2/Ord. 7/04/w.e.f. 11/6/04.]

PART VI
CONTROL OF COASTWISE TRAFFIC

61 Coasting trade

(1) Subject to section 62, any ship for the time being engaged in the trade of carrying goods coastwise between places in the Falkland Islands shall, for the purposes of the relevant enactments, be a coasting ship.

(2) Subject to that section, no goods not yet entered on importation and no goods for exportation shall be carried in a ship engaged in the trade of carrying goods coastwise.

62 Coasting trade: exceptional provisions

(1) The Collector may, subject to such conditions and restrictions as he sees fit to impose, permit a ship to carry goods coastwise notwithstanding that the ship is carrying goods brought therein from some place outside the Falkland Islands and not yet entered on importation; but a ship so permitted to carry goods coastwise shall not for the purposes of the relevant enactments be a coasting ship.

(2) The Collector may, subject to such conditions and restrictions as he sees fit to impose, permit goods brought by an importing ship to some place in the Falkland Islands but consigned to and

intended to be delivered at some other such place to be transshipped before due entry of the goods has been made to another ship for carriage coastwise to that other place.

(3) Where any ship has begun to load goods at any place in the Falkland Islands for exportation or as stores for use on voyage to an eventual destination outside the Falkland Islands and is to go to any other such place to complete loading, the Collector may, subject to such conditions as he sees fit, permit that ship to carry other goods coastwise until she has completed her loading.

(4) If, where any goods are permitted to be carried coastwise in any ship under this section, the goods are loaded, unloaded, carried or otherwise dealt with contrary to any condition or restriction imposed by the Collector, the goods are liable to forfeiture and the master of the ship commits an offence–and on conviction is liable to a fine not exceeding the maximum of level 2 on the standard scale.

63 Clearance of coasting ship and transire

(1) Subject to the provisions of this section and save as permitted by the Collector, before any coasting ship departs from any port the master of the ship shall deliver to the proper officer an account in such form and in such manner as the Collector may direct; and that account when signed by the proper 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) The Collector may, subject to such conditions as he sees fit, grant a general transire in respect of any coasting ship and any goods carried therein.

(3) Any such general transire may be revoked by the Collector by notice in writing delivered to the master or owner of the ship or to any member of the crew on board the ship.

(4) If any coasting ship departs from any port without a correct account having been delivered, except as permitted by the Collector or under and in compliance with any conditions imposed on the grant of a general transire, the master commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale.

64 Additional powers of customs officers in relation to coasting ships

(1) The proper officer may examine any goods carried or to be carried on a coasting ship-

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

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

(2) For the purpose of examining any goods in pursuance of subsection (1), the proper 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.

(3) The proper officer may 15 February 1971

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

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

and if the master of the ship fails to produce or bring any such document to the proper officer when required, he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 2 on the standard scale.

65 Power to make regulations as to the carriage of goods coastwise, etc.

(1) The Governor may make regulations as to the carriage of goods coastwise-

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

(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 prescribed by the regulations.

(2) Any person who contravenes a regulation made under this section commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale and any goods in respect of which the offence was committed are liable to forfeiture.

66 Offences in connection with carriage of goods coastwise

(1) 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 Falkland Islands;

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

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

the master commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(2) Any goods which are shipped and carried coastwise, or which, having been carried coastwise, are unloaded in any place in the Falkland Islands, otherwise than in accordance with the provisions of sections 61 to 63 or of any regulations made under section 65, or which are brought to any place for the purpose of being so shipped and carried coastwise, are liable to forfeiture.

(3) 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 enactment; or

(b) are brought to any place in the Falkland 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 and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(4) In any case where a person would, apart from this subsection, be guilty of-

(a) an offence under subsection (3); and

(b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction in question, being an offence in respect of which a fine or other penalty is expressly provided by that enactment or other instrument,

he is not guilty of an offence under subsection (3).

PART VII
CUSTOMS CONTROL: SUPPLEMENTARY PROVISIONS

Special requirements as to movement of certain goods

67 Explosives

(1) No goods which are explosives within the meaning of the Explosives Act 1875 shall be loaded into any ship or aircraft for exportation, exported by land or shipped for carriage coastwise as cargo, until due entry has been made of the goods in such form and manner and containing such particulars as the Collector may direct.

(2) Without prejudice to section 45, any goods required to be entered under this section which are loaded, exported or shipped as mentioned in subsection (1) without being entered under this section are liable to forfeiture, and the exporter or, as the case may be, shipper commits an offence if any such requirement is contravened and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

Keeping and preservation of records

68 Records relating to importation and exportation

(1) Every person who is concerned (in whatever capacity) in the importation or exportation of goods shall keep such records as may be required by regulations under this Ordinance and, if no such regulations have been made, such records as may be required by the Collector.

(2) Such records shall be preserved for such period as may be required by such regulations or, in the absence of any such regulations, for such period not exceeding four years as may be required by the Collector.

(3) The duty under this section to preserve records may be discharged by the preservation of the information contained therein by such means as is prescribed by or permitted under regulations having effect for the purposes of subsection (1) or, in the absence of such regulations, by such means as the Collector may approve. Where information is preserved by any such means, a copy of any document forming part of the records shall, subject to the following provisions of this section, be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(4) The Collector may, as a condition of an approval under subsection (3) above of any means of preserving information, impose such reasonable requirements as appear to him necessary for securing that the information will be readily available to him as if the records themselves had been preserved.

(5) The Collector may at any time for reasonable cause revoke or vary the conditions of any approval given under subsection (3).

Additional provisions as to information

69 Information in relation to goods imported or exported

(1) A customs officer may require any person-

(a) concerned with the shipment for carriage coastwise of goods of an entry of which is required by or under any relevant enactment;

(b) concerned in the carriage, unloading, landing or loading of goods which are being or have been imported or exported,

to furnish in such form as the officer may require, any information relating to the goods and to produce and allow the officer to inspect and take extracts from or make copies of any invoice, bill of lading or other book or document whatsoever relating to the goods.

(2) A person commits an offence who without reasonable cause fails to comply with a requirement imposed on him under subsection (1) and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(3) Where any prohibition or restriction to which this subsection applies, that is to say, any prohibition or restriction under or by virtue of any enactment with respect to-

(a) the exportation of any goods to any particular destination; or

(b) the exportation of goods of any particular class or description to any particular destination,

is for the time being in force, then, if any person about to ship for exportation or to export any goods or, as the case may be, any goods of that class or description, in the course of making any entry thereof before shipment or exportation makes a declaration as to the ultimate destination thereof, and the Collector has reason to suspect that the declaration is untrue in any material particular, the goods may be detained until the Collector is satisfied as to the truth of the declaration, and if he is not so satisfied the goods are liable to forfeiture.

70 Information powers

(1) Every person who (in whatever capacity) is concerned in the importation or exportation of goods for which for that purpose an entry is required under any provision of any regulations made under this Ordinance or an entry or specification is required by or under this Ordinance shall-

(a) furnish to the Collector, within such time and in such form he may reasonably require, such information relating to the goods or to the importation or exportation as the Collector may reasonably specify; and

(b) if so required by a customs officer, produce or cause to be produced for inspection by the officer-

(i) at the principal place of business of the person upon whom the demand is made or at such other place as the officer may reasonably require; and

(ii) at such time as the officer may reasonably require,

any documents relating to the goods or to the importation or exportation.

(2) Where, by virtue of subsection (1), an officer has power to require the production of any documents from any such person as is referred to in that subsection, he shall have the like power to require the production of the documents concerned from any other person who appears to the officer to be in possession of them; but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

(3) A customs officer may take copies of, or make extracts from, any document produced under subsection (1) or subsection (2).

(4) If it appears to him to be necessary to do so, an officer may, at a reasonable time and for a reasonable period, remove any document produced under subsection (1) or subsection (2) and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under subsection (2) above, the removal of the document shall not be regarded as breaking the lien.

(5) Where a document removed by an officer under subsection (4) is reasonably required for the proper conduct of a business, the officer shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

(6) Where any documents removed under the powers conferred by this section are lost or damaged, the Crown is liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

(7) Any person who fails to comply with a requirement made by a customs officer under this section commits an offence and is liable on conviction of that offence to a fine not exceeding the maximum of level 3 on the standard scale.

71 Customs control of persons entering or leaving the Falkland Islands

(1) Any person entering the Falkland Islands shall, at such place and in such manner as the Collector may direct, declare any thing contained in his baggage or carried with him which-

(a) he has obtained outside the Falkland Islands;

(b) being dutiable goods or chargeable goods, he has obtained in the Falkland Islands without payment of duty or tax,

and in respect of which he is not entitled to exemption from duty and tax under or by virtue of any provision of, or of any order made under, this Ordinance or any relevant enactment (personal reliefs).

(2) In subsection (1), "chargeable goods" means goods on the importation of which, under any provision of any law of the Falkland Islands for the time being in force, tax is payable; and "tax" means any such tax.

(3) Any person entering or leaving the Falkland Islands shall answer such questions as the proper officer may put to him with respect to his baggage and any thing contained therein or carried with him, and shall, if required by the proper officer, produce that baggage and any such thing for examination at such place as the Collector may direct.

(4) Any person who fails to declare any thing or produce any baggage or thing as required by this section commits an offence and is liable on conviction to a fine of three times the value of the thing not declared or of the baggage or thing not produced, as the case may be, or to a fine not exceeding the maximum of level 3 on the standard scale, whichever is the greater.

(5) Any thing chargeable with any duty or tax which is found concealed, or not declared, and any thing which is being taken into or out of the Falkland Islands contrary to any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment, is liable to forfeiture.

72 Power to require evidence in support of information

(1) The Collector may, if he considers it necessary, require evidence to be produced to his satisfaction in support of any information required by or under Parts II to VII to be provided in respect of goods imported or exported.

(2) Without prejudice to subsection (1), where any question as to the duties chargeable on any imported goods, or the operation of any prohibition or restriction on importation, depends on any question as to the place from which the goods were consigned, or any question where they or other goods are to be treated as grown, manufactured or produced, or any question as to payments made or relief from duty allowed in any country or territory, then-

(a) the Collector may require the importer of the goods to furnish to him, in such form as he may prescribe, proof of-

(i) any statement made to him as to any fact necessary to determine that question; or

(ii) the accuracy of any certificate or other document furnished in connection with the importation of the goods and relating to the matter in issue,

and if such proof is not furnished to his satisfaction, the question may be determined without regard to that statement or to that certificate or document; and

(b) in any proceedings relating to the goods or to the duty chargeable thereon the accuracy of any such certificate or document comes in question, it shall be for the person relying on it to furnish proof of its accuracy.

Prevention of smuggling

73 Power to regulate small craft

(1) The following provisions of this section shall not have effect until they are brought into effect by an order made by the Governor under this subsection.

(2) In this section "small ships" means ships not exceeding 100 tons register.

(3) The Governor may make general regulations with respect to small ships and any such regulations may in particular make provision as to the purposes for which and the limits within which such ships may be used.

(4) Different provisions may be made by regulations under this section for different classes or descriptions of small ships.

(5) The Governor may, in respect of any small ship, grant a licence exempting that ship from all or any of the provisions of any regulations made under this section.

(6) Any such licence may be granted for such period, for such purpose, and subject to such conditions and restrictions as the Governor sees fit, and may be revoked at any time.

(7) Any small ship which, except under and in accordance with the terms of a licence granted under this section, is used contrary to any regulation made under this section, and any ship granted such a licence which is found not to have that licence on board, shall be liable to forfeiture.

(8) Every boat belonging to a British ship registered at a port in the Falkland Islands and every other vessel not exceeding 100 tons register shall be marked in such manner as the Collector may direct, and any such boat or vessel which is not so marked, is liable to forfeiture.

(*Date of commencement: to be fixed*)

74 Power to haul up revenue vessels, patrol coasts, etc.

(1) The person in command or charge of any vessel in the service of Her Majesty which is engaged in the prevention of smuggling-

(a) may haul up and leave that vessel on any part of the coast or of the shore or bank of any river or creek;

(b) may moor that vessel at any place below high water mark on any part of the coast or of any such shore or bank.

(2) Any customs officer and any person acting in aid of such an officer or otherwise duly engaged in the prevention of smuggling may for that purpose patrol upon and pass freely along and over any part of the coast or of the shore or bank of any river or creek, over any aerodrome or land adjoining any aerodrome.

75 Penalty for removing seals, etc.

(1) Where, in pursuance of any power conferred by any relevant enactment or of any requirement imposed by or under any relevant enactment, a seal, lock or mark is used to secure or identify any goods for any of the purposes of those enactments and-

(a) at any time while the goods are in the Falkland Islands or within the limits of any port in the Falkland Islands, the seal, lock or mark is wilfully and prematurely removed or tampered with by any person; or

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

that person and the person in charge of the goods each commits an offence and is each liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

(2) For the purposes of subsection (1) of this section, goods in a ship or aircraft shall be deemed to be in the charge of the master of the ship or commander of the aircraft.

76 Penalty for signalling to smugglers

(1) In this section references to a "prohibited signal" or "prohibited message" are references to a signal or message connected with the smuggling or intended smuggling of goods out of or into the Falkland Islands.

(2) A person commits an offence who by any means makes any prohibited signal or transmits any prohibited message from the Falkland Islands or from any ship or aircraft for the information of any person in any ship or aircraft and such a person is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale or to imprisonment for a term not exceeding six months and may be arrested without warrant and any equipment or apparatus used for sending the signal or message is liable to forfeiture.

(3) Subsection (2) applies whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at the time in smuggling goods.

(4) If, in any proceedings under subsection (2), any question arises as to whether any signal or message was a prohibited signal or message, the burden of proof lies upon the defendant or claimant.

(5) If any customs officer or police officer or any member of Her Majesty's armed forces has reasonable grounds for suspecting that any prohibited signal or message is being or is about to be made or transmitted from any ship, aircraft, vehicle, house or place, he may board or enter that ship, aircraft, vehicle, house or place and take such steps as are reasonably necessary to stop or prevent the sending of the signal or message.

77 Penalty for interfering with revenue vessels, etc.

(1) A person commits an offence, save for just and sufficient cause, if he interferes in any way with any ship, aircraft, vehicle, buoy, anchor, chain, rope or mark which is being used for the purposes of any of the functions of the Collector under Parts III to VII and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(2) A person who fires upon any vessel, aircraft or vehicle in the service of Her Majesty while that vessel, aircraft or vehicle is engaged in the prevention of smuggling commits an offence and is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding five years.

78 Special penalty where offender armed or disguised

(1) A person commits an offence, on conviction of which he is liable to a fine not exceeding the maximum of level 10 on the standard scale or to a term of imprisonment not exceeding three years, who-

(a) while concerned in the movement, carriage or concealment of goods-

(i) contrary to or for the purpose of contravening any prohibition or any restriction for the time being in force under or by virtue of any enactment with respect to the importation or exportation thereof; or

(ii) without payment having been made of or any security having been given for any duty payable thereon,

is armed with any offensive weapon or disguised in any way; or

(b) while so armed or disguised is found in the Falkland Islands in possession of any goods liable to forfeiture under any provision of any relevant enactment relating to imported goods or restricted goods.

(2) A person who commits an offence to which subsection (1) relates may be arrested without a warrant.

79 Penalty for offering goods for sale as smuggled goods

A person commits an offence who offers any goods for sale as having been imported unlawfully without the payment of duty or as having been otherwise unlawfully imported and, whether or not the goods were in fact unlawfully imported or were in fact chargeable with duty, the goods are liable to forfeiture and the person is liable on conviction of the offence to a fine not exceeding three times the value of the goods or the maximum of level 5 on the standard scale, whichever is the greater, and may be arrested without a warrant.

Forfeiture of ships, etc., for certain offences

80 Forfeiture of ship, aircraft or vehicle constructed, etc., for concealing goods

Where-

(a) a ship is or has been in Falkland Islands waters;

(b) an aircraft is or has been at any place, whether on land or on water, in the Falkland Islands; or

(c) a vehicle is or has been within the limits of any port or any aerodrome,

while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods, that ship, aircraft or vehicle is liable to forfeiture.

81 Forfeiture of ship jettisoning cargo, etc.

(1) If any part of the cargo of a ship is thrown overboard or is staved or destroyed to prevent seizure-

(a) while the ship is in Falkland Island waters; or

(b) while the ship, having been properly summoned to bring to by any vessel in the service of Her Majesty, fails to do so and chase is given, at any time during the chase,

the ship is liable to forfeiture.

(2) For the purposes of this section a ship shall be deemed to have been properly summoned to bring to-

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

(b) in the case of a ship which is not a British ship, if at the time when the summons was made the ship was in Falkland Islands waters.

82 Forfeiture of ship or aircraft unable to account for missing cargo

Where a ship has been within the limits of any port in the Falkland Islands, or an aircraft has been in the Falkland Islands, with a cargo on board and a substantial part of that cargo is afterwards found in the Falkland Islands to be missing, then, if the master of the ship or the commander of the aircraft fails to account therefore to the satisfaction of the Collector, the ship or aircraft is liable to forfeiture.

83 Ships failing to bring to

(1) If, save for just and sufficient cause, any ship which is liable to forfeiture or examination under any provision of any relevant enactment does not bring to when required to do so, the master of the ship commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

(2) Where any ship liable to forfeiture or examination as aforesaid has failed to bring to when required to do so and chase has been given thereto by any vessel in the service of Her Majesty in right of the Falkland Islands or of the United Kingdom and, after the commander of that vessel has hoisted an ensign and caused a gun to be fired as a signal, the ship still fails to bring to, the ship may be fired upon.

PART VIII
WAREHOUSES AND QUEEN'S WAREHOUSES AND RELATED PROVISIONS ABOUT PIPE-LINES

84 Approval of warehouses

(1) The Collector may approve, for such periods and subject to such conditions as he thinks fit, places of security for the deposit, keeping and securing-

(a) of imported goods chargeable as such with duty without payment of the duty;

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

(c) of goods manufactured or produced in the Falkland Islands and permitted by or under the relevant enactment to be warehoused without payment of any duty of excise chargeable thereon;

(d) of goods imported into or manufactured or produced in the Falkland Islands and permitted by or under the relevant enactments to be warehoused on drawback,

subject to and in accordance with warehousing regulations, and any place of security so approved is referred to in this Ordinance as a "customs warehouse".

(2) The Collector may from time to time give directions-

(a) as to the goods which may or may not be deposited in any particular warehouse or class of warehouse;

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

(3) If, after the approval of a warehouse as a customs warehouse, the occupier thereof makes without the previous consent of the Collector any alteration therein or addition thereto, he commits an offence and is liable on conviction to a fine of an amount not exceeding the maximum of level 8 on the standard scale.

(4) The Collector may at any time for reasonable cause revoke or vary the terms of his approval of any warehouse under this section.

(5) Where any person contravenes any condition imposed or direction given by the Collector under this section, he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 7 on the standard scale.

85 Regulation of warehouses and warehoused goods

(1) The Governor may by regulations under this section (referred to in this Ordinance as "warehousing regulations")-

(a) prohibit the deposit or keeping of goods in a warehouse except where the occupier of the warehouse has been approved by the Collector in accordance with the regulations and where such regulations and where such conditions as may be prescribed in relation to that occupier are satisfied;

(b) otherwise regulate the deposit, keeping, securing and treatment of goods in a warehouse;

(c) make provision, in relation to goods which have been warehoused or are required to be deposited in a warehouse with respect to the keeping, preservation and production of records and the furnishing of information;

(d) regulate the removal of goods from a warehouse and make provision with respect to goods which have lawfully been permitted to be removed from a warehouse without payment of duty; and

(e) make provision in relation to goods which have been warehoused or are required to be deposited in a warehouse with respect to the keeping, preservation and production of records and the furnishing of information.

(2) Warehousing regulations may, without prejudice to the generality of subsection (1), include provisions-

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

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

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

(d) for determining, for the purpose of charging or securing the payment of duty, the duties and the rates thereof to be applied to warehoused goods and in that connection-

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

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

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

(e) providing for all or any prescribed purposes of any relevant enactment-

(i) for goods to be treated as warehoused where in a prescribed case they are in the custody or under the control of an approved occupier of the warehouse; and

(ii) for goods to be treated, at such times before the duty point for those goods as may be prescribed or as may be determined under the regulations, as goods which are required to be deposited in a warehouse;

(f) providing for the revocation of the approval under regulations of any occupier of a warehouse and applying, with modifications, any of the provisions of section 90 in relation to such a revocation or to cases where such an approval is not renewed;

(g) enabling the Collector to allow goods to be removed from warehouse without approval of duty in such circumstances and subject to such conditions as he may determine;

(h) providing that goods which are required to be deposited in a warehouse, or which have been lawfully permitted to be removed from a warehouse without payment of duty, are to be treated as if, for all or any prescribed purposes of the relevant enactments, they were warehoused;

(i) permitting goods to be destroyed or abandoned to the Collector without payment of duty in such circumstances and subject to such conditions as he may determine;

(j) requiring goods which are required to be deposited in a warehouse or which have lawfully been permitted to be removed from a warehouse without payment of duty to be accompanied by such documents in such form and containing such particulars as may be prescribed;

(k) imposing or providing for the imposition under the regulations of requirements on persons concerned in any prescribed respect with the carriage of such goods to keep and preserve the documents that are required to accompany the goods;

(l) imposing or providing for the imposition under the regulations of requirements on a person so concerned to produce or cause to be produced any documents which are required to accompany any goods by virtue of paragraph (j) to a customs officer when required to do so for the purposes of allowing the officer to inspect them or remove them at a reasonable time and for a reasonable period;

(m) imposing or providing for the imposition under the regulations of requirements on the occupier of a warehouse or the proprietor of goods in a warehouse or goods which have been in or are required to be deposited in a warehouse to keep and preserve such records as may be prescribed relating to his occupation of the warehouse or proprietorship of the goods;

(n) imposing or providing for the imposition of requirements on such an occupier or proprietor to preserve all other records kept by him for the purpose of any relevant business or activity, except any records which (or records of a class which) the Collector specifies as not needing preservation;

(o) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to produce or cause to be produced any records which he has been required to preserve by virtue of paragraph (l) or (m) to a customs officer when

required to do so for the purpose of allowing the officer to inspect them, to copy or take extracts from them or to remove them at a reasonable time and for a reasonable period;

(p) imposing or providing for the imposition under the regulations of requirements on such an occupier or proprietor to furnish the Commissioners with any information relating to any relevant business or activity which they specify as information which they think it is necessary or expedient for them to be given for the protection of the revenue;

(q) allowing a requirement to preserve any records which has been imposed by virtue of paragraph (m) to be discharged by the preservation in a form approved by the Collector of the information contained in the records,

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

(3) In subsection (2) "relevant business or activity" means, in relation to an occupier or proprietor, any business or activity of his which includes occupation of a warehouse or (as the case may be) proprietorship of goods in a warehouse or goods which have been in or are required to be deposited in a warehouse, where the goods are of a kind in which the proprietor trades or deals.

(4) Where any documents or records removed under the powers conferred by subsection (2) are lost or damaged, the Crown is liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

(5) Warehousing regulations may make different provision for different cases, including different provision for different occupiers or descriptions of occupier, for warehouses or parts of warehouses of different descriptions or for goods of different classes or descriptions or of the same class or description in different circumstances.

(6) Warehousing regulations may make provision about the removal of goods from one warehouse to another or from one part of a warehouse to another part or for treating goods remaining in a warehouse as if, for all or any of the prescribed purposes of the relevant enactments, they had been so removed; and regulations about the removal of goods may, for all or any of the prescribed purposes of those enactments, include provision for treating the goods as having been warehoused or removed from warehouse (where they would not otherwise be so treated).

(7) Warehousing regulations made by virtue of 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 that paragraph or in the event of the carrying out of any operation on warehoused goods which is not by virtue of the said subsection (2)(c) permitted to be carried on in the warehouse.

(8) Warehousing regulations made by virtue of any of subsection (2)(j) to (l) or subsection (2)(m) to (o) may also provide for the forfeiture of the goods in question in the event of any contravention of any requirements imposed by or under the regulations with respect to any documents or records relating to the prescribed goods.

(9) Any person who fails to comply with any warehousing regulation or with any condition or requirement imposed under a warehousing regulation commits an offence and is liable on conviction to a fine not exceeding the maximum of level 7 on the standard scale.

(10) In this section-

(a) "prescribed" means prescribed by warehousing regulations;

(b) references to goods which are required to be deposited in a warehouse are references to goods which have been entered for warehousing on importation, which have been removed from a producer's premises for warehousing without payment of duty, which are to be warehoused on drawback or which are otherwise to be treated by virtue of subsection (2)(e)(ii) of this section as goods which are required to be deposited in a warehouse.

86 Deficiency in warehoused goods

(1) This section applies where goods have been warehoused, and before they are lawfully removed from the 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 Collector that the absence of or deficiency in the goods can be accounted for by natural waste or other legitimate cause, the Collector may require the occupier of the warehouse or the proprietor of the goods to pay immediately in respect of the missing goods or of the whole or any part of the deficiency, as he sees fit, the duty chargeable or deemed under warehousing regulations to be chargeable on such goods or, in the case of goods warehoused on drawback which could not lawfully be entered for home use, an amount equal to the drawback and any allowance paid in respect of those goods.

(3) The occupier of the warehouse or the proprietor of the goods, as the case may be, commits an offence on conviction of which he is liable to a fine of twice the amount he is required to pay under subsection (2) if on the written demand of a customs officer to pay that sum he refuses to pay or fails within seven days to pay the required sum.

(4) This section has effect without prejudice to any other provision of any relevant enactment providing for an offence to have been committed or for forfeiture of any goods to have been incurred.

87 Deficiency in goods occurring in course of removal from warehouse without payment of duty

(1) Where any goods have been lawfully permitted to be taken from a warehouse without payment of duty for removal to another warehouse or to some other place, section 86 shall, subject to subsection (2), have effect in relation to those goods in the course of removal as if those goods were still in the warehouse.

(2) In its application in relation to any goods by virtue of subsection (1), section 86 shall have effect as if the references in section 86(2) and (3) to the occupier of the warehouse were omitted.

88 Deficiency in certain goods moved by pipe-line

(1) This section applies where goods of any of the following descriptions, that is to say-

(a) goods which are chargeable with any duty which has not been paid;

(b) goods on which duty has been repaid or remitted in whole or in part; and

(c) goods on which drawback has been paid,

are moved by pipe-line, or notified to the proper officer as being goods to be moved by pipe-line, and are thereafter found to be missing or defective.

(2) In any case where this section applies, unless it is shown to the satisfaction of the Collector that the absence or deficiency in the goods can be accounted for by natural wastage or other legitimate cause, the Collector may require the owner of the pipe-line or the proprietor of the goods to pay immediately in respect of the missing goods, or in respect of the whole or part of the deficiency, as he sees fit, the amount of the duty unpaid or repaid therefrom or, as the case may be, an amount equal to the drawback paid thereon.

(3) A person commits an offence on conviction of which he is liable to a fine of an amount not exceeding twice the amount referred to in subsection (2) if, on the written demand of a customs officer, he refuses to pay any sum which he is required to pay under subsection (2).

(4) For the purposes of this section any absence or deficiency in the case of goods moved by a pipe-line used for the importation or exportation of goods shall be deemed to have taken place in the Falkland Islands unless the contrary is shown.

(5) This section has effect without prejudice to any provision of any relevant enactment under which anything to which this section relates might constitute an offence or lead to forfeiture of any goods.

89 Restriction on compensation for loss or damage to goods in, or for removal of goods from, warehouse or pipe-line

(1) This section applies to-

(a) any loss or damage caused to goods while in a warehouse or pipe-line; and

(b) any unlawful removal of goods from a warehouse or pipe-line.

(2) Subject to subsection (3), no compensation shall be payable by, and no action shall lie against, the Crown, the Collector or any customs officer acting in the execution of his duty for any loss or damage to which this section applies or for any unlawful removal to which this section applies.

(3) If any goods in a warehouse or pipe-line are destroyed, stolen or unlawfully removed by or with the connivance of a customs officer and that officer is convicted of the offence, then except where the proprietor of the goods or the occupier of the warehouse or (as the case may be) the owner of the pipe-line was a party to the offence, the Crown shall pay compensation for any loss caused by any such destruction, theft or removal.

(4) Where compensation is payable by virtue of subsection (3) then, notwithstanding any other provision of any relevant enactment, no duty is payable on the goods by the proprietor of the goods or by the occupier of the warehouse or, as the case may be, the owner of the pipe-line, and any sum paid by way of duty on those goods by any of those persons before the conviction shall be repaid.

90 Procedure on warehouse ceasing to be approved

(1) Where the Collector intends to revoke or not to renew his approval of a warehouse, he shall, not later than the beginning of the prescribed period ending with the date on which the revocation is to take effect or the approval is due to expire, as the case may be, give notice of his intention, specifying therein the said date and, unless the notice has been withdrawn or extended, the warehouse shall cease to be approved on that date.

(2) The notice shall be given in writing and shall be deemed to have been served on all persons interested in any goods then deposited in that warehouse or permitted under any relevant enactment to be so deposited between the giving of the notice and the date specified therein if addressed to the occupier of, and left at, the warehouse.

(3) If, after the date on which the warehouse ceases to be approved, any goods not duly cleared still remain in the former warehouse-

(a) they may be taken by a customs officer to a Queen's warehouse and, without prejudice to section 91(3), if they are not cleared from it within one month may be sold; or

(b) if the Collector so allows, they may remain in the former warehouse and if they are not cleared from it within one month may be sold.

(4) Where in accordance with subsection (3)(b) goods remain in the warehouse after revocation or expiry of the Collector's approval-

(a) section 91(6) and (7) apply as if they were deposited in a Queen's warehouse under any relevant enactment; and

(b) sections 85, 86, 87, 89 and 92 apply and any security given by bond or otherwise and any condition imposed by or under any relevant enactment shall continue to have effect, as if the former warehouse were still a warehouse.

(5) In this section "the prescribed period" means three months or such greater period as may be prescribed by warehousing regulations.

91 Provisions as to deposit in Queen's warehouse

(1) The following provisions of this section have effect in relation to any goods which are deposited in a Queen's warehouse under or by virtue of any provision of a relevant enactment.

(2) Such rent shall be payable while the goods are deposited as may be fixed by the Governor.

(3) If the goods are of a combustible or inflammable nature or otherwise of such a character as to require special care or treatment-

(a) they shall, in addition to any other charges payable thereon, be chargeable with such expenses for securing, watching and guarding them as the Collector, subject to any direction by the Governor, may see fit;

(b) neither the Crown, the Collector or any customs officer shall be liable to make good any damage which the goods may have sustained;

(c) if the proprietor of the goods has not cleared them within a period of twenty-eight days from the date of deposit, they may be sold by the Collector,

but, in the case of goods deposited by virtue of section 33(2), paragraph (c) of this subsection shall only apply if the goods are of a combustible or inflammable nature.

(4) Save as may be permitted by or under any relevant enactment, the goods shall not be removed from the warehouse until-

(a) any duty chargeable thereon; and

(b) any charges in respect of-

(i) the goods' removal to the warehouse; and

(ii) under subsections (2) and (3),

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

(5) The customs officer having the custody of the goods may refuse to allow them to be removed until he is satisfied that any freight charges due in respect of them have been paid.

(6) If the goods are sold under or by virtue of any relevant enactment, the proceeds of the sale shall be applied-

(a) first, in paying any duty chargeable on the goods;

(b) secondly, in defraying any such charges as are mentioned in subsection (4); and

(c) thirdly, in defraying any charges for freight;

and if the person who was immediately before the sale the proprietor of the goods makes application in that behalf, the remainder, if any, shall be paid to him.

(7) When the goods are authorized to be sold under any relevant enactment but cannot be sold-

(a) if the goods are to be exported, for a sum sufficient to make the payment mentioned in subsection (6)(b); or

(b) in any other case, for a sum sufficient to make the payments mentioned in subsection 6(a) and 6(b),

the Collector may destroy the goods.

92 General offences relating to warehouses and warehoused goods

(1) A person commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale, and in respect of which he may be arrested without a warrant, who without the authority or of the proper officer and without just and sufficient cause-

(a) opens any of the doors or locks of a warehouse or Queen's warehouse; or

(b) makes or obtains access to any such warehouse or to any goods warehoused in any such warehouse.

(2) Goods are liable to forfeiture if-

(a) having been entered for warehousing or being otherwise required to be entered in a warehouse, they are taken into the warehouse without the authority of, or otherwise than in accordance with any directions given by, the proper officer;

(b) having been entered for warehousing or being otherwise required to be deposited in a warehouse, they are, save as permitted by any relevant enactment or by or under warehousing regulations, removed without being duly warehoused;

(c) having been deposited in a warehouse or Queen's warehouse, they are unlawfully removed from it or are unlawfully loaded into any ship, aircraft or vehicle for removal or for exportation or use as stores;

(d) having been entered for warehousing or being otherwise required to be deposited in a warehouse they are concealed before they are warehoused or when they are required to be in the custody or under the control of the occupier of a warehouse;

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

(3) A person commits an offence in respect of which he may be arrested without a warrant if he takes, removes, loads or conceals any goods as mentioned in subsection (2), with intent-

(a) to defraud Her Majesty of any duty chargeable thereon; or

(b) to evade any prohibition or restriction for the time being in force in relation to them under or by virtue of any enactment.

(4) A person convicted of an offence under subsection (3) is liable to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding seven years.

PART IX
DUTIES AND DRAWBACKS: GENERAL PROVISIONS

General provisions relating to imported goods

93 Delivery of imported goods on giving security

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

(2) The Collector may for the purposes of subsection (1) treat goods as entered for home use notwithstanding that the entry does not contain all the particulars required for perfect entry if it contains as many of those particulars as are then known to the importer, and in that event the importer shall supply the remaining particulars as soon as may be to the Collector.

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

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

(5) Subject to subsection (6), if the importer disputes the correctness of the amount specified in a notice given to him under subsection (3), he may at any time within three months of the date of the notice make an application to the Senior Magistrate as referee to determine the matter, and the decision of the Senior Magistrate shall be final and binding.

(6) No requirement or application shall be made by virtue of subsection (5) until any sum falling to be paid by the importer under subsection (4) has been paid.

94 Regulations for determining origin of goods

(1) The Governor may by regulations make provision for determining, for the purposes of any duty of customs, the origin of any goods in cases where it does not fall to be determined under any enactment or other instrument having the force of law.

(2) Regulations under this section may-

(a) make provision as to the evidence which is required to be or is to be sufficient for the purpose of showing that goods are of a particular origin; and

(b) make different provision for different purposes and in relation to goods of different descriptions.

(3) Subject to the provisions of any regulations under this section, where in connection with a duty of customs chargeable on any goods any question arises as to the origin of the goods, the Collector may require the importer of the goods to furnish to him, in such form as he may prescribe, proof of any statement made to him as to any fact necessary to determine that question; and if such proof is not furnished to his satisfaction, the question may be determined without regard to that statement.

95 Power to impose restrictions where duty depends on certain matters other than use

Where any question arises as to the duties of customs chargeable on any imported goods (other than the use to be made of the goods) not reasonably ascertainable from an examination of the goods, and that question is not in law conclusively determined by the production of any certificate or other document, then on the importation of those goods, the Collector may impose such conditions as he sees fit for the prevention of abuse or the protection of the revenue (including conditions requiring security for the observance of any conditions so imposed).

96 Regulations where duty depends on use

(1) The Governor may make regulations applying in cases where any question as to the duties of customs chargeable on any goods depends on the use to be made of them.

(2) Regulations made under subsection (1) may make such provision for the purpose of securing that the relevant use is made of the goods as appears to the Governor to be necessary or expedient.

97 Repayment of duty where goods returned or destroyed by importer

(1) Subject to such conditions as the Collector sees fit to impose, where it is shown to the satisfaction of the Collector-

(a) that goods were imported in pursuance of 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-

(i) returned the goods unused to the seller and for that purpose complied with section 45 as to entry in like manner as if they had been dutiable or restricted goods for the purposes of Part V; or

(ii) destroyed such goods unused; and

(c) that the importer has, with the consent of the Collector, destroyed any goods on which duty has been paid,

the importer is entitled to obtain from the Collector repayment of any duty paid on the importation of the goods.

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

98 Forfeiture for breach of certain conditions

(1) Where-

(a) any imported goods have been relieved from customs duty chargeable on their importation or have been charged with duty at a reduced rate; and

(b) any condition or other obligation required to be complied with in connection with the relief of the charge of duty at that rate is not complied with,

the goods are liable to forfeiture.

(2) The provisions of this section shall apply whether or not any undertaking or security has been given for compliance with the condition or obligation or for the payment of duty payable apart therefrom, and the forfeiture of any goods under this section shall not affect any liability of any person who has given any such undertaking or security.

99 Valuation of goods for purpose of ad valorem duties

(1) For the purposes of any duty for the time being chargeable on any imported goods by reference to their value, the value of goods shall be determined on the basis of a delivery to the buyer at the port or place of importation into the Falkland Islands.

(2) The Governor may make regulations for the purpose of giving effect to subsection (1), and in particular for requiring any importer or other person concerned with the importation of goods-

(a) to furnish to the Collector in such form as he may require, such information as in his opinion is necessary for a proper valuation of the goods; and

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

(3) A person who contravenes any regulation made under subsection (2) commits an offence and on conviction is liable to a fine not exceeding the maximum of level 3 on the standard scale.

100 Charge of duty on manufactured or composite imported articles

(1) Subject to subsections (2) to (4), if any imported goods contain as a part or ingredient thereof any article chargeable with duty, duty shall be chargeable on the goods in respect of each article according to the quantity thereof appearing to the Collector to be used in the manufacture or preparation of the goods.

(2) Where, in the opinion of the Financial Secretary, it is necessary for the protection of the revenue, such imported goods shall be chargeable with the amount of duty with which they would be chargeable if they consisted wholly of the chargeable article or, if the goods contain more than one such article, of that one of the chargeable articles which will yield the highest amount of duty.

(3) The Governor may by regulations make provision with respect to the duties to be charged and the drawbacks to be allowed, on imported composite goods containing a dutiable part or ingredient.

(4) Subsections (1) and (2) do not apply where other provision is made by any other Ordinance relating to duties on imported goods.

(5) Any rebate which can be allowed by law on any article when separately charged shall be allowed in charging goods under subsection (1) or (2) in respect of any quantity of that article used in the manufacture or preparation of the goods.

Deferred payment of duty on goods

101 Deferred payment of duty on goods

(1) The Governor may by regulations make provision for the payment (in accordance, where any requirement to pay the duty takes effect, with that requirement) of any duty on goods of a prescribed kind to be deferred, in prescribed cases, subject to such conditions or requirements as may be imposed-

(a) by the regulations; or

(b) where the regulations so provide, by the Collector.

(2) Any duty payment of which is deferred under the regulations shall be treated, for prescribed purposes, as if it had been paid.

(3) Where-

(a) any duty to which an application for deferment of duty made under the regulations relates is payable on goods on their removal from a warehouse; and

(b) the Collector is not satisfied-

(i) that the conditions imposed under section 84(1) have been complied with by the occupier of the warehouse; or

(ii) that the warehousing regulations made by virtue of section 85(2)(m) have been complied with by the occupier or by the proprietor of the goods,

the Collector may, notwithstanding any provision of the regulations, refuse the application or refuse it in so far as it relates to those goods.

(4) Regulations under this section may make different provision for goods of different descriptions or for goods of the same description in different circumstances.

(5) In this section "prescribed" means prescribed by regulations made under this section.

General provision relating to charge of duty on and delivery of goods

102 Restriction on delivery of goods

(1) During any period not exceeding three months specified at any time by order of the Governor for the purposes of this section, the Collector may refuse to allow the removal for home use on payment of duty, or the sending out for home use after the charging of duty, of goods of any class or description chargeable with duty, notwithstanding payment of that duty, in quantities exceeding those which appear to the Collector to be reasonable in the circumstances.

(2) Where the Collector has during any such period exercised his powers under this section with respect to goods of any class or description, then, in the case of any such goods which are removed or sent for home use after the end of the period the duties and the rates thereof chargeable on those goods shall, notwithstanding any other provision of any relevant enactment relating to the determination of those duties and rates, be those in force at the date of the removal or sending out of the goods.

103 Power to remit or repay duty on denatured goods

(1) Subject to subsection (2), where any goods-

(a) which have been imported but not yet cleared for any purpose for which they may be entered on importation; or

(b) which are chargeable with a duty the requirement to pay which has not yet taken effect,

have by reason of their state and condition ceased to be worth the full duty chargeable thereon and have been denatured in such manner as the Collector may direct and in accordance with such conditions as he sees fit to impose, the Collector may remit or repay the whole or any part of any duty chargeable or paid thereon, or waive repayment of the whole or part of any drawback paid on their warehousing, upon delivery of the goods for use for such purposes as the Collector may allow.

(2) Subsection (1) does not apply to spirits.

(3) Where, whether under subsection (1) or otherwise, any goods chargeable with duty have gone into home use after having been denatured by mixture with some other substance, any person who separates the goods from the other substance commits an offence under this subsection in respect of which he may be arrested without a warrant, and the goods are liable to forfeiture.

(4) A person convicted of an offence under subsection (3) is liable on conviction to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for a term not exceeding two years.

104 Power to remit or repay duty on goods lost or destroyed etc.

(1) Where it is shown to the satisfaction of the Collector that any goods chargeable with duty have been lost or destroyed by unavoidable accident-

(a) after importation but before clearance for any purpose for which they might be entered on importation;

(b) in the case of goods chargeable with duty on their manufacture or production or on their removal from their place of manufacture or production, at any time before removal from that place;

(c) while in a warehouse or Queen's warehouse;

(d) at any time while that duty is otherwise lawfully unpaid, except where payment of that duty has become due but has been allowed by the Collector to be deferred; or

(e) at any time after drawback of that duty has been paid,

the Collector may remit or repay any duty chargeable or paid thereon or waive repayment of any drawback paid on their warehousing.

(2) The Collector may, at the request of the proprietor of the goods in question and subject to compliance with such conditions as the Collector sees fit to impose, permit the destruction of and waive payment of duty and repayment of drawback on-

(a) any part of any warehoused goods which becomes damaged or surplus by reason of the carrying out of any permitted operation on those goods in warehouse, and any refuse resulting from any such operation; and

(b) any imported goods not yet cleared for any purpose for which they might be entered on importation or any warehoused goods, being in either case goods which by reason of their state or condition ceased to be worth the full duty chargeable thereon.

105 Enforcement of bond in respect of goods removed without payment of duty

If any goods which have ceased to be lawfully permitted to be removed for any purpose without payment of duty are unlawfully taken from any ship, aircraft, vehicle or place before that purpose is accomplished, the Crown may if it sees fit enforce any bond given in respect thereof notwithstanding that any time prescribed in the bond for accomplishing that purpose has not expired.

Drawback, allowances, duties, etc.: general

106 Extension of drawback

(1) Without prejudice to any other provision of any relevant enactment or other written law, where drawback is allowable on the shipment of any goods as stores, the like drawback shall, subject to such conditions and restrictions as the Collector sees fit to impose, be allowed on the warehousing in a warehouse of those goods for use as stores.

(2) Without prejudice to any other provision of any relevant enactment or other written law, where drawback would be payable on the exportation of any goods, or on the warehousing of any goods for exportation, then, subject to such conditions and restrictions as the Collector sees fit, the like drawback shall be payable on the shipment of any such goods as stores or, as the case may be, on their warehousing in a warehouse for use as stores.

107 General provisions as to claims for drawback

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

(2) Where drawback has been claimed in the case of any goods subsections (3) to (6) shall apply in relation to the claim.

(3) No drawback shall be payable unless it is shown to the satisfaction of the Collector that duty in respect of the goods or the article contained therein or used in the manufacture or preparation thereof in respect of which the claim is made has been duly paid and has not been drawn back.

(4) No drawback shall be paid until the person entitled thereto or his agent has made a declaration in such form and manner and containing such particulars as the Collector may direct that the conditions on which the drawback is payable have been fulfilled.

(5) The Collector may require any person who has been concerned at any stage with the goods or article-

(a) to furnish such information as may be reasonably necessary to enable the Collector to determine whether duty has been duly paid and not drawn back and for enabling a calculation to be made of the amount of the drawback payable; and

(b) to produce any book of account or other document of whatever nature relating to the goods or article.

(6) Any person who fails to comply with any requirement made under subsection (5) commits an offence on conviction of which he is liable to a fine not exceeding the maximum of level 3 on the standard scale.

108 Drawback and allowance on goods damaged or destroyed after shipment

(1) Where it is proved to the satisfaction of the Collector that any goods after being duly shipped for exportation have been destroyed by accident on board the exporting ship or aircraft, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be payable in the same manner as if the goods had been exported to their destination.

(2) Where it is proved to the satisfaction of the Collector that any goods after being duly shipped for exportation, have been materially damaged by accident on board the exporting ship or aircraft, and the goods are with the consent of and in accordance with any conditions imposed by the Collector relanded or unloaded again in or brought back into the Falkland Islands and either abandoned to the Collector or destroyed, any amount payable in respect of the goods by way of drawback, allowance or repayment of duty shall be paid as if they had been duly exported and not so relanded, unloaded or brought back.

(3) Notwithstanding any provision of any relevant enactment or other written law relating to the reimportation of exported goods, the person to whom any amount is payable or has been paid under subsection (2) above shall not be required to pay any duty in respect of goods relanded, unloaded or brought back under that subsection.

109 Time limit on payment of drawback or allowance

No payment shall be made in respect of any drawback or allowance unless the debenture or other document authorising payment is presented for payment within two years from the date of the event on the happening of which the drawback or allowance became payable.

110 Offences in connection with claims for drawback, etc.

(1) A person commits an offence under this subsection who, with intent to defraud Her Majesty, obtains or attempts to obtain, or does anything whereby there might be obtained by any person, any amount by way of drawback, allowance, remission or repayment of, or any rebate from, any duty in respect of any goods which-

(a) is not lawfully payable or allowable in respect thereof; or

(b) is greater than the amount so payable or allowable.

(2) A person commits an offence under this subsection who, without such intent as is mentioned in subsection (1), does any of the things there mentioned.

(3) A person convicted of an offence under subsection (1) is liable on conviction to a fine not exceeding the maximum of level 11 on the standard scale or three times the amount which was or might have been improperly obtained or allowed, whichever is the greater, or to imprisonment for a term not exceeding seven years and a person convicted of an offence under subsection (2) is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale or three times the amount which was or might have been improperly obtained or allowed, whichever is the greater.

(4) Any goods in respect of which an offence under subsection (1) or (2) has been committed are liable to forfeiture; but in the case of a claim for drawback the Collector may, if he sees fit, instead of seizing the goods either refuse to allow any drawback thereon or allow only such drawback as he considers proper.

(5) Without prejudice to the foregoing provisions of this section, if in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made, it is found that those goods do not correspond with any entry made thereof in connection with that claim, the goods are liable to forfeiture and any person by whom such claim or entry was made has committed an offence in respect of which he is liable on conviction to a fine not exceeding three times the amount claimed or the maximum of level 3 on the standard scale, whichever is the greater.

(6) Subsection (5) applies in the case of any goods upon which a claim for drawback, allowance, remission or repayment of duty has been made where it is found that the goods, if sold for home use, would realise less than the amount claimed as it applies where the finding specified in subsection (5) is made except that it does not apply by virtue of this subsection to any claim under section 97 or 108(2).

111 Recovery of duties and calculation of duties, drawbacks, etc.

(1) Without prejudice to any other provision of any relevant enactment, any amount due by way of duty may be recovered as a debt due to the Crown.

(2) Any duty, drawback, allowance or rebate the rate of which is expressed by reference to a specified quantity or weight of any goods shall, subject to subsection (3), be chargeable or allowable on any fraction of that quantity or weight of the goods, and the amount payable or allowable on any such fraction shall be calculated proportionately.

(3) The Collector may for the purposes of subsection (2) determine the fractions to be taken into account in the case of any weight or quantity.

(4) For the purposes of calculating any amount due from or to any person under any relevant enactment by way of duty, drawback, allowance, repayment or rebate, any fraction of a penny in that amount shall be disregarded.

112 Repayment of overpaid duty

(1) Where a person pays to the Collector an amount by way of duty which is not due, the Crown is liable to repay that amount.

(2) The Crown is not required to make any such repayment unless a claim is made to the Collector in such form, and supported by such documentary evidence as may be prescribed by regulations made by the Governor, and regulations under this subsection may make different provision for different cases.

(3) It is a defence to a claim for repayment that the repayment would unjustly enrich the claimant.

(4) No claim for repayment may be made after the expiry of six years beginning with the date of payment or, if later, the date on which the claimant (or where the right to repayment has been assigned or otherwise transmitted, any predecessor in title of his) discovered, or could with reasonable diligence have discovered, that the amount was due.

(5) Except as provided by this section the Crown is not, nor is the Collector, liable to repay an amount paid to the Collector by way of duty by reason of the fact that it was not due.

PART X
IMPOSITION OF DUTY AND RELIEF AND EXEMPTION FROM DUTY

Imposition of duty and exemptions from payment of duty

113 Imposition of duties by the Legislative Assembly

(1) Subject to subsection (2), the Legislative Assembly may by resolution impose, vary or revoke-

(a) import or export duties of customs or excise upon any kind of goods whatsoever which may be imported into or exported from the Falkland Islands; or

(b) excise duties upon any kind of goods whatsoever manufactured, extracted or produced within the Falkland Islands.

(2) The Legislative Assembly shall not, unless the Governor has notified it in writing that the Secretary of State has consented thereto, exercise its powers under subsection (1) so as impose differential rates of duties, that is to say different rates of duties in relation to the same category of goods applicable by relation to the place of origin or manufacture, treatment or processing of the goods or place from which the goods were shipped to the Falkland Islands.

(3) Any resolution of the Legislative Assembly under this section shall be published in the Gazette.

[Revision w.e.f. 19/09/2024]

114 Persons exempted from liability to pay duty

Notwithstanding any other provision of any relevant enactment, there are exempt from all duties payable by virtue of this Ordinance-

(a) all goods imported or acquired by Her Majesty in her personal capacity and all goods imported or acquired by Her Majesty in right of Her Government of the Falkland Islands or in right of Her Government of the United Kingdom (including goods imported or acquired for the use of Her Majesty's armed forces);

(b) all goods imported or acquired by the Governor for his personal use;

(c) all goods imported for his personal use by a person not having Falkland Islands status who-

(i) is a serving member of Her Majesty's armed forces, is in connection with the defence of the Falkland Islands in the service in a civil capacity of Her Majesty in right of Her Government of the United Kingdom or is an employee of the Navy Army and Air Force Institute or of the British Forces Broadcasting Service;

(ii) is a person or a member of persons declared by the Governor after consultation with the Executive Council to be so closely associated with persons to whom sub-paragraph (i) applies that he ought fairly to have the benefit of the exemption under this paragraph;

(iii) is the spouse or a dependent of any person mentioned in sub-paragraph (i) or (ii);

(d) all goods imported by the Navy Army and Air Force Institute or the British Forces Broadcasting Corporation for its own use or supply to a person or persons exempt from the payment of duty by any of the foregoing paragraphs or by paragraph (e); and

(e) all goods imported by any contractor to Her Majesty in right of Her Government of the United Kingdom for its own use or supply to a person or persons exempt from the payment of duty by virtue of any of the foregoing paragraphs; but in either case, only if the goods are used or supplied in performance of the contract in question and are not used or supplied further or otherwise.

115 Entitlement to drawback on supply to an exempted person

(1) Subject to subsections (2) and (3), a person who satisfies the Collector that-

(a) he has, in the course of any trade or business carried on by him, supplied to any person to whom paragraphs (a), (b), (d) or (e) of section 114 apply any goods by way of sale in respect of which he has paid duty which has not previously been repaid to him by way of drawback or refunded to him or if so repaid or refunded; and

(b) he has repaid the amount thereof to the Consolidated Fund,

is entitled to be repaid any duty which he satisfies the Collector that he has paid in respect of those goods and, if he has not paid that duty, is no longer liable to pay the same.

(2) Subsection (1) does not apply in respect of any goods which have previously been used in the Falkland Islands whether by the supplier of the goods or any other person.

(3) If any goods supplied as mentioned in subsection (1) are returned to the supplier, then unless he satisfies the Collector that the goods have been destroyed or delivers them to the Collector for destruction or disposal as the Collector sees fit, the supplier is liable forthwith to pay the duty repaid or excused by virtue of subsection (1).

116 Power to provide for reliefs from duty in respect of imported legacies

(1) The Governor may by order make provision for conferring reliefs from duty in respect of goods imported into the Falkland Islands by or for any person who has become entitled to them as legatee.

(2) Any such relief may take the form either of an exemption from payment of duty or of a provision whereby the sum payable by way of duty is less than it would otherwise be.

(3) An order under this section-

(a) may make any relief for which it provides subject to any conditions, including conditions which are to be complied with after the importation of the goods to which the relief applies;

(b) may, in relation to any relief conferred by order made under this section, contain such incidental and supplementary provisions as the Governor thinks necessary or expedient; and

(c) may make different provision for different cases.

(4) In this section, "legatee" means any person taking under a testamentary disposition or *donatio mortis causa* or on an intestacy.

117 Relief from duty on trade samples, labels, etc.

The Collector may allow the delivery without payment of duty on importation, subject to such conditions and restrictions as he sees fit-

(a) of trade samples of such goods as he sees fit, whether imported as samples or drawn from the goods on their importation; and

(b) of labels or other articles supplied without charge for the purpose of being re-exported with goods manufactured or produced in the Falkland Islands.

118 Relief from duty on certain foreign goods re-imported

(1) Without prejudice to any other provision of any relevant enactment, but subject to subsection (2), goods manufactured or produced outside the Falkland Islands after exportation therefrom may on their re-importation be delivered without payment of duty for home use, where so eligible, if it is shown to the satisfaction of the Collector -

(a) that no duty was payable thereon at their previous importation or that any duty so chargeable was then paid;

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

(c) that the goods have not undergone any process outside the Falkland Islands since their exportation.

(2) For the purposes of this section, goods which on their previous importation were entered for transit or transshipment or were permitted to be delivered without payment of duty as being imported only temporarily with a view to subsequent re-exportation and which were re-exported accordingly shall on their re-importation be deemed not to have been previously imported.

Relief for goods for Her Majesty's ships

119 Supply of duty-free goods to Her Majesty's ships

(1) Unless by order under this subsection the Governor provides to the contrary, and subject to any regulations under subsection (3) for the time being in force, all goods dutiable as alcohol, tobacco, vapes or vaping substances which are supplied either-

(a) to any ship of the Royal Navy for the use of persons serving on that ship, being persons borne on the books of that or some other ship of the Royal Navy or a naval establishment;

(b) to the Ministry of Defence of the United Kingdom, for the use of persons serving in ships of the Royal Navy or naval establishments,

shall for all or any purposes of any duty or drawback in respect of those goods be treated as exported, and a person supplying or intending to supply goods as mentioned in paragraph (a) or (b) shall be treated accordingly as exporting or intending to export them.

[Sch. Pt.A/Ord. 5/2025/w.e.f. 01/01/2026]

(2) The Governor may by order under this subsection amend subsection (1) so as to add to the categories of dutiable goods in relation to which it applies.

(3) An order made under subsection (1) or subsection (2) may-

(a) contain such incidental or supplementary provisions as appear to the Governor to be necessary for the purposes of this section, including any adaptation of any provision of any relevant enactment; and

(b) make different provision in relation to different cases.

Personal reliefs

120 Power to provide, in relation to persons entering the Falkland Islands, for reliefs from duty

(1) The Governor may by order make provision for conferring on persons entering the Falkland Islands reliefs from duty; and any such relief may take the form either of an exemption from payment of duty or of a provision whereby the sum payable by way of duty is less than it would otherwise be.

(2) Without prejudice to subsection (1), the Governor may by order make provision whereby, in such cases and to such extent as may be specified in the order, a sum calculated at a rate specified in the order is treated as the amount payable by way of duty in respect of goods imported by a person entering the Falkland Islands; but any order making such provision shall enable the person concerned to elect that duty shall be charged on the goods at the rate which would be applicable apart from that provision.

(3) An order under this section-

(a) may make any relief for which it provides subject to conditions, including conditions which are to be complied with after the importation of the goods to which the relief applies and conditions with respect to the conduct in relation to the goods of persons other than the person on whom the relief is conferred and of persons whose identity cannot be ascertained at the date of importation;

(b) may, in relation to any relief conferred by order made under this section, contain such incidental and supplementary provisions as the Governor thinks necessary or expedient, including provisions requiring any person to whom a condition of the relief at any time relates to notify the Collector of any non-compliance with the condition and provisions for the forfeiture of the goods in the event of non-compliance with any condition subject to which they have been relieved from duty; and

(c) may make different provision for different cases.

(4) An order under this section may provide, in relation to any relief which under any such order is made subject to a condition, for there to be a presumption that, in such cases as may be described in the order by reference-

(a) to the quantity of goods in question; or

(b) to any other factor which the Governor considers appropriate,

the condition is to be treated, unless the Collector is satisfied to the contrary, as not being complied with.

(5) An order under this section may provide, in relation to any requirement of such an order for the Collector to be notified of non-compliance with a condition to which any relief from payment of duty is made subject, for goods to be exempt from forfeiture under section 98 in respect of non-compliance with that condition if-

(a) the non-compliance is notified to the Collector in accordance with that requirement;

(b) any duty which becomes payable on those goods by virtue of the non-compliance is paid; and

(c) the circumstances are otherwise such as may be described in the order.

(6) A person who fails to comply with any requirement of an order under this section to notify the Collector of any non-compliance with a condition to which any relief is made subject commits an offence and-

(a) is liable on conviction of that offence to a fine not exceeding level 5 on the standard scale;

(b) the goods in respect of which the offence was committed are liable to forfeiture.

(7) In subsection (3) "conduct", in relation to a person who has or may acquire possession or control of any goods, includes that person's intentions at any time in relation to those goods.

(8) Nothing in any order made under this section shall be construed as authorising any person to import any thing in contravention of any prohibition or restriction for the time being in force with respect thereto under or by virtue of any enactment.

Produce of the sea or of the continental shelf

121 Produce of the sea or continental shelf

(1) Fish or other natural produce of the sea, or goods produced or manufactured therefrom at sea, if brought direct to the Falkland Islands, shall-

(a) in the case of goods which, under any enactment or instrument having the force of law, are to be treated as originating in the Falkland Islands, be deemed for the purposes of any charge to customs duty not to be imported; and

(b) in the case of goods which, under any enactment or instrument having the force of law, are to be treated as originating in any other country or territory, be deemed to be consigned to the Falkland Islands from that country or territory.

(2) Any goods brought into the Falkland Islands which are shown to the satisfaction of the Collector to have been grown, produced or manufactured in any area which is a designated area of the continental shelf and to have been brought direct from that area shall be deemed for the purposes of any charge to duty not to be imported.

(3) The Governor may, after consulting the Secretary of State and in accordance with such advice as he then receives, by regulations prescribe cases in which, with a view to exempting any goods from any duty, or charging goods with duty at a reduced or preferential rate, under any relevant enactment the continental shelf of any country prescribed by the regulations, or of any country or class of countries so prescribed, shall be treated for the purposes of such of those enactments or of any instruments made thereunder as may be so prescribed as if the shelf formed part of that country and any goods brought from that shelf were consigned from that country.

(4) In subsection (3)-

(a) "continental shelf", in relation to the Falkland Islands, has the same meaning as it has under section 2(1) of the Offshore Minerals Ordinance 1994: and

(b) in any other case, "continental shelf" is the sea-bed and subsoil of the submarine areas adjacent to the coast, but outside the seaward limits of the territorial sea, of that country over which the exercise by that country of sovereign rights in accordance with international law is recognized or authorized by Her Majesty's Government in the United Kingdom.

Provisions in relation to duty on alcoholic liquors: introductory

122 Ascertainment of strength, volume and weight of alcoholic liquors

(1) This section applies to spirits, methylated spirits and any fermented liquor other than wash, and "liquor" in this section shall be construed accordingly.

(2) For all the purposes of this Part-

(a) except where some other measure of quantity is specified, any computation of the quantity of any liquor or of the alcohol contained in any liquor shall be made in terms of the volume of the liquor or alcohol, as the case may be;

(b) any computation of the volume of any liquor or of the alcohol contained in any liquor shall be made in litres at 20ºC; and

(c) the alcoholic strength of any liquor is the ratio of the alcohol contained in the liquor to the volume of the liquor (inclusive of the alcohol contained in it).

(3) All regulations made under, or for the time being having effect as if made or partly made under section 45(3) of the Finance (No. 2) Act 2023 of the United Kingdom, shall have effect for the purposes of prescribing the means to be used for ascertaining for any purpose the strength,

weight or volume of any liquor for the purposes of this Part as they have effect for the purposes of the said Act.

[S. R. & O. 6/2025/w.e.f. 15/05/2025]

[S.R. & O. 20/2017/w.e.f. 31/07/2017]

123 Meaning of and method of ascertaining gravity of liquids

(1) The gravity of any liquid shall be ascertained by such method as the Collector may approve, and the gravity so ascertained shall be deemed to be the true gravity of the liquid.

(2) Where for the purposes of any relevant enactment it is necessary to ascertain the original gravity of worts in which fermentation has commenced or of any liquid produced from such worts, that gravity shall be determined in such manner as is prescribed by the regulations made under or for the time being having effect as if made under, or partly made under, section 3(2) of the Alcoholic Liquor Duties Act 1979.

(3) Where the original gravity of any worts has been determined in accordance with the regulations mentioned in subsection (2) for the purposes of charging duty by reference to the quantity and original gravity of worts produced, a deduction of three-quarters shall be allowed from the original gravity so determined, so however as not to reduce the original gravity by reference to which the duty is charged below the gravity of the worts as ascertained by the proper officer in accordance with subsection (1).

[S.R. & O. 20/2017/w.e.f. 31/07/2017.]

Charge of duty upon alcohol

124 Spirits: charge of duty

(1) Subject to any relevant enactment, there shall be charged on spirits imported into the Falkland Islands or distilled or manufactured in the Falkland Islands duty at such rate per litre of alcohol in the spirits as is for the time being prescribed by customs resolution.

(2) The Collector may, subject to such conditions as he sees fit to impose, direct that the aromatic flavouring essence commonly known as angostura bitters shall be treated as not being spirits for the purpose of the charge to duty on spirits.

(3) The Collector may if he thinks fit, and subject to any conditions he sees fit to impose, permit spirits to be imported or delivered from warehouse without payment of duty if he is satisfied that those spirits are to be used for medical purposes or for scientific purposes.

(4) A person commits an offence in respect of which he is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale if he contravenes any condition imposed under subsection (2) or (3).

125 Importation and exportation of spirits

(1) Save as permitted by the Collector, spirits shall not be imported-

(a) in any ship of less than 40 tons register; or

(b) in containers of a capacity less than 40 litres each unless in bottles properly packed in cases.

(2) Save as permitted by the Collector, spirits other than bottled spirits shall not be exported, or be brought to any place or be waterborne for exportation in containers holding less than 40 litres each.

(3) Any spirits imported, exported, brought or waterborne contrary to this section are liable to forfeiture.

(4) Where any ship is or has been in Falkland Islands waters while having on board or attached in any manner thereto any spirits in containers other than such as are permitted by or under subsection (1), the ship and any spirits found therein are liable to forfeiture.

126 Restrictions on use of certain goods relieved from spirits duty

(1) Any person who uses otherwise than for a medical or scientific purpose-

(a) any mixture which has on importation been relieved to any extent of the duty chargeable in respect of the spirits contained in it or used in its preparation or manufacture by reason of being a mixture which is recognized by the Collector as being used for medical purposes;

(b) any article containing spirits which were exempted from duty under section 124; or

(c) any article manufactured or prepared from spirits in respect of which remission of duty has been obtained under section 124,

unless he has complied with the requirements specified in subsection (2) of this section, commits an offence and is liable on conviction to a fine of a maximum of three times the value of the mixture or the article so used or level 3 on the standard scale and any article in his possession in the preparation or manufacture of which the mixture or article has been used is liable to forfeiture.

(2) The requirements with which a person must comply to avoid incurring liability under subsection (1) are-

(a) he must obtain the consent of the Collector in writing to the use of the mixture or article otherwise than for a medical or scientific purpose;

(b) he must pay to the Collector an amount equal to the difference between the duty charged on the mixture and the duty which would have been chargeable if it had not been a mixture recognized as mentioned in subsection (1)(a) above, or to the amount of the duty remitted, as the case may be.

(3) The Governor may make regulations for the purpose of enforcing the provisions of this section.

(4) Regulations under subsection (3) may in particular require any person carrying on any trade in which spirits or mixture or articles containing or prepared or manufactured with spirits, are in the opinion of the Collector likely to be or to have been so used-

(a) to give and verify particulars of the materials which he is using or has used and of any such mixtures or articles he has used and of any mixture or articles he has sold;

(b) to produce any books of account or other documents of whatever nature relating to any such materials, mixture or articles.

(5) A person commits an offence who contravenes or fails to comply with any regulations made under subsection (3) and on conviction of that offence he is liable to a fine not exceeding the maximum of level 3 on the standard scale.

(6) In this section "mixture" includes a preparation and a compound, and any reference to a mixture or article includes a reference to any part thereof.

127 Beer: charge of duty

(1) Subject to this section, there shall be charged on beer imported into, or produced in, the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) No duty shall be chargeable on beer brewed in the Falkland Islands by a person who brews the same only for his own domestic use and who is not also a wholesaler or retailer of beer.

128 Wine: charge of duty

(1) Subject to this section, there shall be charged on wine imported into the Falkland Islands or produced in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) For the purposes of this Part, the process of blending or otherwise mixing two or more wines ("the constituent wines") constitutes the production of wine if-

(a) the rate of duty applicable to one of the constituent wines is different from that applicable to the other or, as the case may be, at least one of the others;

(b) the rate of duty applicable to the wine which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent wines; and

(c) the blending or other mixing is with a view to dealing wholesale in the wine which is the product thereof,

and for the purposes of this subsection the rate of duty applicable to any wine is that which is or would be chargeable under this Ordinance on its importation into the Falkland Islands or, as the case may be, on its production in the Falkland Islands.

(3) Where, by virtue of subsection (2), wine is produced in the Falkland Islands, duty is chargeable on that wine by virtue of this Ordinance, whether or not duty was previously charged on all or any of the constituent wines by virtue of this Ordinance by virtue of its importation into or production in the Falkland Islands; but nothing in this subsection shall affect the operation of regulations under section 129 giving relief from duty on wine so produced by reference to duty charged on all or any of the constituent wines.

(4) No duty shall be chargeable on wine made in the Falkland Islands by a person who make the same only for his own domestic use and who is not also a wholesaler or retailer of wine.

129 Spirituous beverage: charge of duty

(1) Subject to this section, there shall be charged on spirituous beverages imported into or made in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) For the purposes of this Part, the process of blending or otherwise mixing two or more liquors ("the constituent liquors") one or more of which is spirits constitutes the production of spirituous beverage if-

(a) the rate of duty applicable to one of the constituent liquors is different from that applicable to the other or, as the case may be, at least one of the others;

(b) the rate of duty applicable to the mixed or blended liquor which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent liquors;

(c) the mixed or blended liquor which results is a spirituous beverage (that is to say, the majority of the alcohol therein is distilled alcohol and the percentage of alcohol therein by volume does not exceed 22%); and

(d) the mixing or blending is with a view to dealing wholesale in the liquor which is the product thereof,

and for the purposes of this subsection the rate of duty applicable to any spirituous beverage is that which is or would be chargeable under this Ordinance on its importation into the Falkland Islands or, as the case may be, on its production in the Falkland Islands.

(3) Where, by virtue of subsection (2), spirituous beverage is produced in the Falkland Islands, duty is chargeable on that spirituous beverage by virtue of this Ordinance whether or not duty was previously charged on all or any of the constituent liquors by virtue of this Ordinance by virtue of its importation into or production in the Falkland Islands.

130 Fortified wine: charge of duty

(1) Subject to this section there shall be charged on fortified wine imported into or made in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

(2) For the purposes of this Part, the process of blending or otherwise mixing two or more liquors ("the constituent liquors") one or more of which is wine constitutes the production of fortified wine if-

(a) the rate of duty applicable to one of the constituent liquors is different from that applicable to the other or, as the case may be, at least one of the others;

(b) the rate of duty applicable to the mixed or blended liquor which is the product of the blending or other mixing is higher than that which is applicable to at least one of the constituent liquors;

(c) the mixed or blended liquor which results is fortified wine (that is to say, it is not within the definitions of beer, wine or spirituous beverage contained in section 2(1) and it contains at least 15% and not more than 22% alcohol; and

(d) the mixing or blending is with a view to dealing wholesale in the liquor which is the product thereof,

and for the purposes of this subsection the rate of duty applicable to any fortified wine is that which is or would be chargeable under this Ordinance on its importation into the Falkland Islands or, as the case may be, on its production in the Falkland Islands.

(3) Where fortified wine within the meaning of subsection (2) is produced in the Falkland Islands, duty is chargeable on that spirituous beverage by virtue of this Ordinance, whether or not duty was previously charged on all or any of the constituent liquors by virtue of this Ordinance in consequence of its importation into or production in the Falkland Islands.

131 Other strong liquor: charge of duty

There shall be charged on other strong liquor imported into or produced in the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is for the time being prescribed by customs resolution.

Stills

132 Power to make regulations in relation to stills

(1) The Governor may make regulations-

(a) regulating the keeping and use of stills;

(b) regulating the manufacture of stills;

(c) prohibiting the removal of stills or parts thereof.

(2) Any person who contravenes any regulation commits an offence and is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale and the still or part thereof in respect of which the offence was committed is liable to forfeiture.

[Sch. Pt.A/Ord. 5/2025/w.e.f. 01/01/2026]

132A Vapes and vaping substances: charge of duty

(1) There must be charged on single use vapes and vaping substances imported into the Falkland Islands duty at such rate and in relation to such unit of quantity or volume as is prescribed by customs resolution.

(2) In this section, —

"**single use vape**" means a vape which is not designed or intended to be re-used, including any vape which —

(a) is not refillable with a vaping substance;

(b) is not rechargeable;

(c) is not refillable with a vaping substance and not rechargeable; or

(d) does not have separately available replacement components;

"**vape**" means —

(a) a device which —

(i) vaporises substances, other than tobacco, for the purposes of inhalation through a mouthpiece (whether or not it also vaporises tobacco); and

(ii) is not a medical device which is approved by the Chief Medical Officer; or

(b) an item which is intended to form part of a device within paragraph (a) (including anything intended to be attached to it with a view to imparting flavour);

"**vaping substance**" means a substance, other than tobacco, that is intended to be vaporised by a vape.

(3) For the purposes of this section, —

(a) a vape is not refillable unless it is designed to include —

(i) a single-use container which is separately available and can be replaced by an individual user in the normal course of use; or

(ii) a container which can be refilled by an individual user in the normal course of use;

(b) a vape is not rechargeable if it is designed to contain —

(i) a battery which cannot be recharged; or

(ii) a coil which is not separately available and intended to be replaced by an individual user in the normal course of use, including any coil which is contained in a single-use cartridge or pod which is not separately available and cannot be replaced by an individual user in the normal course of use; and

(c) a coil is separately available if it can be purchased by an individual user.

[Sch. Pt.A/Ord. 5/2025/w.e.f. 01/01/2026]

PART XI
DETENTION OF PERSONS, FORFEITURE AND LEGAL PROCEEDINGS

Detention

133 Provisions as to arrest of persons

(1) Any person who has committed, or who there are reasonable grounds to suspect of having committed, any offence in respect of which any provision of this Ordinance provides that a person who has committed that offence may be arrested without a warrant, may be arrested by any customs officer, police officer or any member of Her Majesty's armed forces at any time within twelve years from the date of the commission of the offence.

(2) Where it was not practicable to arrest any person in respect of an offence to which subsection (1) relates at the time of the commission of the offence or, where such person having been then or subsequently arrested for that offence has escaped, he may be arrested by any customs officer, police officer or member of Her Majesty's armed forces at any time and may be proceeded against in like manner as if the offence had been committed at the date when he was finally arrested.

(3) Where a person who is a member of the crew of any ship in Her Majesty's employment or service is arrested by a customs officer or police officer for an offence under any relevant enactment, the commanding officer of the ship shall, if so required by the arresting officer, keep that person on board that ship until he can be brought before a court and shall then deliver him up to the proper officer.

(4) Where any person has been arrested by virtue of this section, the person arresting him shall give notice of the arrest to the Collector.

Forfeiture

134 Provisions as to detention, seizure and condemnation of goods, etc.

(1) Any thing liable to forfeiture under any relevant enactment may be seized or detained by any customs officer or police officer or by any member of Her Majesty's armed forces in accordance with the provisions of the Prohibited Goods Ordinance.

(2) . . .

[Revision w.e.f. 31/07/2017]

135 Forfeiture of spirits

Where, by any provision of, or of any instrument made under, any relevant enactment, any spirits become liable to forfeiture by reason of some offence committed by a revenue trader, then-

(a) where that provision specifies the quantity of those spirits but does not specify the spirits so liable, the Collector may seize the equivalent of that quantity from any spirits in the stock of that trader; and

(b) where that provision specifies the spirits so liable, the Collector may, if he thinks fit, seize instead of the spirits so specified an equivalent quantity of any other spirits in the stock of that trader.

136 Forfeiture of ships, etc., used in connection with goods liable to forfeiture

(1) Without prejudice to any other provision of any relevant enactment, where any thing has become liable to forfeiture under any provision of such an enactment-

(a) any ship, aircraft, vehicle, animal, container (including any article of passenger's baggage) or other thing whatsoever 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 purposes 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.

(2) Where any ship, aircraft, vehicle or animal has become liable to forfeiture under any relevant enactment, whether by virtue of subsection (1) of this section or otherwise, all tackle, apparel or furniture thereof is also liable to forfeiture.

(3) Where any ship not exceeding 100 tons register or any aircraft becomes liable to forfeiture under this section by reason of having been used in the importation, exportation or carriage of goods contrary to or for the purpose of contravening any prohibition or restriction for the time being in force with respect to those goods, or without payment having been made of, or security given for, any duty payable thereon, the owner and the master or commander each commits an offence and is liable on conviction to a fine not exceeding the lesser of the value of the ship or aircraft or the maximum of level 7 on the standard scale.

137 Special provisions as to forfeiture of larger ships

(1) Notwithstanding any other provision of any relevant enactment, a ship of 250 or more tons register shall not be liable to forfeiture under or by virtue of any provision of any relevant enactment, except section 80, unless the offence in respect of or in connection with which the forfeiture is claimed-

(a) was substantially the object of the voyage during which the offence was committed;

(b) was committed while the ship was under chase by a vessel in the service of Her Majesty after failing to bring to when properly summoned to do so by that vessel.

(2) For the purposes of this section, a ship shall be deemed to have been properly summoned to bring to-

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

(b) in the case of a ship which is not a British ship, if at the time when the summons was made the ship was in Falkland Islands waters.

(3) The exemption from forfeiture of any ship under this section shall not affect any liability to the forfeiture of goods carried therein.

138 Penalty in lieu of forfeiture of larger ship where responsible officer implicated in offence

(1) Where any ship of 250 or more tons register would, but for section 137, be liable to forfeiture for or in connection with any offence under any relevant enactment and, in the opinion of the Senior Magistrate, a responsible officer of the ship is implicated either by his own act or by neglect in that offence, the Senior Magistrate may order the owners of the ship to pay to the Crown such sum, not exceeding £50,000, as he thinks fit.

(2) The Magistrate's Court may make an order under subsection (1)-

(a) in the course of criminal proceedings in the Magistrate's Court in relation to that offence; or

(b) on the application of the Collector or of the Attorney General,

but the Magistrate's Court shall not make such an order unless the owners of the ship have been given a reasonable opportunity of being heard in relation thereto.

(3) The Collector may detain a ship in respect of which he believes an order under subsection (1) could be made until the earliest of-

(a) the conclusion of any criminal proceedings to which subsection (2)(a) relates;

(b) the delivery by or on behalf of the owners of such security as he considers sufficient, for such amount not exceeding £50,000 as he may require, for the payment of any sum which the Magistrate's Court may order under subsection (1);

(c) the payment of any amount ordered by the Magistrate's Court under subsection (1) to be paid;

(d) an order of a competent court that the ship be released.

(4) For the purposes of this section-

(a) "responsible officer", in relation to any ship, means the master, a mate or an engineer of the ship and, in the case of a ship carrying a passenger certificate, the purser or chief steward;

(b) without prejudice to any other grounds on which a responsible officer of a ship may be held to be implicated by neglect, he may be so held if goods not owned by any member of the crew are discovered in a place under that officer's supervision in which they could not reasonably have been put if he had exercised proper care at the time of the loading of the ship or subsequently.

139 Protection of customs officers, etc., in relation to seizure and detention of goods, etc.

(1) Where, in any proceedings for the condemnation of any thing seized or liable to forfeiture under any relevant enactment, judgment is given for the claimant, the court may, if it thinks fit, certify that there were reasonable grounds for the seizure.

(2) Where any proceedings, whether civil or criminal, are brought against the Crown, the Collector, the Attorney General or any person authorized by or under any relevant enactment to seize or detain any thing liable to forfeiture under any relevant enactment on account of the seizure or detention of any thing, and judgment is given for the plaintiff or prosecutor, then if either-

(a) a certificate relating to the seizure has been granted under subsection (1) above; or

(b) the court is satisfied that there were reasonable grounds for seizing or detaining that thing under the relevant enactments,

the plaintiff or prosecutor is not entitled to recover any damages or costs and the defendant shall not be liable to any punishment.

(3) Nothing in subsection (2) affects any right of any person to the return of any thing seized or detained or to compensation in respect of any damage to the thing or in respect of its destruction.

(4) Any certificate under subsection (1) may be proved by the production of either the original certificate or a certified copy of it signed by the Senior Magistrate or the Courts Administrator.

General provisions

140 Institution of proceedings, service of process and time limit for proceedings

(1) No proceedings for an offence under a relevant enactment shall be brought except by or with the authority of one or other of the Collector and the Attorney General.

(2) Any summons or other process for the purpose of any proceedings under any relevant enactment may be served upon the person to whom it is addressed-

(a) by delivering it to him personally;

(b) by leaving it so addressed at his last known place of abode or business or, in the case of a body corporate at its principal or registered office or in the case of an oversea company at its principal place of business in the Falkland Islands;

(c) by leaving it so addressed on board any vessel or aircraft to which he may belong or may have lately belonged;

(d) if that person is the owner or one of the owners or a charterer or one of the charterers of a vessel or the master or lately the master or other member of the crew of any vessel, by leaving it so addressed with any agents in the Falkland Islands of that vessel.

(3) Proceedings for an offence under any relevant enactment shall not be commenced after the end of twelve years beginning with the date on which the offence was committed.

141 Proof of certain documents

(1) Any document purporting to be signed by the Collector or by any other person with his authority shall, until the contrary is proved, be deemed to be so signed and may be proved by production of a copy of it purporting to be so signed.

(2) A photograph of any document delivered to the Collector for any customs purpose and certified by him to be such a photograph shall be admissible in any proceedings, whether civil or criminal, to the same extent as the document itself.

142 Proof of certain other matters

(1) An averment in any process in proceedings under a relevant enactment-

(a) that those proceedings were instituted with the authority of the Collector or of the Attorney General;

(b) that any person is or was the Collector, a customs officer or a police officer or a member of Her Majesty's armed forces;

(c) that any person is or was appointed or authorized by the Collector to discharge, or was engaged by the orders or with the concurrence of the Collector in the discharge of, any duty;

(d) that the Collector has or has not been satisfied as to any matter as to which he is required by any provision of any relevant enactment to be satisfied;

(e) that any ship is a British ship; or

(f) that any goods thrown overboard, staved or destroyed were so dealt with in order to prevent or avoid the seizure of those goods,

shall, until the contrary is proved, be sufficient evidence of the matter in question.

(2) Where in any proceedings relating to customs any question arises as to the place from which any goods have been brought or as to whether or not-

(a) any duty has been paid or secured in respect of any goods;

(b) any goods or other things whatsoever are of the description or nature alleged in the information, writ or other process;

(c) any goods have been lawfully imported or lawfully unloaded from any ship or aircraft;

(d) any goods have been lawfully loaded into any ship or aircraft or lawfully exported or were lawfully waterborne;

(e) any goods were lawfully brought to any place for the purpose of being loaded into any ship or aircraft or exported; or

(f) any goods are or were subject to any prohibition or restriction on their importation or exportation or carriage coastwise,

then where those proceedings are brought by or against the Collector or the Attorney General or a customs officer, or against any other person in respect of anything purporting to have been done in pursuance of any power or duty conferred or imposed by him under any relevant enactment, the burden of proof lies on the other party to the proceedings.

PART XII
GENERAL AND MISCELLANEOUS

Prohibition of imports and exports

143 Prohibition of imports and exports

(1) The Governor may by order make such provision as he thinks expedient for prohibiting or regulating, in all cases or any specified classes of cases, and subject to such exceptions, if any, as may be made by or under the order, the importation into, or exportation from, the Falkland Islands, or the carriage coastwise or shipment as ship's or aircraft's stores, of all goods or goods of a specified description.

(2) An order under this section may constitute breaches of such of its provisions as are specified for the purpose offences punishable on conviction by a fine not exceeding such amount or imprisonment for a term not exceeding such length (or both such a fine and such imprisonment) as the Governor specifies in the order (but so that no fine greater than the maximum of level 10 on the standard scale or term of imprisonment longer than three years shall be so specified).

(3) If any goods-

(a) are imported, exported carried coastwise or shipped as ship's or aircraft's stores in contravention of an order under subsection (1); or

(b) are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped in contravention of such an order,

those goods shall be deemed to be prohibited goods and are forfeit to the Crown and shall be disposed of in such manner as the Governor may direct.

(4) If any order under subsection (1) prohibits the exportation of any goods unless consigned to a particular place or person, and such goods so consigned are delivered otherwise than to such place or person, as the case may be, the vessel or aircraft in which the goods were exported shall be deemed, unless the contrary is shown, to have been used in the conveyance of prohibited goods.

(5) If any goods are imported, exported, carried coastwise or shipped as ship's or aircraft's stores, or are brought to any quay or other place, or waterborne, for the purpose of being exported or of being so carried or shipped, the proper officer may require any person possessing or having control of the goods to satisfy the Collector that the importation, exportation or carriage coastwise of the goods or the shipment of the goods as ship's or aircraft's stores, as the case may be, is not unlawful by virtue of an order under subsection (1) or some other written law and if he

fails to do so then, unless the contrary is proved, the goods shall be deemed to be prohibited goods and are forfeit to the Crown and shall be disposed of in such manner as the Governor may direct.

(6) Nothing in any foregoing provision of this section or in any order made under subsection (1) applies to any goods imported into, carried coastwise in or exported from the Falkland Islands by or on behalf of Her Majesty in right of Her Government of the United Kingdom.

(7) The foregoing provisions of this section have effect without prejudice to the provisions of sections 35 and 36 of the repealed Ordinance or any Proclamation made under the said section 35.

144 Provisions as to the ultimate destination of goods

(1) Where a person about to export goods from the Falkland Islands, in the course of making entry of them before shipment, makes a declaration as to their ultimate destination, and the Collector suspects that the declaration is untrue in any material particular, the goods may be detained until he is satisfied as to the truth of the declaration, and, if the Collector is not so satisfied, the goods shall be forfeit to the Crown and may be disposed of in such manner as the Governor may direct.

(2) An exporter or shipper of goods which have been exported from the Falkland Islands shall, if so required by the Collector, satisfy him that the goods have not reached (whether as ultimate destination or in transit) any country or territory or destination in any country or territory or any other place to which, by virtue of an order under section 144(1) or any other written law, to which they may not lawfully be exported and if he fails to do so he commits an offence and is liable on conviction of that offence to a fine of an amount equivalent to three times the value of the goods or the maximum of level 10 on the standard scale, whichever is the greater, and to be imprisoned for a term not exceeding three years.

(3) It is a defence for a person charged with an offence under subsection (2) to prove that he did not consent to or connive at the goods reaching a destination (whether as ultimate destination or in transit) to which they could not lawfully be sent and that he took all reasonable steps to secure that the ultimate destination of the goods was that specified in the documents shown or furnished to customs officers in connection with the exportation of the goods.

General powers, etc.

145 Bonds and security

(1) Without prejudice to any express requirement as to security contained in any relevant enactment, the Collector may, if he thinks fit, require any person to give security by bond or otherwise for the observance of any condition in connection with customs.

(2) Any bond taken pursuant to subsection (1)-

(a) shall be taken on behalf of Her Majesty;

(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 order of the Collector.

146 Power to require provision of facilities

(1) Any person required by the Collector under a relevant enactment to give security in respect of any premises or place to be used for the examination of goods by a customs officer shall-

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

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

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

(2) A person who contravenes any provision of subsection (1) commits an offence on conviction of which he is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(3) A person subject to a requirement to which subsection (1) relates shall provide and maintain any fitting required for the purpose of affixing any lock which the proper officer may require to affix to the premises of that person or any part thereof or to any vessel, utensil or other apparatus whatsoever kept thereon and in default-

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

(b) if that person fails on demand to pay those expenses he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale.

(4) Any person who is subject to a requirement under subsection (1) or any employee of his commits an offence in respect of which he may be arrested without a warrant and is liable to a fine not exceeding the maximum of level 5 on the standard scale if-

(a) he wilfully destroys or damages any such fitting as is mentioned in subsection (3) or any lock or key provided for use with it, or any label or seal placed on any such lock;

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

(c) he has any such fitting or any article intended to be secured by means of it so constructed that that intention is defeated.

147 Power to examine and take account of goods

(1) Without prejudice to any other power conferred by any relevant enactment, a customs officer may examine and take account of any goods-

(a) which are imported;

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

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

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

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

(f) in the case 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.

(2) Any examination of goods under any relevant enactment shall be at such place as the Collector appoints for the purpose.

(3) In the case of such goods as the Collector may direct, and subject to such conditions as he sees fit to impose, a customs officer may permit goods to be skipped on the quay or bulked, sorted, lotted, packed or repacked before account is taken thereof.

(4) Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, lotting, marking, numbering, loading, unloading, carrying or landing of goods or their containers for the purposes of, or incidental to, the examination by an officer, removal or warehousing thereof shall be done, and any facilities or assistance required for any such examination shall be provided, by or at the expense of the proprietor of the goods.

(5) If any imported goods which a customs officer has power under any relevant enactment to examine are without the authority of the proper officer removed from customs charge before they have been examined, those goods are liable to forfeiture.

(6) If any goods falling within subsection (5) are removed by a person with intent to defraud Her Majesty of any duty chargeable thereon or to evade any prohibition or restriction for the time being in force with respect thereto, that person commits an offence under this subsection in respect of which he may be arrested without a warrant.

(7) A person convicted of an offence under subsection (6) is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding seven years.

(8) Without prejudice to the foregoing provisions of this section, where by this section or any other provision of any relevant enactment an account is authorized or required to be taken of any goods for any purpose by a customs officer, the Collector may, with the consent of the proprietor of the goods, accept as the account of the goods for that purpose an account taken by such other person as may be approved in that behalf by both the Collector and the proprietor of the goods.

148 Application of customs and excise enactments to certain postal packets

(1) Subject as follows, this Ordinance and all other enactments for the time being in force in relation to customs or excise shall apply to goods contained in postal packets to which this

section applies which are brought into or sent out of the Falkland Islands by post from or to any place outside the Falkland Islands as they apply in relation to goods otherwise imported, exported or removed into or out of the Falkland Islands from or to any such place.

(2) The Governor may make regulations for-

(a) specifying the postal packets to which this section applies;

(b) making modifications or exceptions in the application of the enactments mentioned in subsection (1) to such packets;

(c) enabling persons engaged in the business of a postal operator to perform for the purposes of those enactments and otherwise all or any of the duties of the importer, exporter or person removing the goods;

(d) carrying into effect any arrangement with the Government or postal administration of any country or territory outside the Falkland Islands with respect to foreign postal packets;

(e) securing the observance of the enactments mentioned in subsection (1); and

(f) without prejudice to any liability of any person under those enactments, punishing any contravention of the regulations.

(3) Duties (whether of customs or excise) charged on imported goods or other charges payable in respect of postal packets to which this section applies (whether payable to the Falkland Islands Post Office or to a foreign administrator) as a civil debt due to Her Majesty in right of Her Government of the Falkland Islands.

(4) In any proceedings for the recovery of any charges payable as mentioned in subsection (3), a certificate of the Postmaster of the amount of the charges shall be evidence of that fact.

(5) In this section "foreign postal packet" means any postal packet either posted in the Falkland Islands and sent to a place outside the Falkland Islands, or posted in a place outside the Falkland Islands and sent to a place within the Falkland Islands, or in transit through the Falkland Islands to a place outside the Falkland Islands.

149 Power to detain postal packets containing contraband

(1) The Postmaster may-

(a) detain any postal packet if he suspects that it may contain relevant goods;

(b) forward any packet so detained to the Collector.

(2) In this section-

(a) "the Postmaster" includes any public officer employed in the Falkland Islands Post Office acting with the authority or under the instructions of the Postmaster;

(b) "relevant goods" means-

(i) any goods chargeable with any duty charged on imported goods (whether a customs or an excise duty) which has not been paid or secured; or

(ii) any goods in the course of importation, exportation or removal into or out of the Falkland Islands contrary to any prohibition or restriction for the time being in force by virtue of any enactment.

(3) Subsection (1) has effect without prejudice to section 148.

(4) The Collector may open and examine any postal packet received at a post office and any postal packet forwarded to him under this section and if he finds any relevant goods on opening and examining a postal packet under this section, he may detain the packet and its contents for the purpose of proceedings being brought in relation to them.

(5) If the Collector does not find any relevant goods on opening and examining a postal packet under this section, he shall-

(a) deliver the packet to the addressee upon his paying any postage and other sums chargeable on it; or

(b) forward the packet to him by post.

(6) No provision of any enactment as to the inviolability of mails applies in relation to any power conferred by this section.

(7) In subsections (4) to (6) "the Collector" includes any customs officer acting with the authority or under the direction of the Collector.

150 Power to take samples

(1) A customs officer may at any time take samples of any goods-

(a) which he is empowered by any provision of any relevant enactment to examine;

(b) which are on premises where goods chargeable with any duty are manufactured, prepared, or subjected to any process; or

(c) which, being dutiable goods, are held by any person as stock for his business or as materials for manufacturing or processing.

(2) Where a customs officer takes from any vessel, pipe or utensil a sample of any product of, or any materials for, the manufacture of any person-

(a) the person may, if he wishes, stir up and mix together the contents of that vessel, pipe or utensil before the sample is taken;

(b) the sample taken by the officer shall be deemed to be representative of the whole contents of that vessel, pipe or utensil.

(3) Any samples taken under this section shall be disposed of and accounted for in such manner as the Collector may direct.

(4) Where any sample is taken under this section from any goods chargeable with duty after that duty has been paid, other than-

(a) a sample taken when goods are first entered on importation; or

(b) a sample taken from goods in respect of which a claim for drawback, allowance, rebate, remission or repayment of that duty is being made,

and the sample so taken is to be retained, the officer taking it shall, if so required by the person in possession of the goods, pay for the sample on behalf of the Collector such sum as reasonably represents its wholesale value.

151 Power to search premises

(1) Without prejudice to any other power conferred by any relevant enactment but subject to subsection (2) of this section, where there are reasonable grounds to suspect that any thing liable to forfeiture under any relevant enactment is kept or concealed in any building or place, any customs officer may-

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

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

(2) No customs officer shall exercise the power of entry conferred by subsection (1) by night unless he is accompanied by a police officer.

152 Power to enter land for or in connection with access to pipe-lines

Where any thing conveyed by a pipe-line is chargeable with duty which has not been paid, a customs officer may enter any land adjacent to the pipe-line in order to get to the pipe-line for the purpose of exercising in relation to that thing any power conferred by or under any relevant enactment or to get from the pipe-line after an exercise of any such power.

153 Power to search vehicles or vessels or aircraft

(1) Without prejudice to any other power conferred by any relevant enactment, where there are reasonable grounds to suspect that any vehicle, vessel or aircraft is or may be carrying any goods which are-

(a) chargeable with any duty which has not been paid or secured;

(b) in the course of being unlawfully removed from or to any place; or

(c) otherwise liable to forfeiture under any relevant enactment,

subject to subsection (2), any customs officer, police officer or member of Her Majesty's armed forces may stop and search that vehicle, vessel or aircraft.

(2) If when so required by any such officer or member the person in charge of any such vehicle, vessel or aircraft refuses to stop or to permit the vehicle, vessel or aircraft to be searched, that person commits an offence and is liable on conviction to a fine not exceeding the maximum of level 3 on the standard scale in relation to vehicles, vessels or aircraft but the power to stop and search in subsection (1) is not available in respect of aircraft which are airborne.

154 Power to search persons

(1) Where there are reasonable grounds to suspect that any person to whom this section applies (referred to in this section as "the suspect") is carrying any article-

(a) which is chargeable with any duty which has not been paid or secured; or

(b) with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment,

a customs officer may exercise the powers conferred by subsection (2) and, if the suspect is not under arrest, may detain him for so long as may be necessary for the exercise of those powers and (where applicable) the exercise of the rights conferred by subsection (3) of this section.

(2) The customs officer may require the suspect-

(a) to permit such a search of any article which he has with him; and

(b) subject to subsection (3), to submit to such searches of his person, whether rub-down, strip or intimate,

as the customs officer may consider necessary or expedient; but no such requirement may be imposed under paragraph (b) of this subsection without the customs officer informing the suspect of the effect of subsection (3).

(3) If the suspect is required to submit to a search of his person, he may require to be taken-

(a) except in the case of a rub-down search, before a justice of the peace or, unless the customs officer requiring the search is the Collector, before a superior of the customs officer;

(b) in the case of a rub-down search, and unless the customs officer requiring the search is the Collector, before a superior of the customs officer;

and the justice or superior shall consider the grounds for suspicion and direct accordingly whether the suspect is to submit to the search.

(4) A rub-down or strip search shall not be carried out except by a person of the same sex as the suspect; and an intimate search shall not be carried out except by a suitably qualified person.

(5) This section applies to the following persons-

(a) any person who is on board or who has landed from any ship or aircraft;

(b) any person entering or about to leave the Falkland Islands;

(c) any person at a customs airport;

(d) any person in, entering or leaving any approved wharf or transit shed.

(6) In this section-

"approved wharf or transit shed" means the Falkland Interim Port and Storage System and the East Jetty at Stanley, the whole of the harbour facility at Mare Harbour the jetties at Fox Bay

East and Port Howard in West Falkland and any other wharf or transit shed declared by an order by the Governor under this subsection to be an approved wharf or transit shed;

"intimate search" means any search which involves a physical examination (that is, an examination which is more than simply a visual examination) of a person's body orifices;

"rub-down search" means any search which is neither an intimate search nor a strip search;

"strip search" means a search which is not an intimate search but which involves the removal of an article of clothing which-

(a) is being worn wholly or partly on a person's trunk;

(b) is being so worn either next to the skin or next to an article of underwear; and

"suitably qualified person" means a person who is registered as a medical practitioner under the Medical Practitioners, Midwives and Dentists Ordinance 1914 or is qualified to be so registered or is a person employed as a staff nurse, sister or nursing officer by the Crown or is a person who has been notified by the Governor in the Gazette as being a person whom he is satisfied is a person who is appropriately qualified for the purposes of this section.

[Revision w.e.f. 31/07/2017]

155 Agents

(1) If any person requests a customs officer or a person appointed by the Collector to transact any business relating to customs with him on behalf of another person, the customs officer or person so appointed may refuse to transact that business with him unless written authority from that other person is produced in such form as the Collector may require.

(2) Subject to subsection (1), anything required by any relevant enactment to be done by the importer or exporter of goods may, except where the Collector otherwise requires, be done on his behalf by an agent.

General offences

156 Untrue declarations, etc.

(1) If any person either knowingly or recklessly-

(a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Collector or to a customs officer, any declaration, notice, certificate or other document whatsoever; or

(b) makes any statement in answer to any question put to him by a customs officer which he is required by or under any enactment to answer,

being a document or statement produced or made for any purpose of any matter related to customs, which is untrue in any material particular, he commits an offence under this subsection in respect of which he may be arrested without a warrant; and any goods in relation to which the document or statement was made are liable to forfeiture.

(2) Without prejudice to subsection (4), a person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for a term not exceeding two years.

(3) If any person-

(a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to the Collector or to a customs officer, any declaration, notice, certificate or other document whatsoever; or

(b) makes any statement in answer to any question put to him by a customs officer which he is required by or under any enactment to answer,

being a document or statement produced or made for any purpose of any matter relating to customs, which is untrue in any material particular, then without prejudice to subsection (4), he commits an offence and is liable on conviction to a fine not exceeding the maximum of level 4 on the standard scale.

(4) Where by reason of any such document or statement as is mentioned in subsection (1) or (3) the full amount of duty is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of the duty unpaid or of the overpayment is recoverable as a debt due to the Crown or may be summarily recovered as a civil debt.

157 Counterfeiting documents, etc.

(1) If any person-

(a) counterfeits or falsifies any document which is required by or under any enactment relating to customs or which is used in the transaction of any business relating to customs;

(b) knowingly accepts, receives or uses any such document so counterfeited or falsified;

(c) alters any such document after it is officially issued; or

(d) counterfeits any seal, signature, initials or other mark of, or used by, any customs officer for the verification of such a document or for the security of goods or for any other purpose relating to customs,

he commits an offence under this section in respect of which he may be arrested without a warrant.

(2) A person convicted of an offence under this section is liable on conviction to a fine not exceeding the maximum of level 10 on the standard scale or to imprisonment for a term not exceeding two years.

158 False scales, etc.

(1) If any person required by or under any relevant enactment to provide scales for any purpose provides, uses or permits to be used any scales which are false or unjust he commits an offence under this section.

(2) Where any article is to be weighed, counted, gauged or measured for the purposes of the taking of an account or the making of an examination by a customs officer then-

(a) any such person as is mentioned in subsection (1); or

(b) any person by whom or on whose behalf the article is weighed, counted, gauged or measured,

does anything whereby the customs officer might be prevented from, or hindered or deceived in, taking a true and just account or making a due examination, he commits an offence under this section.

(3) Any person committing an offence under this section is liable on conviction to a fine not exceeding the maximum of level 5 on the standard scale and any false or unjust scales, and any article in connection with which the offence was committed, is liable to forfeiture.

(4) In this section "scales" includes weights, measures and weighing or measuring machines or instruments.

159 Penalty for fraudulent evasion of duty

(1) Without prejudice to any other provision of any relevant enactment, any person who-

(a) knowingly acquires possession of any of the following goods:

(i) goods which have been unlawfully removed from a warehouse or Queen's warehouse;

(ii) goods which are chargeable with a duty which has not been paid;

(iii) goods with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment; or

(b) is in any way knowingly concerned in carrying, removing, depositing, harbouring, keeping or concealing or in any manner dealing with any such goods,

does so with intent to defraud Her Majesty of any duty payable on the goods or to evade any such prohibition or restriction with respect to the goods he commits an offence under this section in respect of which he may be arrested without a warrant.

(2) Without prejudice to any other provision of any relevant enactment, if any person is in relation to any goods, in any way knowingly concerned in any fraudulent evasion or attempt at evasion-

(a) of any duty chargeable on the goods;

(b) of any prohibition or restriction for the time being in force with respect to the goods under or by virtue of any enactment; or

(c) of any provision of any relevant enactment in relation to the goods,

he commits an offence under this section in respect of which he may be arrested without a warrant.

(3) Subject to subsections (4) and (5), a person convicted of an offence under this section is liable on conviction to a fine not exceeding the maximum of level 12 on the standard scale or to imprisonment for a term not exceeding seven years.

(4) In the case of an offence under this section in connection with a prohibition or restriction on importation having effect by virtue of section 3 of the Misuse of Drugs Ordinance, subsection (3) of this section has effect subject to the modifications specified in Schedule 1 to this Ordinance.

(5) In the case of an offence under this section in connection with the prohibitions contained in sections 20 and 21 of the Forgery and Counterfeiting Act 1981 in its application under the law of the Falkland Islands, subsection (3) of this Ordinance shall have effect as if the words "ten years" were substituted for the words "seven years".

(6) In any case where a person would, apart from this subsection, be guilty of-

(a) an offence under this section in connection with a prohibition or restriction; and

(b) a corresponding offence under the enactment or other instrument imposing the prohibition or restriction, being an offence for which a fine or other penalty is expressly provided for by that enactment or other instrument,

he shall not be guilty of the offence mentioned in paragraph (a) of this subsection.

(7) Where any person commits an offence under this section, the goods in respect of which the offence was committed are liable to forfeiture.

160 General provisions as to offences and penalties

(1) Where-

(a) by any provision of any relevant enactment a punishment is prescribed for any offence under it or for any contravention of any regulation, direction, condition or requirement made given or imposed under it;

(b) any person is convicted in the same proceedings of more than one such offence or contravention,

that person is liable to that punishment for each such offence or contravention of which he is convicted.

(2) Where a fine for an offence under any relevant enactment is required to be fixed by reference to the value of any goods, that value shall be taken as the price which those goods might be reasonably expected to have fetched, after payment of any duty or tax charged on them, if they had been sold in the open market at or about the date of the commission of the offence in respect of which the fine is imposed.

(3) Where an offence under any relevant enactment has been committed by a body corporate and it is proved to have been committed with the consent or the connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or similar officer of the body corporate or any person purporting to act in such capacity, he as well as the body corporate has committed the offence and is liable to be proceeded against and punished accordingly.

(4) Where in any proceedings for an offence under any relevant enactment any question arises as to the duty or rate of duty chargeable on any imported goods, and it is not possible to ascertain the relevant time specified in section 36, that duty or rate shall be determined as if the goods had been imported without entry at the time when the proceedings were commenced.

Miscellaneous

161 Directions

Directions given under any provision of this Ordinance may make different provision for different circumstances and may be varied or revoked by subsequent directions.

162 Regulations

The Governor may make regulations for the better carrying out of the provisions of this Ordinance and any other relevant enactment, and may, in such regulations, prescribe fees, rents or charges to be paid in respect of any matter therein referred to.

163 Repeal, savings and amendments

(1) Subject to subsection (2), the Customs Ordinance 1943 ("the repealed Ordinance") is repealed.

[Revision w.e.f. 31/07/2017]

(2) Sections 35 and 36 of the repealed Ordinance shall remain in force and effect but may be repealed or amended by order under this section.

(3) . . .

[Revision w.e.f. 31/07/2017]

(4) Notwithstanding the repeal of the repealed Ordinance, and subject to subsection (2) of this section, all subsidiary legislation made under the repealed Ordinance remains in force and effect but may be revoked or amended by order made under this subsection.

[Revision w.e.f. 31/07/2017]

(5) Any provision of this Ordinance or any other relevant enactment relating to anything to be done or required or authorized to be done under or in pursuance of a relevant enactment shall have effect as if the repealed Ordinance were a relevant enactment.

(6) Any provision of this Ordinance relating to anything done or required or authorized to be done under, in pursuance of or by reference to that provision or any other provision of this Ordinance shall have effect as if any reference to that provision, or that other provision, as the case may be, included a reference to the corresponding provision of the repealed Ordinance.

SCHEDULE 1

[S. 2/Ord. 14/04/w.e.f. 13/8/04.]

1. Sections 43(4) and 159(3) of this Ordinance shall have effect in a case where the goods in respect of which the offence referred to in that subsection was committed was a Class A drug or a Class B drug as if for the words "is liable" onwards there were substituted the following words:

> "is liable where the goods were a Class A drug or a Class B drug (except where the drug concerned is cannabis) to imprisonment for a term not exceeding fourteen years and a fine not exceeding the maximum of level 10 on the standard scale and where the goods concerned were cannabis to a term of imprisonment not exceeding seven years and to a fine not exceeding the maximum of level 8 on the standard scale".

2. Sections 43(4) and 159(3) of this Ordinance shall have effect in a case where the drugs in respect of which the offence referred to in that subsection were a Class C drug as if for the words "is liable" onwards there were substituted the following words:

> "is liable to imprisonment for a term not exceeding five years and to a fine not exceeding the maximum of level 6 on the standard scale".

3. In this Schedule, "Class A drug", "Class B drug" and "Class C drug" have the same meanings as they have in the Misuse of Drugs Ordinance (Title 49.3).

SCHEDULE 2
AMENDMENT OF PROHIBITED GOODS ORDINANCE

. . .

[Revision w.e.f. 31/07/2017]