

DA 1, 182, 183, 196, 191-194, 210

TERRITORY OF NEW GUINEA.

No. 20 of 1921.

AN ORDINANCE

Relating to the Customs.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act, 1920*, as follows:—

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Customs Ordinance, 1921*. Short title.

2. This Ordinance shall commence on a day to be fixed by the Administrator by notice in the *New Guinea Gazette*. Commencement.

3. This Ordinance is divided into Parts as follows:— Parts.

PART I.—Preliminary.

PART II.—Administration.

PART III.—Customs Control, Examination, Entries and Securities generally.

PART IV.—The Importation of Goods.

Division 1.—Prohibited Imports.

Division 2.—The Boarding of Ships.

Division 3.—The Report of the Cargo.

Division 4.—The Entry, Unshipment, Landing and Examination of Goods.

PART V.—The Warehousing of Goods.

Division 1.—Licensed Warehouses.

Division 2.—King's Warehouses.

PART VI.—The Exportation of Goods.

PART VII.—Ships' Stores.

PART VIII.—The Duties.

Division 1.—The Payment and Computation of Duties generally.

Division 2.—*Ad valorem* Duties.

Division 3.—Deposits, Abatements, Remissions, and Refunds of Duties.

Division 4.—Disputes as to Duties.

- PART IX.—Drawbacks.
- PART X.—The Coasting Trade.
- PART XI.—Agents.
- PART XII.—Officers.
 - Division 1.—Powers of Officers.
 - Division 2.—Protection of Officers.
- PART XIII.—Penal Provisions.
 - Division 1.—Forfeitures.
 - Division 2.—Penalties.
- PART XIV.—Customs Prosecutions.
- PART XV.—Settlement of Cases by the Chief Collector.
- PART XVI.—Regulations.
- PART XVII.—Miscellaneous.

article

4. In this Ordinance, unless the contrary intention appears—
- “Answer questions” means that the person on whom the obligation of answering questions is cast shall, to the best of his knowledge, information and belief, truly answer all questions on the subject mentioned that the Collector asks;
 - “By authority” means by the authority of the officer of Customs doing duty in the matter in relation to which the expression is used;
 - “Carriage” includes vehicles and conveyances of all kinds;
 - “Chief Collector” means the Chief Collector of Customs;
 - “Collector” includes the Chief Collector and any principal officer of Customs doing duty at the time and place and any officer doing duty in the matter in relation to which the expression is used;
 - “Documents” includes books;
 - “Drawback” includes bounty or allowance;
 - “Dutiable goods” includes all goods in respect of which any duty of Customs is payable;
 - “Gazette Notice” means a notice signed by the Chief Collector and published in the *New Guinea Gazette*;
 - “Goods” includes all kinds of movable personal property;
 - “Goods under drawback” includes all goods in respect of which any claim for drawback has been made;
 - “Justice” means any Justice of the Peace having jurisdiction in the place;
 - “Master” means the person in charge of a ship, but does not include a pilot or Government officer;
 - “Officer” includes all persons employed in the service of the Customs;
 - “Owner”, in respect of goods, includes any person (other than an officer of Customs) being or holding himself out to be the owner, importer, exporter, consignee, agent or person possessed of, or beneficially interested in, or having any control of, or power of disposition, over the goods;
 - “Owner” in respect of a ship, includes every person acting as agent for the owner or to receive freight or other charges payable in respect of the ship;
 - “Parts beyond the seas” means any country outside the Territory;
 - “Package” includes every means by which goods are cased, covered, enclosed, contained or packed for carriage;
 - “Port” means any proclaimed port;
 - “Produce documents” means that the person on whom the obligation to produce documents is cast shall, to the best of his power, produce to the Collector all documents relating to the subject-matter mentioned;
 - “Ship” includes every description of vessel used in navigation not propelled by oars only;
 - “Smuggling” means any importation or introduction or attempted importation or introduction of goods with intent to defraud the Revenue;
 - “The Customs” means the Department of Trade and Customs;

- “ This Ordinance ” includes all regulations made thereunder ;
 “ Warehouse ” means a warehouse licensed for the purposes of this Ordinance ;
 “ Wharf ” means a wharf appointed for the purposes of this Ordinance ;
 “ Wharf owner ” includes the owner or occupier of a wharf.

PART II.—ADMINISTRATION.

5. There shall be a Chief Collector of Customs who shall be the Head of the Customs and shall have the chief control of the Customs throughout the Territory. The principal officer at each port of entry shall be called the Collector. Chief Collector and Collector.

6. In relation to any particular matters or class of matters or to any particular district the Chief Collector may by writing under his hand delegate any of his powers and functions under any Customs Ordinance (except this power of delegation) so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified or the district defined in the instrument of delegation. Delegation by Chief Collector.

7. The Collector may with the written approval of the Chief Collector delegate in like manner as the Chief Collector any of his powers under this Ordinance. Delegation by Collector.

8. Every delegation whether by the Chief Collector or Collector shall be revocable in writing at will and no delegation shall prevent the exercise of any power by the Chief Collector or Collector. Revocation of delegation.

9. All persons acting in the service of the Customs at the commencement of this Ordinance shall be deemed to have been duly appointed. Continuance of officers.

The Seal of the Customs shall be the Royal Arms having the words “ New Guinea—H.M. Customs ” encircling the Arms and the name of the Port added thereto. Such Seal shall be judicially noticed. Customs seal.

11. The vessels and boats employed in the service of the Customs shall be distinguished from other vessels and boats by such flag as is prescribed. Customs flag.

The Administrator may by proclamation published in the *New Guinea Gazette*— Appointment of boarding stations, &c.

- (a) appoint boarding stations for the boarding of ships by officers ;
- (b) establish ports and fix their limits ; and
- (c) appoint wharfs within ports and fix their limits.

13. Ports and wharfs may be established or appointed for specified limited purposes or without limitation. Appointment of ports and wharfs.

14. The Chief Collector may by *Gazette* notice— Appointment of sufferance wharfs, &c.

- (a) appoint sufferance wharfs in any port ; and
- (b) appoint places for the examination of goods on landing.

15. All boarding stations, ports, wharfs and examination places in actual use by authority at the commencement of this Ordinance shall continue as if established or appointed under this Ordinance unless otherwise determined by the Chief Collector by *Gazette* notice. Continuance of boarding stations, &c.

16. Every wharf-owner shall provide, to the satisfaction of the Collector, suitable office accommodation on his wharf for the exclusive use of the officer employed at the wharf, and such shed accommodation for the protection of goods as the Chief Collector in writing declares to be requisite. Accommodation on wharfs.

Penalty : Twenty pounds.

17. Carriages, boats and lighters may be licensed for the carriage of goods subject to the control of the Customs upon payment of such fees and subject to such conditions as are prescribed. Licences.

18. The licence for any carriage, boat, or lighter may be revoked by the Collector if the licensee is guilty of any fraud or misconduct or fails to comply with this Ordinance. Revocation of licence.

Unlicensed
carriages or
lighters.

19. No person shall use any unlicensed carriage, boat or lighter for the conveyance of goods subject to the control of the Customs.
Penalty: Twenty pounds.

Before whom
declarations
may be made

20. Declarations under this Ordinance may be made before the Chief Collector or a Collector or a Justice or before any officer authorized

Declaration by
youths.

21. No person shall knowingly receive a declaration under this Ordinance by any person under the age of eighteen years.

Working days
and hours.

22. The working days and hours of the Customs shall be as prescribed and, except when working overtime is permitted by the Collector, cargo shall only be received, loaded or worked on, or discharged from, any ship on working days and during working hours.

Penalty : Fifty pounds.

Overtime
charges.

23. When working overtime is permitted, overtime at prescribed rates shall be charged for the services of the officers.

PART III.—CUSTOMS CONTROL, EXAMINATION, ENTRIES AND SECURITIES GENERALLY.

Customs control
of goods.

24. Goods shall be subject to the control of the Customs as follows :—

- (a) As to all goods imported—from the time of importation until delivery for home consumption or until exportation to parts beyond the seas whichever first happens.
- (b) As to all goods under drawback—from the time of the claim for drawback until exportation to parts beyond the seas.
- (c) As to all goods subject to any export duty—from the time when the goods are brought to any port or place for exportation until payment of the duty.
- (d) As to all goods for export the exportation of which is subject to compliance with any condition or restriction under any Ordinance or regulation—from the time the goods are made or prepared in, or are brought into, any prescribed place for export until their exportation to parts beyond the seas.

Goods on ships
subject to
Customs
control.

25. All goods on board any ship or boat from parts beyond the seas shall be subject to the control of the Customs whilst the ship or boat is within the limits of any port in the Territory.

Right of
examination.

26. The control of the Customs especially includes the right of the Customs to examine all goods subject to such control.

Customs control
of goods.

27. No goods subject to the control of the Customs shall be moved, altered or interfered with, except by authority and in accordance with this Ordinance.

Penalty : One hundred pounds.

No claim for
compensation
for loss.

28. The Customs shall not be liable for any loss or damage occasioned to any goods subject to the control of the Customs except by the neglect or wilful act of some officer.

Goods imported
through post.

29. Goods imported through the post-office shall be subject to the control of the Customs in the same manner as goods otherwise imported.

Entries.

30. Entries may be made and passed for all goods subject to the control of the Customs.

Owner to make
entry.

31. Entries shall be made by the delivery of the entry by the owner to the Collector. —

Person making
entries to
answer
questions.

Collector to
pass entries.

32. Any person making any entry shall, if required by the Collector, answer questions relating to the goods referred to in the entry.

33. Entries shall be passed by the Collector signing the entry and on the passing of the entry the goods shall be deemed to be entered and any entry so passed shall be warrant for dealing with the goods in accordance with the entry.

Goods to be
dealt with in
accordance with
the entry.

34. All goods in respect of which any entry has been made and passed shall forthwith be dealt with in accordance with the entry.
Penalty : Fifty pounds.

35. Goods being the personal baggage of passengers in any ship and not being dutiable goods may, subject to any prescribed conditions, be imported or exported without entry. Passenger's baggage.

36. The Customs shall have the right to require and take securities for compliance with this Ordinance and generally for the protection of the Revenue of the Customs, and, pending the giving of the required security in relation to any goods subject to the control of the Customs, may refuse to deliver the goods or to pass any entry relating thereto. Right to require security.

37. Where any security is required to be given the security may be by bond or guarantee or cash deposit or all or any of those methods, as the Collector approves in each case. Security.

38. When security is required for any particular purpose, security may, by the authority of the Chief Collector, be accepted to cover all transactions for such time and for such amount as the Chief Collector approves. General bonds may be given.

39. All Customs securities may, after the expiration of three years from the date of the securities or from the time specified for the performance of the conditions of the securities, be cancelled by the Chief Collector. Cancellation of bonds.

40. If the Chief Collector is at any time unsatisfied with the sufficiency of any security he may require a fresh security and a fresh security shall be given accordingly. New securities.

41. The form of Customs security in Schedule I. to this Ordinance shall be sufficient for all the purposes of a bond or guarantee under this Ordinance, and, without sealing, shall bind its subscribers as if sealed, and unless otherwise provided therein jointly and severally and for the full amount. Forms of Customs security.

42. Whenever any Customs security is put in suit by the Collector the production thereof without further proof shall entitle the Collector to judgment, for their stated liability, against the persons appearing to have executed the security unless the defendants prove compliance with the condition or that the security was not executed by them or release or satisfaction. Effect of Customs security.

PART IV.—THE IMPORTATION OF GOODS.

43. For the purpose of securing the due importation of goods— Importation.

- (a) The ship may be boarded.
- (b) The cargo shall be reported.
- (c) The goods shall be entered, unshipped and may be examined.

Division I.—Prohibited Imports.

44. No prohibited imports shall be imported. Importations.
Penalty: One hundred pounds.

45. No goods shall be imported in any ship which has not been lawfully registered in the country to which she belongs, or which has not her certificate of registry on board, unless the absence of the certificate is accounted for to the satisfaction of the Collector. Unregistered ships.
Penalty: One hundred pounds.

46. The following are prohibited imports:— Prohibited imports.

- (a) Any reproduction, except by permission of the proprietor, of the copyright of any work copyrighted in the King's dominions and of the existence of which copyright and date of its expiration, written notice has been given to the Chief Collector by or on behalf of the proprietor of the copyright.
- (b) False money and counterfeit sterling and any coin or money of the King's dominions not being of the established standard in weight or fineness.
- (c) Blasphemous, indecent or obscene works or articles.
- (d) Goods manufactured or produced wholly or in part by prison labour or which have been made within or in connexion with any prison, gaol or penitentiary.

- (e) Exhausted tea and tea adulterated with spurious leaf or with exhausted leaves or being unfit for human use or unwholesome.
- (f) Oleomargarine, butterine or any similar substitute for butter unless coloured and branded as prescribed.
- (g) All goods the importation of which are prohibited by proclamation by the Administrator.
- (h) All goods having thereon or therewith any false suggestion of any warranty, guarantee or concern in the production or quality thereof by any persons, public officials, Government or country.
- (i) Mineral oil and mineral spirits unless imported under and subject to such restrictions as are declared by proclamation by the Administrator.
- (j) Opium suitable for smoking.

Restrictions of spirits, &c.

47. No spirits, tobacco, snuff, cigars or cigarettes shall be imported except in packages as prescribed.

Penalty : One hundred pounds.

Tea subject to examination on importation.

48. As to all tea imported—

- (a) Samples shall be taken without payment and examined by the Collector.
- (b) Unless the Collector is, as a result of the examination, satisfied that the tea is not a prohibited import he shall submit the samples for analysis to an official analyst appointed by the Administrator for the purpose of this Ordinance.
- (c) If as the result of the analysis, it appears that the tea is a prohibited import it shall after compliance with the next succeeding paragraph be dealt with accordingly.
- (d) If the tea is shown to be a prohibited import, notice shall be given to the owner of the report of the analyst and the owner shall be allowed fourteen days after the receipt of the notice to satisfy the Collector that the tea is not a prohibited import, and if the Collector is not so satisfied the tea shall be a prohibited import.
- (e) Any tea not complying with the prescribed standard of strength and purity shall be deemed unfit for human use.

Prohibition subject to restriction.

49. The power of prohibiting importation of goods shall authorize prohibition subject to any specified condition or restriction and goods imported contrary to any such condition or restriction shall be prohibited imports.

List of copyright books to be exposed at principal ports.

50. There shall be open to public inspection at the Customs House at the principal ports of the Territory printed lists of all books wherein the copyright is subsisting and as to which the proprietor of the copyright or his agent has given notice in writing pursuant to section forty-six that copyright exists and has stated in the notice the date when the copyright expires.

Division 2.—The Boarding of Ships.

Ships to enter ports.

51. The master of a ship shall not, unless from stress of weather or other reasonable cause, suffer his ship to enter any place other than a port.

Penalty : One hundred pounds.

Ship to bring to on being signalled.

52. The master of every ship arriving within one league of the coast shall bring his ship in for boarding on being approached by, or hailed or signalled from, any vessel in the service of the Customs having hoisted the Customs flag, or from any vessel in the service of His Majesty or of the Territory having hoisted the proper ensign and pendant.

Penalty : One hundred pounds.

Ship to bring to at boarding station.

53. The master of every ship from parts beyond the seas, bound to or calling at any port, shall bring his ship to for boarding at the boarding station appointed for that port.

Penalty : Fifty pounds.

54. The master of every ship bringing to for boarding shall, by all reasonable means, facilitate boarding by the officer.

Facility for boarding.

Penalty : Twenty pounds.

55. The master of every ship, after his ship has been brought to at the boarding station and boarded by the officer, shall come up to the proper place of mooring or unloading as quickly as practicable without touching at any other place.

Ships to come quickly to place of unloading.

Penalty : Twenty pounds.

56. No ship, after arrival at the proper place of mooring or unloading, shall, except by authority or by direction of the harbour authority, be removed therefrom before the discharge of the cargo intended to be discharged at the port.

Ship not to be moved without authority.

Penalty : Twenty pounds.

Division 3.—The Report of the Cargo.

57. The master of every ship arriving from parts beyond the seas shall—

Report of cargo.

- (a) within one day after arrival at any port make report of the ship and her cargo by delivering to the Collector an Inward Manifest in duplicate of goods for that port ;
- (b) answer questions relating to the ship and her cargo, crew, passengers, stores and voyage ;
- (c) produce documents relating to the ship and her cargo.

Penalty : One hundred pounds.

58. When any ship is lost or wrecked upon the coast the master or owner shall, as soon as practicable, make report of the ship and cargo by delivering to the Collector a Manifest, so far as it is possible for him to do so, at the Customs House nearest to the place where the ship was lost or wrecked or at the Chief Customs House of the Territory.

Master of wrecked ship to report.

Penalty : Twenty pounds.

59. Whoever has any dutiable goods, derelict, flotsam, jetsam, lagan or wreck in his possession shall, as soon as practicable, deliver them or it to an officer.

Goods derelict to be delivered to officer.

Penalty : Twenty pounds.

60. No person shall except by authority unnecessarily move, alter or interfere with any goods, derelict, flotsam, jetsam, lagan or wreck.

Interference with derelict goods.

Penalty : Twenty pounds.

Division 4.—The Entry, Unshipment, Landing and Examination of Goods.

61. All imported goods shall be entered either—

Entries.

- (a) for home consumption ; or
- (b) for warehousing ; or
- (c) for transshipment.

62. If the owner cannot immediately supply the full particulars for making an entry and makes a declaration to that effect before the Collector, he may make a sight entry.

Sight entry.

63. A sight entry on being passed by the Collector shall be warrant for the landing and examination of the goods.

Passing of sight entry.

64.—(1.) The owner of the goods included in a sight entry shall, within seven days after the passing of the entry, make complete entry thereof.

Completion of sight entry.

(2.) A complete entry of the goods included in a sight entry shall be made in the same manner as if the sight entry had not been made.

65.—(1.) Entries shall be made of the whole of any cargo unshipped or to be unshipped within such respective times after the report of the ship as is prescribed or within such further time if any as the Collector allows ; and, if the goods are placed in quarantine, seven days at the least shall be allowed for entry after their release from quarantine.

Entry within seven days.

- (2.) If default is made in the entry of any goods pursuant to this section, the Collector may cause the goods to be removed to a warehouse; and if the goods are not claimed and entries passed therefor within six months after such removal, the goods may be sold by the Collector.
- (3.) If the goods are of a perishable nature they may be sold at any time, either before or after warehousing, the Collector thinks fit.
- Breaking bulk.** 66. The bulk cargo of a ship arriving within one league of the coast shall not be broken except with the permission of the Collector or as regards goods for which entry has been passed.
Penalty: One hundred pounds.
- Authority for unshipment.** 67. Except as prescribed goods may be unshipped only pursuant to—
(a) a Collector's permit; or
(b) an entry passed.
Penalty: One hundred pounds.
- Unshipment of goods.** 68. All goods unshipped shall be either—
(a) landed at a wharf, either directly or after conveyance to the wharf in a licensed boat or lighter from the ship; or
(b) transhipped to the ship into which they are to be transhipped either directly or after conveyance to that ship in a licensed carriage, boat or lighter direct from the ship from which they were unshipped.
- Goods landed on permit at ship's risk.** 69. Goods unshipped and landed under a Collector's permit shall be placed by, and at the expense of, the master or owner of the ship from which they were unshipped, in a place of security approved by the Collector and shall, until lawfully removed from that place, be at the risk of the master or owner of the ship as if they had not been unshipped.
- Repacking on wharf.** 70. Any goods may by authority be repacked or skipped on the wharf.

PART V.—THE WAREHOUSING OF GOODS.

Division 1.—Licensed Warehouses.

- Dutiable goods may be warehoused.** 71. Dutiable goods may be warehoused in warehouses licensed by the Chief Collector.
- Classes of warehouses.** 72. There may be two classes of licensed warehouses as follows:—
Class I.—General warehouses to be used for warehousing goods generally.
Class II.—Private warehouses to be used only for warehousing goods the property of the licensee.
- Annual fee.** 73. Fees for warehouses shall be according to the scale in Schedule II, and shall be paid by the licensee—as to the annual fees, by equal quarterly payments in advance on the first days of January, April, July, and October in each year and, as to the fees for locker's attendance, by monthly payments.
- Cancellation of licences.** 74. In default of payment of any part of any licence-fee for thirty days after any quarter day the Chief Collector may by Gazette notice, cancel the licence and thereupon the warehouse shall be closed and the goods therein shall be removed by the Collector to some other warehouse.
- Officer to take account of goods landed to be warehoused.** 75.—(1.) Upon the landing of any goods to be warehoused, or so soon as practicable after landing, the officer shall take a particular account of the goods and shall enter the account in a book.
(2.) Subject to this Ordinance, the account shall be that upon which the duties shall be ascertained and paid.
- Completion of warehousing.** 76. When any goods entered for warehousing have been duly deposited in a warehouse the officer shall certify that the warehousing is complete by signing a receipt for the goods.
- Removal of goods to warehouse.** 77.—(1.) If any goods entered to be warehoused are not warehoused accordingly by the owner the Collector may remove them to a warehouse.

(2.) The licensee of the warehouse shall pay all charges for the removal of goods removed by the Collector and shall have a lien on the goods for those charges.

78. Goods entered for warehousing shall be warehoused in the packages in which they were imported, except goods repacked or skipped on the wharf, which shall be warehoused in the packages in which they were when the account was taken. Packages in which goods to be deposited.

79. The Collector may, as prescribed, permit the owner to sort, bottle, pack or repack goods in any warehouse. Repacking in warehouse.

80. Whenever goods are sorted, bottled, packed or repacked in a warehouse, a fresh account of the goods shall be taken by the officer and shall be substituted for the original account. Fresh account to be taken.

81. No person shall treat, refine or distil any methylated spirit for the purpose of rendering it fit for human use as a beverage or shall sell or offer for sale any methylated spirit so treated, refined or distilled or sell or offer for sale for human use as a food or beverage any goods containing methylated spirits. Refining methylated spirits.

Penalty : One hundred pounds.

82. The licensee of every warehouse shall— Duty of licensee.

(a) stack and arrange the goods in the warehouse so that reasonable access to, and examination of, every package may be had at all times ;

(b) provide sufficient lights and just scales and weights for the use of the officer ;

(c) find all labour and materials requisite for the storing, examining, packing, marking, cooping, weighing and taking stock of the warehoused goods whenever the Collector desires ;

(d) pay the duty on all warehoused goods removed from his warehouse except by authority, and on all warehoused goods not produced to the officer on demand, unless such goods are accounted for to the satisfaction of the Collector.

Penalty : Twenty pounds.

83. No person shall, except by authority, open any warehouse or gain access to the goods in the warehouse. Opening warehouse.

Penalty : Twenty pounds.

84. The Collector may require the owner of any goods in any private warehouse, within a time specified by the Collector, to remove them to some general warehouse or to pay the duty thereon, and if the order is not complied with the goods may be sold by the Collector. Collector may order removal of goods from private to public warehouse.

85. Goods warehoused in any warehouse for one year shall, if not removed therefrom or re-warehoused, be sold by the Collector. Period of warehousing.

86. Re-warehousing shall be effected as follows :— Re-warehousing.

(a) An application for re-warehousing shall be made by the owner to the Collector.

(b) The goods shall be examined by the officer at the expense of the owner.

(c) Duty shall be paid on any disallowed deficiency.

(d) A re-warehousing entry shall be made by the owner for the goods according to the result of the examination.

(e) On the passing of the entry a fresh account shall be substituted for the last account, and this shall complete the re-warehousing.

87. The Collector shall, at all hours of the day and night, have access to every part of any warehouse and power to examine the goods therein, and for that purpose may break open the warehouse or any premises necessary to be passed through to secure access. Collector to have access to warehouse.

88. Warehoused goods may be re-gauged, re-measured, re-weighed or examined by the officer, either by direction of the Collector or at the request and expense of the owner and duty shall be payable according to the result, unless the Collector is of the opinion that any loss shown is excessive, in which case the duty shall be paid on the original entry with any reduction which the Collector sees fit to allow. Re-gauging or re-weighing of goods.

Re-valuation.

89. Warehoused goods which are subject to an *ad valorem* duty and which have deteriorated in value may, on the application of the owner, be re-valued, and, if the Collector is satisfied that the deterioration has been accidentally caused, duty shall be paid according to the result.

If warehouse fees in arrears goods to be sold.

90. If the warehouse dues on any warehoused goods are in arrears for nine months the goods may be sold by the Collector.

Goods not worth duty may be destroyed.

91.—(1.) The Chief Collector may cause any warehoused goods which, in the opinion of the Collector, are not worth the duty payable thereon to be destroyed and may remit the duty.

(2.) The owner of any goods destroyed shall pay to the licensee of the warehouse, or to the Collector in case the goods were in a King's warehouse, the rent and charges payable in respect of the destroyed goods.

Combustible or inflammable goods.

92. No goods of a combustible or inflammable nature shall be warehoused except by permission of the Collector, and if any such goods are landed they may be deposited in any safe available place that the Collector approves, and while so deposited the goods shall be deemed to be in a King's warehouse, and shall be liable to be sold by the Collector at the expiration of fourteen days in the same manner as goods of a perishable nature deposited in a King's warehouse, unless duly cleared or warehoused in some warehouse with the approval of the Collector, and the goods shall be charged with the expenses of removing, securing, watching and guarding until sold.

Penalty: One hundred pounds.

Entry of warehoused goods.

93. Warehoused goods may be entered—

- (a) for home consumption;
- (b) for export to parts beyond the seas;
- (c) for removal for warehousing elsewhere.

Constructive warehousing.

94. If after goods have been entered for warehousing, either on importation or removal, and before they have been actually warehoused, they are entered for home consumption, exportation or removal, the goods so entered shall be considered as constructively warehoused and may be delivered for home consumption, exportation or removal as if actually warehoused.

Division 2.—King's Warehouses.

King's warehouses.

95. King's warehouses may be appointed by the Chief Collector by Gazette notice.

Rent.

96. Rent and charges shall be paid in respect of any goods warehoused in any King's warehouse according to such scale as is prescribed.

Continuation of existing warehouses.

97. King's warehouses in actual use by authority at the commencement of this Ordinance shall continue as if appointed under this Ordinance unless otherwise determined by the Chief Collector by Gazette notice.

Power to sell.

98. If any goods warehoused in a King's warehouse are not lawfully removed within six months after warehousing, the goods may be sold by the Collector.

Purposes of King's warehouses.

99. King's warehouses shall be wholly under the control of the Customs, and shall be specially available for the examination of goods and the storage of seized and unclaimed goods, but otherwise all the provisions of this Ordinance relating to warehouses shall, so far as practicable, apply to King's warehouses.

PART VI.—THE EXPORTATION OF GOODS.

Exportation.

100. No prohibited exports shall be exported.

Penalty: One hundred pounds.

101.—(1.) The Administrator may by proclamation prohibit the ^{Prohibited exports.} exportation of any goods—

- (a) being arms, explosives, military stores or naval stores or being goods which, in his opinion, are capable of being used as, or in the manufacture of, arms, explosives, military stores or naval stores or for any purpose of war ; or
- (b) the exportation of which would in his opinion be harmful to the Territory ; or
- (c) the prohibition of the exportation of which is in his opinion necessary for the preservation of the flora or fauna of the Territory ; or
- (d) which have not been prepared or manufactured for export under the prescribed conditions as to purity, soundness or freedom from disease or which do not conform to the prescribed conditions as to purity, soundness or freedom from disease ; or
- (e) the prohibition of the exportation of which is in his opinion necessary for the protection of the revenue or the prevention of fraud or deception.

(2.) The power contained in sub-section (1.) of this section shall extend to authorize the prohibition of the exportation of goods generally or to any specified place, and either absolutely or so as to allow of the exportation of the goods subject to any condition or restriction.

(3.) All goods the exportation of which is prohibited shall be prohibited exports to the extent to which the prohibition extends.

102. Except by the permission of the Collector, no goods subject ^{Size of exporting vessel.} to the control of the Customs shall be exported in any ship of less than fifty tons gross register.

Penalty : One hundred pounds.

103.—(1.) Subject to this section a ship shall be entered outwards ^{Conditions of export.} and the goods proposed to be exported on the ship shall be entered for export before any of those goods are taken on board the ship.

(2.) Free goods may be entered not later than three days after shipment.

(3.) A ship may, by permission of the Collector, be stiffened before entry outwards or export entry.

104. Goods subject to the control of the Customs for exportation ^{Goods to be shipped at wharf.} or removal coastwise shall be shipped, either directly at a wharf, or after conveyance to the ship in a licensed boat or lighter direct from a wharf.

Penalty : One hundred pounds.

105. If any goods entered for export are not shipped according ^{Short shipped goods.} to the entry—

- (a) the owner shall immediately report the fact to the officer and amend his entry for the goods not later than three days after the clearance of the ship : and
- (b) the goods, if dutiable, shall forthwith be warehoused.

Penalty : Twenty pounds.

106. The Collector may require the owner to produce documents ^{Documents and security.} for any goods entered for export and, in the case of goods subject to the control of the Customs, to give security that they will be landed at the place for which they are entered or otherwise accounted for to the satisfaction of the Collector.

107. The master of any ship shall not depart with his ship from any port without receiving from the Collector a Certificate of Clearance. ^{Certificate of Clearance.}

Penalty : One hundred pounds.

108. Before any Certificate of Clearance is granted the master of the ship shall— ^{Requisites for obtaining clearance.}

- (a) deliver to the Collector an Outward Manifest in duplicate :
- (b) answer questions relating to the ship and her cargo, crew, passengers, stores and voyage :
- (c) produce documents relating to the ship and her cargo.

- Shipment of unspecified goods.** 109. The master of a ship shall not suffer any goods, other than passengers' baggage, not specified or referred to in the Outward Manifest to be taken on board his ship except as provided in section one hundred and three.
Penalty: Fifty pounds.
- Manifest to be attached to clearance.** 110. A copy of the Outward Manifest shall be attached to the Certificate of Clearance and shall be sealed with the Customs seal.
- Time of clearance.** 111. No Certificate of Clearance shall be granted for any ship unless all her inward cargo and stores shall have been duly accounted for to the satisfaction of the Collector, nor unless all the other requirements of the law in regard to the ship and her inward and outward cargo have been duly complied with.
- Ship to bring to at proper stations.** 112. The master of every ship departing from any port shall bring his ship to at the boarding station appointed for the port, and, by all reasonable means, facilitate boarding by the officer, and shall not depart with his ship from any port with any officer on board the ship in the discharge of his duty without the consent of the officer.
Penalty: One hundred pounds.
- Master to account for missing goods.** 113. The master of every ship shall after the clearance of the ship—
(a) on demand by an officer, produce the Certificate of Clearance;
(b) account to the satisfaction of the Collector for any goods specified or referred to in the Outward Manifest and not on board his ship.
Penalty: Fifty pounds.
- Goods exported to be landed at proper destination.** 114. No goods shipped for export shall be unshipped or landed without the permission of the Collector except in parts beyond the seas.
Penalty: Fifty pounds.

Certificate of landing. 115. If required by the Chief Collector a certificate in such form, and to be given by such person, as is prescribed, shall be produced in proof of the due landing, according to the export entry, of any goods subject to the control of the Customs and the Collector may refuse to allow any other goods subject to the control of the Customs to be exported by any person who fails within a reasonable time to produce the certificate of the landing of any of the goods previously exported by him or to account for the goods to the satisfaction of the Collector.

PART VII.—SHIPS' STORES.

- Name of ships' stores.** 116. Ships' stores, whether shipped in parts beyond the seas or in the Territory shall, unless entered for home consumption or except as prescribed, only be used by the passengers and crew and for the service of the ship and after the departure of the ship from her last port of departure in the Territory.
- Re-landing ships' stores.** 117. No ships' stores shall be used contrary to the last preceding section, or unshipped, except by permission of the Collector.
Penalty: Fifty pounds.
- Ships' stores.** 118. The prescribed allowance of ships' stores for the use of the passengers and crew and for the service of the ship may be shipped free of duty on board any ship of not less than fifty tons gross registered tonnage entered outwards for parts beyond the seas.

PART VIII.—THE DUTIES.

Division 1.—The Payment and Computation of Duties Generally.

- Exemption.** 119. No goods the property of the Commonwealth of Australia or of the Territory shall be liable to any duty of Customs.
- Import duties.** 120. All import duties shall be paid at the rate in force when the goods are entered for home consumption.
- Export duties.** 121. All export duties shall be finally payable at the rate in force when the goods are actually exported but in the first instance payment shall be made by the owner to the Collector at the rate in force when the goods are entered for export.

122. Where duties are imposed according to weight or measure, ^{Weights and measures.} the weight or measurement of the goods shall be ascertained according to the standard weights and measures by law established.

123. Where duties are imposed according to a specified quantity, ^{Proportion.} weight, size or value, the duties shall apply in proportion to any greater or lesser quantity, size, weight or value.

124. Whenever goods are sold or prepared for sale as, or are ^{Duty, how fixed.} reputed to be, of a size or quantity greater than their actual size or quantity, duties shall be charged according to such first-mentioned size or quantity.

125. All duties shall be paid in British currency.

^{British currency.}

126. If any goods enumerated in the Tariff are, or can be, classed ^{Highest duties to be charged.} under two or more names, headings or descriptions with a resulting difference as to duty, duty shall be charged when it is a difference between liability to, or freedom from, duty, and the higher or highest of the duties applicable shall be charged when it is a difference as to two or more duties.

127. Whenever any goods are imported which, in the opinion of ^{Substitutes for dutiable goods.} the Chief Collector are a substitute for any dutiable goods, or are intended to be, or can be, used as such substitute or for any purpose for which the dutiable goods can be used, or for any similar purpose, the Chief Collector may, by Gazette notice, direct that the first-mentioned goods shall be charged with the duty chargeable upon the dutiable goods, and the duty shall be so charged accordingly.

128.—(1.) Whenever any dutiable goods are composed of two or ^{Duty on parts.} more separate parts, any part, though imported by itself, shall if so directed by the Chief Collector be chargeable with duty at the rate applicable to the complete goods.

(2.) When the duty on the complete goods is specific, or both specific and *ad valorem*, the Chief Collector may fix the proportionate rate of duty with which any part is chargeable.

129. Duty shall be charged on all essences, condensations ^{Duty on condensed articles.} concentrations or preparations of goods liable to duty according to the quantity or equivalent of dutiable goods into which such essences, condensations, concentrations or preparations can be converted, according to a standard to be prescribed.

130. Goods charged with duty by measurement shall, at the ^{Measurement for duty.} expense of the owner, be heaped, piled, sorted, framed or otherwise placed in such manner as the Collector requires to enable measurement and account of the goods to be taken and in all cases where the goods are measured in bulk, the measurement shall be taken to the full extent of the heap or pile.

131. Goods exported to the Territory from any country, but passing ^{Goods in transit} through another country, shall be valued for duty as if they were imported directly from the first-mentioned country.

132. When the duty on any goods sold at any Collector's sale is ^{Value of goods sold.} *ad valorem*, the value of the goods shall, if approved by the Collector, be taken to be the value as shown by the sale.

133. The strength of spirits may be ascertained for the purposes ^{Strength of spirits.} of duty by the means of a hydrometer approved by the Chief Collector.

134. If, in the opinion of the Collector, the strength of any spirits ^{Observation.} cannot immediately be accurately ascertained by hydrometer, the strength may be ascertained after distillation or in any prescribed manner.

135. All goods, derelict, flotsam, jetsam or lagan, or landed, ^{Derelict goods, dutiable} saved or coming ashore from any wreck or sold as droits of Admiralty shall be charged with duty as if imported in the ordinary course.

136. If any dutiable goods which are included in the report of ^{As to payment of duty on goods in manifest but not produced or landed.} any ship are not produced to the officer, the master or owner of the ship shall, on demand by the Collector, pay the duty on the goods as estimated by the Collector, unless the goods are accounted for to the satisfaction of the Collector.

and the invoice so substituted shall be deemed the genuine invoice, but so that—

- (a) the Collector shall first be satisfied that the value shown by the invoice of the last seller or consignor is not less than the fair market value in the country of export ascertained according to section one hundred and forty-one;
- (b) the value shown by the invoice shall, for the purpose of duty, be taken to be the fair market value of the goods in the country of export, ascertained according to section one hundred and forty-one.

144. Where the genuine invoice shows the value of the goods in any currency other than British currency, the equivalent value of the goods in British currency shall be ascertained according to a fair rate of exchange to be declared in case of doubt by the Chief Collector. Foreign Invoices.

145.—(1.) Whenever the Collector has a doubt as to the accuracy of the declared value of dutiable goods, he may detain the goods and assess the value thereof. Value may be assessed.

(2.) Should the owner object to the value so assessed he may request that the value may be ascertained by experts in manner prescribed.

(3.) Should the owner refuse to pay the duty as assessed by the Collector or ascertained by experts the Collector may sell the goods.

(4.) The provisions of this section shall not apply in cases where the Chief Collector is of opinion that any evasion of this Ordinance has been committed or attempted.

146. No person shall send or bring into the Territory or have in his possession, without reasonable excuse, any blank, or partly blank, invoice form capable of being filled up and used as a genuine invoice. Blank Invoices.

Penalty: One hundred pounds.

147. Whenever it is difficult to determine the value of goods for duty, either because the goods are not sold for use or consumption in the country of production, or because a lease of the goods or the right of using them is sold or given but not the right of property therein, or because the goods have a royalty imposed upon them and the royalty is uncertain or is not a reliable means of estimating the value of the goods, or because the goods are usually or exclusively sold by or to agents, or by subscription, or are sold or imported in, or under, any other unusual or peculiar manner or conditions (of all which matters the Chief Collector shall be judge) the Chief Collector may determine the value for duty of the goods. Chief Collector to determine value in some cases.

148. For the protection of the revenue against the undervaluation of goods subject to *ad valorem* duties, any goods entered as of specified value may, at any time before sale and delivery to a person who proves to the satisfaction of the Collector that he purchased and took delivery in good faith and without any knowledge of the entry, and subject as so prescribed, be purchased by the Customs at their declared value with an addition of Ten pounds per centum on the amount of that value. Customs may take goods on paying declared value plus ten per cent.

(2.) The purchase shall be effected by the seizure of the goods by an officer and written notice of the seizure given to the owner.

(3.) The officer shall remove the goods to a warehouse or some place of security and the owner shall thereupon be entitled to the purchase money.

(4.) The goods shall become the property of the King immediately on seizure and shall afterwards be disposed of as is prescribed or as the Collector directs.

(5.) A refund, in whole or in part, of any duty paid on the goods may be made by the Collector.

(6.) This section shall not limit or restrict any other power possessed by the Customs relating to the goods.

Division 3.—Deposits, Abatements, Remissions and Refunds of Duties.

149. In prescribed cases the duty paid on any goods may be retained by the Customs on deposit for a period not exceeding six months, and the deposit may be returned to the owner if the goods are exported within the prescribed time. Deposits.

- Samples.** 137. Small samples of the bulk of any goods subject to the control of the Customs may, subject to the prescribed conditions, be delivered free of duty.
- Samples.** 138. Goods the produce of the Territory or samples of duty-paid goods sent out of the Territory may, subject to any prescribed conditions, be re-imported or brought back to the Territory without payment of duty.
- ALTERATION OF AGREEMENTS WHERE DUTY ALTERED.** 139. If, after any agreement is made for the sale or delivery of goods duty paid, any alteration takes place in the duty collected affecting the goods before they are entered for home consumption, then, in the absence of express written provision to the contrary, the agreement shall be altered as follows:—
- (a) in the event of an alteration being a new or increased duty, the seller, after payment of the new or increased duty, may add the difference caused by the alteration to the agreed price;
 - (b) in the event of the alteration being the abolition or reduction of duty, the purchaser may deduct the difference caused by the alteration from the agreed price;
 - (c) any refund or payment of increased duty resulting from the alteration not being finally adopted shall be allowed between the parties as the case requires.
- Recovery of duties.** 140. All duties shall constitute Crown debts, charged upon the goods in respect of which the duties are payable, and payable by the owner of the goods, and recoverable at any time in any court of competent jurisdiction by proceedings in the name of the Collector.

Division 2.—“ Ad Valorem ” Duties.

- Value for duty.** 141. When any duty is imposed according to value—
- (a) the value shall be taken to be the fair market value of the goods in the principal markets of the country whence they were exported in the usual and ordinary commercial acceptation of the term and free on board at the port of export in that country and a further addition of ten per cent. on such market value;
 - (b) the value shall be verified at the time of entry by the production of the genuine invoice and by a declaration signed by the owner in the presence of the Collector;
 - (c) the invoice shall be stamped by the Collector with the Customs stamp, and shall be produced to the officer prior to the delivery of the goods for home consumption or for warehousing;
 - (d) if the non-production of the genuine invoice is accounted for to the satisfaction of the Collector, proof of its contents, by a copy or otherwise, may be received in lieu of its production.
- Genuine invoice.** 142. The genuine invoice means—
- (a) the original invoice prepared and issued by the seller in the country whence the goods were exported, showing the true description of the goods and the actual money price paid, or to be paid, for the goods by the purchaser in the country whence they were exported without any deduction; or
 - (b) in the case of goods consigned for sale in the Territory the original invoice prepared and issued by the consignor, showing the true description of the goods and the actual money price for cash at which the goods were saleable in the principal markets of the country whence the goods were exported, at the date of the shipment of the goods free on board at the port of export in that country.
- Substituted invoice.** 143. If the original invoice prepared and issued by the seller or consignor in the country whence the goods were exported cannot conveniently be obtained, the Collector may permit to be substituted the original invoice prepared and issued by the last seller or consignor,

- 150.** (a) Whenever goods—
- (i) have received damage or have been pillaged during the voyage;
 - (ii) have, whilst under Customs control, been damaged, pillaged or destroyed; or
- (b) Whenever duty has been paid through manifest error of fact or patent misconception of the law—
- a refund, rebate or remission of the duty as the case requires shall be made in the manner prescribed.
- 151.** The Collector may remit any duty on any goods that have been wasted or lost in sorting, bottling, packing or repacking in a warehouse.
- 152.** When any duty has been short levied or erroneously refunded the person who should have paid the amount short levied or to whom the refund has erroneously been made, shall pay the amount short levied or repay the amount erroneously refunded on demand being made by the Collector within twelve months from the date of the short levy or refund.
- 153.** If any practice of the Customs relating to classifying or enumerating any article for duty is altered so that less duty is charged upon that article, no person shall thereby become entitled to any refund on account of any duty paid before the alteration.

Division 4.—Disputes as to Duty.

- 154.**—(1.) If any dispute arises as to the amount or rate of duty payable in respect to any goods, or as to the liability of any goods to duty under any Customs Tariff, the owner of the goods may pay under protest the sum demanded by the Collector as the duty payable in respect of the goods, and thereupon the sum so paid shall, as against the owner of the goods, be deemed to be the proper duty payable in respect of the goods, unless the contrary is determined in an action brought in pursuance of this section.
- (2.) The owner may within the time limited in this section bring an action against the Collector in any court of competent jurisdiction in the Territory for the recovery of the whole or any part of the sum so paid.
- (3.) A protest in pursuance of this section shall be made by writing on the entry of the goods the words "Paid under protest" and adding the signature of the owner of the goods or his agent.
- (4.) No action shall lie for the recovery of any sum paid to the Customs, as the duty payable in respect of any goods, unless the payment is made under protest in pursuance of this section and the action is commenced, in case the sum is paid as the duty payable under any Customs Tariff, within six months after the date of payment.
- (5.) Nothing in this section shall affect any rights or powers under section one hundred and fifty of this Ordinance.

PART IX.—DRAWBACKS.

- 155.** Drawbacks of import duty may be allowed on exportation in respect of such goods (other than spirits, wine, beer, tobacco, cigars and cigarettes) to such amount and in such manner as is prescribed.
- 156.** No drawback shall be allowed on any goods of a less value for home consumption than the amount of the drawback, or on which the import duty paid did not amount to One pound.
- 157.** All goods in respect of which any claim for drawback is made shall, before exportation, be produced for examination by the Customs and shall be examined accordingly.
- 158.** For the purpose of claiming drawback, a drawback debenture shall be presented to the Collector who shall, as soon as the goods have been exported, cause the debenture to be passed for payment.
- 159.** The person claiming drawback on any goods shall make a declaration upon the debenture that the goods have been exported and have not been re-landed and are not intended to be re-landed,

and that he, at the time of shipping, was entitled to the drawback and the name of that person shall be stated in the debenture, and the receipt of that person on the debenture, countersigned by the holder of such debenture if the same has been transferred in the meantime, shall be a sufficient discharge for the drawback.

160.—(1.) No drawback debenture shall be paid except with the consent of the Chief Collector, or unless presented for payment within one year from the date of the shipment of the goods for export.

(2.) The Chief Collector may prohibit the payment, in whole or in part, of any drawback debenture, but so as not to deprive the person entitled thereto of any remedy he may have for the drawback.

PART X.—THE COASTING TRADE.

161. All ships trading, plying or going from one port or place in the Territory to another port or place therein, and not trading, plying or going to any other port or place, shall be deemed to be engaged in the coasting trade and those ships shall be deemed to be coasting ships for the purposes of any Customs Ordinance.

162. The master of a coasting ship shall not suffer any goods to be taken into, or put out of, his ship from, or into, any other ship at sea, except with the sanction of the Collector, nor suffer his ship to deviate from her voyage, unless forced to do so by unavoidable circumstances, or under circumstances explained to the satisfaction of the Collector.

Penalty: One hundred pounds.

163.—(1.) The owner of any ship employed in the coasting trade may, with the consent of the Collector, report the ship inwards or outwards in lieu of the master of the ship.

(2.) Every owner so reporting shall be subject to the same provisions, and liable to the same penalties, under the Customs Ordinance as the master of the ship.

164. The master or owner of every coasting ship shall, at prescribed ports, deliver to the Collector, as prescribed, particulars of all cargo consisting of produce or manufactures of the Territory then on board his ship.

165. The coasting trade generally, as regards the Customs, shall be regulated in manner prescribed and books shall be kept, documents produced, and entries made accordingly.

PART XI.—AGENTS.

166. The owner of any goods may comply with the provisions of this Ordinance by an agent lawfully authorized, and, in all places to which this limitation is declared by proclamation to extend, the agent shall be either a person exclusively in the employment of the owner, or shall be a Customs agent duly licensed in manner prescribed.

167. Any officer may require from any agent the production of his written authority from the principal for whom he claims to act, and, in default of the production of the authority, may refuse to recognise the agency.

168. When any person is expressly or impliedly authorized by the owner to act as his agent in relation to any goods for all or any purposes of any Customs Ordinance, or represents or passes himself or acts or assumes to act as such agent the person shall, for those purposes, be also deemed to be the owner of the goods, and shall be personally liable for any penalties recoverable under this Ordinance in the same manner and to the same extent as if he were principal, but nothing herein contained shall be taken to relieve any principal from liability.

169. Any declaration authorized by this Ordinance, made by the agent of any person, shall be held to have been made with the knowledge and consent of that person, so that in any prosecution in respect of any declaration made by the agent the person shall be liable only to the pecuniary punishment provided by any Customs Ordinance as if the declaration had been made by himself.

PART XII.—OFFICERS.

Division 1.—Powers of Officers.

- Ships and boats to bring to.** 170. The commander or officer in charge of any ship or boat in His Majesty's service or in the service of the Commonwealth or the Territory or Customs may when that ship or boat has hoisted and is carrying the proper ensign and pendant or Customs flag, chase any ship which does not bring to when lawfully signalled or required to do so and may (after having fired a gun as a signal) fire at or into such ship to compel her to bring to.
- Officers may board ships hovering on coast.** 171.—(1.) Any officer may require the master of any ship hovering within one league of the coast, to depart, and if that ship fails to depart accordingly within twelve hours thereafter, any officer may board and bring the ship into port and search her.
(2.) The Collector may examine all persons on board of the ship and those persons shall thereupon answer questions relating to the ship and her cargo, crew, passengers, stores and voyage, and produce documents relating to the ship and her cargo.
Penalty: One hundred pounds.
- Examine all goods.** 172. Any officer may open packages and examine, weigh, mark and seal any goods subject to the control of the Customs, and the expense of the examination shall be borne by the owner.
- Power to board and search ships.** 173. Any officer may—
(a) board any ship;
(b) search any ship;
(c) secure any goods on any ship.
- Boarding.** 174. The power of an officer to board shall extend to staying on board any ship, and the Collector may station an officer on board any ship and the master shall provide sleeping accommodation in the cabin and suitable and sufficient food for the officer.
Penalty: Fifty pounds.
- Searching.** 175. The power of an officer to search shall extend to every part of any ship and shall authorize the opening of any package, locker or place and the examination of all goods.
- Securing goods.** 176. The power of an officer to secure any goods shall extend to fastening down hatchways and other openings into the hold and locking up, sealing, marking or otherwise securing, any goods or the removal of any goods to the King's Warehouse.
- Seals, &c., not to be broken.** 177. No fastening, lock, mark or seal placed by an officer upon any goods, or upon any door, hatchway, opening or place upon any ship, shall be opened, altered, broken or erased, except by authority, whilst the goods upon which the fastening, lock, mark or seal is placed, or which are intended to be secured thereby, remain subject to the control of the Customs.
Penalty: Fifty pounds.
- On or vessels in port bound to another port within the Territory.** 178. No fastening, lock, mark or seal, placed by an officer upon any goods, or upon any door, hatchway, opening or place for the purpose of securing any stores upon any ship which has arrived in any port from parts beyond the seas, and which is bound to any other port within the Territory, shall be opened, altered, broken or erased, except by authority, and if any ship enters any port with any such fastening, lock, mark or seal opened, altered, broken or erased, contrary to this section, the master shall be guilty of an offence against this Ordinance.
Penalty: One hundred pounds.
- Officers may patrol coasts, &c.** 179. Any officer, and any person acting in his aid, when on duty, may patrol upon, and pass freely along and over, any part of the coast, or the shores, banks or beaches of any port, bay, harbour, lake or river.
- Boats on service may be moored in any place.** 180. The officer in charge for the time being of any vessel or boat employed in the service of the Customs, may haul the vessel or boat upon any part of the coast, or the shores, banks or beaches of any port, bay, harbour, lake or river, and may moor the vessel or boat thereon,

and continue the vessel or boat so moored for such time as he deems necessary.

181. Any person on board any ship or boat, or who has landed from or got out of any ship or boat, may be questioned by any officer as to whether he has any dutiable goods or prohibited imports or prohibited exports upon his person or in his possession or in his baggage. Power to question passengers.

182.—(1.) If any officer of Customs or of Police has reasonable cause to suspect that any person is unlawfully carrying or has any goods subject to the control of the Customs or any prohibited imports or prohibited exports secreted about him, the following consequences shall ensue:— Suspected persons, detention and search.

- (a) the officer may detain and search the suspected person;
- (b) before the suspected person is searched, he may require to be taken before a Justice or the Collector;
- (c) the Justice or Collector may order the suspected person to be searched or may discharge him without search.

(2.) Females shall be searched only by a female searcher appointed by the Justice or Collector.

183. Any officer of Customs or Police, upon reasonable suspicion, may stop and search any carriage for the purpose of ascertaining whether any dutiable goods are contained therein, and the driver of any carriage shall stop and permit such search whenever required by any such officer. Power to stop vehicles.

Penalty: Twenty pounds.

184. The Chief Judicial Officer of the Territory or any Justice of the Central Court of the Territory may grant a Writ of Assistance in the form of Schedule III. to this Ordinance upon application made to him for that purpose by the Chief Collector or by the Collector, and the writ shall unless superseded be in force so long as any person named therein remains an officer of Customs whether in the same capacity or not. Writs of assistance.

185. The Chief Collector or the Collector may grant a Customs Warrant in the form of Schedule IV. to this Ordinance under the Customs Seal to any officer and the warrant shall remain in force for three months from the date thereof. Customs warrants.

186. Any officer having with him a Writ of Assistance or a Customs Warrant may, at any time in the day or night, enter into and search any house, premises or place, and may break open the same and search any chests, trunks or packages in which goods may be or are supposed to be. Power to search.

187. Any officer acting under a Writ of Assistance or Customs Warrant may take with him, and have the assistance of, any police officer and such assistants as he thinks necessary. Power to take assistants.

188. Any person lawfully making any seizure under any Customs Ordinance may call upon any person present in the King's name to assist him and such assistance shall be rendered accordingly. Power to call for aid.

Penalty: Twenty pounds.

189. Any officer of His Majesty's forces or any officer of Customs or Police may seize any forfeited ship, or goods upon land or water or any ship or goods which he has reasonable cause to believe are forfeited. Power to seize goods.

190. All seized goods shall be taken to the nearest King's warehouse or to such other place of security as the Collector directs. Seized goods to be secured.

191. When any ship, boat or goods have been seized as forfeited, the seizing officer shall give notice in writing of the seizure, and the cause thereof to the master or owner of the ship, boat or goods (unless the master or owner be present at the seizure in which case no notice shall be necessary) either by delivering the notice to him personally or by letter addressed to him and transmitted by post to or delivered at his last known place of abode or business, and any ship, boat or goods seized shall be deemed to be condemned, and may be sold by the Collector, unless the person from whom the ship, boat or goods Notice to be given of goods seized.

are seized or the owner within one month from the date of seizure, gives notice in writing to the Collector at the nearest port, that he claims the ship, boat or goods, but if any goods so seized are of a perishable nature or are live animals they may be forthwith sold by the Collector.

Seized goods may be returned on security.

192. The Chief Collector or the Collector may authorize any ship, boat or goods seized to be delivered to the claimant on his giving security to pay their value in case of their condemnation.

Collector may retain goods and require owner to provide for restoration.

193. Whenever any goods have been seized by any officer and claim to the goods has been served on the Collector by the owner of the goods, the Collector may retain possession of the goods without taking any proceedings for their condemnation, and may, by notice under his hand, require the claimant to enter an action against him for the recovery of the goods, and if the claimant does not, within four months after the date of the notice, enter the action, the goods shall be deemed to be condemned without any further proceedings.

Disposal of forfeited ships and goods.

194. All forfeited ships and goods shall be disposed of or destroyed in such manner as is prescribed or as the Chief Collector may direct.

Delivery of seized goods.

195. All goods seized by any person not being a Customs Officer shall forthwith be conveyed to the nearest Customs house and there delivered to an officer.

Arrest of persons suspected of smuggling, &c.

196.—(1) Any officer of Customs or Police may, without warrant arrest any person who, he has reasonable ground to believe, is guilty of committing or attempting to commit, or of being concerned in the commission of any of the following offences:—

- (a) smuggling;
- (b) importing any prohibited imports;
- (c) exporting any prohibited exports; or
- (d) unlawfully conveying or having in his possession any smuggled goods, prohibited imports or prohibited exports.

(2) No person shall resist, obstruct or prevent the arrest of any person in pursuance of this section.

Penalty: Twenty pounds.

Reasons for arrests.

197. Any officer arresting any person shall, as soon as practicable after arrest, give him a statement in writing of the reason for his arrest.

Arrested persons to go before Justices.

198. Every person arrested may be detained until such time as he can, without undue delay, be taken before a Justice.

Powers of Justices with offenders.

199. Any Justice before whom any person is brought under this Ordinance may—

- (a) commit the person to gaol until he can be brought before Justices to be dealt with according to law; or
- (b) admit him to bail upon his giving sufficient security for his appearance before Justices at the time and place appointed for the hearing of the charge.

Production of documents, &c., in cases of seizure.

200. Whenever information in writing has been given on oath to the Collector that goods have been unlawfully imported, undervalued, or entered or illegally dealt with, or that it is intended to unlawfully import, undervalue, enter or illegally deal with any goods, or whenever any goods have been seized or detained, the owner shall, immediately upon being required so to do by the Collector, produce and hand over to him all books and documents relating to the goods so imported, entered, seized or detained, undervalued or illegally dealt with or intended to be unlawfully imported, undervalued, entered or illegally dealt with, and of all other goods imported by him at any time within the period of five years immediately preceding the request, seizure or detention and shall also produce for the inspection of the Collector or such other officer as is authorized by the Collector for that purpose and allow the Collector or officer to make copies of or extracts from all books or documents of any kind whatsoever, wherein any entry or memorandum appears in any way relating to the goods.

Penalty: One hundred pounds.

Collector may impound documents.

201. The Collector may impound or retain any document presented in connexion with any entry or required to be produced under this

Ordinance and the person otherwise entitled to the document shall, in lieu thereof, be entitled to a copy certified as correct by the Collector and the certified copy shall be received in all courts as evidence and of equal validity with the original.

202. The Collector may require from the owner of any goods proof, by declaration or the production of documents, that the goods are owned as claimed and are properly described, valued or rated for duty, and the Collector may refuse to deliver the goods or to pass any entry relating thereto pending the receipt of the proof. Collector may require further proof of proper entry.

203. If any document in a foreign language be presented to any officer for any purpose connected with Customs business, the Collector may require to be supplied with an English translation to be made at the expense of the owner by such person as the Collector approves or to be verified as he requires. Translations of foreign invoices.

204. Samples of any goods under the control of the Customs may, for any purpose deemed necessary by the Collector, be taken, utilized and disposed of by any officer in manner prescribed. Customs samples.

205. In all cases not herein otherwise provided for, the Collector may exercise any power exercisable by the Customs. General power to Collector.

Division 2.—Protection to Officers.

206. No person shall be liable for any seizure under this Ordinance for which there has been reasonable cause, and when any claimant recovers any ship or goods seized or any proceeds thereof, and at the same time reasonable cause for the seizure is found, the finding shall bar all proceedings against all persons concerned in the seizing. Reasonable cause for seizure a bar to action.

207. No proceeding shall be commenced against any officer for anything done in execution of or by reason of his office until one month after notice in writing has been delivered to him or left at his usual place of abode by the plaintiff, his attorney or agent, in which notice shall be clearly stated the cause and nature of the proceeding and the court in which the proceeding is intended to be instituted, the name and place of abode of the plaintiff, and the name and place of business of the attorney or agent, unless the Chief Judicial Officer of the Territory or a Justice of the Central Court of the Territory has granted leave to the plaintiff to proceed without notice, which leave the Justice may grant on such terms as he thinks fit. Notice of action to be given.

208. No notice under the last preceding section shall be deemed invalid by reason of any defect or inaccuracy therein unless the Court is of opinion that the defect or inaccuracy would prejudice the defendant in his defence, and the Court may give leave to amend the notice as it thinks just. Defect in notice not to invalidate.

209. Upon any proceeding instituted in pursuance of notice under section two hundred and seven the plaintiff shall not be at liberty to advance any evidence of any cause of action except such as has been distinctly stated in the notice, nor shall the plaintiff be entitled to a verdict without proving on the trial that the notice has been duly served. No evidence to be produced but that contained in notice.

210. It shall be lawful for any officer to whom notice of proceeding has been given, at any time within one month after the notice, to tender amends to the plaintiff, his attorney or agent, and in case the amends be not accepted, to plead the tender in defence, either alone or with other defences, and if the amends tendered be found to be sufficient no costs shall be recovered against the officer and he shall be entitled to costs, if he has brought the amount into Court when entering his defence. Officer may tender amends.

211. Every proceeding against any officer shall be commenced within six months after its cause has arisen and not afterwards, and the defendant may plead the general issue and give any special matter in evidence. Commencement of proceedings against officers.

212. The Central Court of the Territory, on the application of any person who desires to commence any proceeding mentioned in the last preceding section against an officer, may require the officer to give Security may be required.

security to the satisfaction of the Court to abide the result of the proceeding and in default of the giving of the security may sanction the immediate commencement of the proceeding.

PART XIII.—PENAL PROVISIONS.

Division 1.—Forfeitures.

213.—(1.) The following ships or boats, not exceeding two hundred and fifty tons registered tonnage, shall be forfeited to His Majesty :—

- (a) any ship or boat used in smuggling or knowingly used in the unlawful importation, exportation or conveyance of any prohibited imports or prohibited exports;
- (b) any ship or boat, found within one league of the coast, failing to bring to for boarding upon being lawfully required to do so;
- (c) any ship or boat hovering within one league of the coast and not departing within twelve hours after being required to depart by an officer;
- (d) any ship or boat from which any goods are thrown overboard, staved or destroyed to prevent seizure by the Customs;
- (e) any ship or boat found within any port with cargo on board and afterwards found light or in ballast or with the cargo deficient and the master of which is unable to lawfully account for the difference;
- (f) any ship or boat, within one league of the coast, having false bulkheads, false bows, sides or bottoms or any secret or disguised place adapted for the purpose of concealing goods or having any hole, pipe or other device adapted for the purpose of running goods.

(2.) The owner of a ship exceeding two hundred and fifty tons registered tonnage, which would be forfeited if the ship were less than two hundred and fifty tons registered tonnage, shall be liable to a penalty of not exceeding One thousand pounds, and the ship may be detained until the penalty is paid or until security is given for its payment.

214. The following goods shall be forfeited to His Majesty :—

- (a) all goods which are smuggled or unlawfully imported, exported or conveyed;
- (b) all goods imported which are prohibited imports, excepting only goods, the importation of which is prohibited by proclamation and which shall have been shipped to be imported without knowledge of the proclamation by the shipper and before the expiration of a reasonable time for the acquisition of knowledge thereof at the port of shipment;
- (c) all goods imported in any ship or boat in which goods are prohibited to be imported;
- (d) all dutiable goods found on any ship or boat being unlawfully in any place;
- (e) all goods found on any ship after arrival in any port and not being specified or referred to in the Inward Manifest and not being baggage belonging to the crew or passengers and not being satisfactorily accounted for;
- (f) all goods in respect of which bulk is unlawfully broken;
- (g) all goods which being subject to the control of the Customs are moved, altered or interfered with, except by authority, and in accordance with this Ordinance;
- (h) all goods which, by this Ordinance, are required to be moved or dealt with in any way and which are not moved or dealt with accordingly;
- (i) all goods in respect of which any entry, invoice, declaration, answer, statement or representation which is false or wilfully misleading in any particular, has been delivered, made or produced;
- (j) any carriage or animal used in smuggling or in the unlawful importation, exportation or conveyance of any goods;
- (k) the cargo of any ship or boat which ship or boat hovers about the coast and does not depart within twelve hours after being required by an officer to depart;

- (l) all spirits, tobacco, snuff, cigars or cigarettes in packages of less than the prescribed size or weight, not being ships' stores, found on or attached to any ship or boat;
- (m) all goods, not being passengers' luggage, found on any ship after clearance, and not specified or referred to in the Outward Manifest and not accounted for to the satisfaction of the Collector;
- (n) all prohibited exports put on any ship or boat for export or brought to any wharf or place for the purpose of export;
- (o) all dutiable goods concealed in any manner;
- (p) any package having concealed therein goods not enumerated in the entry or being so packed as to deceive the officer;
- (q) all dutiable goods found in the possession or in the baggage of any person who has got out of or landed from any ship or boat, and who has denied that he has any dutiable goods in his possession or who, when questioned by an officer, has not fully disclosed that the goods are in his possession or baggage;
- (r) all goods offered for sale on the pretence that the same are prohibited or smuggled goods;
- (s) all spirits which, having been methylated, are afterwards treated, filtered, refined, distilled or otherwise dealt with in any manner so that any substance may be extracted therefrom.

215. The forfeiture of any goods shall extend to the forfeiture of the packages in which the goods are contained and the forfeiture of any package under the last preceding section shall extend to all goods packed or contained in the package. Forfeited packages and goods.

Division 2.—Penalties.

216. All persons to the number of two or more, assembled for the purpose of smuggling or for preventing the seizure of, or for rescuing after seizure, any smuggled goods shall be guilty of an indictable offence and shall be liable to imprisonment, with or without hard labour, for any term not exceeding five years. Assembly for smuggling.

217. Whoever—

- (a) being an officer of the Customs or Police, makes any collusive seizure or delivers up, or makes any agreement to deliver up, or not to seize, any ship, boat, carriage or goods liable to forfeiture, or conspires or connives with any person to import or export, or is in any way concerned in the importation or exportation, of any goods for the purpose of seizing any ship, boat, carriage or goods and obtaining any reward for such seizure; Collusive seizure. Penalty.
- (b) gives or procures to be given, or offers or promises to give or procure to be given, any bribe, recompense or reward to or makes any collusive agreement with any officer to induce him in any way to neglect his duty, or who, by threats, demands or promises, attempts to influence any officer in the discharge of his duty; Bribe offered to officer. Penalty.
- (c) rescues any goods which have been seized or before, or at or after any seizure, staves, breaks or destroys any goods or documents relating thereto to prevent the seizure thereof, or the securing of the goods or the proof of any offence; Rescuing goods.
- (d) assaults or by force resists, molests or obstructs or endeavours to intimidate any officer or any person acting in his aid or assistance in the execution of his duties. Persons assaulting or obstructing officers.

shall be guilty of an indictable offence and shall be liable to imprisonment with or without hard labour for any term not exceeding five years.

218.—(1) No person shall—

- (a) smuggle any goods;
- (b) import any prohibited imports;
- (c) export any prohibited exports; or
- (d) unlawfully convey or have in his possession any smuggled goods or prohibited imports or prohibited exports.

Penalty: One hundred pounds.

Smuggling and unlawful importation and exportation.

223. Whoever aids, abets, counsels or procures or by act or omission is in any way directly or indirectly concerned in the commission of any offence against this Ordinance shall be deemed to have committed such offence and shall be punishable accordingly.

Acts and abettors. s. 221

224. Any attempt to commit an offence against this Ordinance shall be an offence against this Ordinance punishable as if the offence had been committed.

Attempts. s. 221

225. Any person who is guilty by act or omission of any contravention or evasion of this Ordinance for which no other penalty is provided shall be liable to a penalty of not more than Ten pounds.

Offences not specifically provided for.

226. All penalties shall be in addition to any forfeiture.

Penalties in addition to forfeitures.

227. If any penalty hereby provided shall be less than three times the value of any goods in respect of which the offence has been committed the maximum penalty shall be thrice the value of the goods.

Maximum penalty in certain cases.

228. Any person may at the same time be charged with an offence against this Ordinance and with an intent to defraud the revenue and if, in addition to the offence, he is convicted of the intent the maximum penalty shall be double that otherwise provided.

Maximum penalty in case of intent to defraud.

229. When any person is convicted of any offence against this Ordinance for which a pecuniary penalty is provided and it appears that the person has been previously convicted of a similar offence, the Court may, in lieu of or in addition to imposing any penalty order that the person be imprisoned with hard labour for a period not less than six months nor more than two years and with or without the right of release on payment of a penalty.

If previous conviction defendant may be imprisoned.

230. The minimum pecuniary penalty for any offence against this Ordinance shall be one-twentieth of the maximum which is prescribed in pounds.

Minimum penalty.

PART XIV.—CUSTOMS PROSECUTIONS.

231. Proceedings by the Customs for the recovery of penalties under this Ordinance or for the condemnation of ships or goods seized as forfeited are herein referred to as Customs prosecutions.

Interpretation.

232.—(1.) Customs prosecutions may be instituted in the name of the Chief Collector by action, information or other appropriate proceeding in the Central Court of the Territory, and when the prosecution is for a pecuniary penalty not exceeding One hundred pounds or the excess is abandoned the Customs prosecutions may be instituted in the name of the Collector in a Court of summary jurisdiction.

How instituted.

(2.) All summary convictions shall be subject to appeal in the manner provided.

233. (1.) Where any Customs prosecution has been instituted by an officer in the name of the Chief Collector the prosecution shall, in the absence of evidence to the contrary, be deemed to have been instituted by the authority of the Chief Collector.

Evidence of authority to institute proceedings. Cf. Commonwealth 36 of 1910, s. 12.

(2.) The production of a telegram purporting to be signed by the Chief Collector and purporting to authorize an officer to institute any Customs prosecution or proceedings, shall be admissible in evidence in the prosecution or proceedings, and shall be accepted as evidence of the authority of the officer to institute the prosecution or proceedings in the name of the Chief Collector.

234. Every Customs prosecution in the Central Court of the Territory may be commenced, prosecuted and proceeded with in accordance with any rules of practice established by the Court for Crown suits in revenue matters or in accordance with the usual practice and procedure of the Court in civil cases or in accordance with the directions of the Court or a Judge.

Prosecution in accordance with practice rules.

235. Customs prosecutions may be instituted at any time within five years after the cause thereof.

Commencement of prosecutions.

236. All informations, summonses, convictions, condemnations and warrants shall suffice if the offence or forfeiture is set forth as nearly as may be in the words of this Ordinance.

Information, etc. to be valid if in words of Ordinance.

(2.) It shall not be lawful for any person to convey or have in his possession without reasonable excuse (proof whereof shall lie upon him) any smuggled goods or prohibited imports.

(3.) It shall not be lawful for any person to convey or have in his possession any prohibited exports with intent to export them or knowing that they are intended to be unlawfully exported.

(4.) Merchandise on board a ship calling at any port in the Territory but intended for, and consigned to, some port or place outside the Territory shall not be deemed to be unlawfully imported into the Territory if the goods are specified on the ship's manifest and are not transhipped or landed in the Territory or are transhipped or landed by authority.

Master not to use or allow use of ship for smuggling, &c.

219. The master of a ship or boat shall not use his ship or boat or knowingly suffer her to be used in smuggling or in the importation of any goods in contravention of this Ordinance or in the exportation or conveyance of any goods in contravention of this Ordinance.

Penalty: One hundred pounds.

Special provision in relation to prohibited imports.

220.—(1.) Any person who—

- (a) without any reasonable excuse (proof whereof shall lie upon him) has in his possession on board any ship any prohibited imports to which this section applies; or
- (b) imports or attempts to import into the Territory any prohibited imports to which this section applies; or
- (c) without reasonable excuse (proof whereof shall lie upon him) has in his possession any prohibited imports, to which this section applies, which have been imported into the Territory in contravention of this Ordinance; or
- (d) aids, abets, counsels or procures or is in any way knowingly concerned in the importation into the Territory of any prohibited imports to which this section applies; or
- (e) fails to disclose to an officer on demand any knowledge in his possession or power concerning the importation, or intending importation, into the Territory of any prohibited imports to which this section applies,

shall be guilty of an offence against this Ordinance.

Penalty: Imprisonment for not less than three months and not more than two years.

(2.) This section shall apply to all prohibited imports to which the Administrator by proclamation declares that it shall apply.

(3.) An offence against this section shall be punishable on summary conviction.

(4.) This section shall not prevent any person from being proceeded against for an offence against any other section of this Ordinance but he shall not be liable to be punished twice in respect of any one offence.

Customs offences.

221. No person shall—

- (a) evade payment of any duty which is payable;
- (b) obtain any drawback which is not payable;
- (c) prepare, pass or present any document purporting to be a genuine invoice which is not in fact a genuine invoice;
- (d) make any entry which is false in any particular;
- (e) make in any declaration or document produced to any officer any statement which is untrue in any particular or produce or deliver to any officer any declaration or document containing any such statement;
- (f) mislead any officer in any particular likely to affect the discharge of his duty;
- (g) refuse or fail to answer questions or to produce documents;
- (h) sell or offer for sale any goods upon the pretence that the goods are prohibited imports or smuggled goods.

Penalty: One hundred pounds.

False oath or affirmation.

222. Whoever wilfully makes any false statement on oath under this Ordinance shall be guilty of an indictable offence and shall be liable to imprisonment with hard labour for any period not exceeding four years.

- Property in goods subject to control of Customs. Cf. Customs Ordinance No. 36 of 1919.
237. Where in any proceedings on behalf of the Customs in relation to any goods subject to the control of the Customs it is necessary to allege any property in the goods the goods may be alleged to be the property of the Collector without mentioning his name.
- No objection for informality.
238. No objection shall be taken or allowed to any information or summons for any alleged defect therein in substance or in form, or for any variance between the information or summons, and the evidence adduced at the hearing in support thereof, and the Court shall, at all times, make any amendment necessary to determine the real question in dispute or which appears desirable, and if any such defect or variance appears to the Court to be such that the defendant has been thereby deceived or misled, it shall be lawful for the Court, upon such terms as it thinks just, to adjourn the hearing of the case to some future day.
- Conviction not to be quashed.
239. No conviction, warrant of commitment or condemnation order or other proceeding matter or thing done or transacted in relation to the execution or carrying out of any Customs Ordinance, shall be held void, quashed or set aside by reason of any defect therein or want of form and no party shall be entitled to be discharged out of custody on account of that defect.
- Protection to witnesses.
240. No witness on behalf of the Chief Collector or Collector in any Customs prosecution shall be compelled to disclose the fact that he received any information, or the nature thereof or the name of the person who gave the information, and no officer appearing as a witness shall be compelled to produce any reports made or received by him confidentially in his official capacity or containing confidential information.
- Defendant a competent witness.
241. (1) In every Customs prosecution the defendant shall be competent to give evidence.
(2) In every Customs prosecution, except for an indictable offence or for an offence directly punishable by imprisonment, the defendant shall be compellable to give evidence.
- Averment of prosecution sufficient.
242. In every Customs prosecution the averment of the prosecutor or plaintiff contained in the information declaration or claim shall be deemed to be proved in the absence of proof to the contrary but so that—
(a) when an intent to defraud the revenue is charged the averment shall not be deemed sufficient to prove the intent; and
(b) in all proceedings for an indictable offence or for an offence directly punishable by imprisonment the guilt of the defendant must be established by evidence.
- Proof of proclamation, &c.
243. The production of the *New Guinea Gazette* containing any proclamation, Gazette notice or regulation appearing to have been issued or made under this Ordinance, or the production of any document certified by the Chief Collector or the Collector to be a true copy of or extract from any such proclamation, Gazette notice or regulation, issued or made under this Ordinance, shall be *prima facie* evidence of the issue or making of such proclamation, Gazette notice or regulation and that it is in force.
- Minimum penalties.
244. No minimum penalty imposed by this Ordinance shall be liable to reduction under any power of mitigation which would, but for this section, be possessed by the Court.
- Treatment of convicted offenders.
245. Where any pecuniary penalty is adjudged to be paid by any convicted person the Court—
(a) may commit the offender to gaol until the penalty is paid; or
(b) may release the offender upon his giving a security for the payment of the penalty; or
(c) may exercise, for the enforcement and recovery of the penalty, any power of distress or execution possessed by the Court for the enforcement and recovery of penalties in any other case.
- Collector may levy on goods in his possession.
246. When any pecuniary penalty adjudged against any person is unpaid, the Collector may levy the penalty by sale of any goods belonging to that person which are then or thereafter subject to the control of the Customs.

247. The gaoler of any gaol to which any person has been committed for non-payment of any penalty shall discharge the person—

- (a) on payment to him of the penalty adjudged,
- (b) on a certificate by the Collector that the penalty has been paid or realized,
- (c) if the penalty adjudged to be paid is not paid or realized, according to the following table:—

Amount of Penalty.	Period after commencement of imprisonment at the expiration of which defendant is to be discharged.
£2 or under	Seven days
Over £2 and not more than £5	Fourteen days
Over £5 and not more than £20	One month
Over £20 and not more than £50	Two months
Over £50 and not more than £100	Three months
Over £100 and not more than £200	Six months
Over £200	One year

248. No person shall be twice imprisoned upon the same conviction, but the suffering of imprisonment for non-payment of a penalty shall not release the penalty or affect the right of the Customs to collect the amount in any manner provided by this Ordinance other than by imprisonment of the person convicted.

249. Where the committal of any offence causes a forfeiture of goods, the conviction of any person for the offence shall have effect as a condemnation of the goods in respect of which the offence is committed.

250. In all Customs prosecutions the Court may award costs against any party or claimant and all provisions of this Ordinance relating to the recovery of penalties except commitment to gaol shall extend to the recovery of any costs adjudged to be paid.

251. All penalties and forfeitures recovered under this Ordinance shall be applied to such purpose and in such proportions as the Chief Collector directs.

PART XV.—SETTLEMENT OF CASES BY THE CHIEF COLLECTOR.

252. If any dispute arises between any officer and any person with reference to any contravention of this Ordinance the Chief Collector may, in manner prescribed, with the written consent of that person, inquire into and determine the dispute, and shall have power by order, a notification of which shall be published in the *New Guinea Gazette*, to impose, enforce, mitigate or remit any penalty or forfeiture which he determines has been incurred.

253. Every order made under the last preceding section shall be final and without appeal and shall not be liable to be quashed on any account and the copy thereof shall be delivered to such person and may be enforced in the same manner as the order of a Court of summary jurisdiction.

254. The Chief Collector in holding any inquiry under this Part of this Ordinance shall hold the inquiry in public and may—

- (a) summon the parties and any witness before him;
- (b) take evidence on oath;
- (c) require the production of documents; and
- (d) allow reasonable expenses to witnesses and costs to successful parties.

255. No person, being summoned as a witness at any inquiry under this Ordinance, shall—

- (a) disobey the summons;
- (b) refuse to be sworn as such witness;
- (c) refuse or fail to produce any document he is required to produce;
- (d) being sworn as a witness, refuse or fail to answer any question lawfully put to him.

Penalty: Twenty pounds.

256. Any matter of difference arising under this Ordinance, or in relation to the Customs and not involving a contravention of this Ordinance, may, at the request of the parties interested, be referred

to the Chief Collector for decision and thereupon the Chief Collector may, in such manner as he thinks fit, inform his mind of the circumstances and finally decide the difference.

PART XVI.—REGULATIONS.

Regulations to have force of law.

257. (1.) The Administrator may make regulations not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed, for giving effect to this Ordinance or for the conduct of any business relating to the Customs and in particular for prescribing—

- (a) the nature, size and material of the packages in which imported goods or goods for export are to be packed or the coverings in which they are to be wrapped;
- (b) the maximum or minimum weight or quantity of imported goods or goods for export which may be contained in one package;
- (c) the conditions of preparation or manufacture for export of any articles used for food or drink by man, or used in the manufacture of food or drink by man; and
- (d) the conditions as to purity, soundness and freedom from disease to be conformed to by goods for export.

(2.) The regulations may prescribe penalties not exceeding Fifty pounds in respect of any contravention of any of the regulations.

Publication of regulations.

258. All regulations made under this Ordinance shall—

- (a) be published in the *New Guinea Gazette*;
- (b) take effect from the date of publication or from a later date to be specified in the regulations.

PART XVII.—MISCELLANEOUS.

Commissioned ships to be reported.

259. The person in command of any ship holding commission from His Majesty or from any foreign State, having on board any goods other than ships' stores laden in parts beyond the seas, shall, when called upon by the Chief Collector or by the Collector or an officer specially authorized by the Chief Collector or the Collector so to do—

- (a) deliver an account in writing of the quantity of the goods, the marks and numbers thereof, and the names of the shippers and consignees and declare to the truth thereof;
- (b) answer questions relating to the goods.

Commissioned ships may be searched.

260. Ships under commission from His Majesty or any foreign State, having on board any goods other than ships' stores laden in parts beyond the seas, may be boarded and searched by an officer especially authorized as mentioned in the last section, in the same manner as other ships, and the officer may bring any such goods ashore and place them in a King's warehouse.

Collectors' sales.

261. As to sales by the Collector—

- (a) the goods shall be sold by auction or by tender and after such public notice as is prescribed, and, where not prescribed, after reasonable public notice;
- (b) the goods may be sold either free or subject to duty and charges, and the price shall be paid in cash on the acceptance of the bidding or tender;
- (c) no bidding or tender shall be necessarily accepted and the goods may be re-offered until sold at a price satisfactory to the Collector.

Proceeds of sales.

262. The proceeds of any goods sold by the Collector shall be applied as follows:—

Firstly, in the payment of the expenses of the sale.

Secondly, in payment of the duty.

Thirdly, in payment of the warehouse rent and charges.

Fourthly, in payment of the freight, if any, due upon the goods if written notice of the freight has been given to the Collector.

And the balance, if any, shall be paid to the Chief Collector on account of the person entitled thereto.

SCHEDULES.

SCHEDULE I

The Territory of New Guinea.

SECURITY TO THE CUSTOMS.

By this Security the subscribers are pursuant to the *Customs Ordinance of 1921* bound to the Customs of the Territory of New Guinea in the sum of (here insert amount or mode of ascertaining amount intended to be paid in default of compliance with condition) subject only to this condition that if (here insert the condition of the security) then the security shall be thereby discharged.*

Dated this _____ day of _____ 19__

Names and Descriptions of Subscribers.	Signature of Subscribers.	Signature of Witnesses.

* *Note.*—If liability is not intended to be joint and several, and for the full amount, here state what is intended, as for example thus:—"The liability of the subscribers is joint only" or "The liability of (mentioning subscribers) is limited to (here state amount of limit of liability or mode of ascertaining limit)."

SCHEDULE II

The Territory of New Guinea.

SCALE OF FEES FOR WAREHOUSES TO BE PAID BY LICENSEES.

- When the whole services of a locker are required £200 p.a.
- When the whole services of more than one locker are required for each additional locker after the first £150 ..
- When only half the services of a locker are required £100 ..
- When the whole services of a locker are not required a charge of two shillings per hour for each hour or part of an hour necessary for the locker to be in attendance and a sum to be fixed by the Chief Collector not exceeding £50 ..

All questions as to the number of lockers required and the time necessary for the attendance shall be determined by the Chief Collector.

The above scale shall apply to the following places only:—

- Robaul,
- Kaewiang,
- Madang,
- Kieta.

At any other places such fees not exceeding the above scale shall be charged as may be prescribed.

SCHEDULE III.

The Territory of New Guinea.

WARRANT OF ASSISTANCE.

HIS MAJESTY THE KING.

TO ALL PEACE OFFICERS AND TO ALL WHOM IT MAY CONCERN:

Greeting.

We command you to permit A.B. of _____ an officer of the Customs of the Territory of New Guinea and his assistants and each and every of them at any time in the day or night to enter into and search any house premises or place and to break open and search the same and any chests, trunks or packages in which goods may be or are supposed to be and to seize any goods forfeited to Us and any goods that he, the said A.B., has reasonable cause to believe are referred to Us and to take such goods to the nearest King's warehouse or to such other place of security as Our Collector of Customs in our said Territory shall direct.

And We grant to the said A.B. all powers which are capable of being granted by a Writ of Assistance.

And We commend all Peace Officers and all Our former subjects in Our said Territory of New Guinea upon sight of Our Writ and upon being so required by the said A.B. to be aiding and assisting the said A.B. in the matters aforesaid: Herein fail not at your peril.

And We declare that this Our Writ of Assistance shall remain in force so long as the said A.B. remains an Officer of Customs in Our Territory of New Guinea whether in his present capacity or not.

Witness (name and description of the Judge issuing the Writ) at
the day of One thousand nine hundred
and

(Seal)

By the Court.

SCHEDULE IV.

The Territory of New Guinea.

CUSTOMS WARRANT.

To You are hereby authorized to enter into at any time in the day or night if necessary and search any house premises or place; and to break open the same and any chests trunks or packages in which goods may be or are supposed to be and to seize and take away any forfeited goods or goods which you have reasonable grounds to believe are forfeited you may find therein and forthwith to put and secure the same in the King's warehouse or such other place of security as the Collector may direct. And for so doing this shall be your sufficient Warrant.

This Warrant shall remain in force for one month from the date thereof.
Dated this day of in the year One
thousand nine hundred and (Seal) (Signature).

Dated the twenty-eighth day of October, 1921.

FORSTER,
Governor-General.

By His Excellency's Command,

W. M. HUGHES,
Prime Minister.