

CUSTOMS ORDINANCE, 1909-1939. ⁽¹⁾

An Ordinance relating to the Customs.

BE it enacted by the Lieutenant-Governor of the Territory of Papua by and with the advice and consent of the Legislative Council thereof as follows:—

PART I.—INTRODUCTORY.

1. This Ordinance may be cited as the *Customs Ordinance, 1909-1939.* ⁽¹⁾

Short title.
Amended by
No. 2 of 1930,
s. 2.

2. This Ordinance shall commence on a day to be fixed by Proclamation. ⁽¹⁾

Commencement.

3. The several enactments set forth in Schedule I. of this Ordinance shall be and the same are hereby repealed except as to anything done before the commencement of this Ordinance and except so far as relates to any arrears of duty and except so far as may be necessary for the purpose of supporting or continuing any proceeding heretofore taken or to be taken after the commencement of this Ordinance and except as to the recovery or application of any penalty for any offence which shall have been committed or any forfeiture which shall have been incurred before the commencement of this Ordinance.

Repeal of
Ordinances.

(1) The *Customs Ordinance, 1909-1939*, comprises *The Customs Ordinance of 1909*, as amended by the other Ordinances referred to in the following Table:—

ORDINANCES OF THE LEGISLATIVE COUNCIL FOR THE TERRITORY OF PAPUA.

Short title, number and year.	Date of assent by Lieut.-Gov.	Date notified in Papua Govt. Gaz. as not disallowed by Gov.-Gen in Council.	Date on which came into operation.
<i>The Customs Ordinance of 1909</i> (No. 34 of 1909)	30.11.1909	(a)	1.7.1910 (Papua Govt. Gaz. of 26.5.1910)
<i>Customs Ordinance, 1913</i> (No. 16 of 1913)	26.11.1913	16.3.1914	26.11.1913 (<i>Statute Law of Papua, 1888 to 1916</i> , Vol. II, p. 203)
<i>Customs Tariff, 1915</i> (No. 6 of 1915)	16.8.1915	(a)	16.8.1915 (Sec. 6, <i>Customs Tariff, 1915</i>)
<i>Customs Ordinance, 1916</i> (No. 16 of 1916)	16.8.1916	4.4.1917	16.8.1916 (<i>Statute Law of Papua, 1888 to 1916</i> , Vol. II, p. 203)
<i>Customs Ordinance, 1928</i> (No. 7 of 1928)	11.6.1928	7.11.1928	1.7.1937 (Papua Govt. Gaz. of 7.7.1937)
<i>Customs Ordinance, 1939</i> (No. 6 of 1939)	11.8.1939	6.12.1939	11.8.1939 (<i>Ordinances etc. of Papua, 1939</i> , p. 11)

(a) No notice of non-disallowance has been published in Papua Govt. Gaz.

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Parts.
Section 4
amended by
No. 7 of 1928,
s. 3 and
Schedule.

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

- Part I.—Introductory.
- 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 and Aircraft.
 - 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' and Aircraft's 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 to Officers.
- Part XIII.—Penal Provisions.
 - Division 1.—Forfeitures.
 - Division 2.—Penalties.
- Part XIV.—Customs Prosecutions.
- Part XV.—Settlement of Cases by the Treasurer.
- Part XVI.—Regulations.
- Part XVII.—Miscellaneous.

Interpretation.
Inserted by
No. 7 of 1928,
s. 4.

5. In this Ordinance except where otherwise clearly intended—
“Aerodrome” means any landing-place for aircraft appointed
for the purposes of this Ordinance.

Customs Ordinance, 1909-1939.

- “Aerodrome owner” includes the occupier of any aerodrome. Inserted by
No. 7 of 1928,
s. 4.
- “Aircraft” includes aeroplanes seaplanes airships balloons or any other means of aerial locomotion. Inserted by
No. 7 of 1928,
s. 4.
- “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 shall ask.
- “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.
- “Collector” includes the Treasurer 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.
- “Customs Ordinance” includes this Ordinance and all Regulations made thereunder.
- “Days” does not include Sundays or holidays.
- “Documents” includes books.
- “Drawback” includes bounty or allowance.
- “Dutiable Goods” includes all goods in respect of which any duty of the Customs is payable.
- “Gazette Notice” means a notice signed by the Treasurer and published in the *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 or command of any ship except 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 or aircraft includes every person acting as agent for the owner or to receive freight or other charges payable in respect of the ship or aircraft. Amended by
No. 7 of 1928,
s. 4.

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“Parts beyond the seas” means any country outside the Territory of Papua.

“Package” includes every means by which goods for carriage may be cased covered enclosed contained or packed.

“Pilot” means the person in charge or command of any aircraft.

“Port” means any proclaimed port.

“Prescribed” means prescribed by this Ordinance.

“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 Treasurer” means the Treasurer of the Territory of Papua and includes the Officer acting as Treasurer for the Territory of Papua either during the absence of the Treasurer from the Territory or during the absence of the Treasurer on duty within the Territory.

“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 any owner or occupier of any wharf.

The word “Penalty” inserted after a section or sentence means that the amount stated as a penalty shall be the maximum penalty for a breach of the provisions of the section or sentence.

All penalties unless otherwise expressed shall be recoverable before a Court of summary jurisdiction.

Indication of penalties.

6. The penalties referred to at the foot of sections indicate that any contravention of the section whether by act or omission shall be an offence against this Ordinance punishable upon conviction by a penalty not exceeding (except as hereinafter provided) the penalty mentioned.

Customs Ordinance, 1909-1939.

PART II.—ADMINISTRATION.

7. Until it is otherwise lawfully determined the Customs Ordinances shall be administered by the Treasurer of the Territory. Administration.
8. The Treasurer of the Territory 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. Collector.
9. In relation to any particular matters or class of matters or to any particular district the Treasurer may by writing under his hand delegate any of his powers 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 Treasurer.
10. The Collector with the written approval of the Treasurer may similarly delegate any of his powers under this Ordinance. Delegation by Collector.
11. Every delegation whether by the Treasurer or Collector shall be revocable in writing at will and no delegation shall prevent the exercise of any power by the Treasurer or Collector. Revocation of delegation.
12. 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.
13. The seal of the Customs shall be the Royal Arms having the words "Papua—H.M. Customs" encircling the Arms and the name of the Port added thereto. Such seal shall be judicially noticed. Customs seal.
14. The vessels boats and aircraft employed in the service of the Customs shall be distinguished from other vessels boats and aircraft by such flag or in such other manner as shall be prescribed. Customs flag. Amended by No. 7 of 1928, s. 3 and Schedule.
15. The Lieutenant-Governor⁽²⁾ may by proclamation—
(a) Appoint boarding stations for the boarding of ships and aircraft by officers.⁽³⁾
(b) Establish ports and fix their limits.⁽⁴⁾
(c) Appoint wharfs within ports and fix their limits.⁽⁵⁾ Appointment of boarding stations, &c. Paragraph (a) amended by No. 7 of 1928, s. 5.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(3) No proclamation appointing boarding stations has been published in *Papua Govt. Gaz.* under the present Ordinance and none has been published in *British N.G. Govt. Gaz.* or *Papua Govt. Gaz.* under any enactment repealed by the present Ordinance.

(4) A Table containing particulars of proclamations establishing ports and fixing their limits (including proclamations made under the repealed enactments, the ports established by which are continued by the present Section 18) is printed on p. 1677, and the proclamations still in force are printed immediately after the Table.

(5) No proclamation establishing wharfs within ports has been published in *Papua Govt. Gaz.* under the present Ordinance and none has been published in *British N.G. Govt. Gaz.* or *Papua Govt. Gaz.* under any enactment repealed by the present Ordinance.

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Paragraph (d) added by No. 7 of 1928, s. 5.

(d) Appoint aerodromes whether within the limits of a proclaimed port or otherwise and fix their limits.⁽⁶⁾

Appointment of ports, wharfs and aerodromes. Amended by No. 7 of 1928, s. 3 and Schedule.

16. Ports wharfs and aerodromes may be established or appointed for specified limited purposes or without any such limitation.

Appointment of sufferance wharfs, &c.

17. The Treasurer may by *Gazette* notice—

(a) Appoint sufferance wharfs in any port.⁽⁷⁾

(b) Appoint places for the examination of goods on landing.⁽⁸⁾

Continuance of boarding stations, &c.

18. All boarding stations⁽³⁾ ports⁽⁴⁾ wharfs⁽⁵⁾ and examination places⁽⁸⁾ 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 Treasurer by *Gazette* notice.⁽⁹⁾

Accommodation on wharfs and aerodromes.

Amended by No. 7 of 1928, s. 3 and Schedule.

19. Every wharf owner and aerodrome owner shall provide to the satisfaction of the Collector suitable office accommodation on his wharf or at his aerodrome for the exclusive use of the officer employed at the wharf or aerodrome; also such shed accommodation

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(4) A Table containing particulars of proclamations establishing ports and fixing their limits (including proclamations made under the repealed enactments, the ports established by which are continued by the present Section 18) is printed on p. 1677, and the proclamations still in force are printed immediately after the Table.

(5) No proclamation establishing wharfs within ports has been published in *Papua Govt. Gaz.* under the present Ordinance and none has been published in *British N.G. Govt. Gaz.* or *Papua Govt. Gaz.* under any enactment repealed by the present Ordinance.

(6) A Table containing particulars of proclamations appointing aerodromes and fixing their limits is printed on p. 1681, and the proclamations are printed immediately after the Table.

(7) No *Gazette* notice appointing sufferance wharfs has been published in *Papua Govt. Gaz.* under the present Ordinance, and none has been published in *British N.G. Govt. Gaz.* or *Papua Govt. Gaz.* under any enactment repealed by the present Ordinance.

(8) Pursuant to Section 17, the Treasurer, by *Gazette* notices (particulars of which are set out in the following Table) appointed the places specified in the third column of the Table for the purposes specified in the fourth column of the Table. No such places had been appointed under any enactment repealed by the present Ordinance by any instrument published in *British N.G. Govt. Gaz.* or *Papua Govt. Gaz.*

Date on which <i>Gazette</i> notice made.	Date on which published in <i>Papua Govt. Gaz.</i>	Place appointed.	Purpose for which appointed.
28.11.1925	2.12.1925	"South-Western corner of the veranda of the Customs House, Samarai"	"For examination of luggage"
21.10.1926	3.11.1926	"North-Western entrance of the main shed situated on the shore end of the Government Wharf, Port Moresby"	"For the examination of luggage"
2.3.1938	4.3.1938	"Customs depot situated on the North-East side of the landing-ground at Kila-Kila Aerodrome"	"For the examination of luggage"

(9) No *Gazette* notice has been published in *Papua Govt. Gaz.*

for the protection of goods as the Treasurer may in writing declare to be requisite.

Penalty: Twenty pounds.

20. 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 may be prescribed. Licences.

21. The licence for any carriage boat or lighter may be revoked by the Collector if the licensee shall be guilty of any fraud or misconduct or shall fail to comply with this Ordinance. Revocation of licence.

22. No person shall use any unlicensed carriage boat or lighter for the conveyance of goods subject to the control of the Customs. Unlicensed carriages boats or lighters.
Penalty: Twenty pounds.

23. Declarations under this Ordinance may be made before the Treasurer or any Collector or any Justice and also before any officer authorized in that behalf by the Treasurer or any Collector. Before whom declarations may be made.

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

25. 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. Working days and hours.

Penalty: Fifty pounds.

26. When working overtime is permitted overtime at prescribed rates shall be charged for the services of the officers. Overtime charges.

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

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

(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 shall first happen. Section 27 amended by No. 16 of 1916, s. 2.

(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 same are brought to any port or place for exportation until the payment of the duty.

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(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 or aircraft subject to Customs control.

Amended by No. 7 of 1928, s. 3 and Schedule.

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

Right of examination.

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

Customs control of goods.

30. 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.

31. 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.

32. Goods imported through the post-office shall be subject to the control of the Customs equally with goods otherwise imported.

Entries.

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

Owner to make entry.

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

Person making entries to answer questions.

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

Collector to pass entries.

36. 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.

37. 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.

38. Goods being the personal baggage of passengers in any ship or aircraft and not being dutiable goods may subject to any prescribed conditions be imported or exported without entry.

Passengers' baggage.
Amended by No. 7 of 1928, s. 3 and Schedule.

39. 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.

40. Where any security is required to be given such security may be by bond or guarantee or cash deposit or all or any of such methods so that in each case the security shall be approved by the Collector.

Security.

41. When security is required for any particular purpose security may by the authority of the Treasurer be accepted to cover all transactions for such time and for such amount as the Treasurer may approve.

General bonds may be given.

42. All Customs securities may after the expiration of three years from the date thereof or from the time specified for the performance of the conditions thereof be cancelled by the Treasurer.

Cancellation of bonds.

43. If the Treasurer shall not at any time be satisfied with the sufficiency of any security the Treasurer may require a fresh security and a fresh security shall be given accordingly.

New securities.

44. The form of Customs security in Schedule II. hereto shall suffice 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.

Form of Customs security.

45. Whenever any such 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 same unless the defendants shall 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.

46. For the purpose of securing the due importation of goods—

- (1) The ship or aircraft may be boarded.
- (2) The cargo shall be reported.
- (3) The goods shall be entered unshipped and may be examined.

Importation.
Section 46 amended by No. 7 of 1928, s. 3 and Schedule.

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Division 1.—Prohibited Imports.

Importations.

47. No prohibited imports shall be imported.

Penalty: One hundred pounds.

Unregistered
ships or aircraft.
Amended by
No. 7 of 1928,
s. 3 and
Schedule.

48. No goods may be imported in any ship or aircraft 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 satisfactorily accounted for.

Penalty: One hundred pounds.

Prohibited
imports.

49. The following are 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 Treasurer by or on behalf of the proprietor of such 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 may be prohibited by proclamation.⁽¹⁰⁾

(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 may be declared by proclamation.⁽¹¹⁾

(j) Opium suitable for smoking.

Paragraph (j)
amended by
No. 6 of 1915,
s. 4.

(10) A Table containing particulars of proclamations made pursuant to Section 49 is printed on p. 1684, and the proclamations still in force are printed immediately after the Table. See also Section 4 of the *Seal Fisheries (North Pacific) Act, 1912*, (United Kingdom) and Clause 2(iv) of the *Seal Fisheries (Papua) Order in Council, 1913*, printed below, title FISHERIES.

(11) No proclamation has been published in *Papua Govt. Gaz.*

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

Restrictions of spirits, &c.

Penalty: One hundred pounds.

51. As to all tea imported:—

Tea subject to examination on importation.

(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 Lieutenant-Governor⁽²⁾ 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) Notice shall be given to the owner of the report of the analyst if the tea is thereby shown to be a prohibited import 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.

52. 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.

Prohibition subject to restriction.

53. There shall be open to public inspection at the Customs House at the principal ports of Papua printed lists of all books wherein the copyright shall be subsisting and as to which the proprietor of such copyright or his agent shall have given notice in writing pursuant to section forty-nine that such copyright exists stating in such notice when such copyright expires.

List of copyright books to be exposed at principal ports.

Division 2.—The Boarding of Ships and Aircraft.

Heading amended by No. 7 of 1928, s. 6.

54. The master of a ship or the pilot of any aircraft shall not suffer his ship or aircraft to enter any place other than a port or aerodrome unless from stress of weather or other reasonable cause.

Ships and aircraft to enter ports or aerodromes.

Penalty: One hundred pounds.

Amended by No. 7 of 1928, s. 3 and Schedule.

(2) See Section 19(2) of the Ordinance Interpretation Ordinance, 1911-1940.

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Ship to bring to and aircraft to land on being signalled.

55.—(1.) 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.

Sub-section (2) added by No. 7 of 1928, s. 7.

(2.) The pilot of every aircraft arriving within one league of the shore shall bring his aircraft to the nearest aerodrome for boarding on being approached by or signalled from any vessel or aircraft in the service of His Majesty or of the Territory having hoisted the proper ensign or pendant or displayed the proper signal.

Penalty: One hundred pounds.

Ship to bring to at boarding station and aircraft to land at aerodrome.

56.—(1.) 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.

Sub-section (2) added by No. 7 of 1928, s. 8.

(2.) The pilot of every aircraft from parts beyond the seas bound to or calling at any place within the Territory shall bring his aircraft for boarding to the aerodrome nearest to the place at which he enters the Territory.

Penalty: Fifty pounds.

Facility for boarding. Amended by No. 7 of 1928, s. 3 and Schedule.

57. The master of every ship or the pilot of every aircraft bringing to or landing at an aerodrome for boarding shall by all reasonable means facilitate boarding by the officer.

Penalty: Twenty pounds.

Ships and aircraft to come quickly to place of unloading. Amended by No. 7 of 1928, s. 3 and Schedule.

58. The master of every ship or the pilot of every aircraft after his ship or aircraft has been brought to at the boarding station or landed at the aerodrome 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.

Penalty: Twenty pounds.

Ship or aircraft not to be moved without authority. Amended by No. 7 of 1928, s. 3 and Schedule.

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

Penalty: Twenty pounds.

Division 3.—The Report of the Cargo.

60. As to every ship or aircraft arriving from parts beyond the seas—

Report of cargo.
Section 60
substituted by
No. 7 of 1928,
s. 9.

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

Penalty: One hundred pounds.

61.—(1.) When any ship is lost or wrecked upon the coast the master or owner shall without any unnecessary delay make report of the ship and cargo by delivering to the Collector a Manifest so far as it may be 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 or pilot of
wrecked ship
or aircraft to
report.

Penalty: Twenty pounds.

(2.) When any aircraft arriving from parts beyond the seas is lost or wrecked at any place within the Territory the pilot or owner shall without any unnecessary delay make report of the aircraft and cargo by delivering to the Collector a Manifest as far as it may be possible for him to do so at the Customs House nearest to the place where the aircraft was lost or wrecked.

Sub-section (2)
added by
No. 7 of 1928,
s. 10.

Penalty: Twenty pounds.

62. Whoever has any dutiable goods derelict flotsam jetsam lagan or wreck in his possession shall deliver the same to an officer without unnecessary delay.

Goods derelict
to be delivered
to officer.

Penalty: Twenty pounds.

63. 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.

64. All imported goods shall be entered either—

- (a) For home consumption; or

Entries.
Kinds of entries.

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(b) For warehousing; or

(c) For transshipment.

Sight entry.

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

Passing of sight entry.

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

Completion of sight entry.
Section 67 substituted by No. 16 of 1916, s. 3.

67.—(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.

(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.

Entry within seven days.
Amended by No. 7 of 1928, s. 3 and Schedule.

68. 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 or aircraft as may be prescribed or within such further time if any as the Collector may see fit to allow; and so that if the goods are placed in quarantine seven days at the least shall be allowed for entry after their release from quarantine.

(a) If default shall be 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.

(b) If the goods are of a perishable nature they may be sold at any time the Collector thinks fit either before or after warehousing.

Breaking bulk.
Amended by No. 7 of 1928, s. 3 and Schedule.

69. The bulk cargo of a ship or aircraft 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.

70. Except as prescribed goods may be unshipped only pursuant to—

(a) A Collector's permit; or

(b) An entry passed.

Penalty: One hundred pounds.

71. All goods unshipped shall be either—

- (a) Landed directly at a wharf or aerodrome or after conveyance thereto in a licensed boat or lighter from the ship; or
- (b) Transhipped direct to the ship or aircraft into which they are to be transhipped or after conveyance thereto in a licensed carriage boat or lighter direct from the ship or aircraft.

Penalty: One hundred pounds.

Unshipment of goods.

Section 71 amended by No. 7 of 1928, s. 3 and Schedule.

72. 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 or the pilot or owner of the aircraft from which they were unshipped in a place of security approved by the Collector and shall until lawfully removed therefrom be at the risk of the master or owner of the ship or the pilot or owner of the aircraft as if they had not been unshipped.

Goods landed on permit at ship's or aircraft's risk.

Amended by No. 7 of 1928, s. 3 and Schedule.

73. Any goods may by authority be repacked or skipped on the wharf.

Repacking on wharf.

PART V.—THE WAREHOUSING OF GOODS.

Division 1.—Licensed Warehouses.

74. Dutiable goods may be warehoused in warehouses licensed by the Treasurer.

Dutiable goods may be warehoused.

75. There may be two classes of licensed warehouses as follows:—

Classes of warehouses.

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.

76. Fees for warehouses according to the scale in Schedule III. 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 lockers' attendance by monthly payments.

Annual fee.

77. In default of payment of any part of any licence-fee for thirty days after any quarter day the Treasurer 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.

Cancellation of licences.

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Officer to take account of goods landed to be warehoused.

78. Upon the landing of any goods to be warehoused or so soon as practicable thereafter the officer shall take a particular account of the goods and shall enter such account in a book.

Unless where otherwise provided such account shall be that upon which the duties shall be ascertained and paid.

Completion of warehousing.

79. When any goods entered for warehousing have been duly deposited in the warehouse the officer shall certify that the warehousing is complete by signing a receipt for the goods.

Removal of goods to warehouse.

80. If any goods entered to be warehoused are not warehoused accordingly by the owner the Collector may remove them to the warehouse.

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 such charges.

Packages in which goods to be deposited.

81. Goods entered for warehousing shall be deposited in the warehouse in the packages in which they were imported except goods repacked or skipped on the wharf which shall be deposited in the packages in which they were when the account was taken.

Repacking in warehouse.

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

Fresh account to be taken.

83. 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.

Refining methylated spirits.

84. 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.

Penalty: One hundred pounds.

Duty of licensee.

85. The licensee of every warehouse shall—

- (1) Stack and arrange the goods in the warehouse so that reasonable access to and examination of every package may be had at all times.
- (2) Provide sufficient lights and just scales and weights for the use of the officer.
- (3) Find all labour and materials requisite for the storing examining packing marking cooping weighing and taking stock of the warehoused goods whenever the Collector may desire.

- (4) 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.

86. No person shall except by authority open any warehouse or gain access to the goods therein. Opening warehouse.

Penalty: Twenty pounds.

87. The Collector may require the owner of any goods in any private warehouse within a time to be specified by him 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.

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

89. 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.

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

91. 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 Re-gauging or re-weighing of goods.

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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 may see fit to allow.

Re-valuation.

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

If warehouse fees in arrear goods to be sold.

93. If the warehouse dues on any warehoused goods shall be in arrear for nine months the goods may be sold by the Collector.

Goods not worth duty may be destroyed.

94. The Treasurer 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.

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.

95. No goods of a combustible or inflammable nature shall be warehoused except by permission of the Collector and if any such goods shall be landed the same may be deposited in any safe available place that the Collector shall approve and whilst so deposited the same shall be deemed to be in a King's warehouse and 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 such goods shall be charged with the expenses for removing securing watching and guarding the same until sold.

Penalty: One hundred pounds.

Entry of warehoused goods.

96. 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.

97. If after goods have been entered for warehousing either on importation or removal and before they have been actually warehoused they shall be 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.

Customs Ordinance, 1909-1939.

Division 2.—King's Warehouses.

98. King's warehouses may be appointed by the Treasurer by *Gazette* notice.⁽¹²⁾ King's warehouses.

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

100. King's warehouses in actual use⁽¹²⁾ by authority at the commencement of this Ordinance shall continue as if appointed under this Ordinance unless otherwise determined by the Treasurer by *Gazette* notice.⁽¹³⁾ Continuation of existing warehouses.

101. If any goods warehoused in a King's warehouse shall not be lawfully removed within six months after warehousing the goods may be sold by the Collector. Power to sell.

102. 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. Purposes of King's warehouses.

(12) Particulars of *Gazette* notices appointing King's warehouses pursuant to Section 98 (and of *Gazette* notices made pursuant to enactments repealed by the present Ordinance, the warehouses appointed by which are continued by the present Section 100) are set out in the following Table:—

Date on which <i>Gazette</i> notice made.	Date on which published in British N.G. <i>Govt. Gaz.</i> or Papua <i>Govt. Gaz.</i>	King's Warehouse appointed.
15.10.1888 ^(a)	15.10.1888	"A store erected on the Beach Reserve and adjoining the Jetty at Granville West (Port Moresby)"
25.1.1890 ^(a)	28.1.1890	"A store below the Government Offices at Granville West, Port Moresby"
31.12.1892 ^(a)	31.12.1892	"Portion of the building known as the 'Government Store' at Granville West (Port Moresby)"
31.12.1892 ^(a)	31.12.1892	"Portion of the building known as the Customs House and situated on the foreshore, immediately in front of Allotment 4 of Section III in the surveyed plan of Samarai"
3.4.1911	5.4.1911	"Building erected at the lower end of Cuthbertson Street, near the approach to the Government Wharf, Port Moresby"
21.11.1916	6.12.1916	"The basement of the Customs and Post Offices at Kulumadau, Woodlark Island"

(a) Made under *The Customs Adopting Ordinance of 1888*. The Warehouses appointed by these notices are continued by virtue of Section 100 of the *Customs Ordinance, 1909-1939*.

(13) No *Gazette* notice has been published in Papua *Govt. Gaz.*

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PART VI.—THE EXPORTATION OF GOODS.

Exportation.

103. No prohibited exports shall be exported.

Penalty: One hundred pounds.

Prohibited
Exports.
Section 104
substituted by
No. 16 of 1916,
s. 4.

104.—(1.) The Lieutenant-Governor⁽²⁾ may by proclamation⁽¹⁴⁾ prohibit the 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 Papua; 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 authorise 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.

Any proclamation made under paragraph (b) shall be notified to the Legislative Council within seven days of the issue of the proclamation if the Council is in session but if not in session then within seven days after the meeting of Council.

Size of exporting
vessel.

105. Except by the permission of the Collector no goods subject to the control of the Customs shall be exported in any ship of less than fifty tons gross register.

Penalty: One hundred pounds.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(14) A Table containing particulars of proclamations made pursuant to Section 104 is printed on p. 1701, and the proclamations still in force are printed immediately after the Table.

106. Before any goods are taken on board a ship or aircraft for export—

Conditions for export.

The ship or aircraft shall be entered outwards and the goods shall be entered for export but—

Section 106 amended by No. 7 of 1928, s. 3 and Schedule.

- (a) In the case of free goods it shall suffice if they be entered not later than three days after shipment; and
- (b) The ship or aircraft may be stiffened by permission of the Collector before entry outwards or export entry.

107. Goods subject to the control of the Customs for exportation or removal coastwise shall be shipped either directly at a wharf or aerodrome or after conveyance to the ship or aircraft in a licensed boat lighter or vehicle direct from a wharf or aerodrome.

Goods to be shipped at wharf or aerodrome.

Amended by No. 7 of 1928, s. 3 and Schedule.

Penalty: One hundred pounds.

108. If any goods entered for export are not shipped according to the entry—

Short shipped goods.

Section 108 amended by No. 7 of 1928, s. 3 and Schedule.

- (1) 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 or aircraft; and
- (2) The goods if dutiable shall forthwith be warehoused.

Penalty: Twenty pounds.

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

Documents and security.

110. The master of any ship or the pilot of any aircraft shall not depart with his ship or aircraft from any port or aerodrome without receiving from the Collector a Certificate of Clearance.

Certificate of clearance.

Amended by No. 7 of 1928, s. 3 and Schedule.

Penalty: One hundred pounds.

111. Before any Certificate of Clearance is granted to a ship or aircraft—

Requisites for obtaining clearance.

Section 111 substituted by No. 7 of 1928, s. 11.

- (a) the master owner or pilot shall deliver to the Collector an Outward Manifest in duplicate;
- (b) the master and owner of the ship or the pilot and owner of the aircraft shall severally answer questions relating to the ship or aircraft and her cargo crew passengers stores and voyage;

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- (c) the master and owner or the pilot and owner shall severally produce documents relating to the ship or aircraft and her cargo.

Shipment of unspecified goods.

Amended by No. 7 of 1928, s. 3 and Schedule.

112. The master of any ship or the pilot of any aircraft 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 or aircraft except as provided in section one hundred and six.

Penalty: Fifty pounds.

Manifest to be attached to clearance.

113. A copy of the Outward Manifest shall be attached to the Certificate of Clearance and be sealed with the Customs seal.

Time of clearance.

Amended by No. 7 of 1928, s. 3 and Schedule.

114. No Certificate of Clearance shall be granted for any ship or aircraft 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 such ship or aircraft and her inward and outward cargo have been duly complied with.

Ship to bring to and aircraft to land at proper stations.

115.—(1.) 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 such ship in the discharge of his duty without the consent of such officer.

Penalty: One hundred pounds.

Sub-section (2) added by No. 7 of 1928, s. 12.

(2.) The pilot of every aircraft departing from any aerodrome shall bring his aircraft to the boarding station appointed for the port or aerodrome and by all reasonable means facilitate boarding by the officer and shall not depart with his aircraft from any port or aerodrome with any officer on board such aircraft without the consent of such officer.

Penalty: One hundred pounds.

Master to account for missing goods.

Section 116 amended by No. 7 of 1928, s. 3 and Schedule.

116. The master of every ship and the pilot of every aircraft after clearance shall—

- (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 or aircraft.

Penalty: Fifty pounds.

117. No goods shipped for export shall be unshipped or landed without the permission of the Collector except in parts beyond the seas.

Goods exported to be landed at proper destination.

Penalty: Fifty pounds.

118. If required by the Treasurer a certificate in such form and to be given by such person as may be 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 such certificate of the landing of any such goods previously exported by him or to account for such goods to the satisfaction of the Collector.

Certificate of landing.

PART VII.—SHIPS' AND AIRCRAFT'S STORES.

119. Ships' or aircraft's stores whether shipped in parts beyond the seas or in the Territory unless entered for home consumption or except as prescribed shall only be used by the passengers and crew and for the service of the ship or aircraft and after the departure of such ship or aircraft from her last port of departure in the Territory.

Heading amended by No. 7 of 1928, s. 13.

Use of ships' or aircraft's stores. Amended by No. 7 of 1928, s. 3 and Schedule.

120. No ships' or aircraft's stores shall be used contrary to the last preceding section or shall be unshipped except by permission of the Collector.

Re-landing ships' or aircraft's stores.

Amended by No. 7 of 1928, s. 3 and Schedule.

Penalty: Fifty pounds.

121.—(1.) 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.

Ships' and aircraft's stores.

(2.) The prescribed allowance of aircraft's stores for the use of the passengers and crew and for the service of the aircraft may be shipped free of duty on board any aircraft entered outwards for parts beyond the seas.

Sub-section (2) added by No. 7 of 1928, s. 14.

PART VIII.—THE DUTIES.

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

122. No goods the property of the Commonwealth of Australia or of the Territory shall be liable to any duty of Customs.

Exemption. Amended by No. 16 of 1913, s. 2.

123. All import duties shall be paid at the rate in force when the goods are entered for home consumption.

Import duties.

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Export duties.

124. 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.

Weights and measures.

125. Where duties are imposed according to weight or measure the weight or measurement of the goods shall be ascertained according to the standard weights and measures by law established.

Proportion.

126. Where duties are imposed according to a specified quantity weight size or value the duties shall apply in proportion to any greater or lesser quantity size weight or value.

Duty, how fixed.

127. Whenever goods are sold or prepared for sale as or are 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.

Australian currency. Substituted by No. 6 of 1939, s. 2.

128. All duties shall be paid in Australian currency.

Highest duties to be charged.

129. If any goods enumerated in the Tariff are or can be classed 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.

Substitutes for dutiable goods.

130. Whenever any goods are imported which in the opinion of the Treasurer 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 such dutiable goods can be used or for any similar purpose the Treasurer may by *Gazette* notice⁽¹⁵⁾ direct that such first-mentioned goods shall be charged with the duty chargeable upon such dutiable goods and the same shall be so charged accordingly.

Duty on parts.

131.—(1.) Whenever any dutiable goods are composed of two or more separate parts any part though imported by itself shall if so directed by the Treasurer 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 Treasurer may fix the proportionate rate of duty with which any part shall be chargeable.

(15) Pursuant to Section 130, the Treasurer, by *Gazette* notice dated 22.2.1916 and published in *Papua Govt. Gaz.* of 1.3.1916, directed that, "Essence of Coffee shall be charged with the duty chargeable on Coffee."

Customs Ordinance, 1909-1939.

132. Duty shall be charged on all essences condensations 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.

Duty on condensed articles.

133. Goods charged with duty by measurement shall at the expense of the owner be heaped piled sorted framed or otherwise placed in such manner as the Collector may require to enable measurement and account thereof to be taken; and in all cases where the same are measured in bulk the measurement shall be taken to the full extent of the heap or pile.

Measurement for duty.

134. Goods exported to Papua from any country but passing through another country shall be valued for duty as if they were imported directly from such first-mentioned country.

Goods in transitu.

135. When the duty on any goods sold at any Collector's sale shall be *ad valorem* the value of such goods shall if approved by the Collector be taken to be the value as shown by the sale.

Value of goods sold.

136. The strength of spirits may be ascertained for the purposes of duty by the means of a hydrometer approved by the Treasurer.

Strength of spirits.

137. If in the opinion of the Collector the strength of any spirits cannot immediately be accurately ascertained by hydrometer the strength may be ascertained after distillation or in any prescribed manner.

Obscuration.

138. All goods derelict flotsam jetsam or lagan or landed 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.

Derelict goods dutiable.

139. If any dutiable goods which are included in the report of any ship or aircraft shall not be produced to the officer the master or owner of the ship or the pilot or owner of the aircraft shall on demand by the Collector pay the duty thereon as estimated by the Collector unless the goods are accounted for to the satisfaction of the Collector.

As to payment of duty on goods in manifest but not produced or landed.
Amended by No. 7 of 1928, s. 3 and Schedule.

140. 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.

141. Goods the produce of Papua or samples of duty-paid goods sent out of Papua may subject to any prescribed conditions be re-imported or brought back to Papua without payment of duty.

Samples.

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Alteration of agreements where duty altered.

142. If after any agreement is made for the sale or delivery of goods duty-paid any alteration takes place in the duty collected affecting such 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 may require.

Recovery of duties.

143. All duties shall constitute Crown debts charged upon the goods in respect of which the same 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.

144. When any duty is imposed according to value—

Paragraph (a) amended by No. 6 of 1939, s. 3.

- (a) The value shall be taken to be the fair market value in Australian currency of the goods in the principal markets of the country whence the same were exported in the usual and ordinary commercial acceptation of the term and free on board at the port of export in such 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 shall be 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.

Paragraph (b) amended by No. 6 of 1939, s. 4.

145. The genuine invoice means—

Genuine invoice.

- (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 the same were exported without any deduction; or
- (b) In the case of goods consigned for sale in Papua 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 such goods were saleable in the principal markets of the country whence such goods were exported at the date of the shipment of such goods free on board at the port of export in such country.

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

Substituted
invoice.

- (1) 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-four.
- (2) The value shown by such 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-four.

147. Where the genuine invoice shows the value of the goods in any currency other than Australian currency the equivalent value of the goods in Australian currency shall be ascertained according to a fair rate of exchange to be declared in case of doubt by the Treasurer.

Foreign invoices.
Amended by
No. 6 of 1939,
s. 5.

148. Whenever the Collector has a doubt as to the accuracy of the declared value of dutiable goods he may detain such goods and assess the value thereof.

Value may be
assessed.

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

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

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

CUSTOMS—

Blank invoices.

149. No person shall send or bring into Papua 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. Penalty: One hundred pounds.

Treasurer to determine value in some cases.

150. 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 the same is sold or given but not the right of property therein or because the goods have a royalty imposed thereon 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 Treasurer shall be judge) the Treasurer may determine the value for duty of the goods.

Customs may take goods on paying the declared value plus ten per cent.

151.—(1.) 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 shall prove 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 may be prescribed be purchased by the Customs at their declared value with an addition of Ten pounds per centum on the amount of such value.

(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 may be prescribed or as the Collector may direct.

(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.

Deposits.

152. 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.

Provided that the Lieutenant-Governor in Council⁽²⁾ may in regard to any particular goods or classes of goods extend⁽¹⁶⁾ the said period within which the goods are to be exported whereupon the period of retention of duty on deposit shall be extended accordingly.

Proviso added by No. 6 of 1939, s. 6.

153.—(1.) Whenever goods—

Refund of duty.

(a) Have received damage or have been pillaged during the voyage; or

(b) Have whilst under Customs control been damaged pillaged or destroyed; or

(2.) 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 may require shall be made in the manner prescribed.

154. The Collector may remit any duty on any goods that have been wasted or lost in sorting bottling packing or repacking in a warehouse.

Duty on waste.

155. 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.

Short-paid duty may be recovered.

156. If any practice of the Customs relating to classifying or enumerating any article for duty shall be altered so that less duty is charged upon such article no person shall thereby become entitled to any refund on account of any duty paid before such alteration.

No refund if duty altered.

Division 4.—Disputes as to Duty.

157.—(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.

Duty paid to be deemed proper duty unless paid under protest.

Cf. Cwth 36 of 1910, s. 5.

Section 157 substituted by No. 16 of 1916, s. 5.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(16) No instrument extending the period referred to in Section 152 has been published in *Papua Govt. Gaz.*

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(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-three of this Ordinance.

PART IX.—DRAWBACKS.

Drawbacks
allowed.

158. 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 may be prescribed.

Limit of value.

159. 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.

Examination of
goods under
drawback.

160. All goods in respect of which any claim for drawback shall be made shall before exportation be produced for examination by the Customs and shall be examined accordingly.

Debenture to
be passed.

161. 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.

Declaration on
debenture.

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

163. No drawback debenture shall be paid except with the consent of the Treasurer—

Payment of drawback debentures.

(a) Unless presented for payment within one year from the date of the shipment of the goods for export.

And the Treasurer may—

(b) 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 such drawback.

PART X.—THE COASTING TRADE.

164. All ships or aircraft trading or plying or going from one port aerodrome or place in Papua to another port aerodrome or place therein and not trading plying or going to any other port aerodrome or place shall be considered as engaged in the coasting trade and such ships or aircraft shall be deemed to be coasting ships or aircraft for the purposes of any Customs Ordinance.

What are coasting vessels.
Amended by No. 7 of 1928, s. 3 and Schedule.

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

Coasters not to take in cargo at sea or deviate.
Amended by No. 7 of 1928, s. 3 and Schedule.

Penalty: One hundred pounds.

166. The owner of any ship or aircraft employed in the coasting trade may with the consent of the Collector report such ship or aircraft inwards or outwards in lieu of the master thereof.

Owner may report ship or aircraft.
Amended by No. 7 of 1928, s. 3 and Schedule.

Every such owner so reporting shall be subject to the same provisions and liable to the same penalties under the Customs Ordinance as the master of such ship or the pilot of such aircraft.

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

Account of Papuan goods.

168. 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.

Regulation.

PART XI.—AGENTS.

169. Any owner of 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 such

Authorized agents.

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agent shall be either a person exclusively in the employment of the owner or shall be a Customs agent duly licensed in manner prescribed.

Authority to be produced.

170. 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 such authority may refuse to recognize the agency.

Agents personally liable.

171. 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 such person shall for such purpose be also deemed to be the owner of such 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.

Principal liable for agents acting.

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

PART XII.—OFFICERS.

Division 1.—Powers of Officers.

Ships, boats and aircraft to bring to.

Amended by No. 7 of 1928, s. 3 and Schedule.

173. The commander or officer in charge of any ship boat or aircraft in His Majesty's service or in the service of the Commonwealth or the Territory or Customs such ship boat or aircraft having hoisted and carrying the proper ensign and pendant or Customs flag may chase any ship or aircraft which does not bring to or land at the aerodrome when lawfully signalled or required to do so and may (after having fired a gun as a signal) fire at or into such ship or aircraft to compel her to bring to or land at the aerodrome.

Officers may board ships or aircraft hovering on coast.

Amended by No. 7 of 1928, s. 3 and Schedule.

174. Any officer may require the master of any ship or the pilot of any aircraft hovering within one league of the coast or of land to depart and if such ship or aircraft shall fail to depart accordingly within twelve hours thereafter any officer may board and bring such ship or aircraft into port or aerodrome and search her.

The Collector may examine all persons on board of such ship or aircraft and they shall each thereupon answer questions relating to the ship or aircraft and her cargo crew passengers stores and

voyage and produce documents relating to the ship or aircraft and her cargo.

Penalty: One hundred pounds.

175. 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 including the cost of removal to the place of examination shall be borne by the owner.

Examine all goods.

176. Any officer may—

- (1) Board any ship boat or aircraft.
- (2) Search any ship boat or aircraft.
- (3) Secure any goods on any ship boat or aircraft.

Power to board and search ships and aircraft.

Section 176 amended by No. 7 of 1928, s. 15.

177. The power of an officer to board shall extend to staying on board any ship or aircraft and the Collector may station an officer on board any ship or aircraft and the master or pilot shall provide sleeping accommodation in the cabin and suitable and sufficient food for such officer.

Boarding.

Amended by No. 7 of 1928, s. 3 and Schedule.

Penalty: Fifty pounds.

178. The power of an officer to search shall extend to every part of any ship boat or aircraft and shall authorize the opening of any package locker or place and the examination of all goods.

Searching.

Amended by No. 7 of 1928, s. 16.

179. 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.

Securing goods.

180. No fastening lock mark or seal placed by an officer upon any goods or upon any door hatchway opening or place upon any ship or aircraft 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 shall remain subject to the control of the Customs.

Seals, &c., not to be broken.

Amended by No. 7 of 1928, s. 3 and Schedule.

Penalty: Fifty pounds.

181. 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 or aircraft which has arrived in any port or aerodrome from parts beyond the seas and which is bound to any other port or aerodrome within the Territory shall be opened altered broken or erased except by authority; and if any ship or aircraft enters any port or aerodrome with any such fastening lock mark or seal opened altered broken or erased contrary to this section the master or pilot shall be guilty of an offence against this Ordinance.

Or on ships or aircraft in port or aerodrome bound to another port or aerodrome within Papua.

Amended by No. 7 of 1928, s. 3 and Schedule.

Penalty: One hundred pounds.

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Officers may patrol coasts, &c.

182. 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 or harbour lake or river.

Boats on service may be moored in any place.

183. The officer in charge for the time being of any vessel or boat employed in the service of the Customs may haul any such 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 any such vessel or boat thereon and continue such vessel or boat so moored as aforesaid for such time as he shall deem necessary.

Power to question passengers.

Amended by No. 16 of 1916, s. 6 and by No. 7 of 1928, s. 3 and Schedule.

Suspected persons—detention and search.

Section 185 amended by No. 16 of 1916, s. 7.

184. Any person on board any ship boat or aircraft or who may have landed from or got out of any ship boat or aircraft 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.

185. If any officer of Customs or of police shall have 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:—

- (1) The officer may detain and search the suspected person.
- (2) Before the suspected person shall be searched he may require to be taken before a Justice or the Collector.
- (3) The Justice or Collector may order the suspected person to be searched or may discharge him without search.

But females shall only be searched by a female searcher appointed by the Justice or Collector.

Power to stop vehicles.

186. 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.

Penalty: Twenty pounds.

Writs of assistance.

187. The Chief Judicial Officer⁽¹⁷⁾ of Papua or any Justice of the Central Court⁽²⁾ of Papua may grant a Writ of Assistance in the form of Schedule IV. hereto upon application made to him for that purpose by the Treasurer or by the Collector and such writ unless superseded shall be in force so long as any person named therein remains an officer of Customs whether in the same capacity or not.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(17) See Section 4 of the *Central Court Ordinance*, 1925.

Customs Ordinance, 1909-1939.

188. The Treasurer or the Collector may grant a Customs Warrant in the form of Schedule V. hereto under the Customs Seal to any officer and such warrant shall remain in force for three months from the date thereof. Customs warrants. Amended by No. 16 of 1916, s. 8.
189. 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.
190. 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 may think necessary. Power to take assistants.
191. 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.
192. Any officer of His Majesty's forces or any officer of Customs or police may seize any forfeited ship aircraft or goods upon land or water or any ship aircraft or goods which he has reasonable cause to believe are forfeited. Power to seize goods. Amended by No. 7 of 1928, s. 3 and Schedule.
193. All seized goods shall be taken to the nearest King's warehouse or to such other place of security as the Collector shall direct. Seized goods to be secured.
194. When any ship aircraft boat or goods have been seized as forfeited the seizing officer shall give notice in writing of such seizure and the cause thereof to the master pilot or owner of the ship aircraft boat or goods (unless such master pilot or owner be present at the seizure in which case no notice shall be necessary) either by delivering such 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 aircraft boat or goods seized shall be deemed to be condemned and may be sold by the Collector unless the person from whom such ship aircraft boat or goods shall have been seized or the owner shall within one month from the date of seizure give notice in writing to the Collector at the nearest port that he claims them; but if any goods so seized shall be of a perishable nature or shall be live animals the same may be forthwith sold by the Collector. Notice to be given of goods seized. Amended by No. 7 of 1928, s. 3 and Schedule.
195. The Treasurer or the Collector may authorize any ship aircraft boat or goods seized to be delivered to the claimant on his giving security to pay their value in case of their condemnation. Seized goods may be returned on security. Amended by No. 7 of 1928, s. 3 and Schedule.

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

196. Whenever any goods have been seized by any officer and claim to such goods has been served on the Collector by the owner of such 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 such claimant shall not within four months after the date of such notice enter such action the goods shall be deemed to be condemned without any further proceedings.

Disposal of forfeited ships aircraft and goods.

Amended by No. 7 of 1928, s. 3 and Schedule.

197. All forfeited ships aircraft and goods shall be disposed of or destroyed in such manner as may be prescribed or as the Treasurer may direct.

Delivery of seized goods.

198. 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, etc. Section 199 substituted by No. 16 of 1916, s. 9.

199.—(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.

200. 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.

201. 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.

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

- (1) Commit such person to gaol until he can be brought before Justices to be dealt with according to law; or
- (2) 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.

203. 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 such request seizure or detention and shall also produce for the inspection of the Collector or such other officer as he may authorize for that purpose and allow such 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 any such goods.

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

Penalty: One hundred pounds.

204. The Collector may impound or retain any document presented in connexion with any entry or required to be produced under this Ordinance but the person otherwise entitled to such document shall in lieu thereof be entitled to a copy certified as correct by the Collector and such certified copy shall be received in all courts as evidence and of equal validity with the original.

Collector may impound documents.

205. 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 such proof.

Collector may require further proof of proper entry.

206. 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 may approve or to be verified as he may require.

Translations of foreign invoices.

207. 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.

208. 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.

209. No person shall be liable for any seizure under this Ordinance for which there shall have been reasonable cause and when any claimant recovers any ship aircraft or goods seized or any proceeds thereof and at the same time reasonable cause for the

Reasonable cause for seizure a bar to action.

Amended by No. 7 of 1928, s. 3 and Schedule.

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seizure is found such finding shall bar all proceedings against all persons concerned in the seizing.

Notice of action to be given.

210. No proceeding shall be commenced against any officer for anything done in execution of or by reason of his office until one month next after notice in writing shall have 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 same is intended to be instituted the name and place of abode of the plaintiff and the name and place of business of such attorney or agent unless the Chief Judicial Officer⁽¹⁷⁾ of Papua or a Justice of the Central Court⁽²⁾ of the Territory has granted leave to the plaintiff to proceed without notice which leave such Justice may grant on such terms as he may think just.

Defect in notice not to invalidate.

211. 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 such notice as it thinks just.

No evidence to be produced but that contained in notice.

212. Upon any proceeding instituted in pursuance of such notice the plaintiff shall not be at liberty to advance any evidence of any cause of action except such as has been distinctly stated in such notice nor shall the plaintiff be entitled to a verdict without proving on the trial that such notice has been duly served.

Officer may tender amends.

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

Commencement of proceedings against officers.

214. Every proceeding against any officer shall except as mentioned in the next section be commenced within six months after its cause shall have arisen and not afterwards and the defendant may plead the general issue and give any special matter in evidence.

Time for commencing action.

215. No proceeding whether against an officer or otherwise for anything done for the protection of the revenue in relation to any

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(17) See Section 4 of the *Central Court Ordinance*, 1925.

Tariff or Tariff alteration proposed in the Legislative Council shall except as mentioned in the next section be commenced before the close of the session in which such Tariff or Tariff alteration is proposed.

216. The Central Court⁽²⁾ of the Territory on the application of any person who desires to commence any proceeding mentioned in the last section against an officer may require the officer to give security to the satisfaction of the Court to abide the result of the proceeding and in default of the giving of such security may sanction the immediate commencement of the proceeding.

Security may be required.

PART XIII.—PENAL PROVISIONS.

Division 1.—Forfeitures.

217. The following ships or boats not exceeding two hundred and fifty tons registered tonnage and the following aircraft shall be forfeited to His Majesty :—

Forfeited ships and aircraft.
Section 217 amended by No. 16 of 1916, s. 10; substituted by No. 7 of 1928, s. 17.

- (1) Any ship boat or aircraft used in smuggling or knowingly used in the unlawful importation exportation or conveyance of any prohibited imports or prohibited exports.
- (2) Any ship boat or aircraft found within one league of the coast or of land failing to bring to or failing to land at an aerodrome for boarding upon being lawfully required to do so.
- (3) Any ship boat or aircraft hovering within one league of the coast or of land and not departing within twelve hours after being required to depart by an officer.
- (4) Any ship boat or aircraft from which goods are thrown overboard staved or destroyed to prevent seizure by the Customs.
- (5) Any ship boat or aircraft found within any port or aerodrome with cargo on board and afterwards found light or in ballast or with the cargo deficient and the master or pilot of which is unable to lawfully account for the difference.
- (6) Any ship boat or aircraft within one league of the coast or land 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) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

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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 not exceeding One thousand pounds and the ship may be detained until the penalty is paid or until security is given for its payment.

Forfeited goods.

218. 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⁽¹⁸⁾ of shipment;
- (c) All goods imported in any ship boat or aircraft in which goods are prohibited to be imported;
- (d) All dutiable goods found on any ship boat or aircraft being unlawfully in any place;
- (e) All goods found on any ship or aircraft after arrival in any port⁽¹⁸⁾ 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 shall be 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 shall not be 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;

Paragraph (c) amended by No. 7 of 1928, s. 3 and Schedule.

Paragraph (d) amended by No. 7 of 1928, s. 3 and Schedule.

Paragraph (e) amended by No. 7 of 1928, s. 3 and Schedule.

(18) The *Customs Ordinance* 1928 (Section 3 and Schedule) amended Section 218, *inter alia*, in the following terms: "After 'port' insert 'or aerodrome'." The word "port", however, occurred twice in this Section.

Customs Ordinance, 1909-1939.

- (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 boat or aircraft which ship boat or aircraft hovers about the coast or land and does not depart within twelve hours after being required by an officer to depart; Paragraph (k) amended by No. 7 of 1928, s. 3 and Schedule.
- (l) All spirits tobacco snuff cigars or cigarettes in packages of less than the prescribed size or weight not being ship's or aircraft's stores found on or attached to any ship boat or aircraft; Paragraph (l) amended by No. 7 of 1928, s. 3 and Schedule.
- (m) All goods not being passengers' luggage found on any ship or aircraft after clearance and not specified or referred to in the Outward Manifest and not accounted for to the satisfaction of the Collector; Paragraph (m) amended by No. 7 of 1928, s. 3 and Schedule.
- (n) All prohibited exports put on any ship boat or aircraft for export or brought to any wharf or place for the purpose of export; Paragraph (n) amended by No. 7 of 1928, s. 3 and Schedule.
- (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 boat or aircraft 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 such goods are in his possession or baggage; Paragraph (q) amended by No. 7 of 1928, s. 3 and Schedule.
- (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.

219. 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.

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Division 2.—Penalties.

Assembly for
smuggling.

220. 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.

221. Whoever—

Collusive
seizures.
Penalty.

(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;

Bribe offered
to officer.
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;

Rescuing goods.

(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 the same or the proof of any offence;

Persons
assaulting or
obstructing
officers.

(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

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.

Smuggling and
unlawful
importation and
exportation.

Section 222
substituted by
No. 16 of 1916,
s. 11.

222.—(1.) No person shall—

- (a) smuggle any goods; or
- (b) import any prohibited imports; or
- (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.

(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 or aircraft calling at any port or aerodrome in Papua but intended for and consigned to some port or aerodrome or place outside Papua shall not be deemed to be unlawfully imported into Papua if the goods are specified on the ship's or aircraft's manifest and are not transhipped or landed in Papua or are transhipped or landed by authority.

Sub-section (4)
amended by
No. 7 of 1928,
s. 3 and
Schedule.

222A. The master of a ship or boat or the pilot of an aircraft shall not use his ship boat or aircraft 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.

Master not to
use or allow
use of ship or
aircraft for
smuggling, etc.

Inserted by
No. 16 of 1916,
s. 11;
amended by
No. 7 of 1928,
s. 3 and
Schedule.

Penalty: One hundred pounds.

222B.—(1.) Any person who—

- (a) without any reasonable excuse (proof whereof shall lie upon him) has in his possession on board any ship or aircraft any prohibited imports to which this section applies; or
- (b) imports or attempts to import into Papua 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 Papua in contravention of this Ordinance; or
- (d) aids abets counsels or procures or is in any way knowingly concerned in the importation into Papua 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 intended importation into Papua of any prohibited imports to which this section applies

Special provision
in relation to
prohibited
imports.

Section 222B
inserted by
No. 16 of 1916,
s. 11.

Sub-section (1)
amended by
No. 7 of 1928,
s. 3 and
Schedule.

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 Lieutenant-Governor⁽²⁾ by proclamation⁽¹⁹⁾ 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.

223. 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 such goods are prohibited imports or smuggled goods.

Penalty: One hundred pounds.

False oath or affirmation.

224. 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.

Aiders and abettors.

225. 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.

Attempts.

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

Offences not specifically provided for.

227. 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.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(19) No proclamation has been published in *Papua Govt. Gaz.*

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

Penalties in addition to forfeitures.

229. 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.

230. 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 such an offence he is convicted of such intent the maximum penalty shall be double that otherwise provided.

Maximum penalty in cases of intent to defraud.

231. When any person is convicted of any offence against this Ordinance for which a pecuniary penalty is provided and it shall appear that such person had been previously convicted of any similar offence the Court may in lieu of or in addition to imposing any penalty order that such person shall 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.

232. 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.

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

Interpretation.
Amended by No. 7 of 1928, s. 3 and Schedule.

234. Customs prosecutions may be instituted in the name of the Treasurer by action information or other appropriate proceeding in the Central Court⁽²⁾ of Papua; and when the prosecution is for a pecuniary penalty not exceeding One hundred pounds or the excess is abandoned the Customs prosecution may be instituted in the name of the Collector in a Court of summary jurisdiction.

How instituted.

All summary convictions shall be subject to appeal in the manner provided by the *Justices Act of 1886*⁽²⁰⁾ (Queensland adopted).

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(20) Repealed and replaced in the Territory of Papua by the *Justices Ordinance, 1912-1940.*

CUSTOMS—

Evidence of authority to institute proceedings.
Cf. Cwlth. 36 of 1910, s. 12.
Section 234A
inserted by
No. 16 of 1916,
s. 12.

234A.—(1.) Where any Customs prosecution has been instituted by an officer in the name of the Treasurer the prosecution shall in the absence of evidence to the contrary be deemed to have been instituted by the authority of the Treasurer.

(2.) The production of a telegram purporting to be signed by the Treasurer 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 Treasurer.

Prosecution in accordance with practice rules.

235. Every Customs prosecution in the Central Court⁽²⁾ of Papua 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.

Commencement of prosecutions.

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

Information, &c., to be valid, &c., if in words of Ordinance.

237. 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.

Property in goods subject to control of Customs.
Cf. Cwlth. 1b. s. 13.

237A. 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.

Inserted by No. 16 of 1916, s. 13.
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 such 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 may appear desirable and if any such defect or variance shall appear 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 may think 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 such defect.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

240. No witness on behalf of the Treasurer 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 such 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.

Protection to witnesses.

241.—(1.) In every Customs prosecution the defendant shall be competent to give evidence.

Defendant a competent witness.

(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.

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—

Averment of prosecution sufficient.

(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.

243. The production of the *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 Treasurer 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 the same is in force.

Proof of proclamation, &c.

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.

Minimum penalties.

245. Where any pecuniary penalty is adjudged to be paid by any convicted person the Court—

Treatment of convicted offenders.

(1) may commit the offender to gaol until the penalty is paid; or

(2) may release the offender upon his giving security for the payment of the penalty; or

(3) 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.

CUSTOMS—

Collector may levy on goods in his possession.

246. When any pecuniary penalty adjudged against any person is unpaid the Collector may levy the same by sale of any goods belonging to such person which may then or thereafter be subject to the control of the Customs.

Release of offenders.

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

- (1) on payment to him of the penalty adjudged;
- (2) on a certificate by the Collector that the penalty has been paid or realized;
- (3) 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

Imprisonment not to release penalty.

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.

Conviction to operate as a condemnation.

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

Parties may recover costs.

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.

Application of penalties.

251. All penalties and forfeitures recovered under this Ordinance shall be applied to such purpose and in such proportions as the Treasurer may direct.

PART XV.—SETTLEMENT OF CASES BY THE TREASURER.

Settlement of disputes by Treasurer.

252. If any dispute shall arise between any officer and any person with reference to any contravention of this Ordinance the Treasurer may in manner prescribed with the written consent of

Amended by No. 16 of 1916, s. 14.

such person inquire into and determine the dispute and shall have power by order a notification of which shall be published in the *Gazette* to impose enforce mitigate or remit any penalty or forfeiture which he shall determine shall have been incurred.

253. Every such order 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.

Treasurer's order to be final.

254. The Treasurer in holding any inquiry under this Part of this Ordinance shall hold such inquiry in public and may--

Powers of Treasurer at inquiries.

- (a) Summon the parties and any witness before him.
- (b) Take evidence on oath.
- (c) Require the production of documents.
- (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--

Obligations on witnesses.

- (a) Disobey such summons;
- (b) Refuse to be sworn as such witness;
- (c) Refuse or fail to produce any document he may be 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 Treasurer for decision and thereupon the Treasurer may in such manner as he shall think fit inform his mind of the circumstances and finally decide the difference.

Treasurer may determine differences.

PART XVI.—REGULATIONS.

257.—(1.) The Lieutenant-Governor⁽²⁾ may make regulations⁽²¹⁾ not inconsistent with this Ordinance prescribing all matters which by this Ordinance are required or permitted to be prescribed or as may be 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--

Regulations to have force of law.

Sub-section (1) amended by No. 16 of 1916, s. 15.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(21) See the *Customs Regulations*, 1917, printed on p. 1597.

CUSTOMS—

- (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 articles used for 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.

Sub-section (2)
added by
No. 16 of 1916,
s. 15.

Publication of
regulations.

258. All regulations so made shall—

- (1) Be published in the *Gazette*.
- (2) Take effect from the date of publication or from a later date to be specified in such regulations.
- (3) Be laid before the Legislative Council within seven days after the publication if the Legislative Council is in session and if not then within seven days after the commencement of the next session.

But if the Legislative Council passes a resolution at any time within fifteen days after such regulations have been laid before it disallowing any regulation such regulation shall thereupon cease to have effect.

PART XVII.—MISCELLANEOUS.

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

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

260. Ships or aircraft under commission from His Majesty or any foreign State having on board any goods other than ships' or aircraft's stores laden in parts beyond the seas may be boarded and searched by an officer especially authorized as mentioned in

Commissioned
ships and
aircraft to be
reported.

Amended by
No. 7 of 1928,
s. 3 and
Schedule.

Commissioned
ships and
aircraft may be
searched.

Amended by
No. 7 of 1928,
s. 3 and
Schedule.

the last section in the same manner as other ships or aircraft and the officer may bring any such goods ashore and place them in a King's warehouse.

261. As to sales by the Collector—

Collector's sales.

- (a) The goods shall be sold by auction or by tender and after such public notice as may be prescribed and where not prescribed after reasonable public notice.
- (b) The goods may be sold either free of 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.

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

Proceeds of sales.

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 such freight shall have been given to the Collector.

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

SCHEDULES.

SCHEDULE I.

The Territory of Papua.

REPEAL OF ORDINANCES.

“The Customs Act of 1873,” 37 Vict., No. 1 (Queensland adopted). The whole.

“The Customs Amending Ordinance of 1888” (Ordinance 8 of 1888). The whole.

“The Customs Adopting Ordinance of 1888” (Ordinance 6 of 1888). The whole.

“The Customs Amending Ordinance of 1889” (Ordinance 3 of 1889), Sections 1, 2, 3, 5.

“The Customs Amendment Ordinance of 1909” (Ordinance 12 of 1909). The whole.

SCHEDULE II.

The Territory of Papua.

SECURITY TO THE CUSTOMS.

By this Security the subscribers are pursuant to the “Customs Ordinance of 1909” bound to the Customs of the Territory of Papua in the sum of—[here insert amount or mode of ascertaining amount intended to be paid in default

CUSTOMS—

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.	Signatures of Subscribers.	Signatures 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 subscriber) is limited to (*here state amount of limit of liability or mode of ascertaining limit.*)"

SCHEDULE III.

The Territory of Papua.

SCALE OF FEES FOR WAREHOUSES TO BE PAID BY LICENSEES.

When the whole services of a locker are required £200 per annum.
 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 Treasurer not exceeding £50 "

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

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

Port Moresby.
 Samarai.
 Daru.
 Bonagai.

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

SCHEDULE IV.

The Territory of Papua.

WRIT 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 Papua and his assistants and each and every of them at any time in the day or night to enter in 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 forfeited 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.

Customs Ordinance, 1909-1939.

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

And We command all Peace Officers and all Our loving subjects in Our said Territory of Papua upon sight of this 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 Papua whether in his present capacity or not.

Witness—[*name and description of the Judge testing the Writ*]
the day of One thousand nine
hundred and

(Seal)

By the Court.

SCHEDULE V.

The Territory of Papua.

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.

CUSTOMS—