



**CUSTOMS (AMENDMENT) LAW,**

**No. 35 of 1974**

**OF**

**THE NATIONAL STATE ASSEMBLY**

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**[Certified on 8th October, 1974]**

*Printed on the Orders of Government*

*Customs (Amendment) Law, No. 35 of 1974*

L. D.—O. 34/67.

A LAW TO AMEND THE CUSTOMS ORDINANCE.

BE it enacted by the National State Assembly of the Republic of Sri Lanka as follows:—

1. This Law may be cited as the Customs (Amendment) Law, No. 35 of 1974. Short title.

2. (1) Sections 8(2), 9(2), 31, 35 and 56 of the Customs Ordinance (hereinafter referred to as the "principal enactment"), shall have effect as though the amount of the fine or forfeiture, as the case may be, specified therein were one thousand rupees. Amendment of certain sections of Chapter 235.

(2) Sections 28, 29, 30, 33, 38, 43, 59, 63, 67, 68 (6), 77, 78, 100, 110, 119, 122, 126 (4), 135, 137, 138 and 139 of the principal enactment shall have effect as though the amount of the fine, forfeiture, or penalty, as the case may be, specified therein were two thousand rupees.

(3) Sections 42, 47, 57, 76, 96, 101 (1), 116 and 117 of the principal enactment shall have effect as though the amount of the fine, forfeiture, or penalty, as the case may be, specified therein were one hundred rupees.

3. Section 11 of the principal enactment is hereby amended as follows:— Amendment of section 11 of the principal enactment.

(1) by the repeal of subsections (1) and (2) of that section and the substitution therefor of the following new subsections:—

(1) Any resolution under section 10 imposing export duty—

(a) may impose upon any goods duty at rates varying in accordance with fluctuations in the world market price of the goods; and

(b) may provide for the estimation from time to time by the Collector of the amount which shall be deemed, for the purposes of the application of the resolution, to be the world market price of the goods to which it applies.

(2) Where in terms of subsection (1) of this section export duty on any goods is imposed by any resolution at rates differing in accordance with fluctuations in the world market price of the goods, the following

provisions shall have effect in relation to contracts for the exportation of such goods entered into by a seller in Sri Lanka (hereinafter referred to as "the exporter") and a buyer overseas:—

(a) the exporter may make application to the Collector for the registration of the contract, specifying in the application—

(i) the total quantity of the goods covered by the contract;

(ii) the period within which the goods are required by the terms of the contract to be exported (hereinafter referred to as the "proposed period of exportation"); and

(iii) such other particulars as the Collector may require;

(b) any such contract may be registered by the Collector subject, however, to the provisions of subsections (3) and (4);

(c) where any such contract is registered, then, notwithstanding anything in the resolution imposing export duty upon such goods, export duty shall be charged, levied and paid, on all goods proved to the satisfaction of the Collector to be exported during the proposed period of exportation in fulfilment of the contract, at the rate which would have been applicable if the goods had been exported on the date of the application for the registration of the contract.";

(2) by the repeal of subsection (5) of that section and the substitution therefor, of the following new subsection:—

' (5) In any case where a contract has been registered as provided in subsection (2) and it is found on the date of the expiration of the proposed period of exportation that the contract remains wholly or partly unfulfilled, then, if the lowest rate of duty which prevailed during the proposed period of exportation under the resolution passed in terms of subsection (1) (hereinafter referred

to as the "new rate") is lower than the rate which prevailed thereunder on the date of the application for the registration of the contract (hereinafter referred to as the "old rate")—

- (a) the Collector shall make an assessment of the amount which would have been payable as export duty at the old rate on the quantity of the goods in respect of which the contract remains unfulfilled and an assessment of the amount which would be payable as export duty at the new rate on the said quantity; and
- (b) the Collector shall make order declaring that a sum representing the difference between the two amounts so assessed shall be made good out of the deposit made by the exporter under subsection (4) in respect of the contract, or, as the case may be, be paid by the bank by which the bond was executed in terms of that subsection in respect of the contract.

If the sum ordered to be paid under the preceding provisions of this subsection in respect of any contract shall exceed the total sum deposited under subsection (4) in respect of that contract or, as the case may be, the total sum specified in the bond executed in terms of that subsection in respect of that contract, the Collector shall make further order declaring that the sum representing the difference between the amount so ordered to be paid, and the amount furnished as deposit or for the payment of which the exporter has furnished to the Collector a bond executed in terms of the same subsection shall be paid by the exporter within the period stipulated in that order; and it shall be lawful for the officers of customs to refuse to pass any goods belonging to the exporter until the said sum is paid.

Upon an order being made by the Collector under this subsection declaring that any sum shall be paid by a bank, the bank shall be bound forthwith on demand made by the Collector to pay such sum to the Collector.;



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(3) in subsection (13) of that section by the omission of the definition of "Collector"; and

(4) by the repeal of subsections (14) and (15) of that section.

Replacement of section 18 of the principal enactment.

4. Section 18 of the principal enactment is hereby repealed and the following new section is substituted therefor:—

"Duties, dues and charges paid in excess to be refunded.

18. (1) If it is proved to the satisfaction of the Collector by any claim duly made in writing that any person has paid on goods imported or exported by him, any duties, dues or charges in excess of the amount with which he was properly chargeable thereon, such person shall be entitled to have refunded the amount so paid in excess, if such claim is made within twenty-four months from the date of such payment.

(2) When any duties, dues or charges on any goods, imported or exported, have been short levied or where any such duties, dues or charges after having been levied, have been erroneously refunded, the persons chargeable with the duties, dues or charges so short levied or to whom such refund has erroneously been made shall pay the deficiency or repay the amount so erroneously refunded, if the payment of the amount short levied or erroneously refunded shall be demanded within twenty-four months from the date of such short levy or refund.

(3) If the amount so demanded to be paid in terms of subsection (2) is not paid by the person from whom the payment is demanded by the Collector, it shall be lawful for the officers of customs to refuse to pass any goods which that person imports or brings into or is seeking to export or take out of Sri Lanka until that amount is paid:

Provided that nothing in the preceding provisions of this subsection shall be deemed to prohibit the recovery of such amount by the Collector under any other provisions of law."

5. Section 19 of the principal enactment is hereby amended by the repeal of subsection (5) of that section and the substitution therefor of the following new subsection:—

Amendment of section 19 of the principal enactment.

“(5) Notwithstanding anything in any Order under the preceding provisions of this section, no goods to which such Order applies may be sold or otherwise disposed of, without the prior permission of the Principal Collector of Customs, and unless the duties payable on such goods at the time of such sale or disposal, are paid to the Principal Collector. Any goods sold or disposed of in contravention of the preceding provisions of this subsection shall be liable to be forfeited.”

6. The following new section is hereby inserted immediately after section 19, and shall have effect as section 19A, of the principal enactment:—

Insertion of new section 19A in the principal enactment.

“Exemption of goods imported by certain persons from import duties.

19A. (1) The Minister may, if he deems it expedient in the public interest so to do, by Order exempt any goods imported by, or consigned to, any person specified in the Order from the whole or any part of the duties of customs leviable thereon, subject to such conditions (to be fulfilled before or after clearance) as may be specified in the Order.

(2) Every Order made by the Minister under subsection (1) shall come into force on the date of such Order. Every such Order shall be published in the *Gazette* and shall, as soon as may be after its publication in the *Gazette*, be tabled in the National State Assembly. The National State Assembly may by resolution revoke any Order made by the Minister under this section within sixty days of the publication of such Order in the *Gazette*, and in the computation of such period of sixty days no account shall be taken of any period during which the National State Assembly stands prorogued or dissolved. Where any such Order is so revoked, the duties of customs payable on the exempted

goods shall be paid by the importer of such goods or the person to whom such goods were consigned, to the Principal Collector of Customs, and such duties may be recovered under the provisions of section 145.

(3) Where any goods specified in an Order made under subsection (1) are subsequently sold or disposed of contrary to the conditions of such Order, such goods shall be liable to the same duty of customs as may by law be levied on like goods which are subject to duties of customs and the importer or person by whom or on whose behalf the goods are sold or disposed of shall prior to such sale or disposal obtain the permission of the Principal Collector of Customs and pay the duties payable on such goods at the time of such sale or disposal to the Principal Collector. Any goods sold or disposed of in contravention of such section shall be liable to be forfeited."

Amendment of section 21 of the principal enactment.

7. Section 21 of the principal enactment is hereby amended by the substitution, for the proviso to subsection (1) of that section, of the following new proviso:

" Provided that if such articles are not required for the use for which they were imported or purchased or exported as aforesaid, no such articles may be sold or otherwise disposed of without the prior permission of the Principal Collector and unless the duties payable on such articles at the time of such sale or disposal are paid to the Principal Collector; and any articles sold or disposed of in contravention of the preceding provisions of this proviso shall be liable to be forfeited. "

Replacement of section 25 of the principal enactment.

8. Section 25 of the principal enactment is hereby repealed and the following new section substituted therefor:—

" Composition for dues.

25. Any coastwise ship shall be allowed to compound for port dues for twelve months at such rate per ton of the registered tonnage as may be fixed by the Minister by Notification published in the *Gazette*, and on payment thereof

the Collector or other principal officer shall grant a certificate which shall exempt such vessel while so employed from any further demand for port dues during the period stated in such certificate.”.

9. Section 27 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 27 of the principal enactment.

“ 27. And whereas it is expedient that the officers of customs should have full cognizance of all ships coming into any port or place in Sri Lanka, or approaching the coast thereof, and of all goods on board or which may have been on board such ships, and also of all goods unladen from any ships in any port or place in Sri Lanka:

No goods to be landed nor bulk broken before report.

It is enacted that no goods shall be unladen from any ship arriving from parts beyond the seas at any port or place in Sri Lanka, nor shall bulk be broken after the arrival of such ship within the territorial waters of Sri Lanka, before due report of such ship and sufferance granted, in manner hereinafter directed; and that no goods shall be so unladen except at such times and places and in such manner and by such persons and under the care of such officers as hereinafter directed; and that all goods not duly reported, or which shall be unladen contrary hereto, shall be forfeited; and if bulk be broken contrary hereto the master of such ship shall forfeit a sum not exceeding two thousand rupees; and if after the arrival of any ship within the territorial waters of Sri Lanka any alteration be made in the stowage of the cargo of such ship so as to facilitate the unloading of any part of such cargo, or if any part be staved, destroyed, or thrown overboard, or any package be opened, such ship shall be deemed to have broken bulk:

Times and places of landing and care of officers.

Goods not reported or entered, forfeited. Penalty.



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Except coin,  
bullion, cattle,  
passengers.

Provided always that coin, bullion, cattle, and other livestock, and passengers with their baggage, may be landed previous to report, entry or sufferance.”

Replacement of  
section 32 of the  
principal enact-  
ment.

10. Section 32 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“Penalty on  
master not  
having clear-  
ance and if  
cargo do not  
correspond with  
ship's papers, or  
if goods sent out  
of vessels be not  
landed at the  
appropriate  
places.

32. If any ship shall arrive at any port in Sri Lanka without clearance or other paper which it is usual to grant at the place or places from which such ship shall have come, the master shall be liable to a penalty not exceeding five hundred rupees, or if any goods entered on any clearance, or other paper granted at the place from which any ship have come, shall not be found on board such ship, or if the quantity found be short, and the deficiency be not duly accounted for, or if goods sent out of the ship be not landed at the appointed places, the master shall, in respect of any goods which are missing or deficient and not accounted for, be liable, if such goods are chargeable with duty, and if such duty can be ascertained, to a penalty of five hundred rupees or a sum not exceeding twice the amount of the duty chargeable thereon, whichever is the greater amount, or if such duty cannot be ascertained or if such goods are not chargeable with duty, to a penalty not exceeding two hundred rupees for each missing or deficient package, and the Collector is authorized to require the payment of such penalty, and to decline the granting of a clearance outwards to the master of any vessel so liable, and refusing to pay such penalty:

Provided always that nothing herein contained shall be construed to prevent the Collector from accepting explanation in the absence of clearance, or from permitting at his discretion the master of any ship to amend obvious errors, or to supply omissions from accidents or inadvertence, by furnishing an amended report.”

11. Section 34 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor of the following new subsection:—

Amendment of section 34 of the principal enactment.

“Provision with respect to unloading goods, depositing and removing of the same from the warehouse of the Republic, and penalties for failure to remove within prescribed time.

(1) No goods shall be unladen from any ship until a sufferance shall have been granted by the Collector for the landing of the same, and no goods shall be landed except at the place appointed and expressed in such sufferance; and all goods so landed shall be taken and deposited in the warehouse of the Republic, and within three clear days from the date of landing the importer shall make a full and complete entry thereof as hereinafter provided, and shall either pay down all duties which shall be due and payable on such goods, or shall duly warehouse the said goods, or, if the goods be free of duty, shall so enter the same; and in default of such entry being made and the said goods being removed within three clear days as aforesaid, such goods shall during such time as they may remain in the warehouse be liable to additional rent at such rate as may be fixed by the Minister by regulation under section 15; and all goods unladen, landed, or removed without such sufferance, or contrary to the directions in such sufferance, shall be forfeited.”.

12. Section 52 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 52 of the principal enactment.

“Goods undervalued to be detained,

52. If upon examination of the goods so entered it shall appear to the officers of the customs that the same are not valued according to the true value thereof, it shall be lawful for such officers to detain such goods, and within two days from the day on which such goods shall be finally examined for duty by the proper officers to take such goods for the use of the Republic; and the Collector shall, from the daily collection of the port, or by an advance from the Treasury, cause the amount of such valuation,

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and sold for the benefit of the Republic.

together with the duties paid upon such goods, to be paid to the importer or proprietor of such goods in full satisfaction for the same, and shall dispose of such goods for the benefit of the Republic, and if the proceeds of such sale shall exceed the sums so paid and all charges incurred by the Republic, such surplus shall be deemed to be a forfeiture and disposed of as provided for in section 153.”

Insertion of new section 59A in the principal enactment.

13. The following new section is hereby inserted immediately after section 59, and shall have effect as section 59A, of the principal enactment:—

“Goods to be examined at expense of exporter.

59A. All such steps as are deemed necessary by the Collector or proper officer of customs for the purpose of the examination of any goods brought and intended for shipment shall be performed by and at the expense and risk of the exporter or his agent.”

Replacement of section 62 of the principal enactment.

14. Section 62 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“Collector may grant general sufferance for the shipping of goods.

62. On the entry outwards of any ship the Collector shall grant a general sufferance for the shipment and lading of any sort of goods, the produce or manufacture of Sri Lanka, except such as shall be expressly excepted therein:

Provided always that before the clearing outwards of such ship, the exporter of any goods on board the same shall deliver to the Collector an entry, containing an accurate specification of the quantity, quality, and value of such goods; and if such declaration be false, or if he fails to make such entry before the content of the ship is delivered in by the master, he shall forfeit a sum not exceeding four hundred rupees; and the Collector may refuse to certify such shipment on the clearance of such ship.”

15. Section 64 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 64 of the principal enactment.

“Officers may board vessels after clearance.

64. It shall be lawful for the officers of the customs to go on board any ship before and after clearance outwards within the limits of any port in Sri Lanka, or within the territorial waters of Sri Lanka, and to demand the certificate of clearance and the victualling bill, and if there be any goods on board subject to duty and not duly entered outwards, such goods shall be re-landed and forfeited; and if any goods contained in such clearance or victualling bill be not on board, the master shall forfeit a sum not exceeding four hundred rupees for every package or parcel of goods contained in such clearance or victualling bill and not on board.”

16. Section 82 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 82 of the principal enactment.

“Goods to be cleared within two years.

82. All warehoused goods shall be cleared either for home use or exportation within two years from the date on which the same were warehoused, or within such further period as the Collector shall allow, in which case the goods shall be examined by the proper officers, and the duties due upon any deficiency or difference between the quantity ascertained on landing, and the quantity found to exist on such examination, together with the warehouse rent and necessary expenses attendant thereon shall, subject to such allowances as are by law permitted in respect thereof, be paid down, and the quantity so found shall be re-warehoused in the name of the then owner or proprietor thereof, in the same manner as on first importation:

Duties to be paid upon deficiencies, &c.



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Provided that the Collector may require any goods to be cleared at any time within the period of two years, if he considers that the goods are likely to deteriorate, or for any other reason."

Replacement of section 87 of the principal enactment.

17. Section 87 of the principal enactment is hereby repealed and the following new section substituted therefor:—

"Value of goods for allowance on deficiencies to be estimated by officers of customs.

87. When any deficiency occurs in goods chargeable to pay duty according to the value thereof, the value thereof shall be the value of the like sort of goods, estimated by the officers of customs."

Replacement of section 118 of the principal enactment.

18. Section 118 of the principal enactment is hereby repealed and the following new section substituted therefor:—

"Officers may board ships hovering within territorial waters and bring them into port.

118. It shall be lawful for the officers of customs to go on board any ship in any port or place in Sri Lanka or hovering within the territorial waters of Sri Lanka and to rummage and search all parts of such ship for prohibited and uncustomed goods, and freely to stay on board such ship so long as such ship remains in such port or place or within such territorial waters; and if any such ship is bound elsewhere, and continues so hovering for the space of twenty-four hours after the master has been required to depart, it shall be lawful for the officers of customs to bring such ship into port and to search and examine her cargo, and to examine the master touching the cargo and voyage; and if there are any goods on board prohibited to be imported into Sri Lanka, and if the master does not truly answer the questions which are demanded of him on such examination, he shall forfeit a sum not exceeding two thousand rupees."

19. Section 129 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 129 of the principal enactment.

“Persons concerned in importing prohibited or restricted goods, whether unshipped or not, and persons unshipping, harbouring or having custody of such goods, to forfeit treble the value, or two thousand rupees.

129. Every person who shall be concerned in importing or bringing into Sri Lanka any prohibited goods, or any goods the importation of which is restricted, contrary to such prohibition or restriction, and whether the same be unshipped or not, and every person who shall unship or assist, or be otherwise concerned in the unshipping of any goods which are prohibited, or of any goods which are restricted and imported contrary to such restriction, or of any goods liable to duty the duties for which have not been paid or secured, or who shall knowingly harbour, keep, or conceal, or shall knowingly permit, or suffer, or cause, or procure to be harboured, kept, or concealed, any such goods, or any goods which have been illegally removed without payment of duty from any warehouse or place of security in which they may have been deposited, or into whose hands and possession any such goods shall knowingly come, or who shall assist or be concerned in the illegal removal of any goods from any warehouse or place of security in which they shall have been deposited as aforesaid, or who shall be in any way knowingly concerned in conveying, removing, depositing, concealing, or in any manner dealing with any goods liable to duties of customs with intent to defraud the revenue of such duties or any part thereof, or who shall be in any way knowingly concerned in any fraudulent evasion or attempt at evasion of such duties or any part thereof, shall in each and every of the foregoing cases forfeit either treble the value of the goods, or be liable to a penalty of two thousand rupees, at the election of the Collector of Customs.”

Replacement of section 130 of the principal enactment.

20. Section 130 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“Persons concerned in exporting prohibited or restricted goods.

130. Every person who shall be concerned in exporting or taking out of Sri Lanka or attempting to export or take out of Sri Lanka any prohibited goods or any goods the exportation of which is restricted contrary to such prohibition or restriction, whether the same be laden for shipment or not and every person who shall export or attempt to export any goods liable to duty the duties for which have not been paid or secured, or in any manner deal with any goods liable to duties of customs with intent to defraud the revenue of such duties or any part thereof, or who shall be knowingly concerned in any fraudulent evasion or attempt at evasion of such duties or any part thereof, shall in each and every of the foregoing cases forfeit either treble the value of the goods, or be liable to a penalty of two thousand rupees at the election of the Collector of Customs.”.

Replacement of section 132 of the principal enactment.

21. Section 132 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“If goods removed prior to examination, penalty upon parties concerned in the removal.

132. Every person who shall remove any goods imported into Sri Lanka from any ship, quay, wharf, or other place previous to the examination thereof by the proper officer of customs, unless under the care or authority of such officer, or who shall remove or withdraw from any quay, wharf, or other place any goods entered to be warehoused after the landing thereof, so that no sufficient account is taken thereof by the proper officer, or so that the same are not duly warehoused, and every person who shall assist or be otherwise concerned in such removal or withdrawal, or shall knowingly harbour, keep or conceal or shall knowingly permit or suffer, or cause or procure to be harboured, kept, or con-



cealed, any such goods, or into whose possession any such goods shall knowingly come, every such person shall forfeit either treble the value thereof, or be liable to a penalty of two thousand rupees, at the election of the Collector of Customs.”.

22. Section 133 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 133 of the principal enactment.

“Persons assisting in unshipping or harbouring such goods liable to treble the value or two thousand rupees.

133. Every person who shall assist or be otherwise concerned in the unshipping, landing, or removal, or in the harbouring of such goods, or into whose hands or possession the same shall knowingly come, shall forfeit treble the value thereof, or the penalty of two thousand rupees, at the election of the Collector of Customs; and the averment in any information to be exhibited for the recovery of such penalty that the Collector of Customs has elected to sue for the sum mentioned in the information shall be deemed sufficient proof of such election, without any other or further evidence of such fact.”.

23. Section 136 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 136 of the principal enactment.

“Goods stopped or taken by police officer.

136. If any goods liable to forfeiture under this Ordinance shall be stopped or taken by any police officer or Grama Sevaka, such goods shall be conveyed to the custom-house nearest to the place where the goods were stopped or taken, and there delivered to the proper officer appointed to receive the same, within a reasonable time after the said goods were stopped and taken; and in case any police officer or Grama Sevaka stopping such goods shall neglect to have the same conveyed to such custom-house within a reasonable time, such police officer or Grama Sevaka shall forfeit a sum not exceeding two hundred rupees.”.



Replacement of section 141 of the principal enactment.

24. Section 141 of the principal enactment is hereby repealed and the following new section substituted therefor:

“Penalty on officers for misconduct with respect to search

141. If any such officer shall not take such person with reasonable despatch before such Magistrate, Collector, or other superior officer of customs when so required, or shall require any person to submit to be searched by him, not having reasonable ground to suppose that such person has any uncustomed or prohibited goods about his person, such officer shall forfeit and pay a sum not exceeding two hundred rupees.”

Replacement of section 143 of the principal enactment.

25. Section 143 of the principal enactment is hereby repealed and the following new section substituted therefor:—

“Power to fire at vessels failing to bring to when required.

143. (1) If any ship or boat which is liable to seizure or examination under this Ordinance, or which officers of customs are empowered by this Ordinance to board, shall not bring to when required so to do—

(a) the master of such ship or boat shall forfeit the sum of five hundred rupees; and

(b) it shall be lawful for the officer of customs having the charge or command of any vessel flying the Sri Lanka Customs flag, having first caused a gun to be fired as a signal, to fire at or into such ship or boat; and such officer of customs or any other person acting in his aid or assistance or by his direction shall be and is hereby indemnified and discharged from any action or prosecution, whether civil or criminal, in respect of any act done in pursuance of the powers conferred by this section:

Provided, however, that the powers conferred on any officer of customs by the preceding provisions of this section

shall not be exercised except in relation to a ship or boat which is for the time being within the territorial waters of Sri Lanka.

(2) Where any vessel, other than a vessel duly authorized by the Collector in that behalf, flies the Sri Lanka Customs flag, the master or person in charge of the vessel shall be guilty of an offence and liable to a fine not exceeding two hundred rupees.

(3) In this section, "Sri Lanka Customs flag" means a flag of such design or description as may be specified by the Principal Collector by notice published in the *Gazette* to be the Sri Lanka Customs flag.

26. Section 146 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 146 of the principal enactment.

Persons liable to forfeiture or penalty under any section of the Ordinance to be guilty of an offence.

146. If any person by reason of any act or omission becomes liable, under the provisions of any section of this Ordinance to forfeit any goods or any sum of money, or to any penalty other than a fine, such person shall, in addition, be guilty of an offence and shall, on conviction after trial before a Magistrate—

(a) if the act or omission by reason of which he becomes liable to the forfeiture or penalty relates to the importation or exportation of any specified goods, be punished with imprisonment of either description for a term not less than six months and not exceeding two years and to a fine not exceeding ten thousand rupees;

(b) if the act or omission does not relate to such importation or exportation, be liable to imprisonment of either descrip-

tion for a term not exceeding two years or to a fine not exceeding ten thousand rupees or to both such imprisonment and fine:

Provided, however, that no prosecution shall be instituted against any person under this section, unless the Principal Collector of Customs is of opinion that the forfeiture or penalty, as the case may be, whether imposed or not, cannot or is not likely to be recovered from such person.

In this section "specified goods" means goods specified in any Notification made by the Minister under this section.'

Insertion of new section 147A in the principal enactment.

27. The following section is hereby inserted immediately after section 147, and shall have effect as section 147A, of the principal enactment:—

"Magistrates to have jurisdiction to impose any punishment prescribed for offences under this Ordinance.

147A. Notwithstanding the provisions of any written law to the contrary, a Magistrate shall have jurisdiction to impose on any person guilty of any offence under this Ordinance, any punishment prescribed for such offence."

Replacement of section 152 of the principal enactment.

28. Section 152 of the principal enactment is hereby repealed, and the following new section substituted therefor:—

"*Onus probandi* to be on the party, &c.

152. (1) If any goods are seized for non-payment of duties or any other cause of forfeiture, and any question shall arise in any proceedings whether civil, criminal or otherwise, whether the duties have been paid for the same, or whether the same have been lawfully imported, or lawfully laden or exported, the proof thereof shall lie on the owner or claimer of such goods or on the person against whom any contravention of this Ordinance is alleged and not on the Attorney-General or the officer who seized or stopped such goods or on the prosecution.

(2) Where in any proceedings referred to in subsection (1), the question arises whether there has been an attempt to export or take out of Sri Lanka any goods, then, if such goods are found in any place on or near the sea-shore or the bank of any river in such quantities or packed in such manner as to suggest that such goods are intended to be exported or taken out of Sri Lanka, such goods shall be presumed to be goods in respect of which an attempt to export or take out of Sri Lanka has been made.

(3) In any proceedings referred to in subsection (1), a certificate purporting to be under the hand of the Principal Collector of Customs or a Deputy Collector of Customs that the goods referred to in that certificate are in his opinion imported goods, shall be *prima facie* proof of such fact and shall be admitted in evidence without any further proof that it is so signed; and it shall not be competent for any court to require the Principal Collector of Customs or the Deputy Collector of Customs to disclose the reasons upon which such opinion is expressed."

29. Section 154 of the principal enactment is hereby repealed and the following new section substituted therefor:—

Replacement of section 154 of the principal enactment.

"Seized" goods, if unclaimed for a month, to be condemned and dealt with accordingly.

154. (1) All ships, boats, goods, and other things which shall have been or shall hereafter be seized as forfeited under this Ordinance, shall be deemed and taken to be condemned, and may be dealt with in the manner directed by law in respect to ships, boats, goods, and other things seized and condemned for breach of such Ordinance, unless the person from whom such ships, boats, goods and other things shall have been seized, or the owner of them, or some person authorized by him, shall, within one month from the date of seizure of the same, give notice in writing to the



Collector or other chief officer of customs at the nearest port that he intends to enter a claim to the ship, boat, goods, or other things seized as aforesaid, and shall further give cash security to prosecute such claim before the court having jurisdiction to entertain the same and otherwise to satisfy the judgment of the court and to pay costs in such sum as the Collector or proper officer of customs at the port where or nearest to which the seizure was made shall consider sufficient. If proceedings for the recovery of the ship, boat, goods or other things so claimed be not instituted in the proper court within thirty days from the date of notice and security as aforesaid, the ship, boat, goods, or other things seized shall be deemed to be forfeited, and shall be dealt with accordingly by the Collector or other proper officer of customs.

(2) If after the institution of proceedings in the proper court, the claimant shall give cash security to restore the things seized or their value in such sum as the Collector or proper officer of customs at the port where or nearest to which the seizure made shall consider sufficient, the ship, boat, goods or other things seized may, if required, be delivered up to the claimant at the discretion of the Principal Collector of Customs or a Deputy Collector of Customs."

Amendment of section 167 of the principal enactment.

30. Section 167 of the principal enactment, as amended by Act No. 34 of 1966, is hereby further amended by the substitution, for the definition of "true wholesale market value", of the following new definition:—

“ true value ”—

(a) in relation to imported goods, whether such goods were imported lawfully or otherwise, means the price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of importation between

an independent seller in the country of export and an independent buyer in Sri Lanka, the two having no interest in the business of each other except as seller and buyer of the goods respectively; and

(b) in relation to exported goods, whether such goods were exported lawfully or otherwise, in relation to goods attempted to be exported whether such attempt was lawful or otherwise, means the price at which such or like goods are ordinarily sold, or offered for sale, for delivery at the time and place of exportation between an independent seller in Sri Lanka and an independent buyer in the country of importation, the two having no interest in the business of each other except as seller and buyer of the goods respectively.’

31. The preamble in Schedule ‘ A ’ of the principal enactment, as amended by Act No. 29 of 1966, is hereby omitted and the following new preamble substituted therefor:—

Amendment of  
schedule A of  
the principal  
enactment.

#### “ Import Duties

Wherever in this Schedule a preferential rate and a general rate of duty are prescribed for any goods, wares, or merchandise, the preferential rate shall, subject to the terms of any resolution under section 10, be levied and paid upon such of the goods, wares and merchandise as shall be proved to the satisfaction of the Principal Collector of Customs to have been produced or manufactured in, and to have been consigned from, only such country or countries as the Minister may, from time to time, by Order published in the *Gazette*, specify.”