

CHAPTER 37

CUSTOMS ORDINANCE

To make better provision for the management and regulation of customs.

16th September, 1909

ORDINANCE VII of 1909, as amended by Ordinance VII of 1911; Government Notices: 128 of 1911, 384 of 1927 and 532 of 1933; Ordinance XLVI of 1935; Government Notice 470 of 1935; Ordinance IV of 1938; Government Notice 162 of 1938; and Ordinance XL of 1940. Incorporating also ORDINANCES: VI of 1840, III of 1850 and IV of 1885.

This Ordinance was subsequently amended by Government Notices: 143 of 1952, 48 and 486 of 1957; Emergency Ordinance XIV of 1958; Ordinances: XVI of 1960, VI of 1961, XIII and XXV of 1962; Legal Notice 4 of 1963; Acts: XX and XXXI of 1963, and XXXIX of 1965; Legal Notices: 17 and 43 of 1966; Acts: IX and XXXIV of 1971, X of 1972, VI of 1973, XI, XLI and LVIII of 1974; Legal Notice 129 of 1974; Act XXXV of 1975; Legal Notice 148 of 1975; Act XXII of 1976; Legal Notice 152 of 1977; Acts: XIII of 1979, XXX of 1980, XIII of 1983, XIX of 1985, XXXV and XXXVI of 1989, VIII of 1990, VII of 1993, XII of 2001, XIII of 2005 and XXXII of 2007 and Legal Notice 407 of 2007.

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SCHEDULE

Short title.

1. The short title of this Ordinance is the Customs Ordinance.

Interpretation.
S. 38 of Ord. VI of 1840 and s. 6 of Ord. III of 1850, incorporated.
Amended by: XVI. 1960.3; XXXIX. 1965.2; XXXII. 2007.22.

2. In this Ordinance, unless the context otherwise requires -

"breaking bulk" denotes any such alteration in the stowage of the vessel's cargo as would facilitate the unloading of any part thereof; the staving, destroying, or throwing overboard of any part of the cargo; or the opening of any cask or other package in which any part of the cargo may be contained;

"Comptroller of Customs" (hereinafter referred to as the "Comptroller") means the Comptroller of Customs, and includes any other person having an express or implied authority to act for the said Comptroller in carrying out the provisions of this Ordinance;

"duty" means any duty charged by the Comptroller of Customs on imported goods and includes import duty, export duty, agricultural duty, anti-dumping duty, countervailing duty and excise duty;

"goods" means any article or articles of merchandise;

"government warehouse" means any such warehouse provided by the Government for lodging goods therein for security of the duties due thereon;

"imported goods" or "goods imported into Malta" mean goods produced outside, and imported into or brought into, Malta and include goods produced in Malta, exported therefrom, and afterwards imported thereinto;

"importer" means any person having goods standing in his name on the books of the customs department;

"master" or "master of a vessel" mean any person having the command or charge of the vessel;

"officer of the customs" means any officer of the department of customs and includes any other person having an express or implied authority to act for the said Comptroller in carrying out the provisions of this Ordinance;

"place beyond the seas" means any place other than Malta;

"vessel" includes any open boat, open pontoon or other undecked vessel, as well as any decked vessel;

"warehouse" means any place in which goods liable to duties, entered to be warehoused, may be lodged, kept and secured.

PART I

PROVISIONS RELATING TO IN-COMING VESSELS

- 3.** (1) No vessel arriving at Malta from any place beyond the seas, shall enter any port in Malta other than the Grand Harbour, Marsamxett Harbour or solely for the purpose of loading or unloading cargo or containers as defined in article 20 of the Import Duties Act, Marsaxlokk Harbour, save with the permission of the Comptroller.
- Harbours to be entered by vessels from any place beyond seas.
S.I of Ord. VI of 1840, incorporated.
Amended by:
XVI.1960.3;
XIII.1962.62;
XIII.1979.2;
XIII.1983.5;
XIX.1985.2;
XXXV. 1989.37;
L.N. 407 of 2007.
Cap. 337.
- (2) If any such vessel enters any such other port, the master shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).
Penalty.
- 4.** (1) It shall be lawful for the visiting officer of customs to board any vessel arriving at Malta from any place beyond the seas, on the arrival of the vessel, or at any time thereafter; to stay on board until the vessel shall depart from Malta, or shall have completely discharged her cargo; to visit and inspect any part of the vessel, and to examine, mark, and secure any of the goods on board.
- Right of visit of incoming vessels.
S. 3 of Ord. VI of 1840, incorporated.
Amended by:
XIII. 1979.3;
XIII. 1983.5;
XIX. 1985.3;
L.N. 407 of 2007.
- (2) Whoever shall obstruct or attempt to obstruct the officer in boarding the vessel, or in staying on board, or in visiting or inspecting any part of the vessel, or in examining, marking, or securing any of the goods on board, or in carrying out any of his duties concerning such vessel or goods; or whoever shall conceal any of such goods from the officer, on his inspecting any part of the vessel or examining any of such goods; or whoever shall obliterate or alter any mark made by the officer on any of such goods; or whoever shall remove or render ineffectual, any fastening or other security with which the officer may have secured any of such goods; or whoever shall fraudulently remove any of such goods which the officer may have marked or secured, shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).
Penalty.

Leaving of berth without permission.
S.4 of Ord. VI of 1840, incorporated.
Amended by: XVI. 1960.3; XIII. 1962.62.
Repealed by: IX.1971.6.
Added by: XXXIV.1971.2.
Amended by: XIII. 1979.4; XIII. 1983.5; XIX. 1985.4.
L.N. 407 of 2007.

5. (1) Saving any other permission of any authority which may be required under any other law, no vessel in any harbour in Malta shall leave her berth for whatever purpose except with the permission of the Comptroller of Customs:

Provided that the Comptroller may exempt from the requirement of such a permission either individual vessels, or, by means of a notice affixed to the notice-board of the department of customs and at such Police stations as the Comptroller may decide, any class or classes of vessels:

Provided further that the Comptroller may at any time withdraw, in respect of any individual vessel (even though belonging to an exempted class) or of any class or classes of vessels, any such exemption granted as aforesaid.

(2) If the master of the vessel, or his representative, shall contravene, or allow or permit to be contravened, the provisions of this article, he shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

PART II

REPORT OF CARGO

Master to report within 24 hours after arrival.
Amended by: XL. 1940.5; XVI. 1960.3; XIII. 1962.62; L.N. 4 of 1963; XIII. 1979.5; XIII. 1983.5; XIX. 1985.5; XXXII. 2007.24; L.N. 407 of 2007.

6. (1) The master of every vessel, whether laden or in ballast, shall, at least six hours before arrival from parts beyond the seas at either of the harbours of Valletta or at Marsaxlokk harbour, make due report of such vessel to the Comptroller, in such form or forms as the Minister responsible for customs may by regulations prescribe, and containing the several particulars indicated in such form or forms or required thereby.

Vessels calling at Malta solely to receive orders, to coal or to take on board stores.

(2) The provisions of subarticle (1) shall not apply to any vessel calling at either of the aforesaid harbours solely to receive orders, to coal or to take on board stores for the use of such vessel; but if any such vessel shall not depart within forty-eight hours after her arrival, the master shall make due report of such vessel and of her cargo in the manner required by this Ordinance.

Master to answer questions.

(3) At the time of making report, the master shall answer all such questions relating to the ship, cargo, crew and voyage as shall be put to him by the Comptroller or other proper officer.

Penalty for failure to report.

(4) If the master fails to make due report, or if he shall present such a report and the same is inaccurate in any material particular, or if he refuses to answer or does not answer truly any question put to him as aforesaid, he shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) euro but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

(5) All goods falsely described either in the report or in the bill of lading shall be forfeited.

Goods falsely described to be forfeited.

(6) All goods not duly reported may be detained by any officer of customs until so reported, or until the omission is explained to the satisfaction of the Minister responsible for customs, and may in the meantime be removed to a government warehouse.

Goods not duly reported may be detained.

7. (1) No such goods shall be landed except with the authority of the Comptroller and in the presence of an officer of customs, and that such goods shall not be unshipped or landed except in accordance with the provisions of this Ordinance or of any other law in force for the time being, respecting the unshipping, transshipping and landing of goods, and that such goods shall be landed at and deposited in such places as the Minister responsible for customs may from time to time, by regulations under this Ordinance, approve, there to remain until due entry of such goods, and that until due delivery thereof from such place, the same shall, for the purposes of this Ordinance, be deemed to be on board the importing vessel:

Landing of goods from ships.
Amended by:
XL. 1940.5;
XVI. 1960.3;
XIII. 1962.62;
L.N. 4 of 1963;
XXXIX. 1965.3;
XI. 1974.2;
XIII. 1979.6;
XIII. 1983.5;
XIX. 1985.6;
XII. 2001.2;
XXXII. 2007.25.

Provided that the deposit, custody and delivery of goods so landed shall be conducted in accordance with any regulations which may, from time to time, be made by the Minister responsible for customs under this Ordinance.

(2) Where any goods have been discharged from the importing ship in accordance with the provisions of this Ordinance but are either (a) not landed at and deposited in such places approved as aforesaid, or (b) being goods intended for transshipment are not placed on board the exporting ship and are not accounted for to the satisfaction of the Comptroller, or (c) having been landed at and deposited in such places approved as aforesaid are not cleared therefrom in accordance with the provisions of this Ordinance or are not produced at the request of the proper customs officer, then, in any of these cases, the person having the custody of the goods, shall, without prejudice to any penalty to which he may be liable under this Ordinance or any other law, be liable for the payment of the full duty on such goods.

(3) The Comptroller shall have the right to withhold the despatch or release of any goods from the place of landing until such time as the master of the importing vessel or the agent of the owner of such vessel in Malta makes a report of the goods landed or to be landed.

8. If any vessel arriving at Malta from any place beyond the seas, shall have broken bulk before her arrival in Malta, but within four leagues off the coast thereof, the master shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

Penalty for breaking bulk before ship's arrival.
S. 10 of Ord. VI of 1840, incorporated.
Amended by:
XIII. 1979.7;
XIII. 1983.5;
XIX. 1985.7;
L.N. 407 of 2007.

Goods loaded in
containers.
Added by:
XIX. 1985.8.
Amended by:
XII. 2001.3

8A. (1) Any container loaded with goods discharged from any vessel shall immediately on landing be secured with seals and fastenings to be affixed by or under the instructions and supervision of the Comptroller.

(2) No container loaded with goods shall be laden on to any vessel unless it is previously secured with seals and fastenings to be affixed on the instructions and under the supervision of the Comptroller at such place or places as he may determine.

(3) Where in the opinion of the Comptroller such seals and fastenings cannot be conveniently affixed, the provisions of subarticles (1) and (2) shall not apply.

(4) The Comptroller may direct that any container secured with seals and fastenings affixed on his instructions and under his supervision as aforesaid shall be under Customs escort during every transportation from one place to another, but such escort shall in all cases be compulsory where any container is not so secured.

(5) (a) No person shall remove, alter, break or destroy, or attempt or cause or permit to be removed, altered, broken or destroyed, any seals or fastenings affixed on any container except in the presence and under the instructions of the Comptroller, and on presentation, as required by the provisions of this Ordinance, to the Comptroller, of the goods manifest of such container or of the appropriate bill or bills of entry in respect of the goods loaded therein, as the case may be, duly signed by the Comptroller:

Provided that the Comptroller may authorise the importer or his agent to break any seals or fastenings affixed on any container after such container has been released by Customs:

Provided further that the Comptroller shall retain the right and power to carry out before, during or after the unstuffing of the goods carried in such a container, such inspections and controls as he may deem necessary and to impose such conditions, including the resealing of such container and the production of the relative Customs importation documents, to ensure that the unstuffing of the container is carried out under the Comptroller's authority or control.

(b) No container loaded with goods shall be unstuffed at any address other than that indicated in writing, by the importer or his agent, to the Comptroller before the container is duly despatched or released from the place of landing.

(6) (a) Notwithstanding the provisions of subarticle (5), the Comptroller may, at any time remove or break any seal or fastening affixed on any container and open that container, in the presence of an officer of the Police not below the rank of Inspector, and the provisions of article 69A shall apply to any such removal, breaking or examination.

(b) Upon the removal or breaking of any seals or fastenings and the opening of any container in accordance with the provisions of this subarticle, the Comptroller shall make a report of such removal, breaking and opening and the circumstances thereof, and

shall, where appropriate, close the container and secure it by affixing thereon seals and fastenings. The report shall be countersigned by the officer of the Police in whose presence the removal, breaking or opening has occurred.

(c) Whenever such seals and fastenings affixed on a container are removed, or a container is opened by the Comptroller in accordance with the provisions of this subarticle but not in the presence of the consignee of the container or his agent, the report referred to in this subarticle shall within ten days from such event be transmitted to that consignee, if known, either by delivering the same to him personally, or by letter addressed to him and transmitted by registered post to, or delivered at, his last known place of abode or business in Malta.

8B. (1) A container loaded with goods imported by two or more persons shall be unloaded for the immediate placing of those goods in a warehouse, place of security or landing place approved or appointed under the provisions of this Ordinance, and the person who is the consignee of that container shall before commencing or causing or permitting the unloading of goods from the container, deliver to the Comptroller the goods manifest of the container in the form or forms as the Minister responsible for customs may by regulations prescribe, giving the particulars indicated in such form or forms or required thereby; and such goods manifest shall be delivered before any seals and fastenings affixed on such container are removed, altered, broken or destroyed.

Groupage
containers.
Added by:
XIX.1985.8.
Amended by:
XII. 2001.4;
L.N. 407 of 2007.

(2) Where any person delivers to the Comptroller any goods manifest and the same is inaccurate in any material particular, he shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

(3) All goods falsely described in the goods manifest shall be forfeited.

(4) All goods which are not duly declared in the goods manifest may be detained by an officer of the customs until so declared, and until the omission is explained to the satisfaction of the Minister responsible for customs, and may in the meantime be removed to a government warehouse.

(5) (a) Notwithstanding any authority or permission which the Comptroller may have given to the consignee of any imported goods allowing such consignee to deliver any imported goods to the respective importer or to the agent of such importer, the Comptroller shall have the right to impose at any time such conditions relating to the delivery, loading or carriage of such goods and to carry out such inspections and controls and to take such other action as he deems necessary for the purpose of ensuring that no such imported goods have been or will be abusively removed from any approved or appointed warehouse, place of security, landing place or means of transport.

(b) Any person who fails to comply with such conditions, or

who refuses to allow or obstructs such inspections or controls, imposed by the Comptroller as provided in paragraph (a) of this subarticle, shall in addition to any punishment to which he may be liable under this or any other law, be liable, to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

Illegal breaking of seals and unstuffing of containers.
Added by:
XIX. 1985.8.
Amended by:
XXXV. 1989.37;
XII. 2001.5;
L.N. 407 of 2007.

8C. (1) Any person who removes, alters, breaks or destroys or attempts or causes or permits to be removed, altered, broken or destroyed any seal or fastening affixed on any container or unstuffs any container, except in accordance with the provisions of article 8A(5) or (6) shall in addition to any other punishment to which he may be liable under this or any other law, be liable, to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

Cap. 337.

(2) For the purposes of this article and of articles 8A and 8B the word "container" shall have the same meaning assigned to it in article 20 of the Import Duties Act, and includes a commercial road vehicle as therein defined.

PART III

ENTRY, UNSHIPING, LANDING, EXAMINATION, WAREHOUSING AND CUSTODY OF GOODS

Time of landing of goods.
Amended by:
XVI. 1960.3;
L.N. 4 of 1963;
XI. 1974.3;
XIII. 1979.8.

9. (1) No goods shall be discharged into lighters or carried from the importing vessel to any wharf or other place, except under such regulations and instructions as the Minister responsible for customs may, from time to time, make or prescribe; nor shall they be so discharged or carried on Saturdays, Sundays or public holidays, or, on other days, except between the hours of six in the morning and six in the afternoon from the 1st April until the 30th September inclusive, and between the hours of seven in the morning and five in the afternoon from the 1st October until the 31st March inclusive, unless the special permission in writing of the Comptroller is first obtained.

(2) If any goods are unshipped contrary hereto, the same together with the boat or other means employed in removing such goods, shall be forfeited.

Landing of goods on certain days.
Amended by:
XVI. 1960.3;
XI. 1974.4;
XIII. 1979.9.

10. (1) Except with the special permission of the Comptroller, no goods shall be landed or put on shore on Saturdays, Sundays or public holidays, or before seven in the morning or after five in the afternoon.

(2) If any goods are landed contrary hereto, the same together with the boat or other means employed in removing such goods, shall be forfeited.

11. (1) No goods, except those unladen under article 7, shall be unladen from any vessel without the previous permission of the Comptroller for the landing of the same; and no goods shall be landed except at a place duly appointed for the purpose and expressed in such permit.

Permits for landing of goods.
Amended by:
XVI. 1960.3;
XIII. 1979.10.

(2) All goods unladen or landed without such permit, or in contravention of the terms of such permit, shall be forfeited.

12. Subject to the provisions of article 7, the importer of any goods or his agent, shall, before unshipment thereof, make perfect entry of such goods by delivering to the Comptroller an entry thereof in such form or forms as the Minister responsible for customs may by regulations prescribe; and for such bill of entry the Comptroller shall issue a release document made in such form and manner as the Minister responsible for customs may by regulations prescribe, which, when signed or otherwise duly certified by the Comptroller, shall be transmitted to the proper officer and be his warrant for the examination and subsequent delivery, or, as the case may be, the due warehousing of such goods.

Delivery of bill of entry for imported goods.
Amended by:
XVI. 1960.3;
L.N. 4 of 1963;
XIX. 1985.9;
VII. 1993.2.

13. (1) The importer of any goods, or his agent, if unable, for want of full information, to make a perfect entry of such goods, on making and subscribing a declaration to that effect, before the Comptroller, may make an entry in respect of the packages or parcels of such goods, by bill of sight, in such form or forms as the Minister responsible for customs may by regulations prescribe, and containing the several particulars required in such form or forms.

Entry by bill of sight.
Amended by:
XVI. 1960.3;
L.N. 4 of 1963;
XIX. 1985.10.

(2) Such entry on being delivered to the Comptroller and signed by him, shall be the warrant for provisionally landing such goods to be examined by such importer or his agent in presence of the proper officers; and the importer or his agent shall, within three days or such further time as the Comptroller may allow after the landing thereof and before the same are delivered, make full and perfect entry thereof by endorsing upon such bill of sight such particulars of such goods as are herein required on making perfect entry of goods, whether for payment of duty, or for warehousing or for delivery free of duty, as the case may be, and to such endorsement he shall affix the date thereof, together with his signature and place of abode; and such endorsement when countersigned by the Comptroller shall be taken as the perfect entry for such goods.

Warrant for landing.

Before delivery of goods imported to make perfect entry.

14. Where an entry for the landing and examination of goods for delivery on payment of duty is made by bill of sight, such goods shall not be delivered until perfect entry thereof shall have been made and the duties due thereon paid, unless the importer or his agent shall have deposited with the Comptroller a sum of money sufficient in amount to cover the duties payable thereon; and if the sum deposited on a bill of sight is not equal in amount to the duties payable upon all the goods contained in any single package landed or examined thereby, no part shall be delivered until a perfect entry is made, and the duties are paid or deposited for the whole of the goods contained in such package.

Goods entered by bill of sight not to be delivered unless duty is paid or deposited.
Amended by:
XVI. 1960.3.

Mode of levying duty on goods delivered by bill of sight.

Added by:
XIX. 1985.11.
Amended by:
XXXV 1989.37.
Cap. 337.

14A. Notwithstanding the provisions of articles 13 and 14, whenever goods are delivered by bill of sight the amount of duty levied when making the perfect entry shall, without prejudice to any right of remittance of duty in accordance with article 20 of the Import Duties Act, be calculated on the quantity of the goods shown on the relative invoice or on the quantity of the goods endorsed on such bill of sight by an officer of the customs and countersigned by the importer or his agent, whichever quantity shall be the greater.

Goods entered for warehouse may upon further entry be delivered for local use or for exportation.

15. If, after any goods have been duly entered and landed to be warehoused, though not actually deposited in the warehouse, the importer shall further duly enter the same or any part thereof for use in Malta or for exportation, the same may be delivered and taken for use in Malta or exportation, as the case may be.

Comptroller may require any number of copies of bill of entry.

Amended by:
XVI. 1960.3;
XIII. 1979.11;
XIII. 1983.5;
XIX. 1985.12;
VII. 1993.3;
L.N. 407 of 2007.

16. (1) Upon the entry of any goods, the importer, his agent, or the consignee of the vessel, as the case may be, shall deliver as many copies of the entry thereof as the Comptroller may require, in which copies all sums and numbers may be expressed in figures.

(2) The importer or his agent shall produce to the Comptroller, if required by him, the original invoices, bills of lading and such other documents relating to the goods as may be deemed sufficient or necessary for verifying any statement or information appearing on the bill of entry relating to such goods.

(3) If such importer or agent refuses to produce such invoices, bills of lading or any such other documents, or wilfully produces any invoice, bill of lading or document relating to the goods, which is false in any particular, such importer or agent shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

Goods concealed in packages or delivered without entry shall be forfeited.

Amended by:
L.N. 4 of 1963;
XIII. 1979.12;
XXXII. 2007.23.

17. If any prohibited goods or other things, or goods or other things subject to duty, are found concealed in any way, or packed in any package or parcel to deceive the customs officers, such package or parcel, and all the contents thereof shall be forfeited; and if any goods are taken or delivered out of any ship or out of any warehouse, not having been duly entered, the same shall be forfeited:

Passengers' baggage.

Provided always that no entry shall be required in respect of the baggage of passengers, which may be examined, landed and delivered, under such regulations as the Minister responsible for customs may direct, but if any prohibited or uncustomed goods shall be found concealed therein, either before or after landing, the same shall be forfeited together with everything packed therewith.

Unclaimed goods and baggage.

Added by:
XIX. 1985.13.

17A. (1) If any goods, including passengers' baggage, which are brought to any place where passengers' baggage is examined by Customs are not cleared forthwith from, or otherwise declared to, Customs, the same shall be forfeited and shall be disposed of as the Minister responsible for customs may direct.

(2) The provisions of the preceding subarticle shall not apply to

goods or baggage which were intended for another destination and were brought to Malta in error, and to goods or baggage which arrive in Malta unaccompanied by the person for whose use they are intended:

Provided that in any such case the carrier or his agent shall, if so required by the Comptroller, certify in writing the facts of the case:

Provided further that when such goods or baggage remain unclaimed for a period of eight days from the date of their arrival in Malta they shall be forfeited and shall be disposed of as the Minister responsible for customs may direct.

18. If any person shall import or cause to be imported any package containing goods not corresponding with the entry thereof, or shall, directly or indirectly, import or cause to be imported or entered any package of goods as of one denomination which shall afterwards be discovered, either before or after delivery thereof, to contain other goods, or goods subject to a higher rate or other amount of duty than those of the denomination by which such package or the goods in such package were entered, such person shall be liable for every such offence to a fine (*multa*) equivalent to three times the amount of duty payable on the goods contained in such package or five hundred and eighty-two euro and thirty-four cents (582.34), whichever is the greater, so however that one third of the said amount shall be considered as a civil debt owed and payable to the Department of Customs, and such package and the goods therein shall be forfeited.

Penalty on fraudulent import entries and concealments.
Amended by:
XIII. 1979.13;
XIII. 1983.5;
XIII. 2005.13;
L.N. 407 of 2007.

19. (1) If the importer of any goods does not, within twenty-one working days after the arrival of the vessel importing the same, make perfect entry or entry by bill of sight of such goods, or, having made such entry, does not land such goods within such twenty-one days, or within such further time as the Comptroller may direct, any officer of customs may convey such goods to a government warehouse; and whenever the cargo of any vessel shall have been discharged within such twenty-one days or such further time, with the exception only of a small quantity of goods, any such officer may forthwith deposit such remaining goods in any government warehouse, and may also, at any time after the arrival of such vessel, remove any small packages or parcels of goods therefrom and deposit them in any such warehouse, there to remain for due entry during the remainder of such twenty-one days or further time, except as hereinafter mentioned.

Goods not entered within twenty-one days may be conveyed to government warehouse.
Amended by:
XL.1940.5;
XVI. 1960.3;
VI. 1973.2;
XIX. 1985.14.
Small packages and parcels of goods may be deposited in government warehouse.

(2) Where any goods are landed but are not cleared from any wharf, quay, shed or other place of landing within three months from the date of the arrival of the importing vessel, then, notwithstanding any other provision of law, such goods shall be deemed, at the expiration of the said period, to be deposited in a government warehouse and shall then be liable to be disposed of as provided by article 20.

(3) If the importer of any goods deposited in a warehouse appointed by virtue of the provisions of article 27(1) other than a warehouse appointed exclusively for the deposit of goods

belonging to a specified person, does not within the period of fifteen days from such deposit withdraw the same, any officer of customs may remove such goods and convey them to a government warehouse at the expense of such importer.

(4) If at the expiration of the period of fifteen days mentioned in subarticle (3), such goods are not withdrawn and are not so deposited, they shall for the purpose of the payment of store-rent fixed by regulations under this Ordinance, be deemed to have been deposited in a government warehouse on the expiration of the said period.

Sale of goods if
uncleared within
three months.
Amended by:
XVI. 1960.3;
XIX.1985.15.

20. (1) If any goods so deposited in a government warehouse being of a perishable nature, are not cleared forthwith, or, not being of a perishable nature, are not cleared within three months after such deposit, or within such further period as the Comptroller may direct, and all charges of removal, freight and warehouse are not paid, such goods may be sold, and the produce thereof shall be applied to the discharge of -

- (a) any expense incurred in connection with the sale;
- (b) the duty leviable on such goods as are sold to be entered for home use or consumption;
- (c) any store-rent due to the Government;
- (d) the expense of removal of the goods to the government warehouse;
- (e) the landing and other charges; and
- (f) the freight.

Payment of items
to be effected in
order of priority.

(2) Payment of the items listed in subarticle (1)(a) to (f) shall be effected in the same order of priority therein set out so that each item will be paid in preference to the next following item even if the proceeds are not sufficient for the payment of one or more of the items.

(3) Where, however, the goods cannot be sold for a sufficient sum to discharge the debts due in subarticle (1)(a), (b), (c) and (d) the property of such goods shall vest in the Government by way of settlement of those debts and shall be disposed of as the Minister responsible for customs may direct.

(4) The overplus, if any, after discharging the debts set out in subarticle (1)(a) to (f) shall be paid to the proprietor of the goods on his application for the same.

Lien for freight
payable before
delivery of goods
from government
warehouse.

21. An officer of customs, having the custody of any goods which have come into his hands under this Ordinance, may refuse delivery thereof from the government warehouse or other place of deposit, until proof is given to his satisfaction that the freight due upon such goods has been paid.

22. (1) No goods of a combustible or inflammable nature, or which in the opinion of the Comptroller are otherwise objectionable, shall be brought into or deposited in a government warehouse except with the express sanction in writing of the Comptroller.

Goods of a combustible or inflammable nature or otherwise objectionable not to be deposited in government warehouse.
Amended by:
XL. 1940.5;
XVI. 1960.3.

(2) If any such goods are landed by the officers of customs under the provisions of this Ordinance, the same may be deposited in any other available place that such officers may deem fit, and whilst so deposited the same shall be deemed to be in a government warehouse, and be liable to be dealt with, at the expiration of fourteen days, in the same manner as goods of a perishable nature actually deposited in a government warehouse, unless duly cleared or warehoused in some approved warehouse in the meantime; and such goods shall be charged with such expenses for securing, watching and guarding the same until sold, cleared or warehoused, as aforesaid, as the Comptroller shall see fit.

22A. (1) Where any goods are brought into or deposited in a government warehouse and subsequently show signs of deterioration, or may in the opinion of the Comptroller cause damage to other goods or to the building, the Comptroller may order that the same be withdrawn therefrom against payment of duty and all charges due, within such period as may be fixed by him, and if such goods are not withdrawn within that period then the goods shall be destroyed at the expense of their proprietor.

Goods showing signs of deterioration.
Added by:
XIX. 1985.16.
Amended by:
XXXII. 2007.23.

(2) The provisions of subarticle (1) shall apply also to goods which are regularly warehoused notwithstanding any unexpired period of such warehousing.

23. (1) Whenever any goods shall remain on board any importing vessel beyond the period of twenty-one days after the arrival of such vessel, or beyond such further period as the Comptroller may allow, such vessel shall be detained by the Comptroller until all expenses of watching or guarding such goods beyond twenty-one days or such further time, if any, allowed, as aforesaid, not exceeding fifty-eight cents (0.58) *per diem*, and of removing the goods, or any of them, to the government warehouse, in case the officers shall so remove them, are paid.

If goods remain on board importing ship beyond twenty-one days, such ship may be detained for expenses.
Amended by:
XL. 1940.5;
XVI. 1960.3;
L.N. 407 off 2007.

(2) The like charge *per diem* shall be made in respect of any derelict or other vessel coming, driven or brought into Malta, under legal process, by stress of weather or for safety, when it is necessary to station any officer of customs in charge, either on board thereof or otherwise, for the protection of the revenue, so long as the officer shall so remain.

24. Save as otherwise expressly provided in any other law, the unshipping, carrying and landing of all goods, and bringing them to the proper place for examination and weighing, putting them into the scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where such operations respectively are necessary or permitted, and removing to and placing them in the proper place of deposit until duly delivered, shall be performed by or at the expense of the importer.

Unshipping, carrying, etc., of goods to be done by or at the expense of the importer.

Weighing and measuring of goods.
S. 19 of Ord. VI of 1840, incorporated.
Substituted by: XIII. 1962.62.
Amended by: XXXII. 2007.23, 26.

Penalty.
S. 20 of Ord. VI of 1840, incorporated.
Amended by: XIII. 1979.14; XIII. 1983.5; XIX. 1985.17; XXXII. 2007.23, 27; L.N. 407 of 2007.

Approval of appointment of warehouses.
Amended by: VII.1911.1.2; L.N. 4 of 1963; XIX. 1985.18; XXXII. 2007.23.

25. The weighing and measuring of dutiable goods for the purpose of levying the duty thereon or of duty-free goods where the importer so requires prior to withdrawal from any shed or warehouse shall be carried out by a customs weigher or by any person appointed by the Comptroller for the purpose, at the expense of the importer, under the supervision of an officer of customs.

26. If the licensed weigher or measurer, or any other person employed by the Government to weigh or measure such goods, or to superintend the weighing or measuring thereof, shall defraud or attempt to defraud the Government of any part of any duty payable thereon, such weigher or measurer, or such other person shall be deprived of his licence or employment, and shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37); and if he shall so defraud or attempt to defraud at the instance of the importer, such goods shall be forfeited:

Provided that if such person is a Government employee the said loss of employment shall only be incurred following disciplinary proceedings taken in terms of any disciplinary regulations applicable to such employees.

27. (1) Independently of any other law, it shall be lawful for the Minister responsible for customs to approve or appoint warehouses or places of security within Malta, for the warehousing of dutiable goods without payment of duty on the first entry thereof; and to direct with what sureties and to what amount security shall be required in respect of any warehouse so approved or appointed as aforesaid, or in respect of any goods deposited therein or for the security of the duties thereon; and what description of goods, and on what conditions such goods shall be allowed to be warehoused therein and to cancel the appointment of any such warehouse.

(2) Where any goods are deposited in any place approved or appointed as aforesaid but are not produced at the request of an officer of the customs, then the person having the custody of the goods shall, in addition to the payment of store-rent and other charges, if any, in respect of those goods and to any penalty to which he may be liable under the provisions of this Ordinance or of any other law, be liable for the payment of duty due on such goods.

For the purposes of this subarticle any store-rent due shall be calculated up to the date of such request.

(3) It shall also be lawful for the Minister responsible for customs, in the case of any goods as aforesaid warehoused in government warehouses, to fix and vary, by regulations under this Ordinance, the rates chargeable for store-rent as well as, in the case of goods lost or destroyed by unavoidable accident in the warehouse, or of goods warehoused on account of any public department, to remit or return, the store-rent due or paid thereon.

(4) The powers vested in the Minister responsible for customs,

under the provisions of the preceding subarticles may, in like manner, be exercised with respect to imported free goods, in so far as such provisions may be applicable thereto.

28. (1) Upon the entry and landing of any dutiable goods to be warehoused, or within such period as the Comptroller may direct with respect to the same or any of them, the proper officer of customs shall, before such goods are warehoused, take an account of the same, and shall enter in a book kept for that purpose, the name of the importing vessel and of the person in whose name they are entered, the marks, numbers and general description of the goods, and the warehouse or place in the warehouse in which the same are to be deposited:

Proper officer of customs to take account of goods for warehouse.

Amended by:
XVI. 1960.3;
XIII. 1979.15.

Provided that, where any such goods are entered to be warehoused for exportation or transshipment only, there shall be taken the number and description only of the packages and marks of all such goods entered to be warehoused for exportation or transshipment only, unless the Comptroller directs that a full examination be made; and when the same are so deposited with the authority of such officer, he shall certify that the entry and warehousing of such goods are complete, and such goods shall from that time be considered goods duly warehoused.

(2) If any such goods are delivered, withheld or removed from the proper place of examination before the same have been examined and certified by such officer, such goods shall be deemed to be goods not duly entered or warehoused and shall be forfeited.

29. If any goods warehoused or entered to be warehoused, or entered to be delivered from the warehouse, are lost or destroyed by unavoidable accident, either on ship board, or in removing, landing, or receiving into the warehouse, or in the warehouse, the Comptroller may remit or return the duties due or paid thereon.

Comptroller may remit duties on warehoused goods lost or destroyed.

Amended by:
XVI. 1960.3.

PART IV

WAREHOUSING OF ARMS, AMMUNITION, EXPLOSIVE SUBSTANCES, ETC.

30. (1) Arms, ammunition, or other utensils of war, not required for the Armed Forces of Malta, which shall be imported into Malta, shall be deposited in bond on the importation thereof and shall not be released from bond (either for exportation, or for use within Malta), without a permit from the Minister responsible for customs.

Importation and exportation of arms, ammunition, or other utensils of war.

S. 30 of Ord. VI of 1840,
incorporated.

Amended by:
L.N. 4 of 1963;
L.N.148 of 1975.

(2) Arms, ammunition, or other utensils of war which are imported or which it may be attempted to import against the provisions of this article, shall be forfeited.

Penalty.

Power of Minister responsible for customs.

(3) Nevertheless it shall be competent to the Minister responsible for customs to prohibit or regulate the importation into Malta, and the exportation therefrom, of arms, ammunition, or other utensils of war, not required for the Armed Forces of Malta.

Provisions relating to arms, ammunition, etc., may be made applicable to explosive substances.
S. 1 of Ord. IV of 1885, incorporated.
Amended by:
L.N. 4 of 1963.

31. It shall also be competent to the Minister responsible for customs to order, by notice in the Government Gazette, that the provisions of the last preceding article be made applicable also to explosive substances which, in the opinion of the Minister responsible for customs, are of such a dangerous nature as to render such order necessary for public safety.*

Forfeiture of explosive substances not duly declared.
S. 2 of Ord. IV of 1885, incorporated.
Amended by:
L.N. 4 of 1963.

32. (1) When any parcel of goods landed from a vessel arriving in Malta from any place beyond the seas, shall be found to contain any explosive substance, in reference to which the Minister responsible for customs shall have exercised the power vested in him under the last preceding article, and the existence of which in such parcel shall not have been expressly declared in the report mentioned in article 6 such substance together with any other goods contained in the said parcel or forming part thereof, shall be forfeited, even though the omission of the aforesaid declaration was due to the fact that the master, at the time of the presentation of the said report, was not aware of the existence of such explosive substance in the parcel aforesaid.

(2) Such forfeiture shall take place *ipso jure*, without the necessity of any judicial procedure.

Forfeiture not to exempt master from payment of fine.
S. 3 of Ord IV of 1885, incorporated.

33. Any forfeiture under the provisions contained in the last preceding article, shall not operate so as to exempt the master from the payment of the fine mentioned in article 6, when applicable according to the provisions of the said article.

PART V

OPERATIONS ON AND DISPOSAL OF WAREHOUSED GOODS

Goods in warehouse may be sorted, repacked, etc.
Amended by:
XVI.1960.3;
VI. 1961.2;
L.N. 4 of 1963.

34. (1) With the sanction of the Comptroller and after such notice given by the respective importers or owners, at such times and under such regulations as may, from time to time, be made by the Minister responsible for customs under this Ordinance, it shall be lawful in any government or other warehouse to bulk, sort, separate, lot or repack any goods warehoused in such warehouse and to make such alterations therein as may be necessary for the preservation, sale, shipment or disposal thereof; and also to draw off wine or spirits into bottles or flasks of such size, as the Comptroller may see fit, for consumption in Malta or for exportation; and also to fill up any casks of wine or spirits from any other casks of the same respectively secured in the same

Wine or spirits may be bottled and samples taken.

*See the Explosives Ordinance (Chapter 33).

warehouse; and also to take such samples of goods as may be allowed by the Comptroller with or without entry, and with or without payment of duty, except as the same may eventually become payable as on a deficiency of the original quantity; and the duty on the surplus, if any, remaining after any operation upon such goods as may be delivered for use in Malta, shall be immediately paid, and such surplus shall thereupon be delivered for use in Malta.

(2) After such goods have been so separated or repacked, the Comptroller may, at the request of the importer or owner of such goods, cause or permit any refuse, damage or surplus goods occasioned by such separation or repacking, or, at the like request, any goods which may not be worth the duty, to be destroyed, and may remit the duty payable thereon.

After repacking damaged parts may be destroyed.

(3) The Minister responsible for customs may, subject to the giving of such security and on such conditions as he may by order prescribe, permit the manufacture, processing or assembly of any goods in any warehouse or place of security approved or appointed under article 27(1).

Manufacture, processing or assembly of goods in bonded warehouses.

35. (1) All dutiable goods warehoused in any government or other warehouse shall be cleared, either for use in Malta or for exportation, at the expiration of one year from the day on which the same were warehoused, unless the owner of such goods is desirous of rewarehousing the same; in which case the goods shall be examined by the proper officer and, on their quantities being ascertained, a fresh account in respect of such goods shall be opened, the old account being closed:

Clearance or rewarehousing after one year.
Amended by:
XVI. 1960.3;
L.N. 4 of 1963;
XXXIX.1965.4;
XXXIV.1971.3;
XIX.1985.19.

Provided that where the goods are warehoused in a government warehouse, rewarehousing may only take place subject to the rent due being first paid and subject to permission being granted by the Comptroller of Customs:

Provided further that if the owner of the goods desires to rewarehouse the same according to the account taken at the landing thereof, without re-examination, such re-examination may be dispensed with if the Comptroller of Customs is satisfied that the same are still in the warehouse, that the packages are entire, and that there is no reason to suspect that there is any undue deficiency.

(2) If any goods warehoused as aforesaid in a government warehouse are not duly cleared, exported or rewarehoused at the expiration of one year from the previous entry and warehousing thereof, or within such further period as shall be permitted by the Comptroller, the same, if worth the duty, shall after one month's notice to be given to the owner, if known and resident in Malta, or his agent, if any, or to be published in the Government Gazette and in one or more newspapers, giving the marks, numbers, importing vessel and importer's name, if known, be sold by public auction or in any other manner as the Minister responsible for customs may direct, provided that, if the sale is to be made by public auction, the auctioneer shall, in each particular case, be appointed by the said Minister, and the proceeds thereof shall be applied to the payment of the duties, warehouse rent and charges, and the surplus, if any,

Goods in warehouse not cleared or warehoused, to be sold after one year.

Disposal of proceeds.

shall be paid to the owner of such goods, if known; but if such owner cannot be found, such surplus shall be carried to the account of Government, to abide the claim of such owner on his appearing and making good his claim thereto, if such claim is made within one year from the date of sale.

Goods not worth the duty shall be disposed of.

(3) If such goods are not worth the duty, then the same, after one month's notice as aforesaid, shall be disposed of as the Minister responsible for customs may direct.

PART VI

TRANSFER OF GOODS IN BOND

Sale or pledge of goods in bond. *S. 36 of Ord. VI of 1840, incorporated. Amended by: XVI. 1960.3.*

36. (1) A sale or pledge of goods in bond, by the person or persons in whose name such goods are standing in the proper Custom House book, shall have the like effect which it would have under the existing laws, if the seller or pledgor in pursuance of such sale or pledge, had delivered the goods to the buyer or pledgee, provided the sale or pledge be entered by the Comptroller immediately after the completion thereof, and in accordance with the provisions of subarticle (2).

Book for entering such sales or pledges.

(2) The Comptroller shall keep a book for entering such sales or pledges; he shall immediately enter therein any such sale or pledge, on the written application of the seller and buyer, or on the like application of the pledgor or pledgee; and he shall produce such book, upon any demand duly made for the production thereof.

Entry to be conclusive evidence of sale or pledge.

(3) The entry therein shall be deemed conclusive evidence of the fact of the sale or pledge, in any judicial proceedings concerning the same.

Issue of Custom House schedule. *S. 1 of Ord. III of 1850, incorporated. Amended by: XVI. 1960.3; XIX. 1985.20.*

37. At the request of the importer of any goods which have been in bond and which are subject to duty, the Comptroller shall, after the expiration of twenty-four hours from the day on which all such goods shall have been deposited in bond, and unless the same shall have been lawfully attached by means of a garnishee order issue and deliver to such importer a Custom House schedule in such form or forms as the Minister responsible for customs may by regulations prescribe, certifying the actual deposit in bond of such goods, and the quantity and quality thereof as described in the books of the Custom House.

Issue of more than one schedule. *S. 2 of Ord. III of 1850, incorporated. Amended by: XVI. 1960.3; L.N. 4 of 1963.*

38. It shall be at the option of the importer to obtain from the Comptroller either one schedule for the whole quantity of the goods deposited in bond, or separate schedules for different portions of the said goods: provided, in the latter case, the several portions be deposited in bond separately, or be by their nature distinct: provided also that the portions be not less in quantity than such minimum quantity as the Minister responsible for customs may by regulations to be posted up in the Custom House for general information, prescribe in that behalf.

39. The Custom House schedule shall represent the goods therein described, and the delivery of such schedule, signed by the importer, shall have the same effect as is by law attributed to the actual delivery of such goods.

Schedule to represent goods. *S. 3 of Ord. III of 1850, incorporated.*

40. (1) The Comptroller shall deliver the goods to the importer or to the person producing to him the original Custom House schedule relating to such goods, signed by the said importer; and the Comptroller shall thereupon be discharged from all further liability towards any other person whomsoever in respect of such goods: unless such goods shall have been lawfully attached, before delivery, by means of a garnishee order issued against the person producing such Custom House schedule.

Delivery of goods. *S. 4 of Ord. III of 1850, incorporated. Amended by: XVI. 1960.3.*

(2) In the case of partial delivery of the goods described in the Custom House schedule, as provided in article 38, the Comptroller shall endorse on the schedule the quantity delivered, corresponding with the entry in the books of the Custom House, and return the said schedule to the person producing the same.

41. (1) If any doubt shall arise as to the authenticity of the signature of the importer named in the schedule, the Comptroller shall not deliver the goods until the signature shall have been verified.

Doubts as to authenticity of signature. *S. 5 of Ord. III of 1850, incorporated. Amended by: XVI. 1960.3.*

(2) If, on account of the death, absence or other incapacity of the importer, his signature cannot be by him verified, the Comptroller shall not deliver the goods until the said signature shall have been verified by two persons whom he shall deem trustworthy; and in any such case neither the customs department nor any of its officers shall be responsible for any error which may have been incurred respecting such signature.

PART VII

ENTRY OF WAREHOUSED GOODS FOR CONSUMPTION AND OF GOODS FOR EXPORTATION

42. No warehoused dutiable goods shall be taken or delivered from any government or other warehouse, except upon due entry and under the care of the proper officers, for exportation, or upon due entry and payment of the full duties payable thereon for use in Malta, except goods duly delivered to be shipped as stores, in such quantities as the Comptroller may allow, and subject to such regulations as may, from time to time, be made by the Minister responsible for customs under this Ordinance.

Entry for exportation or home use of dutiable goods. *Amended by: XVI. 1960.3; L.N. 4 of 1963.*

Persons clearing warehoused goods to deliver bill of entry and pay duties.

Amended by:
XVI. 1960.3;
L.N. 4 of 1963.
Duties to be paid according to landing account except in certain cases.

Duties on certain goods to be chargeable on ascertained quantity on delivery, unless deficiency has been caused by improper means.

Goods not to be shipped except on proper days and places, nor until entry and clearance.

Amended by:
XVI. 1960.3;
XI. 1974.5;
XIII. 1979.16.

Forfeiture of goods shipped for exportation without authority of Comptroller.

43. Upon the entry of any goods to be cleared from any such warehouse for use in Malta, the person entering such goods shall deliver to the Comptroller a bill of entry and duplicates thereof, in like manner and form and containing the same particulars as are hereinbefore required on the entry of goods to be delivered for use in Malta on the landing thereof, as far as the same may be applicable; and shall, at the same time, pay down the full duties payable thereon, not being less in amount than according to the account of the quantity taken by the proper officer on the first entry and landing thereof, except as to the following goods, viz: unmanufactured tobacco, wine, spirits, vinegar, beer and oil in bulk, and such other goods as may, from time to time, be designated by the Minister responsible for customs, the duties whereon, when cleared from the warehouse for use in Malta, shall be chargeable upon the quantity of such goods, ascertained by weight, measure or strength at the time of actual delivery thereof, unless there is reasonable ground to suppose that any portion of the deficiency or difference between the weight, measure or strength ascertained on landing and first examination of any such last mentioned goods and that ascertained at the time of actual delivery, has been caused by illegal or improper means, in which case the Comptroller shall make such allowance only for loss as he may consider fairly to have arisen from natural evaporation or other legitimate cause; and duty shall be payable on any loss exceeding such allowance.

44. (1) No warehoused goods or goods entitled to drawback on exportation shall be shipped, put off or water-borne to be shipped for exportation, on Saturdays, Sundays or public holidays or, in the case of other days, before seven o'clock in the morning or after five o'clock in the afternoon, except with the special permission in writing of the Comptroller, nor from any place not being a wharf or other place duly appointed for such purpose, nor without the presence or authority of an officer of customs, nor before due entry of such goods, nor before due clearance thereof for shipment.

(2) If any such goods are shipped, put off or water-borne, except with the authority of the Comptroller and under the care of an officer of customs, and in such manner, within such time and by such roads or ways as such officer may permit or direct, such goods shall be forfeited.

(3) If any such goods are illegally removed or carried away from any vehicle, boat, lighter, wharf or other place prior to the shipment thereof on board the exporting vessel, or from any vessel, or vehicle in or on which the same shall have been shipped or laden, the bond given in respect thereof shall be forfeited, and may forthwith be put in suit for the penalty thereof, although the time prescribed in such bond for the landing of such goods at the place of destination shall not have expired.

45. Before any warehoused dutiable goods, or goods entitled to any drawback of customs on exportation, or goods exportable only under particular rules, regulations or restrictions, are permitted to be exported, the exporter or his agent shall deliver to the Comptroller a shipping bill, and give such security by bond as the Comptroller may require, not exceeding double the amount of the duty leviable on such goods, that such goods shall be duly shipped and exported and, if the Comptroller so requires, that the goods shall be landed at the place for which they are entered outwards, within such time as the Comptroller may deem reasonable, or be otherwise accounted for to his satisfaction; and such shipping bill, when certified by the proper officers of customs, shall be the export entry for the goods enumerated therein:

Security for the exportation of goods.
Amended by:
XVI. 1960.3;
L.N. 4 of 1963;
VI. 1973.3.

Provided that any person who desires to export any such goods, may, at his option, but subject to such regulations as may be made by the Minister responsible for customs under this Ordinance, give a general bond, with such security, in such amount and under such conditions as the Comptroller may require, in lieu of a separate bond for each exportation, first delivering in each case to the proper officer a notice in such form as the Comptroller may prescribe, containing an account of the particular goods to be exported by him under such general bond in any particular vessel.

General bond.
Notice to be given in each case.

46. (1) The exporter of goods for which no bond is required shall, within twenty-four hours after the final clearance outwards of the exporting vessel, either by himself or his agent, deliver to the Comptroller a bill of entry in such form or forms as the Minister responsible for customs may by regulations prescribe, and containing the several particulars indicated in such form or forms, or required thereby, and shall subscribe such bill of entry, and on the demand of the Comptroller shall produce the invoices, bills of lading and other documents relating to the goods to test the accuracy of such bill of entry; and, on failure to comply with any of the foregoing requirements, the exporter or his agent shall for each such offence be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37); and if any of the particulars contained in any such bill are inaccurate the person subscribing the bill shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

Bill of entry for exportation.
Amended by:
XVI. 1960.3;
L.N. 4 of 1963;
XIII.1979.17;
XIII.1983.5;
XIX.1985.21;
L.N. 407 of 2007.

(2) For the purpose of this article, when a vessel calls at Malta for the object only of taking in coal for use on the voyage, every person who ships such coal shall be deemed to be the exporter of the coal.

Goods not exported to be notified to proper officer.

Amended by:
XIII. 1979.18;
XIII. 1983.5;
XIX. 1985.22;
L.N. 407 of 2007.

47. If any exporter of goods who shall have delivered a shipping bill thereof for exportation in any vessel shall fail, in case such goods or any of them shall not be duly shipped, to attend the proper officer of customs, within six days after the final clearance outwards of such vessel, either by himself or his agent, and correct such shipping bill, he shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

Shipping bill signed by Comptroller to be the clearance for the goods.

Amended by:
XVI. 1960.3.

48. The shipping bill or bills, when filled up and signed by the exporter or his agent (or the consignee of the vessel) in such manner as the Comptroller may require, and countersigned by him, shall be the clearance for all the goods enumerated therein.

Minister responsible for customs may remit duty on warehoused goods lost or destroyed during delivery or shipment.

Amended by:
L.N. 4 of 1963.

49. If any goods, duly entered for delivery from the warehouse for removal or exportation, are lost or destroyed by unavoidable accident, either in the delivery from the warehouse or the shipping thereof, the Minister responsible for customs may remit the duties thereon.

PART VIII

SHIP'S STORES

Order for shipment of ship's stores.

Amended by:
XVI.1960.3.

50. (1) The master of every vessel of the burden of forty tons or upwards departing upon a voyage to parts beyond the seas shall, upon request made by him, and upon such terms and conditions as the Comptroller may direct, receive from the Comptroller an order for the shipment of such stores from warehouse as may be required and allowed by the Comptroller for the use of such vessel, having regard to the number of the crew and passengers on board, and the probable duration of the voyage on which such vessel is about to depart.

Application for the shipment of ship's stores.

(2) Every such request shall be made in such form and manner as the Comptroller shall require, and shall be signed by the master or owner of the vessel, who shall give bond, in such form and manner and in such amount not higher than double the duty payable on such stores or any of them, as the Comptroller may direct, that no part thereof shall be relanded in Malta without leave of the Comptroller.

Stores for use on board ships of war.

(3) Upon the request of the captain of any ship of war in commission, dutiable stores for use on board such ship may be shipped from warehouse, upon such terms and conditions as the Comptroller may direct:

Provided that such request shall be made in such form and manner as the Comptroller shall require, and shall be signed by the captain or other commissioned officer of such ship:

Provided further that, in the case of any such ship, the bond

mentioned in subarticle (2) shall not be required.

51. (1) The master, or his agent duly authorized by him in writing for that purpose, shall deliver to the proper officer the stores content, containing the particulars of such stores, and shall make out and subscribe thereon, in the presence of the proper officer, a declaration that the contents thereof are true, and that all the requirements of the Merchant Shipping Act, or, as the case may be, of any other law respecting outward bound vessels applicable to his vessel, have been complied with, and also an account of the stores so shipped, together with any other stores then already on board, and the latter, when signed by the aforesaid officer and countersigned by the Comptroller, shall be the victualling bill.

Stores content to be delivered to proper officer.
Amended by:
XVI. 1960.3;
XXII. 1976.4;
XIII. 1979.19;
XIII. 1983.5;
XIX. 1985.23;
L.N. 407 of 2007.
Cap. 234.

Victualling bill.

(2) No dutiable stores shall be shipped for the use of any vessel, nor shall any articles taken on board any vessel be deemed to be stores, except such as are borne upon such victualling bill.

(3) If any such stores are relanded at any place in Malta without the sanction of the Comptroller, the same shall be forfeited, and the master and the owner of the vessel shall each be liable, to a fine (*multa*) equivalent to the aggregate of the duty payable on such stores and double the value of such stores, or to a fine (*multa*) of five hundred and eighty-two euro and thirty-four cents (582.34) whichever is the greater.

Forfeiture of stores relanded without the sanction of the Comptroller, and penalty.

PART IX

CLEARANCE OUTWARDS

52. Before any vessel, not being a vessel allowed to land goods without first making a report, is cleared outwards from Malta, the master or other person authorized by him in writing, shall attend the proper officer of customs, and shall answer all such questions as may be asked of him by such officer concerning the vessel, the cargo and the voyage, and shall deliver to such officer a content of such vessel in such form or forms as the Minister responsible for customs may by regulations prescribe and containing the several particulars required in such form or forms.

Before clearance, master to attend before proper officer to answer questions, etc.
Amended by:
XXXIX. 1965.5;
XIX. 1985.24.

53. If a vessel allowed to land goods without first making a report, departs whether with goods shipped on board or in ballast, and without being cleared as required in the case of other vessels, the agent of the owner shall, within twenty-four hours of such departure, exclusive of Saturdays, Sundays and public holidays, clear such vessel by delivering a content thereof in the manner and form required in the case of other vessels, and generally by doing all things in reference to such content, which the masters of other vessels are required to do; and in case of any default, he shall be liable to the penalties to which such masters in like case are liable.

Clearance of vessel after departure.
Amended by:
XXXIX. 1965.5;
XI. 1974.6;
L.N. 407 of 2007.

Short shipment of goods to be notified to proper officer.

Amended by:
XIII. 1979.20.

54. If any goods liable to duty on importation, or taken from any bonded warehouse to be exported, or entitled to drawback on exportation, or transhipped, which are enumerated in the content of any vessel, are not duly shipped before the departure of such vessel, such goods shall be forfeited, unless due notice of the non-shipment thereof shall be given to the proper officer of customs without any unnecessary delay after such departure, in order that he may certify the short shipment thereof.

Unshipment of goods already shipped for exportation.

Amended by:
XVI.1960.3;
XIII.1979.21;
XIII.1983.5;
XIX.1985.25;
L.N. 407 of 2007.
Penalty.

55. If any goods which have been duly entered and shipped for exportation, are at any time thereafter unshipped in any part of Malta from any vessel, without the sanction of the Comptroller, such goods shall be forfeited, and the master of such vessel and every person concerned in such unshipment shall be liable to a fine (*multa*) equivalent to the aggregate of the amount of duty payable on the goods and double the value of the goods so unshipped or landed, or to a fine (*multa*) of five hundred and eighty-two euro and thirty-four cents (582.34) , whichever is the greater.

Goods shipped contrary to provisions forfeited. *Amended by:*
XIII. 1979.22.

56. If any goods for which entry before shipment is required are shipped, put off or water-borne to be shipped, without being duly cleared, or otherwise contrary to the provisions of this or any other law, the same shall be forfeited.

Penalty on departure without being cleared or being cleared on incorrect information.

Amended by:
XIII. 1979.23;
XIII. 1983.5.
Substituted by:
XIX. 1985.26.
Amended by:
L.N. 407 of 2007.

57. If any vessel departs from Malta without being duly cleared, or if in any form of clearance outwards required under article 52 information is given which is incorrect in any material particular, the master, or the agent of the owner by whom the vessel ought to have been cleared, shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

Clearance of vessels in ballast. *Amended by:*
XVI. 1960.3.

58. (1) If any vessel departs in ballast for parts beyond the seas, not having any goods on board except stores borne upon the victualling bill, nor any goods reported inwards for exportation in such vessel, the Comptroller shall, on the application of the master, clear such vessel in ballast.

Master to answer questions.

(2) The master of such vessel shall answer to the Comptroller such questions touching her departure and destination as shall be asked of him.

Vessels carrying passengers.

(3) Vessels having only passengers with their baggage on board, shall be deemed to be in ballast.

PART X

BOARDING OF VESSELS AFTER CLEARANCE

- 59.** (1) Any officer of customs may go on board any vessel, after clearance outwards, within the territorial waters of Malta and may demand the vessel's clearance, and if the master refuses to produce the same and to answer such questions concerning the vessel, cargo and intended voyage, as may be asked of him, he shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).
- Officer may board ship after clearance.
Amended by:
XL. 1940.5;
XIII. 1979.24;
XIII. 1983.5;
XIX. 1985.27;
XII. 2001.6;
L.N. 407 of 2007.
- (2) If there are any goods on board not contained in such vessel's content or any stores not included in the victualling bill, such goods or stores shall be forfeited.
- Goods on board not shown in vessels content.
- (3) If any goods contained in such content are not on board, the master shall be liable for every package or parcel of goods contained in such content and not on board to a fine (*multa*) equivalent to the aggregate of the amount of duty payable on the goods contained in such package or parcel and double the value of such goods, or to a fine (*multa*) of five hundred and twenty-four euro and eleven cents (524.11), whichever shall be the greater, unless the absence of such package or parcel is satisfactorily explained.
- Penalty
- (4) If any goods contained in such contents are found to have been removed from the place where they have been sealed by Customs or to have been removed or unpacked from their original packing when taken on board prior to the vessel's clearance outwards, the master shall be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37).

PART XI

PREVENTION OF SMUGGLING

OFFENCES AND PENALTIES

- 60.** Save as otherwise expressly provided in any other law -
- (a) if any goods liable to the payment of duties are unshipped from any ship in Malta, duty not being first paid or secured; or
- (b) if any prohibited goods whatsoever are imported or brought into any part of Malta; or
- (c) if any goods are removed from any ship, quay, wharf, or other place in Malta previously to the examination thereof by the proper officer of customs or, being entered to be warehoused, are carried into the warehouses, except under the care or authority of such officer and in such manner, and by such roads or ways, and within such time as he may direct; or
- (d) if any goods entered to be warehoused, after the
- Forfeiture of smuggled goods.
Amended by:
XIII. 1979.25;
XXXVI. 1989.2;
XXXII. 2007.23.

landing thereof, are removed or withdrawn from any quay, wharf, or other place in Malta, so that no sufficient account is taken thereof by the proper officer of customs, or so that the same are not duly warehoused; or

- (e) if any goods whatever which have been warehoused or otherwise secured in Malta, either for consumption in the same or for exportation, or have been delivered from any warehouse or other place without payment of duty for removal to any other warehouse or place, are clandestinely or illegally removed from or out of any warehouse or place of security, or are not duly delivered at the place to which such goods were destined to be removed; or
- (f) if any goods which are prohibited to be exported are put on board any vessel with intent to be laden or shipped for exportation, or are brought to any quay, wharf, or other place in Malta in order to be put on board any vessel for the purpose of being exported; or
- (g) if any goods which are prohibited to be exported are found in any package produced to any officer of customs as containing goods not so prohibited; or
- (h) if any goods subject to any duty or restriction in respect of importation, or which are prohibited to be imported into Malta, are found or discovered either before or after landing, to be, or to have been concealed in any manner on board any vessel, within the limits of Malta; or
- Cap. 337. (i) if any goods imported free of duty by any person as is mentioned in article 6 of the Import Duties Act, are sold or disposed of for use or consumption in Malta and a perfect entry thereof is not made within the term fixed in article 6(3) of the said Act by the person liable to duty thereon in terms of the said article; or
- Cap. 337. (j) if any goods imported or taken out of bond in terms of article 17(2)(d)(ii) of the Import Duties Act, are not re-exported within the time stipulated in accordance with the same subparagraph; or
- (k) if any goods are imported by any person who is knowingly concerned in any fraudulent evasion or attempt at evasion of any duties of customs, or of the laws and restrictions of customs, relating to importation, unshipping, transhipping, landing and delivery of goods or otherwise contrary to this Ordinance,

then and in every such case, all such goods shall be forfeited together with any goods which may be found packed with or used in concealing them.

61. (1) If at the time of examination by an officer of customs any goods are found in excess of, or different to, those appearing on the supplier's invoice or declared by the importer or his agent, then, notwithstanding any other provision of law, such goods found in excess or such different goods shall be forfeited and -

- (a) where the value of the goods so found in excess or different is one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) or over, such goods so forfeited shall be disposed of in such manner as the Minister responsible for customs may direct; and
- (b) where the value of the goods so found in excess or different is less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69), such goods so forfeited shall be disposed of as the Comptroller of Customs may direct.

Such forfeiture shall be without prejudice to any action which may be taken against the importer or his agent, or against both, in virtue of any other provisions of law.

(2) The provisions of subarticle (1) shall not apply where the competent authority is satisfied that the discrepancy was due to a genuine error.

(3) For the purposes of subarticle (2) "competent authority" means, where the value of the goods found in excess or different to those appearing in the supplier's invoice or declared by the importer or his agent:

- (a) is one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) or more, the Minister responsible for customs;
- (b) is less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69), the Comptroller of Customs.

(4) Where the determination as to whether any goods are different to those appearing on the supplier's invoice or declared by the importer or his agent requires scientific analysis or technical expertise, the conclusions reached by customs as to the nature, contents or other characteristics of the goods may only be impugned in any proceedings if it is shown that such conclusions are such that no reasonable person would have reached them.

(5) (a) Notwithstanding any other provision under this article, the Comptroller may elect to hand back the forfeited goods to the importer upon the latter agreeing to pay such deposit or deposits to, and as determined by, the Comptroller, pending the assessment by the Comptroller of the actual price to be paid by the importer for the goods and in such a case the price payable for such goods shall not exceed the total sum deposited by the importer.

(b) Whenever a case is settled in terms of the provisions of paragraph (a), the decision by the Comptroller on the price to be

Goods in excess of supplier's invoice.
Added by:
VI. 1973.4.
Amended by:
XIII. 1979.26.
Substituted by:
XXXVI. 1989.3.
Amended by:
XII. 2001.7;
L.N. 407 of 2007.

paid for the goods shall be final and conclusive.

Corrections not allowed.
Added by:
VII. 1993.4.

61A. For the purpose of an offence under this Ordinance, the court shall not take into consideration any verbal or written declaration which purports to correct in a material particular a previous declaration to Customs and which is made when discovery of the offence is imminent.

Offences and penalties.
Amended by:
XLVI. 1935.2;
XXXI. 1963.2;
XXXIV. 1971.4;
X. 1972.2;
XIII. 1979.27;
XIII. 1983.5;
XXXVI. 1989.4;
XII. 2001.8;
XIII. 2005.14;
XXXII. 2007.23;
L.N. 407 of 2007.

62. Every person who in contravention of this Ordinance -

- (a) imports or brings or is concerned in importing or bringing, into Malta any prohibited goods, or any goods the importation of which is restricted, contrary to such prohibition or restriction, whether the same be unshipped or not; or
- (b) unships, or assists or is 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
- (c) delivers, removes or withdraws from any ship, quay, wharf, or other place, previous to the examination thereof by the proper officer of customs, except under the authority or care of such officer, any goods imported into Malta, or 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; or
- (d) carries into any government or other warehouse any goods entered to be warehoused, or to be rewarehoused, except with the authority or under the care of the proper officer of customs, and in such manner, and by such roads or ways and within such time as such officer may direct; or
- (e) knowingly assists or is otherwise concerned in the illegal removal or withdrawal of any goods from any government or other warehouse or place of security in which they have been deposited; or
- (f) knowingly harbours, keeps or conceals, or knowingly permits or suffers, or causes or procures to be harboured, kept or concealed, any prohibited, restricted, or uncustomed goods, or any goods which have been illegally removed without payment of duty from any government or other warehouse or place of security in which they have been deposited; or
- (g) knowingly acquires possession of any such goods; or
- (h) is in any way knowingly concerned in carrying, removing, depositing, concealing, or in any manner dealing with any such goods with intent to defraud the Government of any duties thereon, or to evade any prohibition or restriction of or applicable to such goods; or

-
- (i) is in any way knowingly concerned in any fraudulent evasion or attempt at evasion of any duties of customs, or of the laws and restrictions of customs, relating to the importation, unshipping, transshipping, landing and delivery of goods or otherwise contrary to this Ordinance; or
 - (j) obstructs any officer of customs or other person duly employed for the prevention of smuggling, in the execution of his duty or in the seizing of any goods liable to forfeiture under this Ordinance; or
 - (k) aids, abets or assists in committing any of the foregoing offences; or
 - (l) exports, or attempts to export, or knowingly aids or abets the exportation of any article the exportation of which is subject to the payment of duty or to any restrictions or to the observance of any conditions, without the payment of duty or the observance of any such restrictions or conditions; or
 - (m) makes any statement or furnishes any document or information which, to his knowledge, is false in a material particular, or recklessly makes any statement which is false in a material particular; or
 - (n) fails within the time stipulated in article 6(3) of the Import Duties Act, to make a proper entry of any goods on which he is liable to pay duty in terms of subarticle (2) of the said article, Cap. 337.

shall for each such offence be liable to a fine (*multa*) equivalent to three times the amount of duty payable on the goods or five hundred and eighty-two euro and thirty-four cents (582.34), whichever is the greater, so however that one third of this amount shall be deemed as a civil debt owed and payable to the Department of Customs, or to such fine together with imprisonment for a term not exceeding two years, and the offender may be either detained or proceeded against by summons, in the same manner and form, and subject to all other provisions laid down in the Criminal Code:

Provided that -

- (a) where the goods in respect of which the offender is proceeded against are any of the goods set out in the Schedule hereto, the punishment of imprisonment herein prescribed shall in every case be applied;
- (b) in the case of a second or subsequent conviction for any offence under this article within a period of twelve months from the date of the previous conviction the offender shall be liable to imprisonment for a term from six months to three years, in addition to the pecuniary penalties herein prescribed; and
- (c) that the penalties imposed by this article shall not apply in the case of an offence in connection with the importation of goods contrary to a prohibition or restriction where a penalty is expressly prescribed for

that offence by the enactment or other instrument imposing the prohibition or restriction.

Imposition of
compromise
penalties.
Added by:
VI. 1973.5.
Amended by:
XIII. 2005.15;
XXXII. 2007.28;
L.N. 407 of 2007.

63. Notwithstanding any other provision of this Ordinance, in the case of any irregularity which, if undetected, would involve loss of customs duty not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69), the Comptroller may, with the concurrence of the importer, impose a penalty equivalent to the duty endangered as an alternative to proceedings in court:

Provided that the provisions of this article may also be applied in the case of breaches of this Ordinance involving goods which are not dutiable in which cases the amount of the duty endangered shall be deemed, for the purposes of this article to be equivalent to five per cent of the value of the goods.

Extinction of
criminal liability in
certain cases.
Added by:
XXXVI. 1989.5.

63A. (1) Notwithstanding any other provision of this Ordinance, the Comptroller may, only as far as the provisions of this Ordinance are concerned, enter into an agreement in writing with the offender whereby the said offender pays a sum equivalent to the fine (*multa*) that would be due by way of penalty in accordance with the provisions of this Ordinance, and upon the signing of any such agreement by the Comptroller and the offender, all criminal liability of the offender under this Ordinance, with regard to the offences in relation to which the agreement has been entered, shall be extinguished:

Provided that any forfeiture contemplated in the Ordinance as a consequence to the offence to which the agreement relates, shall notwithstanding such agreement, still take effect unless the offender elects to pay also to the Comptroller, a sum equivalent to the value of the goods forfeited together with any amount of duty or levy due thereon. Such value shall be determined in accordance with the provisions of the Import Duties Act.

Cap. 337.

(2) The provisions of subarticle (1) shall apply also in any case where the offender has been charged before a court in relation to the offence, but before final judgment has been given in the case:

Provided that where proceedings before a court have not been commenced, the sum payable in accordance with any agreement as contemplated in subarticle (1) shall be reduced by ten *per centum*.

(3) The provisions of subarticle (1) shall not apply in relation to an offence concerning goods mentioned in the Schedule to this Ordinance.

(4) Any sum due in virtue of an agreement entered into in terms of subarticle (1), shall be due to the Government as a civil debt. The Comptroller shall not enter into an agreement as is referred to in subarticle (1), unless such agreement is accompanied by the payment of the sum due or a sufficient security for its payment.

64. Where under this Ordinance or any other law relating to Customs any sum of money is due by the master of a vessel whether by way of a pecuniary penalty or otherwise, the vessel as well as the master personally shall be liable for the payment thereof.

Vessel and master liable for payment of fines.
S. 34 of Ord. VI of 1840, incorporated. Substituted by: XIII. 1979.28.

PART XII

POWERS AND PROCEDURE

65. (1) Every offence provided for in this Ordinance shall, to all legal intents and purposes, be deemed a crime within the meaning of the Criminal Code and, subject to the special provisions of this Ordinance, be dealt with as such.

Application of Criminal Code. Cap. 9.

(2) The provisions of the Criminal Code relating to the punishment described in that Code as a fine (*multa*) shall apply to the pecuniary penalties laid down in this Ordinance.

Cap. 9.

66. All proceedings for the recovery of any pecuniary penalty or otherwise under this Ordinance shall be taken before the Court of Magistrates, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said court as a court of criminal judicature and the award and execution of the punishments thereby imposed, and shall be subject to appeal as provided in article 88 and, as regards procedure, as provided by the said Code for appeal from the decisions of the said court.

Proceedings for the recovery of penalties. *Amended by: XXXI. 1963.3; X. 1972.3; XIII. 1979.29; VIII. 1990.3.* Cap. 9.

67. Notwithstanding the provisions of any other law, any goods seized under the provisions of this Ordinance and exhibited in court during the relative proceedings, shall -

Delivery to Comptroller of goods seized. *Added by: XLI. 1974.2. Amended by: XIII. 1979.30.*

- (a) where on conviction by the Court of Magistrates the goods seized are to be forfeited and no appeal from the conviction is entered before the expiration of the time allowed for entering an appeal or any such appeal is abandoned; or
- (b) on an appeal entered by the defence or by the prosecution, where the Court of Appeal confirms the conviction or finds the accused guilty,

become the property of the Government and no application shall be required to be made to the competent court by the Comptroller to take possession thereof.

68. (1) All vessels, vehicles or other conveyances, together with all horses and other animals and things knowingly made use of in the importation, landing, removal, keeping, concealing or conveyance of any uncustomed or other goods liable to forfeiture under this Ordinance shall be forfeited:

Vessels, vehicles, etc., made use of in the importation, etc., of uncustomed goods to be forfeited. *Amended by: XVI. 1960.3; XIII. 1979.31; XIII. 1983.5; XIX. 1985.28; XXXII. 2007.29; L.N. 407 of 2007.*

Provided that no vessel shall be liable to forfeiture under the provisions of this article, unless such vessel is under two hundred and fifty tons burden.

- (2) With regard to any vessel of or exceeding two hundred and

fifty tons burden, it shall be lawful for the Comptroller, in any case in which in his opinion a responsible officer of such vessel is implicated either actually or by neglect, to take proceedings in the manner prescribed by article 66 and subject to appeal as laid down in that article, for condemnation of the said vessel in a sum of one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69). And for this purpose the Comptroller may require, as to any vessel referred to in this subarticle, the deposit in his hands of a sum of one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) to abide the decision of the court, and in default of payment of such deposit, the Comptroller may detain such vessel.

(3) No claim shall be made against the Comptroller for damages in respect of the payment of any deposit or the detention of any vessel under this article.

Definition of "responsible officer".

(4) The expression "responsible officer" in this article means and includes the master, mates and engineers of any vessel, and, in the case of a vessel carrying a passenger certificate, the purser or chief steward.

Definition of "neglect".

(5) The expression "neglect" includes cases where goods unowned by any of the crew are discovered in a place or places in which they could not reasonably have been put if the responsible officers having supervision of such place or places had exercised proper care, at the time of the loading of the ship or subsequently.

Definition of "burden".

(6) The expression "burden" shall mean net registered tonnage.

Ships, etc., liable to forfeiture may be seized in any place.
Amended by:
XVI. 1960.3.

69. (1) All ships, goods, vehicles or other conveyances, together with all horses and other animals and things liable to forfeiture, may be seized in any place, either upon land or water, by any officer of customs or Police officer, and ships, goods, vehicles or other conveyances together with all horses and other animals and things so seized shall forthwith be delivered into the care of the Comptroller.

(2) The forfeiture of any ship, vehicle or animal shall be deemed to include the tackle, apparel and furniture thereof, and the forfeiture of any goods shall be deemed to include the package in which the same are found and all contents thereof.

Examination of goods lying under customs control.
Added by:
XIX.1985.29.

69A. (1) The Comptroller may, upon reasonable suspicion, direct that any packages lying under customs control be opened and their contents examined for the purpose of ascertaining that the provisions of this Ordinance and of any other law relating to customs are being complied with.

(2) A reasonable notice of the opening and examination of the goods shall be given to the consignee, if known, so that he or his agent may attend.

(3) If the circumstances do not permit that such notice be given it shall be dispensed with.

(4) The Comptroller shall not, on account of any such opening or examination, be liable to any action whatsoever.

70. (1) Any officer of customs or Police officer may, upon reasonable suspicion, stop and examine any cart or other conveyance, to ascertain whether any smuggled goods are contained therein; and if no smuggled goods are found, such officer shall not, on account of such stoppage and examination, be liable to any action or prosecution.

Officers may stop carts, etc., and search for goods.
Amended by:
XIII. 1979.32;
XIII. 1983.5;
L.N. 407 of 2007.

(2) Any person driving or conducting such cart or other conveyance who refuses to stop or allow such examination on being so required shall be liable to a fine (*multa*) not exceeding two hundred and thirty-two euro and ninety-four cents (232.94).

71. (1) If any officer of customs or Police officer has reasonable cause to suspect that any prohibited or uncustomed goods are harboured, or kept or concealed in any house, building or other enclosure, within the meaning of article 355E of the Criminal Code, and this is made to appear by a declaration on oath before the Attorney General or a magistrate, it shall be lawful for the Attorney General or such magistrate, by warrant under his hand, to authorize such officer to enter and search such house, building or other enclosure, and to seize and carry away any prohibited or uncustomed goods found therein:

Officers may search premises by warrant granted by Attorney General or magistrate on reasonable cause shown.
Amended by:
VII. 1911.3;
XXXI. 1963.4;
XXXII. 2007.30.
Cap. 9.

Provided that, where any officer of customs or Police officer has reasonable cause to suspect that any prohibited or uncustomed goods are harboured, or kept or concealed in any such place as aforesaid and has reasonable cause to apprehend that there is imminent danger that any such goods will be removed or suppressed, such officer of customs, if authorized in that behalf by the Comptroller of Customs, or such Police officer, if authorized in that behalf by the Commissioner of Police may exercise in relation to such place as aforesaid, the powers mentioned in this article in the same manner as if he were authorized so to do by a warrant issued under this article.

(2) It shall be lawful for such officer, in case of resistance, to break open any door and to force and remove any impediment or obstruction to such entry, search or seizure as aforesaid.

72. (1) Whenever any seizure is made, except in the presence of the offender or owner, of any things as forfeited under this Ordinance, the seizing officer shall give notice in writing of such seizure and of the grounds thereof to the owner of the things seized, if known, either by delivering the same to him personally or by letter addressed to him and transmitted by registered post to or delivered at his last known place of abode or business in Malta.

Notice to be given to owner of goods seized.
Amended by:
XVI. 1960.3;
L.N. 4 of 1963;
XIX.1985.30;
XII. 2001.9.

(2) All seizures made under this Ordinance shall be deemed to be forfeited as of right, and may be sold or otherwise disposed of as the Minister responsible for customs may direct, unless the person from whom such seizure has been made, or the owner thereof, or some person authorized by him, within thirty days from the date of seizure, gives notice in writing to the Comptroller, that he claims the things so seized or intends to claim them, whereupon proceedings shall, within thirty days from the date upon which such notice was given, be instituted by the claimant in the competent civil court, according to the value of the things seized, in default of

Seizures to be claimed within thirty days.

which the claim shall be taken to be abandoned.

Perishable goods,
etc., may be sold.

(3) When any thing seized in accordance with this article is a ship or vessel or is of a perishable nature or is, in the opinion of the Comptroller, likely to suffer very substantial loss of value by the lapse of time, or consists of a living creature, the same may, by direction of the Comptroller, be sold, and the proceeds thereof retained to abide the results of any claim that may be legally made in respect thereof and for the purpose of any proceedings taken under this Ordinance in respect of the seized goods, such proceeds shall represent and substitute the said seized goods.

(4) Where a seizure made in accordance with this article is contested in accordance with subarticle (2) thereof, the Comptroller may, at any time, if he sees fit and notwithstanding the pendency of the proceedings wherein the seizure is contested, deliver anything seized to any claimant upon his paying to the Comptroller such sum as the Comptroller thinks proper, not exceeding that which in the opinion of the Comptroller represents the value of the thing, including any duty, levy or tax chargeable thereon, which has not been paid or upon giving to the Comptroller such security acceptable to the said Comptroller for the payment of such sum. Such sum or such security, as the case may be, shall be retained to abide the result of any claim that may be legally made in respect thereof and shall for the purpose of any proceedings taken under this Ordinance in respect of the seized goods represent and substitute the said seized goods.

Special court
proceedings.
Added by:
XLI. 1974.3.
Substituted by:
XIII.1979.33.

73. (1) Where any person desires to sue in any court as a consequence of, or incidentally to, the seizure of any goods under the provisions of this Ordinance, the proceedings shall be instituted by an application.

(2) The application shall, under pain of nullity, state clearly and concisely the nature of the complaint, the facts out of which the complaint arises, the reasons why such complaint should be upheld, and the claim for the release of the goods seized.

(3) The applicant shall attach to the application all such documents in support of his claim as it may be in his power to produce, and shall indicate in his application the names of all the witnesses he intends to produce stating, in respect of each, the proof which he intends to make.

(4) The court shall, without delay, set down the application for hearing at an early date, which date shall in no case be later than thirty days from the date of the filing of the application.

(5) The application, and the notice of the date fixed for hearing, shall be served on the Comptroller of Customs without delay, and the said Comptroller shall file his reply thereto within fifteen days after the date of the service of the application.

(6) The Comptroller of Customs shall, in his reply, state clearly and concisely whether he agrees to the facts set out in the application, and the reasons why he objects to the claim; he shall moreover state in his reply the names of the witnesses in support of his reasons and shall attach thereto all the documents in support

thereof.

(7) On the day fixed for the hearing of the application, the court shall consider the issues of fact and of law as are ascertainable only from the application, reply or documents filed by either of the parties, or from the evidence indicated by either of the parties in the application or reply, as the case may be, or from the oral pleading of either of the parties.

(8) The court shall hear the application to a conclusion within five working days from the date fixed for the original hearing of the application, and no adjournment shall be granted except either with the consent of both parties or for an exceptional reason to be recorded by the court, and such adjourned date shall not be later than that justified by any such reason.

(9) Saving the preceding provisions of this article, the provisions of the Code of Organization and Civil Procedure relating to proceedings before the First Hall of the Civil Court shall apply in relation to any such application.

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74. (1) If, where anything is delivered or sold in accordance with article 72 or is destroyed in accordance with any of the provisions of this Ordinance or of any other law, it is held in proceedings taken under this Ordinance that the thing was not liable to forfeiture at the time of its seizure, the Comptroller shall, subject to any deduction allowed under subarticle (2), offer on demand in writing by the claimant to him -

Compensation for goods not liable to forfeiture.
Amended by:
XVI. 1960.3.
Substituted by:
XII. 2001.10.

- (a) an amount equal to any sum paid by him or the security given by him under article 72(4); or
- (b) where he has sold the thing, an amount equal to the proceeds of the sale; or
- (c) where he has destroyed the thing, an amount equal to the market value of the thing at the time of its seizure.

(2) Where the amount to be tendered under subarticle (1)(a), (b) or (c) or the security tendered includes any sum on account of any duty, levy or tax chargeable on the thing which has not been paid before its seizure, the Comptroller may deduct so much of that amount or security as represents that duty, levy or tax.

(3) If the claimant accepts any amount tendered to him under subarticle (1), he shall not be entitled to maintain any action on account of the seizure, detention, sale, or destruction of the thing or of any other matter consequential thereto.

(4) For the purpose of subarticle (1)(c), the market value of anything at the time of its seizure shall be taken to be such amount as the Comptroller and the claimant may agree or, in default of agreement, as may be determined by a referee appointed by the Court of Magistrates upon the application of the Comptroller or the claimant, whose decision shall be final and conclusive; and the procedure on any reference to a referee shall be such as may be determined by the referee or directed by the Court of Magistrates.

Seizures may be restored and punishments remitted by President of Malta.
Amended by:
XXXIX. 1965.6;
LVIII. 1974.68.

Prescription.
Amended by:
XVI.1960.3;
XXXI. 1963.5.
Substituted by:
XIX. 1985.31.
Amended by:
XII. 2001.11.
XXXII. 2007.31.

Burden of proof in smuggling cases.
Amended by:
XXXI.1963.6.

How value is to be ascertained.
Substituted by:
XIII. 1963.34;
XII. 2001.12.
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Signing of entry for importation or exportation of goods.
Added by:
XIII. 1979.35.
Amended by:
XIII. 1983.5;
L.N. 407 of 2007.

75. When any seizure has been made, or any penalty or forfeiture incurred under this Ordinance, the President of Malta may direct the restoration of such seizure, whether condemnation has taken place or not, or waive proceedings, or mitigate or remit such penalty or forfeiture, on such terms and conditions as he may see fit.

76. (1) Any proceedings for any offence against this Ordinance and any proceedings for the recovery of any pecuniary penalty or otherwise under this Ordinance shall be instituted by or in the name of the Comptroller.

(2) Such proceedings shall be instituted within ten years from the day of the commission of the offence.

77. If, in any claim in respect of any goods seized for non-payment of duties, or any other cause of forfeiture, or in any prosecution for the recovery of any pecuniary penalty or otherwise under this Ordinance, any dispute arises whether the duties of customs have been paid in respect of such goods, or whether the same have been lawfully imported or lawfully transhipped or unshipped, or concerning the place from where such goods were brought, then and in every such case the proof thereof shall be on the person making such claim or on the defendant in such prosecution, as the case may be.

78. In all cases where the value of the goods is relevant for the determination of any penalty, such value shall, as regards proceedings in court, be determined in accordance with the rules contained in the Third Schedule to the Import Duties Act, and the Annex thereto.

79. (1) No person shall sign an entry for the importation or exportation of goods unless he is the importer or exporter of the goods declared on such entry, or unless he is authorised for the purpose by the importer or exporter thereof, and, in any such case, such entry shall be signed on behalf of such importer or exporter, as the case may be.

(2) Any person signing an entry for the importation or exportation of goods, whether in his own name or on behalf of any other person, shall enter thereon his name and address and the number of his identity card.

(3) Any person who signs an entry for the importation or exportation of goods, not being the importer or exporter thereof, without having the authority so to sign shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than two hundred and thirty-two euro and ninety-four cents (232.94) but not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69), or to imprisonment for a term of not less than one month but not exceeding six months, or to both such fine and imprisonment.

PART XIII

GENERAL PROVISIONS

80. (1) It shall be lawful for the Minister responsible for customs, from time to time, to make, and when made, to alter or revoke regulations for the working of the customs department and generally for giving effect to any of the purposes of this Ordinance.

Power of Minister responsible for customs to make regulations.

Amended by:
L.N. 4 of 1963;
XIII. 1979.36;
XIII. 1983.5;
XXXII. 2007.23;
L.N. 407 of 2007.

(2) Any regulations made under subarticle (1) may provide that any person who contravenes or fails to comply with any of those regulations shall be guilty of an offence, and such regulations may provide for the penalty of a fine (*multa*) not exceeding one thousand and eight hundred and sixty-three euro and fifty cents (1,863.50) or an amount equal to three times the duty payable on any goods in respect of which the offence is committed, whichever shall be higher, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment, in respect of any conviction.

(3) Where any regulations made under subarticle (1) do not provide for any punishment, any person who contravenes, or fails to comply with, any of those regulations shall be liable, on conviction, to a fine (*multa*) not exceeding four hundred and sixty-five euro and eighty-seven cents (465.87).

80A. For the purpose of implementing obligations in pursuance of bilateral or multilateral agreements or other arrangements, the Comptroller shall co-operate with other customs services on matters of mutual concern and may for that purpose -

Giving effect to reciprocal agreements.

Added by:
XII. 2001.13.

- (a) give effect, in accordance with such arrangements as he may direct or as the Minister responsible for customs may by regulations prescribe, to any requirements or practice as to the movement of goods between countries; and
- (b) give effect to any reciprocal arrangements made with other customs services for securing, by the exchange of information or otherwise, the due administration of their customs laws and the prevention or detection of fraud or evasion.

81. The Minister responsible for customs may by regulations made under this article amend or revoke the Schedule hereto.

Power to amend or revoke Schedule.

Added by:
XXXI. 1963.7.

81A. (1) The Minister responsible for customs may make regulations to prescribe the forms to be used in accordance with and for the purposes of any provisions of this Ordinance and of any regulations made thereunder and, from time to time, to amend, substitute, revoke and add to any such forms.

Minister may prescribe forms.

Added by:
XIX.1985.32

(2) The revocation or alteration of any forms as provided in subarticle (1) shall not affect any penalty, forfeiture or punishment incurred before such revocation or alteration.

Power to prohibit imports.

Added by:
IV. 1938.2.

Amended by:
XIV.1958.2;
XXV. 1962.4;
L.N. 4 of 1963;
XX. 1963.2;
XXXV. 1975.58.

82. (1) The Minister responsible for customs may, by regulation, prohibit, restrict or regulate the importation into Malta, whether by sea or air, of any goods or class of goods.

(2) A regulation under this article may specify any goods or class of goods, either generally or in any particular manner, whether with reference to the country of origin, or the route of importation or otherwise.

(3) Where the Comptroller of Customs has reason to suspect that any printed matter, including any newspaper, of a pornographic or obscene character has been imported into Malta in contravention of any regulations made under subarticle (1), but so that no other offence against this Ordinance is committed in connection with or for the purpose of the importation thereof, the Comptroller of Customs may detain and open and, subject to the provisions of the next following subarticle, with the written authority of the Minister responsible for customs, destroy such printed matter.

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(4) The provisions of the Second Schedule to the Post Office Act shall apply to any printed matter detained under the last foregoing subarticle, and for the purpose of this subarticle -

(a) the references in that Schedule to the Postmaster General shall be construed as if they were references to the Comptroller of Customs;

(b) the references to the Minister in paragraphs 5 and 7 of that Schedule shall be construed as if they were references to the Minister responsible for customs; and

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(c) the references in that Schedule to the detaining of printed matter under article 27 of the Post Office Act, and to delivery through the post shall be construed as if they were references to the detaining of printed matter under subarticle (3) and to release from Customs respectively.

(5) The provisions of subarticles (3) and (4) shall be without prejudice to any seizure, forfeiture, remedy, right of proceeding or penalty established by the other provisions of this Ordinance in respect of any article, other than printed matter to which subarticle (3) applies, imported in contravention of regulations made under subarticle (1).

Regulations to be published in the Government Gazette.

Amended by:
XXV. 1962.4;
L.N. 4 of 1963;
XXXI. 1963.8;
L.N. 46 of 1965.

83. Any regulations made by the Minister responsible for customs under this Ordinance shall be published in the Government Gazette and shall have the same effect as if they formed part of this Ordinance. A copy of such regulations shall, as soon as practicable, be laid on the Table of the House of Representatives:

Provided that, in the case of any regulations made under article 81, if the House of Representatives, within a period of twenty days, beginning with the day on which any such regulations are laid before it, resolves that they be annulled, the same shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of any new regulations. In reckoning any period for the purposes of this proviso no account

shall be taken of any time during which the House of Representatives is dissolved or prorogued or during which it is adjourned for more than four days.

84. The provisions of this Ordinance relating to the entry, unshipment, landing or shipment of goods, shall, as far as they are applicable, be deemed to apply to and include goods unshipped in transit or for the purpose of transshipment.

Application of Ordinance to transshipments.

85. (1) It shall be lawful for the President of Malta, by a notice published in the Government Gazette, to authorize any Customs and Excise officer or any officer of customs to exercise, within such limits as shall be by a notice published as aforesaid be prescribed by the President of Malta, such functions as by any law or regulations made thereunder, are vested in the officers of the Executive Police.

Power of President of Malta to authorise certain customs officers to exercise the duties of Police officers.
Amended by:
XXXIX. 1965.6;
LVIII. 1974.68;
L.N. 148 of 1975.

(2) Before any such officer or person shall exercise any of the functions referred to in subarticle (1), he shall take the oaths here following:

Oaths.

(a) I do solemnly swear/affirm that I will bear true faith and allegiance to the people and the Republic of Malta and its Constitution. (So help me God).

(b) I.....do swear that while holding the office of (*insert description of office*) I will to the best of my knowledge and ability discharge the functions of an officer of the Executive Police faithfully and according to law.

86. (1) The President of Malta may award to any officer arresting any individual liable to arrest under this Ordinance and to any person giving information leading to the conviction of any such individual, such reward as he may think fit, not exceeding the sum of forty-six euro and fifty-nine cents (46.59) for each individual, provided such individual is actually convicted.

Rewards.
Amended by:
XXXIX. 1965.6;
LVIII. 1974.68;
XIII. 1983.5;
L.N. 407 of 2007.

(2) The President of Malta may order to be paid, in respect of any seizure made under this Ordinance, to the person or persons making the same and to any person or persons through whose information or means such seizure shall have been made, such rewards as he may see fit, not exceeding the value of the goods or things so seized; and for this purpose the value of the goods or things seized as aforesaid shall be determined in accordance with the provisions of article 78.

87. The provisions of article 21 of the Criminal Code and of the Probation Act, shall not be applicable in respect of any offence against the provisions of this Ordinance or of any regulations made thereunder.

Non-applicability of article 21 of the Criminal Code, etc.
Added by:
XIII. 1979.37.
Cap. 9.
Cap. 446.

Right of appeal.
Added by:
XIII. 1979.37.
Amended by:
VIII. 1990.3.
Cap. 9.

88. Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgment given by the Court of Magistrates in respect of criminal proceedings arising out of the provisions of this Ordinance.

Added by:
XXXI. 1963.9.
Amended by:
XXX. 1980.2.

SCHEDULE

(Article 62)

1. Tobacco.
 2. Wines and spirits.
 3. Firearms.
 4. Ammunition.
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