



# **CUSTOMS RULES AND REGULATIONS OF BHUTAN: REVISED EDITION 2023**

Royal Government of Bhutan  
Ministry of Finance  
Department of Revenue & Customs





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**ROYAL GOVERNMENT OF BHUTAN**  
**MINISTRY OF FINANCE**  
**TASHICHODZONG**

**MoF/DRC/Cus & Ex/2023/2750**

**31 March 2023**

**Foreword**

In exercise of the powers conferred by Section 187 under Chapter 22 of the **The Customs Act of Bhutan 2017**, the Ministry of Finance hereby promulgates the rules namely **The Customs Rules and Regulations of Bhutan: Revised Edition 2023**.

Therefore, the Ministry of Finance is pleased to issue The Customs Rules and Regulations of Bhutan: Revised Edition 2023 which shall extend to the whole of the Kingdom of Bhutan. The revised Customs Rules and Regulations have been developed with the goal of providing a more transparent, predictable, and simplified customs regime. The changes have been made to ensure that the upcoming eCMS system is fully integrated with the customs rules and regulations, and that it meets the needs of all stakeholders, including importers, exporters, and customs officials.

As we strive towards a more dynamic and competitive economy, it is imperative that we have a modern, efficient, and transparent customs process that promotes trade facilitation while ensuring compliance with our laws and regulations. The revised rules have been designed to provide greater clarity and consistency in the interpretation and application of customs laws, reduce the time and cost of doing business, and promote transparency and accountability.

The Customs Rules and Regulations of Bhutan: Revised Edition 2023 shall supersede all previous rules. This Rules shall come into force from the 11<sup>th</sup> Day of 2<sup>nd</sup> Month of the Water Female Rabbit Year corresponding to 1<sup>st</sup> April, 2023.

**Namgay Tshering**  
**Finance Minister**  
**Ministry of Finance**  
**Royal Government of Bhutan**



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In exercise of the powers conferred by section 187 of the Customs Act of Bhutan 2017, the Ministry of Finance hereby promulgates the Customs Rules and Regulations of Bhutan: Revised Edition 2023 as follows:

## **CHAPTER 1 PRELIMINARY**

### **Title and Commencement**

1. This Regulation:
  - (1) is called the Customs Rules and Regulations of Bhutan: Revised edition 2023; and
  - (2) comes into force from the 11<sup>th</sup> day of 2<sup>nd</sup> month of the Water Female Rabbit Year corresponding to 1<sup>st</sup> day of the 4<sup>th</sup> month of 2023.

### **Repeal**

2. Subject to section 3 of this rule, Customs Rules and Regulations of Bhutan 2017 is repealed on 1<sup>st</sup> Day of April 2023.

### **Saving**

3. Notwithstanding section 2 of this Rule –

The annexures to the Customs Rules and Regulations of Bhutan 2017 shall remain valid until such time as superseded by Schedule of Annexures upon implementation of eCMS (Electronic Customs Management System)

## **CHAPTER 2**

### **AUTHORITY, STRUCTURE, FUNCTIONS, DESIGNATION, UNIFORMS AND COMPLAINTS**

#### **Authority**

4. The Department shall, in execution of the powers conferred by the Act, regulate air passengers, persons, and imports, exports, transits, transshipment and warehoused goods by land, water, air and rail.

#### **Structure**

5. The Department, in accordance with **Annex 1** of the Schedule, comprise:
  - (1) Head Office, Department of Revenue and Customs, Ministry of Finance, Royal Government of Bhutan;
  - (2) Regional Revenue and Customs Offices (RRCO);
  - (3) Liaison and Transit Office stationed outside the territory of Bhutan; and
  - (4) Other offices, Customs Stations and Customs Areas that the Department may, upon the approval of the Ministry, designate from time to time.

#### **Functions**

6. The Department shall be entrusted with the executive and administrative responsibility for assessing, collecting and accounting of national revenue and other administrative responsibility delegated by the Ministry from time to time.
7. The Department shall enforce the Customs Act of Bhutan 2017, this Regulations and other empowered laws in force in the Kingdom of Bhutan pertaining to:

- (1) control of movement of goods, person and conveyance across the national territorial borders;
  - (2) facilitating legitimate international trade;
  - (3) simplifying and harmonizing Customs procedures and processes;
  - (4) compiling and publishing Merchandise Trade Statistics;
  - (5) coordinating and partnering with other relevant government Departments and agencies;
  - (6) consulting and partnering with the business community and private sectors;
  - (7) ensuring security in cross-border trade in goods.
8. The Head Office shall determine the roles, responsibilities and organizational structure of the regional offices, Customs Stations, Customs Areas and the liaison and transit office.
9. The Head Office shall be responsible for approving changes to the organizational structure and human resources.
10. The Head Office shall have the following responsibilities:
  - (1) advise the Ministry on policy matters relating to Customs and prepare policy documents and legislations.
  - (2) interpret and clarify existing Rules and Regulations;
  - (3) notify the public, well in advance, of the changes in legislation and procedures prior to its implementation;
  - (4) ensure uniform and fair implementation of the Act and this Regulation, including other law which is delegated to Department for enforcement;
  - (5) supervise and monitor RRCO's activities pertaining to assessment and collection of national revenue and the control of goods crossing the borders of Bhutan for import, export and transit;
  - (6) issue exemption certificates;

- (7) conduct audit and other vigilance work connected with national revenue;
  - (8) compile and publish trade statistics;
  - (9) liaise with the World Customs Organization, regional Customs administrations and other relevant international agencies.
11. The Regional Revenue and Customs Office/Liaison and Transit Office shall have the following responsibilities:
- (1) advise the Head Office on policy matters relating to Customs;
  - (2) effect clearance of passenger, baggage and goods for import, export, transit, transshipment and warehousing;
  - (3) assess and collect Customs duty and to monitor national revenue within its jurisdiction;
  - (4) supervise and coordinate with subordinate offices and agencies in its region with regard to the collection of revenue and the control of cross-border movements, including:
    - (a) regulating flow of goods in and out of the country; and
    - (a) controlling and preventing trade in restricted and prohibited goods.
  - (5) conduct post-clearance audit, verification and other vigilance work connected with Customs matters;
  - (6) carry out duty refund;
  - (7) carry out any other responsibility that may be delegated by the Head Office.

### **Designation and Uniform of Officials**

12. The Department comprise following level of officials:
- (1) Collector, head of the Division in the head office;
  - (2) Principal Customs and Excise Officer (Specialist)
  - (3) Regional Director, head of the regional office;
  - (4) Joint Collector;
  - (5) Deputy Collector;

- (6) Assistant Collector;
  - (7) Assistant Customs Officer; and
  - (8) Senior Customs Inspector I
  - (9) Senior Customs Inspector II
  - (10) Senior Customs Inspector III
  - (11) Customs Inspector I
  - (12) Customs Inspector II
  - (13) Customs Inspector III
13. The Department shall formulate the code of conduct for proper application of Ranks and Uniforms.

### **Complaint Against Officials**

14. If professional ethics of a Customs Official is compromised, a person shall make a complaint against such Customs official to the head of the Department.
15. If an issue raised by the complainant under section 14 of this Regulation is not valid or beyond the competence of the Department, the head of the Department shall have the right to reject such complaint.
16. A person shall submit a written complaint under section 14 of this Regulation to the Department.

## **CHAPTER 3**

### **CUSTOMS STATION AND CUSTOMS AREA**

#### **Customs Station**

17. Pursuant to section 14 of the Act, the Department shall by an office order designate Land Customs, Check post, Port of entry/exit, Airport, Dry Port, Train Station or any other place as a Customs Station.

18. The Department shall on a regular basis, update and inform the public and traders on the details of the Customs Station along with jurisdiction and the authority.

### **Designating a New or Replacement of an Existing Customs Station**

19. If required or so directed by the Ministry, the Department may designate a new or replace an existing Customs Station.
20. A person may request the Department to designate a new or replace an existing Customs Station and such request shall be made in writing and must contain all relevant details and documents required by the Department.
21. In order to designate a new or replace an existing Customs Station, the Department may conduct feasibility study considering the following requirements:
  - (1) actual and projected trade or traffic volume;
  - (2) revenue collection;
  - (3) infrastructure and geographical conditions;
  - (4) collaboration and consultation with neighboring country;
  - (5) cost implication;
  - (6) security and economic reasons;
  - (7) possibility of other border enforcement agencies to carry out Customs functions on behalf of the Department;
  - (8) such other requirements made in consultation with the relevant government agencies, private sectors and stakeholders.
22. The Department shall, on timely basis, inspect the Customs Stations and associated areas and assess suitability regarding space, equipment and control arrangements.

## **Customs Area**

23. The Department shall determine the boundary of the Customs Area in a Customs Station.
24. The Department may, upon request from a person, approve a Customs Area outside the Customs Station.
25. The Department shall, as it may consider necessary, approve expansion and designation of Customs Area associated with a Customs Station through proper consultation with the relevant government agencies, private sectors and stakeholders.

## **Office Hours**

26. The Department may, in consultation with the regional offices and relevant government agencies, private sectors and stakeholders, change or harmonize regular office hours.
27. Opening office hours may be aligned with the opening hours of the border agencies.
28. The Department may consider the needs of the private sector, coordinate the regular office hours of the Customs Stations in line with the regular office hours of Customs Station of a neighboring country.
29. Notwithstanding section 26, 27 and 28 of this Regulation, Customs official are eligible for over time fees in accordance with sections 656 to 659 of this Regulation.

## **Loading, Unloading and Temporary Storage**

### **Scope**

30. A place for loading, unloading and temporary storage shall be permitted to be established and operated beyond the designated Customs Station or Area.

### **Application**

31. An applicant under section 30 of this Regulation shall apply electronically for the approval of places of loading, unloading and temporary storage operator.
32. If a person intends to make changes to the approved loading, unloading or temporary storage place, the person shall seek approval for such changes from the department in accordance with **Annex 2** of the schedule.
33. Where an application is found to be incomplete, the regional office shall notify the applicant within 15 working days from the receipt of the application to make necessary changes and provide additional documents, if required.
34. The criteria for a place of loading, unloading and temporary storage facility may include:
  - (1) places under Customs control must be clearly marked as Customs control area;
  - (2) the loading, unloading and temporary storage area is:
    - (a) secured with a single entry and exit gate to ensure proper access control and monitoring;
    - (b) suitable for storing dutiable and taxable goods;



- (c) appropriate measures are put in place to prevent theft, loss or deterioration of the goods; and
    - (d) based on need and appropriateness, equip with separate and suitable storing facility for hazardous and perishable goods;
  - (3) sufficient volume of trade in terms of quantity and value as determined by the Department;
  - (4) good compliance record includes:
    - (a) no history of late duty and tax payment;
    - (b) demonstrated knowledge of all relevant Customs regulations and formalities;
    - (c) no record of customs offence;
    - (d) a system of internal controls capable of detecting illegal or irregular transactions is maintained.
  - (5) proper maintenance of accounts and records;
  - (6) financial solvency;
  - (7) an applicant shall furnish security deposit equivalent to Nu. 500,000 in a form of bank guarantee.
35. A person shall notify the concerned regional office within 30 working days from the date of transfer of ownership, change in location or winding up of a business along with a tax clearance certificate.
36. If transfer of ownership or winding up of a business is found contrary to section 35 of this Regulation, the current owner is liable for any outstanding duty.
37. The concerned regional office shall, prior to inspection reject an application, where:
- (1) an applicant has been convicted of a serious criminal offence linked to any economic activity, conduct of business or is subject to bankruptcy proceedings at the time of the submission

- of the application;
- (2) an applicant's agent or legal representative in Customs matters is convicted of a serious criminal offence related to an infringement of this Regulation;
  - (3) a deficiency in the application notified under section 33 of this regulation is not remedied; or
  - (4) an application is submitted within one year after revocation of the authorization as provided for in section 47 of this Regulation.

## **Examination**

- 38. The regional office shall, prior to granting approval, review an application under section 31 of this Regulation and conduct an onsite assessment and verification of the suitability and conditions of the place.
- 39. If regional office is satisfied that all applicable criteria are fulfilled, it shall approve an application following an onsite assessment and an approval shall be made in accordance with **Annex 2** of the Schedule.
- 40. An approval is valid until suspended or revoked by the regional office.
- 41. Conditions for places of loading, unloading and temporary storage is subject to periodic inspection and review.

## **Suspension and Revocation**

- 42. The Department may suspend an approval given under section 39 of this Regulation in the following cases, where:
  - (1) there is reasonable ground to suspect that an act by or in the name of an authorized trader is liable to result in a criminal

offence and/or is linked to a serious infringement of provisions of the Act and this Regulation

- (2) non-compliance with one or more of the authorization criteria as specified in section 34 of this Regulation is detected and no remedial steps have been taken within 30 working days thereof.
43. An applicant shall be given notice of the proposed action to suspend an approval and such suspension order is deemed valid in case of failure to respond.
44. If the Department is satisfied with the justification and documentary evidence provided by the person, the suspension order shall be withdrawn.
45. The Department may revoke an approval in the following circumstances, where:
- (1) it is already suspended and the person fails to take remedial measure;
  - (2) the person has committed serious infringement of provision of the Customs Act and this Regulations and has no further right to appeal.
46. The Department shall, prior to any decision to revoke an approval, inform an applicant and give an adequate opportunity to justify against such decision.
47. Where an approval is revoked under this Regulation, a person shall not be entitled to reapply for a period of one year from the date of such revocation.

## **Operation Under Temporary Storage Facility**

48. A person may request that goods presented to department be transferred to a temporary storage facility until they are declared to department and cleared from one of the Customs procedures listed under section 58 of the Act.
49. The Customs shall maintain a record of all goods under temporary storage for control and reconciliation purposes
50. A person shall store goods in temporary storage only in places approved by the department in accordance with sections 15 to 17 of the Act and under the conditions stipulated below:
  - (1) keep appropriate records in a form approved by the Department and such records must contain information and particulars which enable Department to supervise the operation of a temporary storage facility, in particular with regard to the identification of goods stored, their clearance status and movements;
  - (2) provide office accommodation, with all requisite furniture, heating and lighting to the satisfaction of the Department, together with goods examination facilities free of expense to the Department;
  - (3) not remove goods from temporary storage without prior approval of the Department;
  - (4) provide adequate staff and equipment, as necessary, for safe and expeditious unloading and loading.
51. A temporary storage facility may store goods from one or more persons.
52. A temporary storage operator shall, at the time of entry, maintain record of goods in the temporary storage facility based on the Cargo/Road/Railway manifest, Air way bill, Bill of lading and

Consignment note submitted to the Department in accordance with sections 210 to 216 of this Regulation.

53. Entry, removal of goods, packing or re-packing, inspections, taking samples, changing container, or any other act must be done only with the permission and under supervision of the Department.
54. Goods in temporary storage are subject only to such forms of handling as are designed to ensure their preservation in an unaltered state without modifying their appearance or technical characteristics.
55. The Department shall have access to the entire temporary storage facility and be empowered to examine the goods therein, as and when necessary.
56. Goods must be stored in secured premises, while bulky or heavy goods that constitute low revenue risk will be allowed to be stored in unenclosed spaces under Department's supervision.
57. A person shall, within 7 working days of entry of the goods in the temporary storage, initiate declaration to the Department and complete the customs procedures.
58. Where temporary storage facility is operated by the Department, a person shall be liable for fees and charges for goods which are not cleared under section 57 of this Regulation, in accordance with **Annex 3** of the Schedule, up to a maximum of 65 working days.
59. Where goods are not cleared within the extended time specified in section 58 of this Regulation, the goods may be confiscated upon notifying the person and dispose of in accordance with sections 173 to 176 of the Act.

60. A person shall promptly remove goods from the temporary storage facility, once it has been cleared by the Department.
61. The concerned authorities or person operating cargo warehouses at international airports shall comply with the conditions for temporary storage facilities under this Regulation.
62. A person shall store goods intended for export, transit and transshipment separately from imported goods.

## **CHAPTER 4 CLASSIFICATION**

### **Classification of the Goods**

63. The classification of goods for import or export is done in accordance with the Bhutan Trade Classification (BTC) & Tariff Schedule and revision thereof.
64. The Department shall upload the BTC publication on its website.
65. The Department shall, to classify goods as stipulated in section 63 of this Regulation, follow the Rules and Guidelines established under the following documents:
  - (1) Harmonized Commodity Description and Coding System's (HS) Explanatory Notes published by the World Customs Organization;
  - (2) notification issued by the Department.

### **National Codes**

66. Upon the approval of the Ministry, the Department shall create, merge, split or delete national BTC code without affecting the Tariff schedule.

67. Any Ministry or government agency responsible for trade policy may consult or submit to the Department proposals to create, merge, split or delete national codes beyond the six digits of the HS.
68. The Department may create notes for the national codes in the BTC to facilitate classification.

## **CHAPTER 5**

### **VALUATION**

#### **Definition**

69. In this chapter, unless the context otherwise requires:

**“Assists”** means the following goods and services which has been supplied directly or indirectly by the buyer free of charge or at reduced cost used in connection with the production or sale for export of the imported goods:

- (1) materials, component, parts and similar items incorporated in the imported goods;
- (2) tools, dyes, molds and similar items used in the production of the imported goods;
- (3) material consumed in the production of the imported goods;
- (4) engineering, development work, artwork, design work, plan and sketch undertaken elsewhere than in Bhutan and necessary for the production of the imported goods.

**“Buying commission”** is the amount paid to a buyer’s agent who acts on behalf of the buyer to find a seller, collecting samples, inspecting goods, and arranging the transport, insurance, storage and delivery of the imported goods to the buyer.

**“Customs Value of imported goods”** means the value of goods for the purposes of levying ad-valorem Customs duty.

**“Customs Valuation”** means the Customs procedure applied to determine the Customs value of imported and export goods.

**“Deductive value”** means the value determined in accordance with section 86 of this Regulation.

**“Free on Board (FOB)”** means the price paid for the goods plus the cost of transportation, loading, unloading, handling, insurance, and associated costs incidental to delivery of the goods at the port or place of export in the country of export to the country of Import.

**“Goods of the same class or kind”** means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods.

**“Identical goods” means imported goods:**

- (1) which are same in all respects, including physical characteristic, quality, and reputation, as goods being valued except for minor differences in appearance that do not affect the value of goods;
- (2) produced in the country in which goods being valued were produced; and
- (3) produced by the same person who produced the goods, or where no such goods are available, goods produced by the different person, but does not include imported goods where engineering, development work, artwork, design work, plan and sketch undertaken in Bhutan has been supplied directly or indirectly by the buyer on those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods.



**“Price actually paid or payable”** means the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods, and includes all payments made as a condition of sale of the imported goods by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller.

**“Produced”** includes grown, manufactured, or mined.

**“Similar goods”** means imported goods:

- (1) which, although are not alike in all respects but having like characteristics and like component materials which enables to perform the same functions and to be commercially interchangeable with the goods being valued having due regard to the quality and reputation;
- (2) produced in the country in which the goods being valued were produced; and
- (3) produced by the same person who produced the goods being valued, or where no such goods are available, goods produced by the different person, but does not include imported goods where engineering, development work, artwork, design work, plan and sketch undertaken in Bhutan has been supplied directly or indirectly by the buyer on those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods.

**“Transaction value”** means the value determined in accordance with section 71 of this Regulations.

## **Determining the Valuation Method on Imported Goods**

70. The Department shall apply the following five methods to determine the Customs value for duty, in the prescribed hierarchical order;

- (1) Transaction Value Method;
- (2) Transaction Value of Identical Goods Method;
- (3) Transaction Value of Similar Goods Method;
- (4) Deductive Value Method;
- (5) Fall Back Method

### **Transaction Value of Imported Goods**

71. For the purpose of section 23 of the Act, the primary basis for determining Customs value of imported goods is the Transaction Value i.e., price actually paid or payable for the goods when sold for export to Bhutan with necessary adjustment in accordance with provisions of section 72(5) of this Regulation.
72. The Department shall accept the value of imported goods under section 71 of this Regulation only when the following conditions are fulfilled:
  - (1) there must be evidence of a sale for export to Bhutan, i.e., commercial invoices, contracts, purchase order, letter of credit, etc.;
  - (2) there must be no restrictions on the disposition or use of goods by the buyer, other than restrictions which:
    - (a) are imposed or required by law or by the public authorities in Bhutan, e.g., license, end-use, etc.,
    - (b) are limited to the geographical area in which the goods may be resold; or
    - (c) do not substantially affect the value of the goods.
  - (3) sale or price of goods is not be subject to any conditions or considerations for which a value cannot be determined with respect to the goods being valued, e.g.:
    - (a) seller establishes the price of the imported goods on the condition that the buyer will also buy other goods in specified quantities;

- (b) price of the imported goods is dependent upon the price or prices at which the buyer sells other goods to the seller;
  - (c) price is established on the basis of a form of payment extraneous to the imported goods.
- (4) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless adjustment can be made in accordance with subsection 72(5) of this Regulation;
- (5) sufficient information is made available to be added to the price actually paid or payable for the imported goods:
  - (a) commissions and brokerage, except buying commissions;
  - (b) packing and container costs and charges;
  - (c) assists;
  - (d) royalties and license fees related to the imported goods that the buyer is required to pay directly or indirectly as a condition of the sale of the goods being valued to the extent that such charges are not included in the price paid or payable;
  - (e) subsequent proceeds;
  - (f) cost of transport, insurance and related charges up to port of entry in Bhutan are available and where the importer does not provide sufficient documentary proof for transport and insurance such cost is ascertained in the following manner:
    - (i) transportation cost at 20% of the FOB value of the goods from the delivery place of country of export to entry point in Bhutan;
    - (ii) insurance cost at 1.125% of the FOB value of the goods from the delivery place of country of export to entry point in Bhutan;
- (6) the buyer and the seller are not related, but even if so related, the application of the transaction value is permitted, if the importer demonstrates that:

- (a) the relationship did not influence the price actually paid or payable;
- (b) the transaction value closely approximates to one of the following occurring at or about the same time:
  - (i) the transaction value in sales to unrelated buyers of identical or similar goods for export to Bhutan;
  - (ii) the Customs value of identical or similar goods as determined in accordance with section 86 of this Regulation.

73. For the purpose of section 72(6) of this Regulation, persons are deemed to be related only if:

- (1) they are officer or directors of one another's business;
- (2) they are legally recognized partners in business;
- (3) they are employer and employee;
- (4) a person directly or indirectly owns, controls or holds 5 percent or more of the outstanding voting stock or shares of both of them;
- (5) one of them directly or indirectly controls the other;
- (6) both of them are directly or indirectly controlled by the third person;
- (7) together they directly or indirectly control a third person;
- (8) they are members of the same family and a person is deemed to be a member of same family if:
  - (a) connected by consanguinity within the third degree or by marriage within the second degree; and
  - (b) one has been adopted as the child of other.

74. In case of goods imported by post, all the postal charges levied till the point of entry into Bhutan must be included.

75. Customs value does not include the following charges, if they are distinguished from the price actually paid or payable for the goods:

- (1) charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation;
- (2) the cost of transport after the point of entry in Bhutan;
- (3) duty and taxes of the country of importation;
- (4) fees that are not related to imported goods;
- (5) loading and handling charges in the transit country including demurrage;
- (6) interest charged under the financing arrangement entered into by the buyer, relating to the purchase of imported goods, provided that the financial arrangement is made in writing;
- (7) cash and the quantity discount offered by the seller provided that the seller is the manufacturer or authorized dealer of the goods. For customs purpose, allowable deduction shall be up to 50% of the discount offered.

### **Transaction Value of Identical Goods**

76. Where the Customs value of imported goods cannot be ascertained under section 71 of this Regulation, the Customs value is assessed on the transaction value of identical goods sold for export to Bhutan and exported at or about the same time i.e., within 90 days as the goods being valued.
77. For the purpose of section 76 of this Regulation, the Department shall, wherever possible, use a sale of identical goods at the same commercial level and in substantially the same quantities as the goods being valued and where no such sale is found, a sale of identical goods that take place under any one of the three condition may be used:
  - (1) sale at the same commercial level but in different quantities;
  - (2) sale at a different commercial level but in substantially the same quantities; or
  - (3) sale at a different commercial level and in different quantities.

78. For the purposes of determining the Customs value of imported goods under section 76 of this Regulation, the transaction value of identical goods is adjusted by adding thereto or deducting there from, as the case may be, to take account of:
- (1) trade level differences;
  - (2) quantity differences;
  - (3) commercially significant differences for transportation costs due to variances in the mode and/or distance of transport.
79. Adjustment under section 78 of this Regulation may be considered, provided there is a basis of demonstrated evidences that clearly establishes reasonableness and accuracy of the adjustment that lead to an increase or decrease in the value between the imported goods and identical goods in question.
80. If more than one transaction value of identical goods is found under this method, then the lowest of such value is used to determine the Customs value of the imported goods.

### **Transaction Value of Similar Goods**

81. Where the Customs value of imported goods cannot be ascertained under sections 71 and 76 of this Regulation, the Customs value is assessed on the transaction value of similar goods sold for export to Bhutan and exported at or about the same time as the goods being valued.
82. For the purpose of section 81 of this Regulation, the Department shall, wherever possible, use a sale of similar goods at the same commercial level and in substantially the same quantities as the goods being valued and where no such sale is found, a sale of similar goods that take place under any one of the three condition may be used:

- (1) a sale at the same commercial level but in different quantities;
  - (2) a sale at a different commercial level but in substantially the same quantities; or
  - (3) a sale at a different commercial level and in different quantities.
83. For the purposes of determining the Customs value of imported goods under section 81 of this Regulation, the transaction value of similar goods is adjusted by adding thereto or deducting therefrom, as the case may be, to take account of:
- (1) trade level differences;
  - (2) quantity differences;
  - (3) commercially significant differences for transportation costs due to variances in the mode and/or distance of transport.
84. Adjustment under section 83 of this Regulation may be considered provided there is a basis of demonstrated evidences that clearly establishes reasonableness and accuracy of the adjustment that lead to an increase or decrease in the value between the imported goods and similar goods in question.
85. If more than one transaction value of similar goods is found under this method, then the lowest of such value is used to determine the Customs value of the imported goods.

### **Deductive Value Method of Identical and Similar Goods**

86. Where the Customs value of imported goods cannot be ascertained under sections 71, 76 and 81 of this Regulation, the Customs value is determined on the basis of unit price at which imported goods or identical or similar goods are sold to the unrelated buyer in the greatest aggregate quantity in Bhutan.

87. For the purpose of section 86 of this Regulation, the sales in Bhutan must fulfill the following conditions:

- (1) goods have been resold in Bhutan in the same condition as it was imported;
- (2) sale of goods being valued or of identical or similar goods have taken place at the same or substantially the same time of importation of goods being valued;
- (3) if no sale took place at or about the time of importation, it is permitted to use sales up to 90 working days after importation of the goods being valued;
- (4) if there is no sale of identical or similar imported goods in the condition it was imported that meet the above requirements, the importer may choose to use sale of goods being valued after further processing;
- (5) purchaser in Bhutan must not have supplied assists, either directly or indirectly;
- (6) purchaser in Bhutan must not be related to the importer from whom goods are bought at the first commercial level after importation.

88. A greatest aggregate quantity is the price at which the greatest number of units sold to an unrelated person at the first commercial level of importation at which such sales takes place and the Commercial invoices issued to a buyer will serve as the primary basis for establishing the price per unit.

89. A deductive value is determined by deducting following specific prices from the established price of the greatest aggregate quantity:

- (1) commission usually paid or agreed to be paid;
- (2) sum of profits and general expenses added in connection with sales or in the absence of such information 20% shall be applied;



- (3) usual transport cost and corresponding insurance incurred in Bhutan or in the absence of such information 21.125% shall be applied;
- (4) Customs duty paid as per the Customs Duty Act of Bhutan 2021 and the amendment thereof
- (5) value added by assembly or further processing, when applicable.

90. The Department shall maintain a record of the Customs value determined under section 86 of this Regulation and update the same in a timely manner.

### **Fallback Value Method**

91. Where the Customs value of imported goods cannot be ascertained under sections 71, 76, 81, and 86 of this Regulation, the Customs value is determined on the Fall back value method which shall be based on Sections 71, 76, 81 and 86 but with reasonable flexibility in the application of the aforementioned methods. The reasonable flexibilities are:

- (1) the requirement that the identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for Customs valuation; customs value of identical imported goods already determined under the provisions of Section 86 and 90 could be used;
- (2) the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of Section 86 could be used;

- (3) the requirement that the goods shall have been sold in the “condition as imported” in section 87 could be flexibly interpreted; the “90 days” requirement could be administered flexibly.

### **Determination of Customs Value of Goods to be Exported**

92. Customs value of export goods is the transaction value presented at the exit point of Bhutan.
93. Notwithstanding section 92 of this Regulation, the Department may, if it considers necessary, determine Customs value using sections 76 and 81 of this Regulation.

### **Conversion of Foreign Currency**

94. Where value of goods for Customs purpose is in a currency other than Ngultrum, the rate of exchange is the selling rate of exchange quoted by the central bank of Bhutan and is applicable even where payment for goods is made prior to importation of the goods at a different rate of exchange.

### **Application Dates for Exchange Rate**

95. A rate of exchange on the import or export goods is the rate in force on the day the Customs declaration is accepted by the Department. For the purpose of exchange rate, the acknowledgement number generated by the Customs system on the date of submission is deemed accepted by the Department.

### **Rejection of Declared Value**

96. The Department shall have the right to satisfy itself, as to the veracity or accuracy of any statement, document or declaration presented for Customs valuation purposes.

97. Where the Department has reason to doubt the veracity or accuracy of a declared value, it may ask the importer to provide further explanation that the declared value represents the total amount actually paid or payable for the imported goods.
98. Where reasonable doubt exists after review of the further explanation or in the absence of a response under section 97 of this Regulation, the Department may decide that the value cannot be determined according to the transaction value method.
99. For the purpose of section 98 of this Regulation, the Department shall communicate its decision with reasoning to the importer, who, in turn, shall be given reasonable time to respond.
100. The Department shall, in writing, communicate to the importer the final decision under section 99 of this Regulation along with its reasoning.

### **Valuation Committee**

101. The Department shall establish Departmental Valuation Committee in the Head Office and Regional Valuation Committee in the regional offices to address and recommend valuation matters.
102. The Departmental Valuation Committee comprise the Head of Customs as the Chairperson supported by minimum of three Customs officials appointed by the Department.
103. The Regional Valuation Committee comprise the Head of Region as the Chairperson supported by minimum of three Customs officials identified by the Head of Customs and approved by the Head of Region.
104. The Department shall prescribe the rules of procedure and terms of reference for the valuation committee.

## CHAPTER 6

### IMPORT AND EXPORT RESTRICTIONS AND PROHIBITIONS

#### **Import and Export Restrictions or Prohibitions**

105. The Department shall enforce restriction or prohibition on the import or export of goods under section 27 of the Act.
106. The concerned agencies shall consult and inform the Department of any restriction or prohibition of goods along with the date of enforcement.
107. The concerned agencies shall, to the extent possible, co-ordinate with the Department in defining the restricted or prohibited goods in accordance with the Bhutan Trade Classification.
108. The permit issued by the relevant agency for restricted goods which are notified to the Department must be produced at the time of import or export of goods.
109. Categories of restricted and prohibited goods are as provided in **Annex 4** of the Schedule.
110. A relevant agency shall, publish and notify, any restriction or prohibition on goods imposed in addition to those contained in **Annex 4** of the Schedule.
111. Any violation of restrictions or prohibitions imposed on import or export of goods is dealt in accordance with the relevant legislations.

## **Cooperation between Responsible Agency and the Department**

112. Pursuant to section 180 of the Act, all responsible agencies shall assist the Department in enforcing restriction or prohibition on import and export of goods under the Act.
113. For the purpose of section 112 of this Regulation, the assistance amongst others include:
- (1) publishing and keeping up-to-date, list of restricted or prohibited commodities in accordance with Bhutan Trade Classification codes and the Department shall assist the responsible agencies in classifying the relevant commodities as per Bhutan Trade Classification;
  - (2) providing guidance with regard to handling and storage of restricted and prohibited goods;
  - (3) accept confiscated goods in line with section 173 of the Act;
  - (4) sale proceeds for disposal of the confiscated goods shall be dealt in accordance with section 653 of this Regulation.

## **CHAPTER 7 LEVY**

### **Levy**

114. For the purpose of section 28 of the Act, goods imported shall be subject to levy of Customs duty as per the Customs Duty Act of Bhutan 2021 and amendment thereof, unless otherwise specified in any other laws in force.
115. Imported goods may be subject to levy of taxes including fees and charges as provided by other laws in force.

116. Customs duty including fees and charges is payable at the time of clearance of goods, unless the Department approves a different Customs procedure.
117. An assessable value for Customs duty on imported goods shall be in accordance with chapter 5 of this Regulation.
118. Goods imported from India with origin from other countries are subject to Customs duty as per the Customs Duty Act of Bhutan 2021 and amendment thereof.

## **Liability**

119. Importer, exporter or authorized clearing and forwarding agents or warehouse operator or custodian of goods or carrier or person, as the case may be, is liable for Customs duty including fees and charges.
120. The Department may accept payment of Customs duty, fees and charges in the form of cash or certified cheque and if payment is made in cheque drawn on a foreign bank, such bank must have an established office in Bhutan.
121. Where e-payment facilities are available, the Department shall, where possible, accept electronic payment.
122. The Department or agent authorized to collect Customs duty, fees and charges shall issue a receipt constituting proof of payment.

## **Duty on Lost or Pilfered Goods**

123. The Department shall not levy Customs duty on goods lost or pilfered under section 31 of the Act, provided that the:

- (1) pilferage took place before the Department made an order for clearance for home use or for deposit into warehouse;
- (2) person proves to the satisfaction of the Department that the imported goods is lost or pilfered;
- (3) pilfered goods is not restored back to the importer;
- (4) lost goods are rendered unusable and beyond repair or recovery;
- (5) lost goods ceased to be of any commercial value for which they were originally intended.

### **Duty on Damaged and Deteriorated Goods**

124. If goods declared to Customs is damaged or deteriorated by accident or force majeure, the Department shall, subject to section 33 of the Act, levy Customs duty in the condition in which they are presented after such accident or forcemajeure.

125. For the purpose of this Regulation, the valuation of damaged or deteriorated goods may consider following options:

- (1) the Department may ascertain the value based on the importer's declaration and in consultation with the Insurance Company;
- (2) where the imported good is not insured and the Department is not able to ascertain the value based on the importer's declaration, other relevant agencies or assessor may be consulted;
- (3) if the Department is not able to ascertain the value based on section 125(1) and 125(2) of this Regulation, then with the consent of the owner, goods may be auctioned, tendered or disposed of in any other manner and the gross sale proceeds is considered to be the value of such goods.

126. If damaged or deteriorated goods are beyond repair, recovery or rendered commercially valueless, the Department shall not levy

Customs duty and the person shall be liable to bear the cost involved in disposal of such goods.

### **Duty on Replacement of Goods**

127. The Department shall not levy Customs duty on replaced goods subject to fulfillment of conditions stipulated under sections 303 to 307 of this Regulation.

128. Notwithstanding section 127 of this Regulation, if a person fails to provide documentary evidence from the principal supplier on return of the goods, such replaced good is subject to Customs duty.

### **Duty on Re-imported Goods**

129. The Department shall levy Customs duty on any value addition made to the re-imported goods in accordance with the provision stipulated under sections 293 to 298 of this Regulation.

### **Duty on Temporary Admission of Goods and Conveyance**

130. The Department shall not levy Customs duty on temporary admission of goods and conveyance under sections 36 and 37 of the Act, respectively.

### **Duty on Importation of Goods as Samples**

131. The Department shall not levy Customs duty on samples subject to fulfillment of following conditions, if the goods imported is:

- (i) not for sale;
- (ii) new in the domestic market; and
- (iii) to be re-exported.



132. An importer shall, for the purpose of section 131 of this Regulation, declare that the goods are meant for securing export order or purchase order and shall undertake that the goods are not to be sold and if sold, is liable to pay the applicable Customs duty.
133. The Department shall not permit as sample those goods prohibited under any laws in force.

### **Duty on Abandoned Goods**

134. The Department shall not levy Customs duty on goods abandoned under section 39 of the Act.
135. The Department shall consider goods as abandoned, if the person:
- (1) writes to the Department, the intention to abandon the imported goods;
  - (2) fails to lodge the goods declaration within 40 working days from the date of arrival of the consignment.
  - (3) fails to clear the declared goods within 40 working days from the date of declaration of the consignment
136. The Department shall not accept request for goods to be abandoned under section 135(1) of this Regulation, if the goods are:
- (1) subject to restrictions, unless otherwise permit issued by the relevant authority is submitted;
  - (2) damaged or deteriorated to such an extent that they have cease to be of any value.
137. The Department shall confiscate and dispose the abandoned goods in accordance with chapter 26 of this Regulation.

138. Where goods in question are already the subject of a declaration accepted by the Department, a person shall, for the purpose of

abandonment, make reference to such declaration and invalidate the same.

### **Duty on Sale or Transfer of Duty Exempt Goods**

139. Duty on sale or transfer of duty exempt goods shall be in accordance with sections 41 and 42 of the Act.

### **Penal Interest on Late Payment of Duty, Fees and Charges**

140. Penal interest on late payment of duty, fees and charges is applicable in accordance with sections 43 and 44 of the Act.

## **CHAPTER 8 EXEMPTION**

### **International Agencies, Diplomatic Missions and their Employees**

141. In accordance with section 46 of the Act, diplomatic missions and international agencies and their international employees shall be exempt from payment of Customs duty for:

- (1) import and supplies made necessary to function and operate;
- (2) import of personal and household effect and consumable items intended for establishment as contained in **Annex 5** of the Schedule.
- (3) Import of one motor vehicle which shall include motor cycle/ two-wheeler during the tenure as an international employee in Bhutan.
- (4) Import of used motor vehicle during the tenure as an international employee under temporary admission based as per the permit issued by the relevant authority.

142. In addition to the exemption provided under section 141 of this Regulation, international agencies, diplomatic mission, and their

International employees is entitled to purchase from local duty-free stores in accordance with the rules in force.

143. Import of personal and household effects made subsequently after 12 months of arrival is subject to levy of Customs duty.

### **Members of International Voluntary Organizations Assigned to Bhutan**

144. The provisions under sections 141 to 143 of this Regulation applies *mutatis mutandis* to the members of International Voluntary Organization assigned to Bhutan.

### **Procedure to Apply for Exemption of Customs Duty**

145. International agencies, diplomatic missions, international voluntary organizations assigned to Bhutan and their International employees and members, who are eligible for Customs duty exemption under this Regulation shall apply to the Ministry of Foreign Affairs, Royal Government of Bhutan in accordance with **Annex 6** of the Schedule.
146. The Ministry of Foreign Affairs shall receive an application and recommend the exemption to be granted in accordance with the Act and chapter 8 of this Regulation.
147. For the purpose of section 146 of this Regulation, the recommendation shall be in accordance with the list of personal and household effects and consumable items permitted to be imported free of Customs duty as baggage or cargo, during tenure of such employee.
148. The Department shall, in accordance with this Regulation and the recommendation submitted by Ministry of Foreign Affairs, issue exemption certificate.

149. The exemption holder shall produce the duty exemption certificate at the time of clearance of the goods.
150. The Ministry of Foreign Affairs shall, provide in advance, to the Department specimen signature of its authorized official empowered to recommend the entitled privileges.

### **Disposal of Goods other than Motor Vehicles Imported Free of Customs Duty**

151. Foreign employees of diplomatic missions, international voluntary organizations assigned to Bhutan and international agencies, may, on their repatriation from Bhutan, re-export durable and consumable household and personal effects or such goods may be disposed of in Bhutan with the prior approval of the Department in the following manner:
- (1) durable goods may be sold free of Customs duty to a Diplomatic Mission, any other exempt organizations or individuals entitled to such exemption provided that such exempt organization or individual has not already imported free of duty;
  - (2) used consumable item with a value less than Ngultrum 15,000 each at the time of importation may be disposed of directly in open market free of Customs duty;
  - (3) an item which exceeds value of Ngultrum 15,000 at the time of importation, if disposed of to a non-exempt person within five years after importation is liable to Customs duty.
152. For the purpose of section 151 of this Regulation, the Customs value is the value at the time of importation depreciated at the rate of 20% per year or fraction thereof on straight line method from the date of registration.

## **Disposal of Customs Duty Exempted Motor Vehicles**

153. Disposal or re-export of Customs duty exempt motor vehicles of officials of diplomatic missions, international agencies and international voluntary organizations on completion of their tenure or assignment in Bhutan is governed by the following procedure:

- (1) customs duty exempt vehicle may be sold to another privileged person serving in Bhutan, with clearance from the Department, provided that the buyer has not already imported or placed order for importation of a vehicle;
- (2) customs duty exempt vehicle may be sold to a Bhutanese official holding a vehicle allotment quota;
- (3) vehicle may be sold in the open market subject to the following conditions:
  - (a) payment of Customs duty to be levied on depreciated value at the rate of 20% per annum;
  - (b) for the purpose of allowing depreciation, the value of the vehicle is the invoice value and if a person is not able to present the invoice value, the Department shall consider the prevailing CIF value for similar vehicles less Customs duty charged by the dealer in the country at the time of effecting the sale;
  - (c) the period for the purpose of depreciation is computed from the date of registration of vehicles in Bhutan;
  - (d) transfer of ownership of vehicle shall be affected only on payment of Customs duty, fees and charges to the Department;
  - (e) no registration of new vehicles or transfer of ownership of any vehicles shall be affected by the concerned authority without the clearance from the Department;
  - (f) a buyer shall be liable to pay the Customs duty, fees and charges;

- (g) no Customs duty is levied, if a vehicle is sold after a period of 5 years from the date of its registration.

154. Used motor vehicles brought on their posting to Bhutan under section 141(4) of this Regulation, shall not be permitted to be sold or transferred to any Bhutanese or privileged persons by sale or gift and must be re-exported on repatriation and such motor vehicles, if left behind in Bhutan shall be confiscated.
155. Subject to section 154 of this Regulation, transfer of ownership of motor vehicles disposed of in Bhutan whether by sale or gift must be completed prior to the departure of the owner.

### **Administrative Responsibility**

156. All privileges and facilities under this Regulation must be extended through the concerned employing agency, and such agency shall be responsible for ensuring full compliance with this Regulation.
157. A concerned employing agency shall ensure that their officials upon transfer obtain a letter of recommendation from the Ministry of Foreign Affairs and also inform the Department of the arrival and departure of their officials.
158. An import of any restricted goods is governed by chapter 6 of this Regulation.

### **Government and Autonomous Agencies**

159. Government and autonomous agencies shall be exempt from payment of Customs duty provided the exemptions thereof are in accordance with the privileges or relief granted by any other laws in force.

## **Social, Environmental and Economic Policies**

160. The Ministry may exempt a person from payment of Customs duty under section 47(3) of the Act, as follows:

- (1) the Department shall submit an application along with assessment details to the Ministry for approval;
- (2) the Ministry shall assess further and approve or reject the application and instruct the Department accordingly;
- (3) the Department shall reject or process the exemption as per the directives received from the Ministry.

### **Exemption Entitlements of Bhutanese Individual on Government Duty Abroad on their Bonafide Transfer to Bhutan.**

161. A Bhutanese shall be exempt from payment of Customs duty provided the exemptions thereof are in accordance with the privileges or relief granted by any other laws in force in the country.

162. A Bhutanese who has been residing abroad for more than 12 months shall, on a bona-fide transfer of residence to Bhutan, be allowed to import used personal and household effects as listed in **Annex 5** of the schedule without payment of Customs duty.

163. For the purpose of section 162 of this Regulation, the approved and exempted list of items must arrive within 60 working days from the date of arrival or entry of a Bhutanese into the country.

164. A person shall declare to Customs, at the port of entry, motor vehicles, motorcycles and other goods which are not eligible for Customs duty exemption on its first entry into the country, and complete the Customs procedures in accordance with chapter 12 of this Regulation.

165. For the purpose of section 164 of this Regulation, Customs duty shall be assessed on depreciated value at the rate of 20% per annum or fraction thereof on straight line method and in case of motor vehicle, the date of registration in the country of residence shall be the date used for calculating the depreciation.
166. An exemption provided in section 162 of this Regulation shall not be extended to more than one person in a family, unless it is proved to the satisfaction of the Department that the person claiming these facilities was staying abroad independently and maintaining a separate residence.

### **Procedure to apply for Customs Duty Exemption**

167. A person eligible for exemption shall electronically apply for exemption with relevant documents to the Department.
168. In case of exemption granted under this Regulation, the application must make reference to the international convention, covenants, multilateral or bilateral agreement signed with the Royal Government of Bhutan under which exemption is sought.
169. An applicant shall along with an application submit a copy of the recommendation letter issued by the Ministry of Foreign Affairs, where applicable.
170. The Department and designated regional offices authorized by the Ministry shall, if satisfied with the application, issue exemption certificate in accordance with **Annex 7** of the schedule to the exempt organization or individual.
171. The Department may, from time to time, through public notification decentralize issuance of exemption certificate of specific nature of goods to the Head of the regional offices of respective region.



172. The Department shall expedite and give priority in the issuance of exemption certificate for importation of goods at times of disaster, emergency, national security or to prevent economic crisis.

### **Documents Required to be Submitted for Availing Exemption Certificate**

173. A person to avail exemptions under this Regulation shall submit to the Department the following documents:
- (1) bilateral or multilateral agreement under which exemption is sought;
  - (2) copy of declaration, receipt issued by the Department and supply order from the exempted party in case of exemption applied for refund purpose.

### **Import on Behalf of Exempted Person**

174. Where import is made on behalf of an exempt person, Customs duty shall be paid at the port of entry and refund shall be processed by the exempt person in accordance with chapter 19 of this Regulation.

### **Withdrawal of Exemption**

175. If a person does not adhere to the provisions of this Regulation, exemptions given under this Regulation may be withdrawn and applicable fines and penalties shall be levied as per the relevant provisions of this Regulation.

## **CHAPTER 9**

### **AUTHORIZED CLEARING AND FORWARDING AGENT AND COURIER SERVICE AGENT**

#### **Appointment of Authorized Clearing and Forwarding Agent or Courier Service Agent**

#### **Application**

176. A person eligible for exemption shall electronically apply for exemption with relevant documents to the Department.
177. An applicant is eligible to be a clearing and forwarding agent or courier service agent, if the person:
- (1) is a Bhutanese national;
  - (2) has no outstanding dues with the Department;
  - (3) has attained 18 years of age, if the person is an individual or sole proprietor;
  - (4) employs persons with sufficient level of knowledge on Customs matters including the Act and this Regulations and has successfully undergone examination conducted by the Department;
  - (5) has good compliance record;
  - (6) does not have any adverse record or has committed any Customs or criminal offence;
  - (7) furnishes proof of financial solvency.

## **Examination of the Application**

178. The concerned regional office may, on receipt of an application, make enquiry on particulars laid out in an application and supporting documents for the purpose of examination and make such other enquiries as the regional office, may consider necessary.
179. Based on the application, the concerned regional office shall correspond with other regional offices to further validate and obtain information on the applicant.
180. The concerned regional office shall, for the purpose of section 177(4) of this Regulation, ensure that valid examination certificates are submitted to the Department
181. Upon satisfactory examination of an application and fulfillment of required conditions, the regional office shall recommend issuance of trade license by the relevant agency.

## **Registration**

182. A person recommended under section 181 of this Regulation shall submit the following to obtain the certificate of registration as an authorized clearing and forwarding agent or courier service agent:
  - (1) valid trade license as clearing and forwarding agent or courier service agent;
  - (2) Tax Payer Number issued by the concerned regional office;
  - (3) security deposit of Nu. 100,000 in the form of a Bank Guarantee;
  - (4) copy of agreement signed between the applicant and the Department in accordance with **Annex 8** of the Schedule.  
and
  - (5) copy of the agreement signed between the Bhutanese agent and foreign counterpart, where applicable.

183. The Department shall issue a certificate of registration in accordance with **Annex 2** of the Schedule and update the record accordingly.
184. The concerned regional office shall maintain and update a list of registered agents and such list and other relevant information shall be forwarded to the Head Office for necessary publication and record.

### **Validity and Renewal**

185. A registration certificate is valid for a period of three years.
186. An agent shall renew the certificate of registration prior to expiry of the validity period.
187. In the event of failure to renew a certificate of registration on time, the Department may cancel the registration or impose applicable fines in accordance with section 627 and 628 of this Regulation.
188. The Department shall, upon receipt of request to renew a certificate, renew the registration for a period of three years provided the registered agent submits:
- (1) satisfactory performance certificate and recommendation issued by the concerned regional office;
  - (2) no outstanding dues with the Department
  - (3) a valid trade license;
  - (4) a valid Bank guarantee; and
  - (5) a list of employees holding valid examination certificate awarded by the Department.

## **Obligations of Authorized Clearing and Forwarding Agent or Courier Services Agent**

189. An authorized clearing and forwarding agent or courier service agent shall:

- (1) maintain an established business with furnished office and required facilities;
- (2) Operate with the valid trade license
- (3) obtain an authorization from the consignees to act as an authorized agent for clearance of goods from Customs and present for examination, where required;
- (4) advise client to comply with the provisions of the Act and this Regulation and in case of non-compliance, bring the matter to the notice of the Department;
- (5) not withhold any information relating to assessment and clearance of goods from the Department;
- (6) not disclose or misuse any restricted information obtained during the course of employment;
- (7) not attempt to influence the conduct of a Customs official, in any matter pending before such official or the official's subordinate, by the use of threat, false execution, duress or offer of any special inducement or promise of advantage or by the bestowing of any gift or favor or other things of value;
- (8) maintain proper records and accounts in accordance with the Act and this Regulation thereof;
- (9) ensure that all documents prepared or presented to Department are strictly in accordance with the legal requirements and contain no false or misleading information;
- (10) ensure that registered agent discharges duties with integrity and efficiency both to the Department and the client;
- (11) pay applicable Customs duty in cases where goods are pilfered, lost, damaged or abandoned while in transit to Bhutan and, in addition, the authorized agent shall be liable to pay all other liabilities as it becomes payable;

- (12) inform the Department in writing about change or recruitment of new employee;
  - (13) ensure that Customs clearance formalities are completed prior to release of goods from the Customs Station;
  - (14) not allow a third party or any other person to operate the business on their behalf.
190. Any change in the terms of Trade and Commerce Agreement between the Royal Government of Bhutan and another foreign Government may entail a change likewise in the terms and conditions therein.
191. Where an authorized clearing and forwarding agent or courier service agent appoints or authorizes a foreign authorized agent to clear consignments outside Bhutan, the former shall be fully responsible for all acts of the foreign authorized agent and ensure that the foreign authorized agent completes the following formalities;
- (1) obtain authorization for clearance of consignments outside Bhutan from the authorized clearing and forwarding agent or courier service agent for each consignment;
  - (2) approach the Liaison and Transit Office (LTO) or Regional Office along with the required documents as prescribed in this Regulation and an authorization letter issued by the Bhutanese authorized agent and if the documents are found in order, the LTO or regional office shall authorize the concerned agent for clearance of consignments;
  - (3) keep the LTO or regional office fully informed with regard to the progress in the clearance activities;
  - (4) obtain road documents from the LTO before the dispatch of the consignment to Bhutan;
  - (5) in case demurrages are incurred on goods, the same shall be directly settled by the agent with the importer;

- (6) employ surveyors at ports to conduct surveys on the goods before they are dispatched to Bhutan, wherever necessary;
- (8) all goods, which are not full truck load, shall be deposited either in a temporary storage or a warehouse approved by the Department or in a warehouse approved by the Customs authorities of Foreign Country and under no circumstances shall a clearing agent be permitted to store goods in other storage place;
- (9) complete cross border formalities with the foreign Customs authorities in keeping with the Protocol to the Trade and Commerce Agreement between the Royal Government of Bhutan and the another foreign Government; and
- (10) submit to the LTO, the road documents duly signed by the designated Customs Office in Bhutan and the foreign Customs authorities within one month from the date of clearance from the foreign Customs.

### **Renewal and Forfeiture of Security Deposit**

- 192. A failure to renew security deposit within the expiry of the validity period is liable for a fine prescribed in section 627 and 628 of this Regulation.
- 193. Any violation of the Act, this Regulation, and any other relevant laws shall result in forfeiture of the security deposit.

### **De-registration, Cancellation and Suspension**

- 194. The Department may de-register, cancel or suspend the registration of an authorized clearing and forwarding agent or courier service agent on any of the following grounds:
  - (1) if the certificate holder fails to renew the registration within the extended period;

- (2) expiry of the validity of the security deposit and failure to renew the same within the extended period;
  - (3) mis-conduct which renders them unfit to act as agent;
  - (4) collude with Customs official for personal gains or create any loss to the Government revenue; or
  - (5) breach of the agreement signed with the Department.
195. An authorized clearing and forwarding agent or courier service agent shall be served a notice informing the grounds of de-registration, cancellation or suspension and their right to appeal.
196. The Department shall notify all Customs Stations concerning de-registration, cancellation or suspension of the agent.

## CHAPTER 10

### ENTRY AND EXIT OF CONVEYANCE

197. For the purpose of this chapter the following definitions applies:

**“Advance Passenger Information” (API)** involves the capture of a passenger’s biographic data and other flight details by the carrier prior to departure and the transmission of the details by electronic means to the Border Control Agencies in the destination country.

**“Charterers”** is a person that charters an aircraft or bus.

**“Airline”** means the owner or operator of an aircraft.

**“Aircraft”** means any aircraft that is used for the transportation of persons or goods by air.

**“Reservation system”** means any system, whether electronic or manual that contains information relating to persons on board of aircraft.



## **Entry and Exit of Conveyance**

198. Conveyances carrying goods to or from Bhutan shall enter or exit through the designated Customs Stations.
199. An authorized Customs port of entry and exit are as listed in **Annex 9** of the Schedule.
200. A person-in-charge of a conveyance shall convey the goods through designated port of entry and exit, where applicable, and without delay report to the nearest designated Customs Station in Bhutan.
201. A person-in-charge of a conveyance shall ensure that goods or packages are not altered or tampered.
202. A person shall report to the nearest Customs Station in accordance with section 56 of the Act, any accidental entry of conveyance carrying goods or passengers in area other than Customs Station.

## **Advance Passenger Information (Air Passenger Manifest), Responsible Person and Data Requirements**

203. The Department shall cooperate and coordinate with the relevant agencies in the development, operation and use of an API system and shall consult with airlines and charterers operating in Bhutan.
204. The following persons shall submit API Data (Air Passenger Manifest) through Customs system in accordance with section 205 of this regulation
  - (1) airline and charterers who undertake to carry persons or goods to Bhutan and the representatives of those carriers and charterers;
  - (2) owners and operators of a reservation system.

205. The prescribed API Data (Air Passenger Manifest) in respect of a person on board of a conveyance is stipulated in **Annex 10** of the Schedule.

### **Advance Passenger Information Process**

206. An airline operating in Bhutan including chartered flight shall electronically submit API (Air Passenger Manifest) on every passenger and crew bound for Bhutan upon the aircraft's actual departure from the last point of departure before arriving in Bhutan.
207. A Person under section 206 of this Regulation shall submit to the Department the items of **Annex 10** of the Schedule in the form of a passenger manifest prior to its arrival or departure.
208. The Department shall use the API data (Air Passenger Manifest) for risk assessment to expedite and facilitate the passenger clearance process.
209. The responsible person shall, based on the result of the risk assessment, submit information to the Department in accordance to **Annex 10** of the Schedule.

### **Air Cargo/Road/Rail Manifest**

210. A person in charge of a conveyance or the authorized person shall electronically submit air cargo/road/rail manifest to the Department in accordance to **Annex 11, 12 and 13** of the Schedule.
211. A person in charge or the authorized agent shall complete the following task to submit a cargo manifest of all incoming and departing international flights:

212. A person in charge or the authorized agent shall complete the following task to submit air cargo/road/rail manifest of all incoming and departing conveyance:
- (1) ensure information regarding the goods imported to or exported from Bhutan are true and accurate;
  - (2) notify Department of additions or omissions brought to the manifest after it is submitted;
  - (3) notify Department where aircraft has no goods as cargo.
213. If the duration for an aircraft to reach Bhutan from its last port of call is less than two hours, the inward air cargo/road/rail manifest shall be submitted to the Department one hour prior to the arrival of the aircraft in Bhutan.
214. If the duration for an aircraft to reach Bhutan from its last port of call is more than two hours, the inward air cargo/road/rail manifest shall be submitted to the Department two hour prior to the arrival of the aircraft in Bhutan.
215. An outward air cargo/road/rail manifest of an aircraft shall be submitted to Department prior to the time of departure.
216. The Department may accept Airway bill, bill of lading, consignment notes, and others containing minimum data requirements of the Department as cargo manifest.

## **CHAPTER 11**

### **TEMPORARY ADMISSION**

#### **General Conditions for Temporary Admission**

217. Temporary admission of goods is permitted under section 60 of the Act:

- (1) if a person or guarantor in Bhutan accepts responsibility for import and re-export of the goods; or
- (2) on payment of security deposit equivalent to the value of applicable Customs duty.

218. A person or guarantor shall have to declare for temporary admission to the Department for import of goods into Bhutan in accordance with **Annex 14** of the Schedule.

### **Goods to be Imported on Temporary Admission**

219. Subject to section 217 or 218 of this Regulation, goods for the following purpose is permitted under the temporary admission procedure, free of Customs duty:

- (1) goods for display or use at exhibitions, fairs, meetings or similar events;
- (2) professional equipment;
- (3) goods imported for educational, scientific or cultural purposes;
- (4) goods imported for humanitarian purposes;
- (5) means of transport;
- (6) any other goods for specific purpose subject to re-export as approved by relevant authority.

220. Notwithstanding section 219 of this Regulation, the Department may, from time to time, notify consumables, tools, spare parts and any other goods not eligible for temporary admission.

### **Restrictions**

221. Upon submission of Permit issued by the relevant authority, the Department shall permit Temporary admission of restricted goods.

## **Customs Declaration and Documentation**

222. Where goods are meant for temporary admission, the following documents are required to be submitted:

- (1) invoice;
- (2) packing list/inventory of the goods
- (3) import permit from the relevant agency, where required;
- (4) letter of undertaking from the guarantor or holder;
- (5) any other documents deemed necessary by the Department.

## **Security**

223. An amount of security deposit under section 217(2) of this Regulation must not exceed the value of Customs duty of goods that are conditionally released.

## **Identification of Temporarily Admitted Goods**

224. The Department may, to ensure that the same imported goods are re-exported, take appropriate measures to identify the goods at the time when the temporary admission procedure is terminated.

225. The Department may, where possible, use the following means to identify the goods:

- (1) marks accepted or affixed by foreign Customs authority;
- (2) number or other indication permanently affixed to the goods;
- (3) by description, photographs or sampling;
- (4) examine the accounting records of the person concerned; or
- (5) appropriate surveillance of the premises where the temporarily admitted goods are stored including means of transport.

226. Where identification measures listed under section 225 of this Regulation are not feasible or not available, the Department may take alternative measures, as considered necessary.

### **Period for Re-exportation for Temporarily Admitted Goods**

227. A person or guarantor shall, within 30 working days from the date of declaration, re-export goods imported on temporary admission.
228. The Department may, on request of the person or guarantor, consider extension, on case- by-case basis.

### **Temporary Admission for Goods Imported for Projects**

229. For the purpose of this section, a project means those projects with duration not less than 12 months and as approved by the government.
230. A person or guarantor shall to the extent possible, re-export goods imported on temporary admission for projects, within 12 months from the date of declaration.
231. The Department may, on an application by the person or guarantor, consider extension of the temporarily admitted goods for projects on annual basis.
232. The Department shall, for the purpose of section 231 of this Regulation, carry out onsite inspection to ensure compliance with this Regulation.

### **Transfer of Temporary Admission**

233. The Department may, on request, authorize transfer of goods under temporary admission to any other person, provided that such other person:

- (1) provides equivalent security deposit;
- (2) declares to fulfill all other obligations related to the goods under temporary admission including the means of transport; and
- (3) agrees to abide by the person or guarantor's obligations to the Department.

### **Termination of Temporary Admission**

234. A person or guarantor may choose to re-export temporarily admitted goods including means of transport through Customs Station other than the one through which it was imported.
235. Temporary admission under section 218 of this Regulation is terminated by re-exportation of the goods.
236. The Department may, upon request, authorize temporary admission to be terminated by placing the goods including means of transport in a Customs warehouse or under a Customs transit procedure for the purpose of subsequent re-exportation.
237. The Department shall, where goods are sold in the domestic market, terminate temporary admission procedure and consider it as home use under chapter 12 of this Regulation.
238. For the purpose of section 237 of this Regulation, the following requirement is applicable:
- (1) assessment is carried out as per chapter 18 of this Regulation;
  - (2) trader shall keep the record of all the goods, complete the required Customs procedure and pay applicable Customs duty;
  - (3) applicable duties and taxes shall be levied on the value determined at the time of initial import.

239. If goods including means of transport is seriously damaged by accident or force majeure, the Department shall, upon request, allow termination of the temporary admission procedure in one of the following manners:

- (1) if the temporarily admitted goods are damaged or stolen due to willful act or negligence of the person or person in charge, Customs duty shall be liable on the full value.

240. If goods are stolen during the period of temporary admission and such incident is reported to relevant authority, the Department may terminate temporarily imported goods.

241. Where person or the guarantor satisfies the Department of the destruction or total loss of the goods by accident or force majeure, the Department may terminate temporarily imported goods.

### **Repayment of Security**

242. A person or the guarantor shall, upon successful termination of the temporary admission, be refunded the security deposit.

### **Liability of the Guarantor or Person**

243. Where imported goods permitted under temporary admission are not re-exported within the expiry or extended deadline under this Regulation, a person or guarantor shall be liable for any:

- (1) Customs duty, fees and other charges arising from the temporary admission procedure;
- (2) compensation for the loss and damage by reason of breach of procedures by beneficiary.



## **Customs Offence and Fines**

244. Any breach of provisions on temporary admission is dealt in accordance with section 143 (7) of the Act.

## **Settlement of Disputes and Appeals**

245. Any dispute or appeal arising from the temporary admission is dealt in accordance with chapter 20 of the Act.

## **Re-importation and Re-exportation of Goods**

246. For the purpose of re-importation and re-exportation of goods, provisions under sections 293 to 307 of this Regulation are applicable.

# **CHAPTER 12 CLEARANCE PROCEDURES**

## **General Declaration**

247. Customs Declaration must clearly specify the Customs procedures as specified in section 58 and 59 of the Act.

248. For the purpose of section 63 of the Act, a person shall declare goods electronically to Department at the port of entry/exit as per **Annex 14** of the Schedule.

249. A person shall declare goods to the Department upon entry of such goods into the country for home use, unless the declaration time period is otherwise specified in this Regulation.

## **Advance Declaration**

250. The Department may, subject to the condition that the goods arrive within 30 working days from the date of filing an advance declaration, accept an advance declaration made by a person.
251. For the purpose of section 250 of this Regulation, the rate of Customs duty shall be the rate in force on the day the goods enter Customs Station in Bhutan.
252. When a person does not have all the information required to make Customs declaration, a provisional Customs declaration may be permitted to be lodged provided that the declaration contains minimum documents and adequate information, as considered necessary by Department.

## **Acceptance of Customs Declaration**

253. A verifier of the declaration shall, prior to acceptance, ensure and validate that all information and supporting documents provided are correct.
254. The Department may not accept the Customs declaration unless the required documents and the information are furnished by a person.
255. An amendment of the declaration accepted by the Department may be amended in accordance with section 259 of this Regulation.
256. A declaration accepted by the Department shall be subject to further verification.
257. Date of acceptance of Customs declaration is the date on which the person is issued an electronic or manual confirmation of

the acceptance of declaration by the Department and the rate of exchange shall be as per section 95 of this Regulation.

### **Amendment of Customs Declaration**

258. The Department may, prior to the acceptance of Customs declaration, permit a person to amend the Customs declaration.
259. The Department may, after acceptance of Customs declaration and on receipt of request under section 69 of the Act, allow a person to amend the Customs declaration.
260. An amendment in the Customs declaration required as a result of examination is dealt in accordance with applicable provisions under chapter 20 of the Act.

### **Withdrawal, Cancellation and Rejection of Customs Declaration**

261. A person may, prior to the acceptance of Customs declaration, withdraw the declaration.
262. The Department may, after acceptance of Customs declaration and on request by the concerned person, approve withdrawal or cancellation of declaration only on genuine grounds and justification.
263. If the person fails to fulfill applicable provisions of this Regulation, the Department may reject the declaration.

### **Review of Customs Declarations**

264. The Customs assessor designated by the head of Customs shall review and assess the accepted declaration.

265. If the Department applies risk profiling system or compliance program, the Customs assessor may have the option to decide a subsequent Customs procedure for the declared goods.
266. The Customs assessor shall assess valuation of an imported or export goods as per the value derived by applying relevant valuation methods stipulated under chapter 5 of this Regulation.
267. Upon carrying out the examination of the goods initiated under section 265 of this Regulation, the Customs assessor may consider the assessment of valuation.

### **Examination of Customs Declaration and Goods**

268. A physical examination of goods shall be carried out:
- (1) if, the Department has reasonable doubt on the veracity or accuracy of the declaration made;
  - (2) where the Department has received prior information;
  - (3) based on the compliance record of the person;
  - (4) based on application of risk assessment; or
  - (5) if, considered necessary by the Department.
269. The Department shall conduct physical examination of goods in presence of a person or the authorized representative.
270. Customs official shall prepare and furnish an examination report in accordance with **Annex 15** of the Schedule

### **Release of Goods**

271. Upon completion of Customs formalities and on payment of applicable Customs duty, fees and charges, including any applicable fines and penalties, the Department shall issue an order permitting the release of goods.

272. Where a person has appointed an authorized clearing and forwarding agent or courier service agent, all correspondences on the release of goods must be done through the concerned agent.

### **Release of Goods on Security**

273. A security deposit must be furnished in the form prescribed in **Annex 16** of the Schedule.
274. The Department may release goods after receiving security deposit equivalent to the value of applicable Customs duty, fees and charges from a person.
275. The Department may also accept security deposit provided by another person, other than the person liable such as a guarantor.

### **Joint Examination of Goods**

276. The Department may initiate joint examination of goods with other relevant authorities to expedite the clearance process.
277. The Customs may consider a joint examination conducted under section 276 of this Regulation as final and may not conduct separate examination.
278. The Department and relevant authorities may conduct joint examination in the same location.

### **Power to Take Samples**

279. For the purpose of section 72 of the Act, the Department shall take samples, if it is unable to ascertain classification or value of goods from the particulars declared in the Customs declaration or from the findings of the examination.

280. Samples drawn under section 279 of this Regulation must be as small as possible in terms of quantity or value.
281. In a joint examination, samples may be taken in coordination with relevant authorities, where practicable.
282. The Department shall ask a person or the authorized representative present to draw the samples required and such person shall bear all risks and costs related to the examination, taking of samples and analysis of the goods.
283. The Department shall issue a Memo for sample in accordance with **Annex 17** of the Schedule.
284. After the purpose for which the sample was taken is carried out, the Department shall restore the sample to the person or the authorized representative, if practicable.
285. If the person fails to take delivery of the sample, the Department may dispose of the sample in accordance with the provisions laid down for abandoned goods under chapter 7 of this Regulation.
286. Where examination of the samples results in destruction or irretrievable loss, no Customs duty is applicable.
287. Where the samples are taken for analysis or more detailed examination, the Department shall, on being satisfied with the results of the examination or analysis, release the goods.

### **Special Clearance Procedure for Authorized Compliant Trader**

288. The Department may allow an authorized complaint trader to clear goods under special procedures in accordance with chapter 13 of this Regulation.

## **Documents and Supporting Documents for Import Clearance**

289. A person shall, on arrival or prior to import of the goods, declare to the Department as per **Annex 14** of the Schedule along with the following documents:

- (1) invoice or attested invoice by the relevant financial institution, where applicable;
- (2) packing list;
- (3) freight documents where applicable;
- (4) bill of lading or air-way bill;
- (5) marine or air or transit insurance policy, where applicable;
- (6) import permit or license, where applicable;
- (7) letter of authorization, where applicable;
- (8) permit issued by relevant agencies for restricted goods, where applicable;
- (9) letter of guarantee for third country imports via India, where applicable;
- (10) certificate of origin, where applicable;
- (11) exemption certificate, where applicable;
- (12) any other relevant documents, as considered necessary by the Department.

290. The Department may, at the time of declaration, request the submission of documents under section 289 of this Regulation in hard copy, for examination purposes.

## **Documents and Supporting Documents for Export Clearance**

291. An exporter or the authorized agent shall declare export of goods to the Customs at the point of exit.

292. A person or authorized agent shall on export or prior to export of the goods, declare to the Department as per **Annex 14** of the Schedule along with the following documents;

- (1) invoice;
- (2) packing list;
- (3) shipping bill/ airway bill, where applicable;
- (4) certificate of origin issued by the relevant authority, where applicable;
- (5) insurance documents, where applicable;
- (6) export permit, where applicable;
- (7) any other relevant documents, as considered necessary by the Department.

### **Clearance of Re-import Goods**

293. A person may, for the purpose of section 61 of the Act, re-import goods or conveyances.
294. For the purpose of section 293 of this Regulation, a person shall, at the time of export and import, declare to the Department as per **Annex 14** of the Schedule.
295. A person shall, within 90 working days from the date of export declaration, re-import temporarily exported goods.
296. Where additional value has incurred on the goods temporarily exported, the goods are subject to Customs duty on the additional value in accordance with section 61 of the Act.
297. For the levy of applicable Customs duty, a person shall furnish to the Department documents and supporting documents of the value addition or additional cost incurred.
298. A person shall, prior to expiry of 90 working days, apply to the Department for time extension or its intention to dispose of the goods, failing which the Department shall invoke the applicable provisions under this Regulation.



## Clearance of Re-export Goods

299. A person may re-export goods and conveyances that are temporarily imported.
300. Re-export procedure may be applied on following trade transactions:
- (1) goods under the warehousing procedure may be re-exported or placed under another Customs procedure in accordance with chapter 14 of this Regulation;
  - (2) goods imported and cleared for home use but found defective during warranty period and where the foreign supplier agrees to replace it, free of charge, may be re-exported for the purpose of importation of replacement, free of Customs duty subject to the provisions on replacement in the Act and this Regulation;
  - (3) goods cleared for home use and received by the importer but found not to the specification of the contract of sale and is to be returned to the foreign supplier may be re-exported for the purpose;
  - (4) goods on transfer due to change in residence of persons on completion of their assignment in Bhutan;
  - (5) goods under section 300(2) and 300(3) of this Regulation shall be re-exported within 30 working days from entry into the country or date of import declaration made to the Department.
301. A person shall, at the time of re-exportation of the goods, produce the endorsed declaration of such goods made at the time of entry along with relevant documents.
302. A Person shifting residence on completion of an assignment in Bhutan shall produce the goods to be re-exported to the Department along with a copy of the shipping Bill and a packing list in accordance with section 300(4) of this Regulation.

## **Replacement of Goods**

303. Imported goods may be replaced on fulfillment of following conditions:

- (1) the importer proves to the Department that the goods to be replaced is the same and is provided free of charge by the foreign supplier;
- (2) the defective or obsolete or fully damaged goods are re-exported to the same foreign supplier;
- (3) the goods imported are not in conformity with the specifications agreed upon between the importer and supplier;
- (4) all documents for previously imported goods are produced to the Department;
- (5) replacement is made within 90 working days from the date of re-export declaration;
- (6) the person proves to the satisfaction of the Department that the goods have not been further processed, reconditioned, altered, repaired or used in Bhutan, unless necessary to discover the defect or damage.

304. A person shall, within 30 working days from the date of import declaration, submit to the head of the regional office, an application for replacement of goods.

305. If a person fails to produce supporting documents or any other valid evidence acceptable by the Department to prove the need to replace the goods, the Department shall not consider the application for replacement procedures.

306. Where a person fails to comply with sections 303 to 305 of this Regulation, import of goods for replacement shall not be permitted and such goods on re-import into the country shall be treated as new import.

307. The Department may accept replacement of same goods for more than one time, on case- by-case basis.

## **CHAPTER 13**

### **SPECIAL PROCEDURE FOR AUTHORIZED COMPLIANT TRADER**

#### **Application**

308. The Department shall be responsible for developing and administering an authorized compliant trader program in close consultation and coordination with the regional office and relevant stakeholders.
309. The concerned regional offices shall, in close consultation and coordination with head office, maintain record and monitor the respective authorized compliant traders.
310. A person seeking authorization as a compliant trader status shall electronically apply to the Department or concerned regional office.
311. Where documents are found to be incomplete, the Department or concerned regional office shall notify the applicant not later than 30 working days from the receipt of the application.
312. An applicant shall complete and fulfill the application formalities within 30 working days from the date of notification issued by the Department or concerned regional office.

#### **Authorization Criteria**

313. A person applying under the authorized compliant trader program shall fulfill the following criteria:

- (1) has sufficient volume of trade in terms of quantity or value;
- (2) has good compliance record for the last three years, which include:
  - (a) no irregularities or default record concerning payment of Customs duty;
  - (b) demonstrate adequate knowledge on Customs and trade related matters;
  - (c) no Customs offence record;
  - (d) no adverse record or record of any criminal or other offence;
- (3) goods are not subject to prohibitions and restrictions under the laws in force;
- (4) maintains proper accounts and records;
- (5) has adequate or minimum infrastructure and facilities;
- (6) has good internal control system capable of detecting illegal or irregular transactions;
- (7) has good financial solvency.

## **Examination and Rejection**

314. The Department shall examine the criteria set out in section 313 of this Regulation and conduct verification of the applicant, if required.

315. The Department shall, prior to the verification, reject an application, if:

- (1) applicable criteria under section 313 of this Regulation is not fulfilled or breached;
- (2) deficiency in the application notified under section 311 of this Regulation cannot be remedied; or
- (3) the application is submitted within three years after revocation of the Compliant Trader authorization as provided in section 330 of this Regulation.

316. An applicant may be granted an Authorized Compliant Trader status or such application may be rejected within 90 working days of receipt of the completed application.
317. If the Department is unable to consider an application within 90 working days, the period may be extended by 45 working days and the applicant shall be notified of such extension before the expiry of 90 working days with reasons thereof.
318. The Department shall issue a certificate of Authorized Compliant Trader status in accordance with **Annex 18** of the Schedule.
319. In order for an applicant to provide additional information or to permit minor problems to be addressed, an authorized compliant trader verification may in exceptional cases be suspended by consensus between the applicant and the Department.
320. A suspension period must not exceed six months and the applicant shall be informed in writing of the date when the verification audit will recommence.
321. Where the result of an examination of the conditions under section 313 of this Regulation is likely to lead to rejection, the applicant shall, before rejection of the application, be notified on the findings and provide an opportunity to respond within 30 working days and in such case, the period of 90 working days as laid out in section 316 of this Regulation is suspended accordingly.
322. The Department shall, electronically or otherwise and within the time limits laid down in sections 316 and 317 of this Regulation, notify the applicant of the decision to reject an application along with the grounds of rejection.

## **Validity and Review**

323. An Authorized compliant trader shall notify the Department of any significant change in business and processes that may affect the status of the trader.
324. Where changes under section 323 of this Regulation is considered to result in the change in the criteria under section 313 of this Regulation, the authorization holder shall reapply for authorized compliant trader program.
325. An error committed by an authorized compliant trader shall be reported to the Department, and the errors that are voluntarily disclosed does not impact the status provided that the holder:
- (1) examined the reasons for the error; and
  - (2) initiated appropriate remedial action to prevent recurrence.
326. The Department shall review an authorized compliant trader status periodically to ensure continued adherence to the conditions and standards stipulated under the program.

## **Suspension and Revocation**

327. The Department may suspend an authorization under following circumstances, where:
- (1) there is a reasonable ground to suspect that an importation by or in the name of an authorized compliant trader is liable to result in a criminal offence and/or is linked to a serious infringement of a provisions of the Act and this Regulation;
  - (2) non-compliance with one or more of the authorization criteria as specified in section 313 of this Regulation is detected and no remedial steps have been taken within 30 working days thereof.

328. If the Department is convinced that the problem affecting an authorization is satisfactorily resolved, the suspension decision shall be withdrawn.
329. The Department may revoke an authorization in the following circumstances, where the:
- (1) authorization is already suspended and the authorized compliant trader fails to take necessary remedial measure to withdraw the suspension;
  - (2) authorized compliant trader has committed serious infringement of the Act and this Rules and has no further right to appeal.
330. If an authorization is revoked, the person shall not be entitled to reapply for another authorization for a period of three years from the date of such revocation.
331. Notwithstanding sections 327 and 329 of this Regulation, the Department may, based on the offence committed or non-compliance level, suspend or revoke an authorized compliant trader status either on request from other stakeholders or agencies or through collaborative arrangement.
332. An Authorized Compliant Trader may be subject to Post Clearance Audit and based on the findings of such audit, the authorized status may be suspended or revoked.

### **Special Procedures and Incentives for Authorized Compliant Traders**

333. Pursuant to section 78 of the Act, the authorized compliant trader or authorized representative shall declare in accordance with **Annex 14** of the Schedule with minimum data requirements acceptable to Department for assessment and decision making.

334. The authorized compliant trader shall, upon arrival of the goods at the Customs Station, be informed of the Department's decision to:
- (1) examine the goods and subsequently follow normal procedure;
  - (2) not to inspect the goods and directly pay the applicable Customs duty for immediate release;
  - (3) directly release the goods, where applicable; or
  - (4) directly deliver the goods to the designated premises of the person.
335. Where goods are released immediately upon arrival, the authorized compliant trader shall, for the purpose of post-clearance audit, maintain original supporting documents in accordance with chapter 17 of the Act and this Regulation
336. For the purpose of section 78 of the Act, an authorized compliant trader may be eligible for the following incentives or facilities to clear goods:
- (1) maintaining revolving account facility as per section 186 of the Act with the concerned regional offices for adjustment and settlement of Customs duty, fees or charges payable to the Department;
  - (2) simplified security requirements such as reduced comprehensive security or security waiver or release based on Letter of Undertaking approved by the head of the regional office;
  - (3) advance declaration with minimum data submission that is acceptable to the Department for carrying out Customs duty assessment prior to the arrival of the goods;
  - (4) declaration to Department within 10 working days after the date of entry or arrival of goods into the country as may be permitted by the Department;



- (5) any other incentives or facilities that the Department considers necessary for the Authorized Compliant Traders.

337. For the purpose of section 336 of this Regulation, the Department shall notify and list the type of incentives or facilities granted to the Authorized Compliant Trader based on the evaluation and fulfillment of the authorization criteria.

## **CHAPTER 14 WAREHOUSING**

### **Application**

338. Pursuant to section 79 of the Act, a person may electronically apply to the Department for operation of a public or private warehouse.

339. An applicant is eligible to operate a public or private warehouse, if the person:

- (1) is Bhutanese National;
- (2) the applicant has not been convicted of criminal offence or any other offence;
- (3) has good compliance record;
- (4) demonstrates sufficient level of knowledge in Customs Act, Rules and procedures.

### **Approval**

340. The Department may, on receipt of an application, make enquiries for verification of the particulars set out in the application and supporting documents and other enquiries, as may be considered necessary.

341. The Department may approve an application for warehouse operation on fulfillment of following conditions:

- (1) submits detailed plan, location and description of the warehouse;
- (2) the site or building of the proposed public or private warehouse is suitable for secure storage of dutiable goods;
- (3) the site or building of the proposed public or private warehouse is suitable for general supervision by the Department and secured with a single entry and exit gate to ensure proper access, control and monitoring;
- (4) suitable measures are taken to prevent theft, loss or deterioration of goods;
- (5) equipped with separate and suitable storing facility for hazardous and perishable goods, where applicable; and
- (6) furnishes a solvency certificate from any financial institutions in Bhutan provided that the condition of furnishing a solvency certificate is not applicable for Government undertaking.

## **Rejection of Application**

342. Where the condition under section 341 of this Regulation is not fulfilled, the Department shall reject an application.

## **Registration**

343. If the Department is satisfied that an applicant fulfills the requirement under section 341 of this Regulation, a recommendation shall be issued to the concerned agency for issuance of a trade license.

344. An applicant shall, to obtain a Certificate of Registration as a Warehouse Operator, submit to the Department the following documents in accordance with **Annex 2** of the Schedule:

- (1) valid trade license as Warehouse Operator;
- (2) Tax Payer Number;
- (3) security deposit of Nu. 100000 in the form of a Bank Guarantee

- (4) agreement signed between the Department and the Warehouse Operator in accordance with **Annex 19** of the Schedule.

### **Validity Period and Renewal**

345. A registration certificate is valid for a period of two years.
346. A warehouse operator may, one month before the expiry date, request the renewal of the Registration Certificate.
347. Upon receipt of request to renew a Registration Certificate, the Department shall renew the registration for another period of two years provided:
  - (1) that the performance of the warehouse operator is found satisfactory;
  - (2) valid trade license is submitted;
  - (3) compliance record is satisfactory;
  - (4) no outstanding dues with the Department;
  - (5) the Bank Guarantee is valid; and
  - (6) no adverse record or criminal record exists.

### **Control of Goods Stored in Warehouse**

348. The Department shall have Customs control over a public or private warehouse.
349. All warehoused goods are subject to Customs control and no person shall enter a warehouse or remove any goods without the permission of the Department.
350. Customs control and supervision may be exercised through physical presence, unannounced spot checks or periodic audits.

351. The Customs shall, for the purpose of section 81 of the Act, have control over all warehouse premises and facilities including the inventory of warehoused goods and power to examine the goods, as and when necessary.
352. Loading and unloading of goods must be done in presence of Customs official.
353. A warehouse operator shall submit to the Department monthly statements of goods received and released.

### **Liabilities of Warehouse Operator**

354. A warehouse operator shall ensure that a warehouse premises is clearly marked as a Customs controlled area.
355. Goods stored in the warehouse remains under the custody of the warehouse operator.
356. A warehouse operator shall ensure the maintenance of a system of internal controls capable of detecting illegal or irregular transactions.
357. A warehouse operator shall ensure proper books of account and records are maintained.
358. A warehouse operator shall ensure maintenance of all types of risk insurance policy, which includes insurance against natural calamities and fire for a sum equivalent to the amount of Customs duty involved on the dutiable goods proposed to be stored in the public or private warehouse.
359. A warehouse operator shall be liable to pay Customs duty, fees, charges, fines and penalties on goods, which are not accounted correctly, lost, damaged, destroyed or misused.

360. A warehouse operator shall, within 10 working days after the closure of the month to which such return relates, file with the Department a monthly inventory report or return on the receipt, storage, operations and removal of the goods in the warehouse.
361. Where the validity specified in section 345 of this Regulation expires on a particular month, the warehouse operator shall furnish such information to the Department on or before the tenth day of the month immediately preceding the month of such expiry.
362. A warehouse operator shall, with regard to change in ownership, location or winding up of a business, produce a tax clearance certificate and such change shall be reported to the Department in writing not later than 30 working days from the date of such occurrence.
363. In the event of winding up of business without providing notice to the Department, a warehouse operator shall be liable for any outstanding Customs duty, fees, charges, fines and penalties as applicable.

### **Owner's Right to Warehoused Goods**

364. An owner of goods shall have the right to warehoused goods in accordance with section 85 of the Act.
365. An activity in the warehouse prescribed under section 85 of the Act must be performed under supervision of the Department.

### **Admission to Warehouse**

366. For deposit of dutiable goods in registered public or private warehouse before or after the arrival of goods, a person shall notify to the Department along with the following documents:

- (1) invoice;
- (2) packing list;
- (3) transport and insurance documents, where applicable.

367. A person shall, on approval from the Department, move goods to a public or private warehouse and such goods must be registered under the warehouse procedure.
368. A warehouse operator shall record the goods in a register or computerized system maintained at the warehouse.
369. All goods to be admitted to a public or private warehouse must be covered by a security deposit as specified in section 84 of the Act.

### **Release of Goods from Warehouse**

370. Goods from warehouse may be released on presentation of the documents and completion of formalities in accordance with chapter 7 and 12 of this Regulation.
371. A person shall, at the time of clearance of goods from a warehouse, submit to the Department a copy of duly registered warehouse manifest issued at the time of admission of the goods into the warehouse by the warehouse operator.
372. If a person decides to remove goods stored in the warehouse for home use, then such goods will be treated under normal import procedures and declaration to Department must be initiated immediately

### **Transfer of Goods from one Warehouse to another**

373. An owner of warehoused goods may, with the prior permission of the Department, remove and transport goods under bond from one warehouse to another.

374. An owner or authorized agent shall apply for transfer of warehoused goods to the The Department shall approve or reject for transfer of goods from one warehouse to another as per the application.
375. Goods transferred under section 373 of this Regulation shall be stored in a new warehouse for remaining period specified in section 376 of this Regulation.

### **Time Period for Storage of Goods in Warehouse**

376. Goods shall be allowed to be admitted under the warehouse procedure for a period of 90 working days from the date of deposit into the warehouse.
377. If goods are not cleared from the warehouse by the importer or authorized agent within the time stipulated under section 376 of this Regulation, the warehouse operator shall inform the Department in writing of such breach.
378. The Department shall notify the person or an authorized agent of the expiry of the warehousing period.
379. If the person or an authorized agent fails to respond within 10 working days from the date of notification under section 378 of this Regulation, the Department may assume the goods to be abandoned and dispose off in accordance with chapter 26 of this Regulation.
380. Notwithstanding section 376 of this Regulation, the Department may, on request, extend the period by additional 30 working days

## **Damage or Deterioration of Goods in a Warehouse**

381. Customs duty shall be levied on goods deteriorated or damaged by accident or force majeure while under the warehouse procedure in accordance with section 124 of this Regulation.

## **Discharge or Forfeiture of Security**

382. The Department shall, on winding up of a warehouse operation, discharge security deposit, provided that there are no unsettled or outstanding due with the Department or any other relevant agencies.
383. Where a warehouse operator breaches a provision of this Regulation, the Department shall forfeit the security deposit.
384. Where the forfeited security deposit is less than the applicable Customs duty, fines, penalties, fees and charges, a warehouse operator shall pay the remaining amount.

## **Suspension and Cancellation**

385. The Department may suspend an operation of a warehouse, if an operator fails to renew within 30 working days from the expiry date the following documents:

- (1) bank guarantee;
- (2) the trade license;
- (3) Registration Certificate.

or the Department may suspend an operation of a warehouse, if

- (1) the warehouse operator obtained approval of warehouse application through fraudulent means or by misrepresenting material fact;



- (2) the warehouse operator fails to comply with proper orders or regulations issued by Department regarding the operation or administration of the warehouse;
- (3) the warehouse operator does not provide secure facilities or appropriately safeguard merchandise stored within the warehouse;
- (4) the warehouse operation is inconsistent with any of the provisions of these rule as Department may deem fit.

386. The Depratment shall, prior to any decision to suspend an operation, inform the operator.

387. A suspension decision is effective for 30 working days from the date of issuance of a suspension notice.

388. The Department shall cancel the Certificate of Registration in the following circumstances:

- (1) where the Certificate of Registration is already suspended and the holder fails to take remedial measure to have the suspension withdrawn;
- (2) where the holder has committed serious infringement of Customs Act and this Rules and has no further right to appeal.

389. The Department shall, prior to a decision to cancel Certificate of Registration, inform the operator and provide an opportunity to submit necessary justification to the Department.

390. In case the Certificate of Registration is cancelled, the operator shall not be entitled to reapply for a period of one year from the date of cancellation.

391. The Department shall inform the warehouse operator and concerned person to transfer goods to another Customs warehouse

or to place under another Customs procedure within 20 working days after the date of notification.

392. Where the concerned person or authorized agent or the warehouse operator fails to respond or request for an extension, the Department may assume the goods to be abandoned and may dispose off through public auction or tender in accordance with chapter 26 of this Regulation.

## **CHAPTER 15**

### **TRANSIT AND TRANSSHIPMENT**

#### **International Transit**

393. The protocol on Trade, Commerce and Transit agreement between the Royal Government of Bhutan and the Government of Republic of India governs the procedure for import or export of goods in transit through the territory of India.
394. In case the services for import of goods from countries other than India are provided by the Department, a person shall be liable to pay:
- (1) 1.0% agency commission to the Department, if Customs is used as the clearing and forwarding agent to clear goods in transit; or
  - (2) 0.25% service charge to the Department as to cover the administrative cost, if a registered private clearing and forwarding agent is used to clear goods in transit.
395. An agency commission and service charges under section 394 of this Regulation is levied on transaction value derived at the port of entry in Bhutan.

## National Transit

396. The protocol on Trade, Commerce and Transit agreement between the Royal Government of Bhutan and the Government of Republic of India governs the procedure for goods in transit from one part of Bhutan to another part of Bhutan through the territory of India.
397. In keeping with the protocol on Trade, Commerce and Transit agreement between the Royal Government of Bhutan and Government of Republic of India, the Department:
- (1) may, for the movement of imported goods from one part of Bhutan to another through foreign territories, allow the owner or authorized agent to declare the imported goods to the Department for obtaining a transit declaration in accordance with **Annex 14** of the Schedule along with applicable security deposit;
  - (2) may issue transit declaration on verification of documents and examination of goods at the port of exit;
  - (3) shall provide a copy of the transit declaration to the owner or authorized person which shall be handed over to Customs station at the port of entry;
  - (4) may, prior to clearance, verify the documents and examine the goods at the point of entry;
398. Transit process is considered complete when goods in transit are delivered at the intended destination and when all due process in this Regulation are completed.
399. An owner or authorized agent shall along with a transit declaration submit a letter of undertaking stating that the goods are meant for bona-fide use in Bhutan, which shall be duly endorsed by the Department on exit, where necessary.

400. Transit reconciliation for incoming and outgoing may be carried out among the Customs Stations, where necessary.

### **Inland Transit**

401. Goods intended for stores, authorized postal or courier and duty-free operation may be allowed for Inland Transit provided that:

- (1) a person declares stores, postal and duty free goods in accordance with **Annex 14** of the Schedule;
- (2) Customs officials at the departure point shall issue transit declaration to the person to be handed over to Customs officials at the destination point;
- (3) transit reconciliation for incoming and outgoing, as the case may be, is carried out among the Customs Stations and with the stores and duty free operators, where necessary.

402. The Department at the destination point shall acknowledge the receipt of goods.

403. If necessary, goods on inland transit may be allowed for transshipment at the point of entry under the supervision of Customs official.

404. In case of any offences or deflection of the goods on inland transit, the Department shall invoke relevant provisions of the Act and this Regulation.

### **Discharge of Security Deposit**

405. The Department shall discharge security deposit, if any, to a person upon fulfillment of transit process.

## **Liability for Transit and Transshipment**

406. Any violation of this chapter shall be dealt in accordance with sections 94 and 95 of the Act.

## **CHAPTER 16 CLEARANCE OF PASSENGERS AND BAGGAGE**

### **Duty Free Baggage Allowance for Bhutanese Nationals, Foreign Residents and Diplomats.**

407. Bhutanese nationals and foreigners above the age of 15 years residing in Bhutan and travelling by air and returning into the country is entitled to duty free baggage allowance within the value and quantity threshold prescribed in **Annex 22** of the Schedule, without payment of Customs duty.
408. Gold and silver in the form of coins, bars or bullion including jewelry in excess of the quantity mentioned in **Annex 22** of the Schedule shall require permit from the relevant agency and is subject to levy of Customs duty.
409. Baggage or goods in commercial nature shall not be considered as duty free baggage allowance even if the value of the goods is less than US\$ 1000 or equivalent in Ngultrum.
410. For the purpose of this Regulation, a baggage is considered to be non-commercial in nature when it is occasional and consists only of goods for personal use or consumption by a traveler or by a family of traveler or to be disposed of as gifts in the country, and does not suggest by the nature or quantity that the goods are imported for commercial purpose.

## **Unaccompanied Baggage**

411. Allowances under sections 407 to 410 of this Regulation for accompanied baggage is extended to unaccompanied baggage provided that such baggage is shipped or dispatched from abroad within 30 working days preceding or following the date of arrival of the passenger in Bhutan.
412. On being satisfied with the reason for dispatch of a baggage beyond the period specified in section 411 of this Regulation is genuine, the Department may consider such delay.
413. An owner or the authorized agent shall, for unaccompanied baggage arriving by air, produce the following documents to the Customs at the airport:
- (1) airway bill, where applicable;
  - (2) packing list, where applicable;
  - (3) invoice or value declared for Customs purpose;
  - (4) letter of authorization, where applicable;
  - (5) copy of passport;
  - (6) any other relevant documents.
414. A consignor and consignee must be the same person in order to claim the duty free baggage allowance.

## **Duty Baggage Allowance for Aircrews**

415. Aircrew is entitled to duty free baggage allowance only up to a value of USD 100 or equivalent per trip or travel.
416. The following goods shall not be permitted as an aircrew baggage:
- (1) gold, silver and jewelry;
  - (2) alcohol products;

- (3) electronic items; and
- (4) goods for commercial purpose or in commercial quantity.

### **Duty Free Allowance for Foreigners Including Tourist**

417. A foreigner including tourist shall be allowed to temporarily import used personal effects and articles reasonably required for the visit free of Customs duty provided that the items imported are for personal use and is re-exported on leaving Bhutan.
418. A foreigner shall be allowed to import articles up to a value of USD 150 or equivalent for personal use or as gifts and travel souvenirs including spirit of not more than two liters and perfume of not more than 100 ml, free of Customs duty, if such articles are carried on the person or as accompanied baggage.
419. A foreigner shall be allowed to temporarily import following articles of high value either by submitting a written inventory list containing details of goods to the airport Customs on arrival along with an undertaking to re-export the same upon departure from the country or filling in the form prescribed in **Annex 14** of the Schedule:
- (1) sound recording equipment;
  - (2) film projector's slides and film for demonstration;
  - (3) scientific and professional equipment;
  - (4) instrument and appliances like video recorders.
420. For the purpose of section 419 of this Regulation, a person shall submit the same declaration to Customs at the time of departure and if Customs upon examination finds discrepancy in the articles as declared, applicable Customs duty shall be levied on the missing articles.

421. A foreigner shall be allowed to temporarily import items for sports purposes in reasonable quantities, free of Customs duty provided that the items imported must be re-exported on leaving Bhutan.
422. For the purpose of section 421 of this Regulation, a person on arrival shall present or submit a written inventory list containing details of the goods to airport Customs along with an undertaking to re-export the same upon departure from the country or filling in the form prescribed in **Annex 14** of the Schedule.
423. For the purpose of section 422 of this Regulation, a person shall present or submit the same declaration to Customs at the time of departure and if a Customs official, on examination, finds discrepancy in the items as declared on arrival, applicable Customs duty shall be levied on the missing articles.

## **Declaration**

424. All arriving passengers including aircrew shall be mandated to declare the contents of the baggage to Customs if it contains goods in commercial quantity or which are restricted or prohibited or exceeds duty free baggage allowance.
425. All passengers including aircrew shall be mandated to declare to Customs, currency
426. All departing passengers including aircrew shall be mandated to declare the contents of their baggage, in particular any restricted goods along with the required permit to Customs.

## **Assessment**

427. A baggage exceeding the duty-free baggage allowance prescribed in **Annex 22** of the Schedule of section 407 of this regulation shall be subject to Customs duty on the exceeding value.



428. A traveler or the authorized agent or representative shall, for the purpose of levy of Customs duty, where applicable, declare baggage containing commercial goods using the forms and procedures laid down in chapter 12 of this Regulation.

### **Red and Green Channel System and Examination of Baggage**

429. A traveler shall use the red and green channels at the airport and submit their passenger declaration form to the Customs to facilitate clearance.

430. The use of green channel means that the traveler has nothing to declare and use of the red channel means that the traveler has goods to declare.

431. The Customs may stop a passenger passing through a green channel and inspect the baggage.

432. Any passenger using the green channel with dutiable goods beyond the duty free baggage allowance or prohibited and restricted goods is liable to fines and penalties and the baggage maybe detained, seized or confiscated.

433. A passenger shall assist the Customs in the examination of the baggage to expedite the clearance.

434. A passenger shall, upon request of the Customs, open the baggage and present it for examination.

435. The Department shall not be liable for any damage to a baggage that may occur during the examination, unless the damage was caused by gross negligence or a willful act on the part of the Customs.

## **Stores**

### **Arrival and Departure**

436. Stores under section 98 of the Act, is applicable for scheduled and chartered flights arriving in Bhutan and departing from Bhutan
437. A person in charge of an aircraft or the authorized agent or representative of scheduled or chartered flight shall, prior to arrival and departure, keep detailed stock of the stores on board specifying the article, the number and quantity for each article.
438. A person in charge of an aircraft or the authorized agent or representative of scheduled or chartered flight arriving in Bhutan shall, prior to landing in Bhutan, close and seal stores on board and be available for inspection upon arrival.

### **Storage, Delivery and Removal of Stores**

439. Stores for delivery to foreign bound scheduled or chartered flight must be kept in a warehouse under Customs control and the warehouse operator shall comply with the requirements of Warehousing as per chapter 11 of the Act and chapter 14 of this Regulation.
440. A warehouse operator shall record in detail any stores delivered to or removed from scheduled or chartered flight.
441. If the aircraft is undergoing maintenance or service, a person in charge or the authorized agent or representative of an incoming foreign aircraft shall remove stores on board and store it in a warehouse under Customs control and the warehouse operator shall record the entry into the warehouse register.

## **Fuels and Lubricants for Aircraft**

442. An operator shall record in detail fuels or lubricants delivered to foreign and Bhutanese scheduled and chartered flight.

## **Transfer of Residence**

### **Personal Effects**

443. A Bhutanese national residing abroad for more than 12 months, on a bona-fide transfer of residence to Bhutan, shall be allowed to import used personal household effects as listed in **Annex 6** of the Schedule, and exemption of Customs duty shall be in accordance with chapter 8 of this Regulation.
444. Goods that are commercial in nature and in excess of the prescribed list in **Annex 5** of the Schedule shall be subject to Customs duty.
445. A person shall declare to the Customs, at the time of first entry of goods or cargo into the country, all goods including personal household effects imported into the country under transfer of residence status.
446. Non-compliance with section 445 of this Regulation is deemed an offence and shall be dealt in accordance with the relevant provisions of chapter 19 of the Act and chapter 24 of this Regulation.
447. A Bhutanese applying for Customs duty exemption on the basis of transfer of residence shall produce a proof of transfer of residence and other relevant documents as considered necessary by the Department.
448. In case of Bhutanese family residing abroad for longer than 12 months, one family member is entitled to the relevant concession under this chapter, unless it is proved to the satisfaction of the

Department that the member of the family claiming these benefits was staying abroad independently and maintaining a separate residence.

### **Professional Equipment**

449. In case of bona-fide transfer of residence of a scientist, doctor, engineer or person engaged in any other professional, technical or specialized profession, the person concerned shall be allowed to import on the approval of the Department, free of Customs duty, such professional equipment that are directly required in their profession.

### **Baggage of Deceased Person**

450. Notwithstanding chapter 16 of this Regulation, personal articles and household effects of a Bhutanese citizen who pass away abroad shall be allowed to be imported, free of Customs duty, if proved to the satisfaction of the Department that it is the bona-fide personal goods and effects of the deceased and approval is so accorded.

## **CHAPTER 17 IMPORT AND EXPORT BY POST AND COURIER SERVICES**

### **Movement of Goods through Foreign Post**

#### **Post Office**

451. All foreign post parcels including letters, documents and correspondence arriving in and going out of Bhutan by Post shall be forwarded to the Post Office under Customs control.

## **Declaration**

452. A person or the post office, as the case may be, shall present to the Department for clearance of foreign post parcels exceeding duty free gift allowance provided in section 463 of this Regulation and such post parcels shall be accompanied by the standard Customs Declaration Form as per Universal Postal Union Convention.
453. A receiver or the authorized representative shall submit a Customs declaration.

## **Clearance by Customs**

454. A post office shall not deliver or exchange through any post office, a foreign post parcel without completing the Customs clearance procedures and formalities.
455. The Department may, as considered necessary, examine a foreign post parcel.
456. Where foreign post parcel is selected for examination, the Department shall open in the presence of the receiver of the parcel, or in the presence of a representative of the post office.
457. The Department shall confiscate any prohibited item found in a parcel in accordance with sections 617 to 618 of this Regulation.
458. The Department shall detain or seize restricted items found in a parcel in accordance with sections 606 to 616 of this Regulation.
459. The Department shall carry out an assessment in accordance with chapter 18 of this Regulation.

460. Where the receiver is present during the examination and assessment, the Department shall collect applicable Customs duty from the receiver.
461. Notwithstanding section 457 of this Regulation, the Department shall mark foreign post parcel as “Examined by Customs” and return the same to the post office along with the assessment.
462. The post office shall remit to the Department all applicable Customs duty collected from the receiver.

### **Duty Free Allowance for Foreign Post Parcels**

463. The Department shall exempt customs duty on import of goods through foreign post parcel as gift up to an invoice value of Nu. 10000 provided that:
- (1) such parcel does not contain alcohol, alcoholic beverages or any prohibited or restricted goods;
  - (2) such parcel contains only goods of personal use and the quantity of goods imported is not commercial in nature.
464. For gifts exceeding the duty free allowance, Customs duty is collected on the exceeding value as specified hereunder, in case of:
- (1) single item, Customs duty is levied directly on the exceeding value;
  - (2) more than one item, weighted average method as per sample exercise laid out in **Annex 24** of the Schedule is applied proportionate to the exceeding value against each item.

## **Prohibitions and Restriction**

465. All import and export of foreign post parcel shall be in accordance with the Universal Postal Union convention.
466. Notwithstanding section 465 of this Regulation, the provision under chapter 6 of this Regulation applies to all import and export of foreign post parcels.

## **Special Provisions to Export Items by Post**

467. Any export made as foreign post parcel through a post office shall be in accordance with chapter 12 of this Regulation.
468. Any export through post office is subject to Customs control and parcel selected may be opened for examination.
469. A post office on accepting goods as parcel for export shall ensure that the parcel has Customs declaration form in accordance with **Annex 14** of the Schedule.

## **Undelivered Parcel**

470. Where foreign post parcel cleared by Customs is not delivered to the addressee for any reason, Post office shall not dispose the parcel without approval of the Customs, unless the same is being returned to the sender in normal course in accordance with postal regulations.
471. The Post shall maintain a separate record for undelivered and returned foreign post parcel.

## **Movement of Goods through Courier Services**

### **Categories of Goods Imported/Exported by Authorised Courier Services**

472. All import or export of goods through courier shall be presented separately in identifiable Courier company bags, with appropriate labels, indicating the following:

- (1) documents;
- (2) free gifts;
- (3) samples;
- (4) dutiable or commercial goods.

### **Goods to be Presented for Assessment**

473. An authorized courier shall, at the port of entry, present and declare for examination and assessment all imported/exported goods through land or air to the Department.

474. The Department may, for items under sections 472(1) and (2) of this Regulation, approve the declaration and clear the goods based on the manifest.

475. For items under section 472(3) of this Regulation, Customs duty is collected in accordance with section 131 to 133 of this Regulation.

476. Where goods fulfil conditions laid down in section 482 of this Regulation and is not selected by the Department for examination, such goods shall automatically be released for delivery.

477. All other goods imported/exported under section 472(4) of this Regulation is cleared in accordance with chapter 11 and 12 of this Regulation.



478. The Department shall carry out assessment under chapter 18 of this Regulation and collect Customs duty from the person concerned or Courier Company.
479. The Department shall confiscate any prohibited item found in a parcel in accordance with sections 617 to 618 of this Regulation.
480. The Department shall detain or seize restricted items found in a parcel in accordance with sections 606 to 616 of this Regulation.

### **Disposal of Un-cleared Goods**

481. The Department may, through public auction or tendered in accordance with section 641 to 645 of this Regulation, dispose of goods which is not cleared within 90 working days after the date of arrival.

### **Customs Duty Allowance for Goods Imported by Courier**

#### **Duty Free Gift allowance for Goods Imported through Authorized Courier**

482. The Department shall exempt Customs duty on import of goods through authorized courier as gifts up to an invoice value of Nu. 10000 provided that
- (1) such parcel does not contain alcohol, alcoholic beverages or any prohibited or restricted goods;
  - (2) such parcel contains only goods of personal use and the quantity of goods imported is not commercial in nature.
483. For goods exceeding the duty free allowance, Customs duty is collected in accordance with section 464 of this Regulation.

## **Export Items Moving by Courier Services**

484. An export made through courier shall be in accordance with the export procedures laid down in the Act and this Regulation.
485. A courier operator shall, on accepting goods for export, ensure that the goods are accompanied by export declaration form duly approved by the Department.

## **E-commerce**

486. Provisions laid down for post parcel and courier services under this Regulation is applicable mutatis mutandis to goods purchased through e-commerce and in such cases, the duty free allowance value is limited to Nu. 10000

## **CHAPTER 18**

### **ASSESSMENT, DEMAND AND RECOVERY**

## **Assessment**

487. A person importing or exporting goods shall pay Customs duty to the Department.
488. The Department shall assess and levy Customs duty on the Customs value determined under the methods prescribed in chapter 5 of this Regulation.
489. The Department shall apply Customs duty rates in accordance with the Customs Duty Act of Bhutan 2021 and amendments thereof.

## **Self-Assessment**

490. For the purpose of section 102 of the Act, the procedures for self-assessment is as follows:

- (1) a person shall file declaration and ensure that such declaration is made in accordance with section 70 of this Regulation and the Bhutan Trade Classification, Customs Tariff and Schedule;
- (2) Customs declaration must clearly specify that the person is using the right to self- assess the declaration as specified in **Annex 14** of the Schedule
- (3) a person shall pay the applicable Customs duty, if any, and produce proof of such payment along with other relevant documents to the Department for inspection.

491. Declarations based on self-assessment are subject to risk assessment and compliance record maintained by the Department.

492. Where self-assessment is accepted, the Department may permit the consignment to be moved to the authorized premises of the person.

493. Where self-assessment is in contravention to the provisions of the Act and this Regulation, the Department shall reject a declaration and invoke necessary penal provisions.

494. The Department may conduct Post Clearance Audit on goods released on self- assessment basis.

## **Provisional Assessment**

495. The Department may direct or accept provisional assessment, where:

- (1) a person is unable to make self-assessment under section 102 of the Act and applies to the Department for provisional assessment;
- (2) a person fails to produce required documents or information and the Department considers it necessary to make further enquiry;
- (3) a person has produced required documents or information but the Department considers it necessary to make further enquiry;
- (4) goods are of perishable or hazardous in nature and requires to be brought under specific storage facilities to avoid deterioration; or
- (5) the Department finds it necessary to take sample of goods imported or export goods to undergo any chemical or other test.

496. On submission of the security deposit equivalent to an amount of applicable Customs duty, the Department shall release the goods provisionally assessed.

497. The Department may extend the facility for provisional assessment without security deposit to authorized compliant traders under chapter 13 of this Regulation.

498. Where goods are released on basis of provisional assessment, the Department shall complete the final assessment within 30 working days or any extended time period.

499. The Department shall, on completion of the final assessment, adjust the Customs duty payable or refundable against the security deposit.

## **Application Dates for Rate of Custom Duty**

500. A rate of Customs duty on imported or export goods is the rate in force on the day the Customs declaration is accepted by the Department.
501. A rate of Customs duty on goods imported through baggage or post parcel is the rate in force on the date of payment of Customs duty in accordance with section 107 of the Act.
502. A rate of Customs duty for goods released on the basis of self-assessment is the rate in force on the day the self-assessed declaration is accepted by the Department.
503. A rate of Customs duty for goods released on the basis of provisional assessment is the rate in force on the day the provisionally assessed declaration is accepted by the Department.
504. A rate of Customs duty for warehoused goods is the rate in force on the day the declaration is accepted by the Department.
505. Notwithstanding sections 500 to 504 of this Regulation, a rate of Customs duty applicable for advance declaration is the rate in force on the day the declaration is submitted to the Department.

## **Reassessment**

506. Customs duty is reassessed:
- (1) when an appeal by a person is successful and any of the three tier levels of the dispute settlement appeal committee directs for reassessment;
  - (2) when the Department, at the time of post clearance audit finds that the assessment of Customs duty is levied incorrectly;

- (3) if on subsequent examination of goods or documents, the declaration is found to be untrue; or
- (4) when the Department under section 108 of the Act, considers it necessary.

### **Demand for Customs Duty**

507. Where Customs duty is not levied, or short levied, or wrongly refunded or interest payable is not paid under section 108 of the Act, the Department shall issue a demand notice to the person concerned within five years from the date of final assessment or from the date of importation, as the case may be.
508. For the purpose of section 507 of this Regulation, the demand notice must clearly refer to the assessment or documents and state the reason for the demand.
509. Where a case of collusion, fraud, willful misstatement or suppression of facts is detected, then the time limit specified in section 507 of this Regulation is not applicable.

### **Maintenance of Revolving Account**

510. Pursuant to section 186 of the Act, the Department may allow a person to operate a revolving account to facilitate the clearance of goods and collection of Customs duty.
511. For the purpose of section 510 of this Regulation, a person shall make an application to the Department.
512. For the purpose of section 511 of this Regulation, the Department may approve an application based on the compliance record of the applicant.

- 513 The Department shall maintain records for each revolving account and provide statement of the account, as and when required.
514. An account holder shall be responsible to maintain sufficient funds in the revolving account to avoid delay in the clearance process.
515. Upon completion of the clearance process, the Department shall issue an adjustment note to the person concerned or to the representative.
516. The Customs duty adjusted under section 510 of this Regulation shall be deposited in the Government revenue account.

### **Mode of Recoveries**

517. In order to recover dues, the Department shall apply recovery measures laid out under section 111 of the Act.
518. The Department may, prior to applying the recovery measures as specified under section 111 of the Act, recover the dues by:
- (1) entering into an agreement with the person for payments of any dues in installments;
  - (2) executing bond or security by the person; or
  - (3) adjusting the amount which may be due to the person.
519. Where payment on installment is agreed, 24% penal interest per annum shall be applied till the date of first installment and in the event of default of installment, the penal interest shall be calculated on the defaulted installment amount.
520. The Department may temporarily withhold an import, export or transit goods of a defaulting or delinquent person

521. In the event of failure to recover an amount from the person in default or delinquent person under section 520 of this Regulation, the Department may permanently freeze the person's import, export or transit goods after obtaining a court order.

### **Restraints on Assets**

522. Where Department fails to recover any outstanding dues under sections 517 to 521 of this Regulation, it shall restrain the person from disposing off an asset by obtaining court order.

523. The Department shall not place any restraint on assets or properties that may have prior interest by way of mortgage, lease, hypothecation or by operation of any other law in force.

524. In the event a person acts contrary to the restraining order issued under section 522 of this Regulation, the Department may dispose of the asset as per the court order.

### **Transfer, Closure or Winding up of a Business**

525. In case of transfer, closure or winding up of a business, a registered person of an entity shall be subject to the outstanding dues accordance with the relevant laws of the country.

526. Notwithstanding section 522, the registered person or an entity upon obtaining tax clearance certificate from the Department, shall be absolved of any outstanding dues.



## **CHAPTER 19**

### **REFUND**

#### **Applicability of Refund**

527. Refund claims under section 113 of the Act is applicable when:

- (1) an exempt person or organization has paid Customs duty, fees or charges;
- (2) a non-exempt person has paid Customs duty, fees or charges for imports made on behalf of exempted person;
- (3) there is an excess or wrongly or erroneously levied Customs duty, fees or charges paid;
- (4) order or decision of the disputes settlement committee, appeal committee, appellate board or court judgment results in reduction of Customs duty, fees or charges payable.

#### **Conditions for Refund**

528. The Department shall refund Customs duty, fees or charges paid at the port of entry on fulfillment of the following conditions:

- (1) only to the extent of what is granted by way of exemptions, excess deposit, decisions or judgments;
- (2) application for refund is electronically submitted to the Department;
- (3) there are no outstanding dues against the applicant.

529. When Customs duty, fees and charges is paid in advance at the time of import, the Department shall refund the payment so made to the exempt person on fulfillment of following conditions:

- (1) application for refund of Customs duty, fees and charges is electronically submitted to the Department;

- (2) refund claim is made by the exempt person for the goods specified in the exemption certificate;
- (3) refund claims are processed through the concerned Regional Office where the Customs duty, fees or charges is paid.

### **Time Period for Refund Claim**

530. The time period for filing application for refund and the time period for refunding the claim must be in accordance with section 115 and 116 of the Act, respectively.

### **Documents Required for Refund**

531. A claimant shall submit a refund claims supported by the following documents:

- (1) copy of issued import declaration form;
- (2) copy of revenue receipt or advance adjustment voucher
- (3) copy of invoices or cash memos; and
- (4) copy of exemption certificate.

532. The concerned Regional office shall verify an application and proceed with the refund in accordance with chapter 15 of the Act.

533. A claimant shall be liable for applicable bank charges on cheque re-issued by the Department on account of cheque lost by the claimant.

## **CHAPTER 20**

### **POST CLEARANCE VERIFICATION AND AUDIT**

#### **Post Clearance Verification**

534. The Department may, after release of the goods on the application of risk management, select declarations and supporting documents for a post-clearance verification to authenticate the accuracy of the particulars contained in the declaration and the assessment made thereof.
535. For the purpose of section 534 of this Regulation, post-clearance verification must be carried out at the Customs Station.
536. An importer, exporter or an authorized person shall, on the request of the Department, furnish documents related to the import or export as considered necessary to conduct the post-clearance verification.
537. Where a verification of declaration indicates that the provisions governing the Customs procedure is applied on the basis of incorrect or incomplete information, the Department shall take necessary measures to reassess the declaration in accordance with the provisions of the Act.
538. An importer, exporter or an authorized person shall provide all necessary assistance to the Department to conduct the post clearance verification.

#### **Post Clearance Audit (PCA)**

#### **Legal Authority**

539. In execution of the power conferred by section 117 of the Act, the Department shall conduct Post Clearance Audit on any person.

540. The Department may, on the basis of the books of accounts or any other information that may be related to the business, demand any person to furnish information regarding Customs duty.
541. A person shall, on written demand, produce documentary proof of duties paid on goods or services, or furnish any information that may be required by the Department.
542. An officer of the Department shall have the right to inspect business premises and exhibits of a person.
543. The Department may, on the basis of an application from a person or on obtaining additional information on a person, carry out reassessment.

## **Objective**

544. PCA is conducted to ensure that a person subject to Customs controls complies fully with all relevant legislation and requirement and also to:
- (1) facilitate trade with minimum intervention at the port of entry and exit;
  - (2) ensure accuracy of a declaration made to the Department;
  - (3) increase compliance with all relevant and applicable laws and regulations;
  - (4) correct discrepancies in Customs declaration;
  - (5) protect revenue leakages;
  - (6) ensure that a person maintains proper books of account;
  - (7) ensure effectiveness in Customs control.

## **Scope of PCA**

545. PCA may be extended to conduct audit on:

- (1) importers and exporters registered for PCA;
- (2) authorized compliant traders or low risk traders;
- (3) other parties involved in import and export transactions;
- (4) Warehouse Operators; or
- (5) such person as the Department may consider necessary.

## **Selection and prioritization of potential auditees**

546. The Department shall, based on the result of risk and compliance assessment, prioritize potential auditee to be audited first.

## **Annual Audit Plan**

547. The Department shall, using risk and compliance assessment, draw up an annual Audit plan and select a person for PCA at their premises.

548. A PCA must review and verify accuracy of particulars contained in Customs declaration and the assessments made thereof over a period of time not exceeding five years.

549. A PCA focuses on specific Customs issues such as classification, valuation, origin or any other matter of particular concern to the Department.

## **Pre-audit Survey**

550. A pre-audit survey is a preliminary or preparatory examination of an auditee profile and information initiated in Customs office, prior to a field audit.

551. A pre-audit survey shall:

- (1) identify possible and questionable risks in auditee declaration for the past certain period through analysis of information available; and
- (2) discuss and plan the conduct of field audit and examine identified risks, prior to the audit.

### **Advance Notification**

552. The Department shall, in advance, serve notice to the selected auditee informing the following:

- (1) audit schedule;
- (2) numbers of officials involved;
- (3) documents to be audited.

553. If it is apparent that additional time will be required, the Department shall immediately provide an auditee a further estimate of such additional time.

### **Background Questionnaire**

554. The Department may, depending on the size of the business and location of an auditee premises, request data or information of the auditee via a background questionnaire and such a questionnaire may include gathering data regarding:

- (1) organization and structure;
- (2) commodity information;
- (3) methods of payment;
- (4) value of commodities;
- (5) costs associated with commodities;
- (6) detailed product-cost information/submissions for analysis;
- (7) related-party transactions; and

- (8) record-keeping systems.

### **Opening or Entry Conference**

555. An audit team shall, at the beginning of a field audit, hold a meeting with an auditee to discuss administrative matters necessary for conducting the audit and the auditee must be represented by a senior member and ensure a high level of cooperation.

### **Overview Examination**

556. An Auditor may, to facilitate documentary examination and enhance effectiveness in getting an outline of the auditee business, conduct oral interview with representatives of the auditee.

### **Audit Recording and Report**

557. An auditor or audit team shall record all audit activities and securely maintain relevant documents required for the audit and notes taken thereto.
558. An auditor shall issue receipts for documents received and samples taken.
559. An auditor shall, after completion of an audit, summarize the findings and prepare an audit report reflecting all aspects of the audit, including the inspection of the premises, results of physical checks and review of working papers.

### **Termination of Audit**

560. Where the Department uncovers possible offences and directs a formal investigation to be initiated, the audit shall stand terminated and no exit conference will be held.

## **Exit Conference**

561. An audit team shall, prior to compilation of the final audit reports, hold an exit conference with the auditee to present the findings and provide opportunity for the auditee to put forth justifications.

## **Preparation of Final Report**

562. An auditor shall, within 15 working days from the date of exit conference, prepare a final report and provide a copy of such report to the concerned auditee outlining the details of the findings and also inform the auditee of the right to appeal.
563. An auditee shall, within the time set by the auditor in the final report, respond in writing to the Department indicating the action taken or intended to take as a result of the audit.

# **CHAPTER 21 ADVANCE RULINGS**

## **Scope**

564. For the purpose of this Regulation, advance ruling may be issued on the Classification of goods in accordance with Bhutan Trade Classification and Tariff Schedule relating to import and export of goods.

## **Application**

565. A person shall electronically submit to the Department an application for advance ruling.

## **Issuance**

566. The Department shall, to the extent possible, issue an advance ruling in the form prescribed in **Annex 25** of the schedule within



90 working days from the receipt of an application and inform the applicant about the right of appeal and seek confirmation or clarification on the ruling.

567. An applicant shall, in addition to any other associated cost, pay applicable fees as follows:

- (1) a fee of Ngultrum 500 to a maximum of 10 commodities;
- (2) additional fee of Ngultrum 100 per commodity that exceeds the maximum limit of 10 commodities.

568. An advance ruling does not come into effect, if:

- (1) information on which the ruling was passed is not correct in all material respects; or
- (2) a material change has occurred in any information or facts on which it was made.

569. The Department may decline to make an advance ruling on the following grounds:

- (1) information furnished is insufficient;
- (2) in the absence of conclusive evidence provided in support of the contentions in an application;
- (3) the issue raised in the application is pending before any government agency, three tier dispute settlement committee or court; or
- (4) the issue is decided by the three-tier dispute settlement committee or court.

## Validity

570. An advance ruling with respect to the matters set forth in the ruling for import and export of commodity is binding upon the Department and the applicant from the date of issuance of the ruling.
571. An advance ruling passed is valid for a period of two years from the date of issuance of the ruling.
572. An advance ruling passed for a particular applicant shall be equally and uniformly applicable to other importers and exporters involved in import and export of identical goods.
573. An advance ruling is not applicable to import and export made prior to the date of issue of advance ruling.
574. An advance ruling ceases to have effect:
- (1) from the date on which advance ruling ceases to be correct in all material respect;
  - (2) from the date of a material change in any of the information or facts on which the advance ruling was passed;
  - (3) from the date of a material change to the Bhutan Trade Classification, or to any applicable regulations made under the Act;
  - (4) from the date on which any of the conditions to which the advance ruling passed cease to be met or complied with;
  - (5) on the date of expiry of two years from the date of notice of the advance ruling is given to an applicant; or
  - (6) if a ruling is appealed by a person other than the applicant and the appeal is successful in favor of the appellant.

## **Revise, Modify or Revoke**

575. The Department shall, upon application from a concerned person or on its own motion, review an advance ruling or a decision and accordingly revise, modify or revoke such ruling.
576. If the Department rejects an application to review an advance ruling, or annuls or revokes on its own motion a previously-issued advance ruling, the person concerned shall be given adequate opportunity to be heard within 30 working days from the date on which the notification is issued.
577. The Department shall pass decision to revise, modify or revoke an advance ruling containing the following details:
- (1) full name and address of the advance ruling holder;
  - (2) advance ruling reference number;
  - (3) advance ruling issued details;
  - (4) justification for revision, revocation and modification.

## **CHAPTER 22**

### **BOOKS, ACCOUNTS AND RECORD KEEPING**

578. For the purpose of this Regulation, sections 119 to 122 of the Act are applicable on Books, Accounts and Record Keeping.
579. The Department may, as considered necessary, formulate and develop relevant manuals or guidelines for proper implementation of this chapter.

## **CHAPTER 23**

### **POWER OF CUSTOMS**

#### **Authority to Inspect**

580. The Department shall issue an order for inspection beyond Customs Station.
581. Notwithstanding section 589 of this Regulation, no inspection order shall be required if there is reasonable cause to believe that there is imminent risk of disposing or destroying evidences of dutiable, non-dutiable, restricted or prohibited goods or documents.
582. A person shall be informed on completion of an inspection conducted and provide details of the inspection team.
583. The head of an inspection team shall submit a report on the findings of the inspection to the head of the Department or head of the Regional Office, as the case may be.

#### **Authority to Investigate**

584. The Department may, if necessary, order an investigation for the following purposes:
- (1) smuggling of goods into and out of Bhutan;
  - (2) fabricating and furnishing false information or document to Department;
  - (2) take additional evidence or witness;
  - (3) clarify the cause of inconsistency in the statement;
  - (4) hold scientific, technical or expert opinion;
  - (5) any action contrary to Customs Act and this Regulation;
  - (6) perform any other functions, which are legally justified by the case.

585. The Department shall consider an investigation report as confidential and protect it from unauthorized disclosure.

586. The Department shall refer offences investigated to the relevant agencies for prosecution, if considered necessary.

### **Authority to Search**

587. The Department shall be authorized to conduct search without warrant as follows:

- (1) search of goods under section 123 of the Act;
- (2) search of a person under section 124 of the Act;
- (3) search of goods inside body under section 126 of the Act;
- (4) search of premises under section 128 of the Act;
- (5) search of a conveyance under section 129 of the Act.

### **Authority to Search a Person**

588. If the Department suspects that a person has concealed goods, it shall have the power to search and inspect a person:

- (1) coming from abroad and going abroad;
- (2) on aircraft under Customs control;
- (3) embarking to and disembarking from aircrafts;
- (4) working in Customs territories; and
- (5) entering and exiting Customs Station or Areas for various purposes.

589. A person shall be informed of the ground of search under section 588 of this Regulation.

590. Minors under the age of 18 years shall be searched and inspected in the presence of:

- (1) a guardian;
- (2) a person whose care the minor is under; or
- (3) an authorized personnel of government institution working to protect the rights of children.

### **Search of Goods Inside Body**

591. A person may, as considered necessary by the Department under section 126 of the Act, be searched inside the body.
592. Search under section 591 of this Regulation shall be conducted by a competent person authorized by a relevant government authority to conduct such search.
593. The Department or concerned authority shall designate or identify an appropriate place to conduct search inside the body.

### **Search of Premises and Conveyance**

594. The Department shall conduct search of premises and conveyance in accordance with sections 127, 128 and 129 of the Act.
595. The Department may, for search of premises, include relevant law enforcement agencies or stakeholders as part of the search team.

### **Search Warrant**

596. For the purpose of search of premises under section 127 of the Act, the Department shall obtain a search warrant from the nearest court having jurisdiction.
597. A search warrant for premises shall be executed in accordance with the Civil and Criminal Procedure Code of Bhutan.

598. An Officer executing a search warrant shall:

- (1) Identify themselves as officials of the Department.
- (2) show a search warrant;
- (3) inform the person of the rights under section 140 of the Act.

599. If the officials pursuant to section 598 of this Regulation is refused entry after identification, reasonable force may be used to break into premises.

600. A seizure/confiscation made, if any, during search shall be dealt in accordance with the provisions of the Act and this Regulation

### **Power to Detain Person, Goods, Documents and Conveyance**

601. Detention of person, goods, documents and conveyances shall be in accordance with section 130 of the Act.

602. The Department may detain goods, documents and conveyances prior to seizure and confiscation, except in case of prohibited goods.

### **Detention of Person**

603. A person detained shall be issued a detention memo in accordance with **Annex 26** of the Schedule containing the following information:

- (1) personal details of the person detained;
- (2) reason for detention;
- (3) place where the detainee is to be taken;
- (4) rights laid out under section 140 of the Act; and
- (5) if the detainee needs to be transferred to another place for investigation purpose, the detainee shall be informed of such transfer accordingly.

604. A person detained under this Regulation shall, within 24 hours of the detention, be:

- (1) produced before the courts in collaboration with the concerned authority or agency;
- (2) released on execution of a security or furnish a guarantor with the condition that the person shall report to specific Customs Station on a specific date;
- (3) released unconditionally, if evidence does not support charges against the person.

605. 24 hours' detention period under section 603(1) of this Regulation is exclusive of the time necessary for the journey from the place of arrest and the Government holidays.

### **Detention of Goods, Documents and Conveyance**

606. The Department shall, in accordance with **Annex 26** of the Schedule, issue detention memo for goods, documents and conveyance detained indicating the reasons for detention.

607. The Department shall raise detention memo in the presence of a person or the authorized representative of the person.

608. Where the custody of detained goods, documents and conveyance is with the person or the authorized representative, the person shall furnish to the Department security deposit equivalent to applicable Customs duty, fees and charges including fines and penalties, if any.

609. A person or the authorized representative of the person shall have ownership of the goods, documents and conveyance detained.

610. A person or the authorized representative of the person shall sign an undertaking that the person shall not dispose off or destroy the



goods, documents and conveyance without prior permission of the Department.

611. If the custody is with the Department, detained goods, documents and conveyance shall not be kept for more than 20 working days from the date of detention.
612. Goods, documents and conveyance detained may be dealt in following manner:
- (1) if the Department is satisfied with the documentary evidence and information gathered or furnished by the person indicates compliance with the provisions of the Act and this Regulation, the goods, documents and conveyance detained may be released under normal Customs procedure;
  - (2) detained goods, documents and conveyance may be assessed or re-assessed based on the results of the examination or inspection of the goods or documents and information received;
  - (3) if Department requires further investigation in accordance with section 132 of the Act, the detained goods, documents and conveyance may be seized;
  - (4) liable for confiscation, if in violation of sections 136 to 138 of the Act.

### **Seizure of Goods, Documents and Conveyance**

613. The Department shall seize goods, documents and conveyance in accordance with section 132 of the Act.
614. The Department shall issue seizure memo in accordance to **Annex 26** of the Schedule to the person or authorized representatives from whom goods, documents and conveyance is seized indicating the reasons for seizure.

615. The Department shall provide decision on the seizure within 10 working days from the date of seizure.

616. Seized goods, documents and conveyance may be dealt as follows:

- (1) goods may be released under normal Customs procedure with levy of applicable fine and penalty in accordance with the provisions of the Act and this Regulation;
- (2) confiscate the goods, documents and conveyance, if the fine and penalty is not paid within the time period set by the Department;
- (3) confiscate the goods, documents and conveyance, if the person or the authorized representative of the person is in violation of sections 136 to 138 of the Act;
- (4) confiscate or release the goods, documents and conveyance considering the decision of the three tier levels of Dispute Settlement Committee or court order.

### **Confiscation of Goods, Documents and Conveyances**

617. The Department shall confiscate goods, documents and conveyances in accordance with sections 136 to 138 of the Act.

618. The Department shall issue confiscation memo in accordance to **Annex 26** of the Schedule to the person or authorized representatives from whom goods, documents and conveyance is confiscated indicating the reasons for confiscation.

### **Detention or Seizure Expenses**

619. For the purpose of this Regulation, expenses resulting from detention and seizure shall be dealt in accordance with section 139 of the Act.

## **Power to Summon**

620. The Department may issue summon order under section 141 of the Act.
621. A summon order shall be issued under the seal and signature of the Department in accordance with **Annex 27** of the Schedule.
622. A person who fails to comply with the summon order shall be considered to have committed an administrative offence and is dealt in accordance with section 626 to 628 of this Regulation.
623. The Department may seek assistance of relevant authorities or agencies to summon person, if necessary.

## **CHAPTER 24 OFFENCES AND FINES**

### **Offence**

624. The Department shall impose fines on following offences:

- 1) Customs offence;
- 2) Administrative offence.

### **Customs Offence**

625. In addition to the amount of Customs duty, a fine of 50 percent of the value of the goods evaded is imposed for violation of section 143 of the Act.

### **Administrative Offence**

626. A fine of Ngultrum 5000 is imposed, if a person or person in-charge fails to:

- (1) maintain proper books of accounts;
- (2) submit reports and provide information when demanded by the Department;
- (3) submit API and air cargo/road/rail manifest in accordance with sections 206 and 210 of this Regulation;
- (3) enter into a designated Customs Station;
- (4) stop without reasonable excuse, when so directed by the Department;
- (5) cooperate with the Department;
- (6) comply with government notifications, circulars and conditions laid down under the Act or this Regulation.

627. If a clearing and forwarding agent or courier service agent fails to fulfill any obligation as required under this Regulation, the Department shall impose a fine of Ngultrum 5000.

628. Second time offence under section 626 and 627 of this Regulation attracts a fine of Ngultrum 10000 and the fine is enhanced by to Ngultrum 10000 in the case of every subsequent offence.

### **Criminal Offence**

629. If a person commits any criminal offence under section 146 of the Act, such person shall be dealt in accordance with section 147 of the Act and be liable as per the Penal Code of Bhutan.

## **CHAPTER 25 SETTLEMENT OF DISPUTES AND APPEALS**

### **General Dispute Settlement and Appeal**

630. Settlement of disputes and appeals is governed by sections 148 to 172 of the Act.

## **General Appeal Conditions**

- 631. An appeal by an appellant and decision passed by any three tier Dispute Settlement Committee shall be in writing and must include detail case description, justification and other required information.
- 632. The time period for filing an appeal and rendering a decision is governed by sections 160 to 168 of the Act.
- 633. The three tier Dispute Settlement Committee shall admit an appeal only upon payment of undisputed part of the Customs duty by an appellant to the concerned regional office.
- 634. An appellant may attach copies of necessary documents and proof or evidence to facilitate the committee's decision, if required.
- 635. All three tier Dispute Settlement Committee shall, on receipt of an appeal, record in the with proper details, date, address, ground of appeal and appeal registration number, and if an appeal is not exhaustive, additional information shall be sought as considered necessary.
- 636. An appellant shall furnish additional information under section 635 of this Regulation within 30 working days from the date of request.
- 637. The three tier dispute settlement committee may establish a docketing system for all dispute settlement to ensure proper recording, inventory, accounting, monitoring, filing, and publication.
- 638. The three tier Dispute Settlement Committee shall, as considered necessary, prepare a report on an appeal containing information such as details of the appellant, nature of appeal, amount of appeal,

ground of appeal, case history and reference to relevant provisions of the Act or this Regulation.

639. The three tier Dispute Settlement Committee shall within 7 working days from the date of the appeal meeting, inform an appellant of such meeting.

### **Waiver of Fines and Penalties**

640. In accordance with section 171 of the Act, the three tier Dispute Settlement Committee shall have the power to waive-off fines and penalties as follows:

- (1) Dispute Settlement Committee at the regional offices may waive-off fines and penalties up to a maximum limit of Ngultrum 500,000; and
- (2) the Appeal Committee of the head office and Appeal Board of the Ministry may waive-off fines and penalties in part or in whole.

## **CHAPTER 26 DISPOSAL OF CONFISCATED GOODS**

### **Disposal of Confiscated Goods**

641. If goods are restricted and prohibited under the relevant laws, the Department may hand over the confiscated goods to relevant authorities in accordance with section 173 of the Act.
642. If a relevant authority does not take over the confiscated goods under section 641 of this Regulation, then the goods shall be disposed off by the auction committee in an appropriate manner.
643. Upon completion of the administrative formalities, confiscated goods shall be disposed off through public auction or tender in

accordance with section 174 of the Act.

644. Notwithstanding section 643 of this Regulation, the Department through its Departmental committee shall, considering minimum reserved value, dispose off all low value items that are not worthwhile to be put in public auction.
645. The concerned regional office or the Department shall for the purpose of auction or tender of the confiscated goods, ensure proper coordination with all relevant stakeholders and inform head office in writing with details of the auction or tender.

### **Auction Committee**

646. The auction committee comprise following members:
- (1) Head of the Department or regional office who shall be the chairperson of the auction committee;
  - (2) two officers of the Department;
  - (3) one representative from other relevant government agencies; and
  - (4) one representative from other relevant agency or organization.
647. The quorum of the auction committee consists of two third of the total membership.

### **Power of the Auction Committee**

648. The auction committee shall have the following powers:
- (1) to fix and approve the reserved value for the goods to be auctioned;
  - (2) to approve the terms and conditions of the auction;
  - (3) any other authority or power as notified by the Department.

## **Disposal of Perishable Goods and live Animals**

649. The Department shall, as considered necessary, dispose off perishable goods and live animals expediently in accordance with section 175 of the Act.
650. The Department shall have the authority to dispose of perishable goods within 48 hours of confiscation
651. Where the perishable goods concern other relevant agencies, the Department may hand over confiscated goods to the relevant agency or auction the goods in consultation and coordination with the relevant agency.
652. The Department may refer disposal of live animals to the relevant agencies.

## **Sale Proceed for Disposal of the Confiscated Goods**

653. An agency responsible for the disposal of confiscated goods shall deposit the sale proceeds in the Government revenue account except for abandoned goods, which shall be dealt in accordance with section 654 of this Regulation.

## **Sale Proceed for Disposal of Abandoned Goods**

654. If goods are abandoned under section 135 of this Regulation, the sale proceed of the auctioned goods is dealt in the following manner and order of priority:
- (1) payment of cost and expenses incurred by the Department including storing and freight charges shall be collected or deducted by the Department;
  - (2) payment of applicable Customs duty liable in respect of the auctioned goods shall be collected by the Department;



(3) the balance, if any, shall be paid to the person.

655. Section 654 of this Regulation is not applicable where a person intentionally abandons the goods, and such goods will be dealt in accordance with section 39 of the Act.

## **CHAPTER 27**

### **MISCELLANEOUS**

#### **Overtime Fees**

656. For clearance of goods for export, transit, post or import from India, a person availing the services of the Department beyond normal working hours and on public holidays shall be liable to pay overtime fees as per the rates prescribed in **Annex 28** of the Schedule:

657. For clearance of import and export of goods via air and import from countries other than India, a person or authorized agent or representative availing the service, shall pay overtime fees the rates prescribed in **Annex 28** of the Schedule.

658. Notwithstanding sections 656 and 657 of this Regulation, the services availed for clearance of goods for export beyond 10:00 pm to 6:00 am is liable for overtime fees of Ngultrum 600 per hour.

659. For the purpose of sections 657 and 658 of this Regulation, a minimum chargeable hour for overtime service fee is one hour and thereafter services exceeding 30 minutes shall qualify as one hour.

660. A person requiring the overtime service of the Department shall provide conveyance, where necessary.

661. Concerned regional office shall deposit overtime fees under this Regulation in its official account and disbursements shall be made to the concerned officials through such account.
662. If a person or authorized agent or representative requires overtime services, an application is to be submitted in advance to the Department.
663. For the purpose of section 662 of this Regulation, the Department shall ensure allocation of overtime work and responsibility to Customs officials in timely manner and maintain proper records of all overtime works.

## **Reward for Informants**

### **Informal Informants**

664. The Department shall accept information provided by informal informants that are genuine and results in seizure or confiscation of goods.
665. For the purpose of section 664 of this Regulation, informal informants may, with the approval of the Department, be eligible for reward under section 671 of this Regulation.

### **Formal Informants**

666. The Department shall register a formal informant and maintain proper records of the registered informants.
667. Records maintained on formal informants under section 666 of this Regulation are considered highly confidential or classified.
668. A registered formal informant with the Department shall be eligible for reward in accordance with section 671 of this Regulation.

669. The head of regional office and head of Customs shall have access to the records and information regarding the formal informants.

670. The regional offices and the Department shall ensure proper coordination and exchange of information about formal informants.

### **Reward**

671. An informant shall be rewarded on following basis:

- (1) in case of seizure, 20% of the fines and penalty value but not exceeding the limit of Ngultrum 200,000;
- (2) in case of confiscation, 10% of the auctioned value but not exceeding the limit of Ngultrum 200,000;
- (3) in case of prohibited goods, a lump-sum amount not exceeding Ngultrum 100000.

### **Authority of Interpretation and Amendments**

672. The interpretation of this regulation by the Department shall be final and binding.

673. The Ministry of Finance shall have the power to amend by way of addition, variation, or repeal the provisions of this Regulation.

674. The Department may formulate manuals, or guidelines, standard operating procedures, Terms of Reference, Rules of Procedures etc... under this Regulation, where applicable.

## Definition

675. In this Regulation, unless the context otherwise requires:

**“Act”** means the Customs Act of Bhutan 2017”

**“Certified Cheque”** is a cheque guaranteed and endorsed by a financial institution.

**“Consumable”** means items of consumable nature namely foodstuffs, medicines, liquor, cosmetics, toilet articles and tobacco products within the permissible limits as per relevant laws.

**“CIF”** means aggregate of cost, insurance and freight.

**“Damage goods”** means physical damage of goods wherein the goods are not fit to be used for the purpose meant for.

**“Deteriorated goods”** means reduction in quality of goods due to natural causes.

**“Department”** shall construe regional offices.

**“Government”** means the Royal Government of Bhutan.

**“Inland Transit”** means movements of goods from one customs station to another station within Bhutan.

**“International Transit”** means movement of goods from or to countries other than India to or from Bhutan through Indian territory.

**“Ministry”** means the Ministry of Finance, Royal Government of Bhutan.

**“National Transit”** means inland movement of goods from one Customs Station in Bhutan to another through Indian Territory

**“Personal and house hold effect”** means items contained in **Annex 5** of the schedule.

**“Pilfered goods”** means goods stolen in small quantities.

**“Private Warehouse”** means warehouse solely used for the storage of goods of the warehouse operator.

**“Public warehouse”** means a warehouse used for the storage of goods by any person.

**“Temporary storage of goods”** means the storing of goods under Customs control premises and enclosed or unenclosed spaces approved by the Customs pending lodgment of the Goods declaration.

**“this Regulation”** means the Customs Rules and Regulations of Bhutan: Revised edition 2023.

