

## APPENDIX 1

### AMENDMENTS TO THE CUSTOMS BILL RECOMMENDED BY THE JOINT SELECT COMMITTEE OF PARLIAMENT

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#### Provision

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#### Amendment

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#### Clause 2

1. In the definition of “goods”, renumber paragraphs (d) and (e) as paragraphs (e) and (f) and insert the following as paragraph (d) –

“(d) any form of currency;”.

2. Delete the definition of “sufferance wharf” and substitute therefor the following –

“ “sufferance wharf” means premises within a customs controlled port, and designated under section 30 as a place where cargo –

(a) of a specific type, or of a type for which a permit is issued by the Minister for the purposes of this provision; and

(b) owned by the operator of the sufferance wharf or by the person to whom a permit is issued for the purposes of this provision,

is off-loaded from, or loaded on board, foreign-going vessels and temporarily stored after being off-loaded or before being loaded;”.

#### Clause 3(2)

Insert the word “or” at the end of paragraph (a), delete paragraph (b) and renumber paragraph (c) as paragraph (b).

#### Clause 4(4)

Delete the words “or amended under section 5(3)” and substitute therefor the words “, amended or revoked under section 5(2)”.

- Clause 11(6)** Insert next after the words “know or ought” the word “reasonably”.
- Clause 20(3)** Delete the subsection and substitute therefor the following –
- “ (3) Nothing in the Second Schedule shall be construed as restricting or derogating from the power of the Commissioner to –
- (a) enquire into the truth or accuracy of any document or other information submitted to the Commissioner for customs valuation purposes; or
- (b) set aside any value.”.
- Clause 29(3)** Delete the words “has the meaning assigned to it by” and substitute therefor the words “means any of the prescribed airports under the Airports Authority Act, or any aerodrome as defined in section 2 of”.
- Clause 30(1)** Delete paragraph (a) and substitute therefor the following –
- “(a) designate any place as an authorised place for the loading or unloading of any class or description of goods (hereinafter referred to as an “approved wharf”), and the designation shall specify the type of wharf (whether a sufferance wharf or other type of approved wharf);”.
- Clause 33(1)** Delete the words “cleared for” and substitute therefor the words “authorised to be in”.
- Clause 52** Insert the following as subsection (3) –
- “ (3) A notice under subsection (1) shall be issued within such time as shall be prescribed by Rules.”.
- Clause 56** Delete the word “cargo” and substitute therefor the word “goods”.
- Clause 63** 1. In subsection (1), insert next after the word “Jamaica” the words “or such longer period as the Commissioner may allow”.

2. In subsection (2), insert next after the word “Jamaica” the words “or such longer period as the Commissioner may allow”.

- Clause 87(1)(b)** Delete the words “while under that procedure,”.
- Clause 95(2)** Delete the words “or such longer period as may be prescribed in the Regulations,”.
- Clause 99(2)** Delete the words “on the quay” and substitute therefor the words “in a customs controlled area”.
- Clause 104** In paragraph (a), delete the words “the quay” and substitute therefor the words “a customs controlled area”.
- Clause 115(2)(f)** Delete the words “the customs broker or”.
- Clause 121**
1. Insert next after the figures “105(9),” the figures “110(4),”.
  2. Delete the words “or private treaty”.
- Clause 122(2)** Delete the word “unpaid” and substitute therefor the word “unclaimed”.
- Clause 132** Insert next after the word “declarant” the words “and any other person responsible for complying with the temporary admissions procedure”.
- Clause 168** In subsection (1), insert next after the words “Post Office Act” the words “ and “post office” means the Post Office as defined in section 2 of that Act”.
- Clause 169**
1. In the marginal note, insert next after the word “articles” the words “; reports by Postmaster-General”.
  2. Insert next after subsection (2) the following subsections –
    - “ (3) Within such period as shall be specified in Rules, being a period before the arrival of a postal article in Jamaica, or before the departure of a postal article from Jamaica, the Postmaster-General shall submit to the Commissioner a report

specifying –

- (a) the estimated time of arrival or departure, as the case may be, of the postal article;
- (b) the customs controlled area where the postal article will arrive in Jamaica, or depart from Jamaica, as the case may be; and
- (c) any other information in respect of the matter, as shall be prescribed in Rules.

(4) The provisions of section 57 shall apply to a report submitted under this section in the same manner that section 57 applies to reports submitted under Part III.”.

**Clause 177(3)** Delete the words “to a justifiable cause as prescribed by Rules” and substitute therefor the words “attributable to a cause prescribed by the Regulations”.

**Clause 184** Delete the clause and substitute therefor the following -

“Suspension or revocation of authorisations.

184. - (1) [The Commissioner may suspend an authorisation granted to an applicant under section 183, for such period as the Commissioner considers appropriate –

- (a) if the applicant, in writing to the Commissioner, requests the suspension;
- (b) if the applicant fails to comply with any terms or conditions subject to which the authorisation was granted, or fails to comply with any provision made by or under this Act, and the Commissioner is satisfied that the non-compliance can be remedied if the applicant complies with directions issued by the Commissioner to remedy the non-compliance; or

- (c) on any other grounds prescribed in Rules.

(2) The Commissioner may revoke an authorisation granted to an applicant under section 183 –

- (a) if the applicant, in writing to the Commissioner, requests the revocation;
- (b) if the applicant provided false or misleading information in the application for the authorisation;
- (c) if the applicant has been convicted of an offence under this Act;
- (d) if the Commissioner is satisfied that the applicant no longer meets the criteria referred to in section 183(4)(b);
- (e) if the Commissioner determines that the authorisation is no longer required;
- (f) if ninety days or such longer period not exceeding an additional sixty days, as the Commissioner may in writing to the applicant allow, have elapsed since the authorisation was suspended under subsection (1)(b) and the Commissioner is not satisfied that the non-compliance has been remedied;
- (g) if the applicant fails to comply with any terms or conditions subject to which the authorisation was granted, or fails to comply with any provision made by or

under this Act, and the Commissioner is satisfied that the non-compliance cannot be remedied; or

(h) on any other grounds prescribed in Rules.”.

**Clause 186(3)**

Insert next after the words “Commissioner shall” the words “promptly, but in any event no later than seven days after the suspension,”.

**Clause 218**

Insert next after subsection (12) the following subsections –

“ (13) Nothing in this section or in a warrant issued under this section shall be construed as authorising the seizure, or taking of copies, of anything that is subject to legal professional privilege.

(14) A warrant issued under this section shall include such directions as the Judge or Justice (as the case may be) considers appropriate for handling any items that are subject to legal professional privilege.”.

**Clause 220**

In subsection (1)(c) and subsection (2), delete the word “vessel” and substitute therefor in each case the words “means of transport”.

**Clause 235(1)(c)**

Delete the words “subject to affirmative resolution”.

**Clause 245**

Delete the word “prescribe” and substitute therefor the word “direct”.

**Clause 254**

1. In subsection (8), insert next after the words “be admissible as” the words “*prima facie*”.

2. In subsection (11), delete the words “The Minister may, subject to affirmative resolution, make regulations” and substitute therefor the words “The Minister may make regulations, subject to affirmative resolution,”.

- Clause 260(2)** Delete the full-stop at the end of paragraph (e) and substitute therefor a semi-colon, and insert the following as paragraph (f) –
- “(f) the form of warrants to be issued under section 218, including the minimum content of any directions that may be issued under section 218(14).”.
- Clause 261(1)** Insert next after the words “the Commissioner may” the words “, with the approval of the Minister,”.
- Clause 262**
1. Delete subsection (3) and substitute therefor the following –
 

“ (3) The person responsible for making the regulations or rules (as the case may be) shall consider the comments submitted under subsection (2) and make such revisions (if any) as that person considers appropriate before the rules or regulations are brought into operation.”.
  2. In subsection (4), insert next after the words “public emergency” the words “or public disaster”.
  3. Insert next after subsection (4) the following subsection –
 

“ (5) Subsections (2) and (3) shall not apply to –

    - (a) a notice under section 27(1) or 30(1) or an order under section 29(1);
    - (b) any rules or other regulations empowered to be made under this Act –
      - (i) in respect of rates of duty or rates of tariff;
      - (ii) restricting or prohibiting the importation of goods;
      - (iii) that have a relieving effect;
      - (iv) the effectiveness of which would be undermined as a result of compliance with

subsection (2) or (3);

- (v) in respect of measures applied in urgent circumstances;
- (vi) in respect of the internal administration of the Customs Agency;
- (vii) in respect of the delegation of any function under this Act; or
- (viii) effecting amendments that are minor in nature.”.

- Clause 263(1)** Delete the words “airport manager, port manager,”.
- Clause 266(2)** Delete the words “under the seal of” and substitute therefor the word “by”.
- Clause 269(2)** Delete the words “person required to provide the document shall, in accordance with Rules, provide with the document a correct translation of those words into the English Language” and substitute therefor the words “Commissioner may only require an English Language translation in the circumstances prescribed in Rules”.
- Clause 270**
1. In subsection (4), delete the word “Rules” and substitute therefor the word “regulations”.
  2. Delete subsection (6) and substitute therefor the following –
    - “ (6) Regulations made for the purposes of this section may –
      - (a) identify the categories of agents;
      - (b) specify the rights and responsibilities of each category of agent;
      - (c) the types of customs transactions that a category of



agent may carry out on behalf of a principal;

- (d) specify conditions under which the Commissioner may decline to recognize, or carry out transactions with, an agent; and
- (e) prescribe the form for the appointment of an agent.”.

3. In subsection (10) –

- (a) delete the words “a customs broker” and substitute therefor the words “an agent”;
- (b) insert immediately after the words “duty and tax, fees” the words “, expenses, penalties”; and
- (c) in paragraph (a), delete the words “the customs broker” and substitute therefor the words “the agent”.

4. In subsection (11) –

- (a) delete the words “a customs broker” and substitute therefor the words “an agent”;
- (b) in paragraphs (a) and (b), delete the words “customs broker” wherever they appear and substitute therefor in each case the word “agent”; and
- (c) delete the word “or” at the end of paragraph (a), renumber paragraph (b) as paragraph (c), and insert the following as paragraph (b) –

“(b) the agent fails to comply with subsection (7); or”.

**Clause 276**

In subsection (2), delete the word “Minister” and substitute therefor the word “Commissioner”.

**Clause 279**

1. In subsection (1)(b), delete the words “or control over” and substitute therefor the words “of, or control over,”.

2. Insert the following as subsection (3) –

“ (3) The prohibition on disclosure under subsection (1) shall apply even after the cessation of the official duty, employment, authorisation or agreement (as the case may be).”.

**Clause 280(2)**

1. In paragraph (c), delete the figures “\$60,0000” appearing in the new section 1A(a) and substitute therefor the figures “\$60,000”.

2. In subsection (3) –

(a) delete the words “paragraph 19” wherever they appear and substitute therefor in each case the words “paragraph 21”;

(b) delete the words “paragraph 20” and substitute therefor the words “paragraph 22”; and

(c) delete the numerals “40(5)” and substitute therefor the numerals “40(1)”.

**First Schedule**

Delete the First Schedule and substitute therefor the First Schedule as set out in the Appendix to this List.

**Second Schedule.**

1. In paragraph 1(1), in the definition of “customs value of imported goods”, delete the words “means the” and substitute therefor the words “means, unless otherwise specified, the transaction”.

2. Insert next after paragraph 10 the following paragraph -

“Decision that no valuation can be made under paragraph 3.

11. - (1) Notwithstanding anything in the other paragraphs of this schedule, where a goods declaration is submitted to the Commissioner and the Commissioner has reason to doubt the truth or accuracy of anything contained in the declaration or contained in any document submitted in support of the declaration, the Commissioner may require the declarant to provide such

further information or evidence as may be necessary to establish that the declared value of the goods represents the total amount actually paid or payable for the goods (adjusted in accordance with paragraph 8).

(2) If, after receiving the further information or evidence (as the case may be) submitted pursuant to sub-paragraph (1), the Commissioner still has reason to doubt the truth or accuracy of the declared value of the goods concerned, then, subject to any right of the applicant to appeal, it shall be deemed that the customs value of the goods cannot be determined under paragraph 3.

(3) Before determining that there is still reason for doubt as mentioned in sub-paragraph (2), the Commissioner shall communicate to the declarant, in writing if requested by the declarant, the grounds for doubting the truth or accuracy of the declared value of the goods, and shall give the declarant a reasonable opportunity to respond.

(4) Upon arriving at a determination as to the status of any declared value pursuant to this paragraph, the Commissioner shall communicate the determination in writing to the declarant, including the reasons therefor.”.

**Third Schedule** In column 1, in item 1(a), insert next after the words “law prohibiting” the words “or restricting”.