

SCHEDULE 2

Article 7

Customs powers and investigations

Power to demand evidence of destination of restricted goods

1.—(1) An authorised officer may require a person who exports or carries restricted goods from the Territory to provide proof to the officer's satisfaction that the goods have reached an authorised destination.

(2) For the purposes of sub-paragraph (1), "an authorised destination" means a destination to which the exportation or carriage of the goods is—

- (a) authorised by a licence granted by the Governor under article 10, or
- (b) not otherwise prohibited under this Order.

(3) It is an offence for a person ("P") to fail to comply with a requirement under sub-paragraph (1), unless P proves that the goods reached a destination other than an authorised destination without P's consent or connivance.

Requirement for declaration as to carriage of restricted goods: power to search persons

2.—(1) An authorised officer may require a person who is about to leave the Territory ("P") to—

- (a) declare whether P is carrying restricted goods destined for Guinea or for delivery (directly or indirectly) to, or to the order of, any person in Guinea, and
- (b) produce any such goods that P is carrying.

(2) It is an offence for P to—

- (a) fail without reasonable excuse to comply with a requirement under sub-paragraph (1), or
- (b) knowingly or recklessly make a declaration which is false in a material particular.

(3) An authorised officer may search P for the purpose of finding out whether P is carrying restricted goods.

(4) A search under sub-paragraph (3) must be carried out by a person of the same sex as P.

(5) It is an offence for P to fail without reasonable excuse to comply with a request to be searched under sub-paragraph (3).

Investigation of suspected ships, aircraft or vehicles

3.—(1) Where an authorised officer reasonably suspects that a ship, aircraft or vehicle has been, is being, or is about to be used in the commission of an offence under article 7(2), the officer may—

- (a) stop and enter it;
- (b) search it;
- (c) require the relevant person to provide such information relating to the ship, aircraft or vehicle and any goods it is carrying, and produce for inspection such documents and goods, as the officer may specify;
- (d) in relation to a ship, require the relevant person to do anything mentioned in sub-paragraph (2);
- (e) in relation to an aircraft or vehicle, require the relevant person to keep the aircraft or vehicle and any goods it is carrying in the Territory until notified by an authorised officer that it may depart.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) Further to sub-paragraph (1)(d), the officer may require the relevant person to do any of the following—

- (a) stop the ship from proceeding with the voyage on which it is engaged, or about to engage, until notified by an authorised officer that it may proceed;
- (b) not land any part of the ship's cargo at any port specified by the officer, except with the officer's consent;
- (c) if the ship is in port in the Territory, cause it to remain there until notified by an authorised officer that it may depart;
- (d) if the ship is in any other place, take it to a port specified by the officer and keep it there until notified by an authorised officer that it may depart.

(3) The officer may take such steps as appear necessary to carry out a search under sub-paragraph (1)(b), or secure compliance with a requirement under sub-paragraph (1)(c), (d) or (e), including in particular—

- (a) entering any land,
 - (b) using reasonable force, and
 - (c) detaining the ship, aircraft or vehicle and any goods it is carrying.
- (4) The officer may seize any restricted goods from the ship, aircraft or vehicle.
- (5) Any restricted goods seized may be forfeited, disposed of or transferred as appropriate.
- (6) It is an offence for a relevant person to—
- (a) fail without reasonable excuse to comply with a requirement under sub-paragraph (1)(c), (d) or (e),
 - (b) knowingly or recklessly provide information or a document which is false in a material particular in response to a requirement under sub-paragraph (1)(c), or
 - (c) otherwise intentionally obstruct an authorised officer, or a person acting under the officer's authority, in the exercise of any power conferred by this paragraph.

Exercise of customs powers: general

4.—(1) Any power exercisable by an authorised officer under this Schedule may be exercised by a person acting under the officer's authority.

(2) An authorised officer, or a person acting under the officer's authority, must, if requested to do so, produce evidence of his or her authority before exercising any power conferred by this Schedule.

(3) Any power conferred by this Schedule to require information, or produce for inspection a document or goods, includes a power to specify the form in which the information or document should be given, and the period within which the information, document or goods should be provided or produced for inspection.

(4) An authorised officer may exercise any power conferred by paragraph 3 in relation to—

- (a) any ship within the seaward limits of the territorial sea of the Territory,
- (b) a ship registered in the Territory while it is on the high seas, or
- (c) any aircraft or vehicle in the Territory.

(5) But a power conferred by paragraph 3 may not be exercised in relation to a ship falling within sub-paragraph (6) unless—

- (a) in the case of a ship falling only within sub-paragraph (6)(a), the Territory is entitled under international law to exercise the power without the consent of the flag state, or

- (b) in any other case, the Governor, with the consent of the Secretary of State, has authorised the exercise of the power.
- (6) A ship falls within this sub-paragraph if it is—
 - (a) a ship flying the flag of, or registered in, a State or territory other than the Territory,
 - (b) a warship that belongs to a government of a State or territory other than the Territory, or
 - (c) any other ship that is being used by such a government only for non-commercial purposes.
- (7) The Governor may authorise the exercise of a power under sub-paragraph (5)(b) only if the flag state has consented to the Territory exercising the power (whether generally or in relation to the ship in question).
- (8) In giving such authority, the Governor must impose such conditions or limitations on the exercise of the power as are necessary to give effect to any conditions or limitations imposed by the flag state.
- (9) This Schedule is without prejudice to any other provision of law conferring powers, imposing restrictions or enabling restrictions to be imposed in respect of ships, aircraft or vehicles.

Interpretation

5. In this Schedule—

“authorised officer” means—

- (a) a commissioned naval or military officer,
- (b) a police or customs officer, or
- (c) a person authorised by the Governor for the purposes of this Schedule, whether generally or in a particular case;

“high seas” means seas that are not within the seaward limits of—

- (a) the territorial sea of the Territory, or
- (b) the territorial sea adjacent to a State or territory outside the Territory;

“relevant person” has the meaning given in article 7(4) and (5).