

PART XII
Determination of Disputes

136.(1) Where any amount of duty demanded by an officer is disputed by the person required to pay that amount, that person shall pay that amount but then may, at any time before the expiration of three months from the date of payment, require the Comptroller, by a notice in writing under this subsection, to reconsider the amount of duty demanded.

Appeal to the
Comptroller.

(2) A notice under subsection (1) shall state the grounds for disputing the amount of duty demanded.

(3) The Comptroller, after reconsidering the amount demanded and taking into account the grounds contained in the notice, may increase, decrease or confirm that amount, and shall notify the person who paid the amount demanded of his decision.

137.(1) The Minister shall from time to time appoint by notice in the *Gazette* such persons as he thinks fit to be Customs Appeal Commissioners (hereinafter in this Part referred to as "Commissioners").

Customs Appeal
Commissioners.

(2) The Minister shall appoint one of the Commissioners to be Chairman and another to be Deputy Chairman, and any hearing of the Commissioners shall be before either the Chairman or the Deputy Chairman and two other Commissioners.

(3) The Minister shall appoint a Secretary to the Commissioners and any notice or correspondence other than decisions of the Commissioners

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themselves, may be issued and signed by or on behalf of the Secretary.

(4) Every decision of the Commissioners shall be given under the signature of the Chairman presiding at that hearing.

(5) At any hearing of the Commissioners, in the event of a division of opinion, the decision of the majority shall prevail.

(6) At any hearing of the Commissioners, they shall have –

- (a) power to summon to attend that hearing any person who in their opinion is or might be able to give evidence relevant to the matter before that hearing;
- (b) power, where any person is summoned to attend a hearing or is voluntarily at that hearing, to examine that person on oath or otherwise;
- (c) power to require any person to produce any books or other documents which are in his custody or under his control and which they consider may contain evidence relevant to the matter before the hearing;
- (d) all powers to a Magistrate's court with respect to the enforcement of attendance of witnesses, the hearing of evidence on oath and punishment for contempt;
- (e) power to admit or reject any evidence adduced, notwithstanding that that evidence would or would not be admissible in any court;
- (f) power to postpone or adjourn that hearing; and
- (g) a duty to determine the procedure to be followed at that hearing.

138.(1) Any person notified of a decision under section 136 (hereinafter in this Part referred to as "the appellant") may, subject to subsection (2), appeal against that decision to the Commissioners by serving a notice of appeal on the Secretary to the Commissioners and the Comptroller within thirty days of the notification or such longer period as the Commissioners may permit.

(2) No appeal may be made under subsection (1), unless the amount notified as the duty due by the decision of the Comptroller has been paid.

(3) A notice of appeal under subsection (1) shall be in writing and must state –

- (a) the date of the decision of the Comptroller which is appealed against;
- (b) the name and address of the person to whom the decision appealed against was sent;

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- (c) the amount of duty in dispute; and
 - (d) the grounds for claiming that the amount of duty in dispute is not due and payable.
- (4) At least thirty days or such shorter time as the parties may agree before the date fixed for the hearing of an appeal, the Secretary to the Commissioners shall, by notice in writing, advise the Comptroller and the appellant of the time at which, the date on which, and the place where the appeal is set down for hearing.
- (5) The hearing of any appeal under subsection (1) shall be in public unless the Chairman presiding at that hearing shall otherwise direct.
- (6) At any hearing of appeal under subsection (1) –
- (a) the Comptroller and the appellant shall be entitled to appear in person or by a representative;
 - (b) the burden of proof on any matter shall lie with the appellant; and
 - (c) the Comptroller and the appellant shall bear their own costs unless the Commissioners, for special cause, otherwise direct.
- (7) On the hearing of an appeal, the Commissioners may increase, decrease or confirm the amount of duty due and shall notify the Comptroller and the appellant of their decision.
- (8) Any decision of the Commissioners under this section shall be published, except that where a direction has been given under subsection (5) that the hearing of the appeal shall be in private, such details of the decision shall be omitted as the Chairman considers necessary to preserve the privacy that the private hearing was considered necessary to protect.

139.(1) The Comptroller or the appellant may appeal to the High Court against any decision of the Commissioners which involves a question of law, including a question of mixed fact and law.

Right of further appeal.

(2) The Comptroller or the appellant may appeal to the Court of Appeal against any decision of the High Court, being a decision on an appeal from the Commissioners, which involves a question of law, including a question of mixed fact and law.

(3) On an appeal to the High Court or the Court of Appeal under this section, that court shall have the power to –

- (a) increase, decrease or confirm the amount of duty due;
- (b) make any such other order as it thinks fit; and
- (c) make such order as to costs as it thinks fit.

140.(1) Subject to subsection (2), where a decision of the Commissioners, the High Court or the Court of Appeal on an appeal under this Part is –

Payment of duty after appeal.

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- (a) that the amount of duty due should be increased, the appellant shall pay the amount of the increase to the Comptroller; and
- (b) that the amount of duty should be decreased, the Comptroller shall pay the amount of the decrease to the appellant,

within thirty days of the decision.

(2) Where the decision referred to in subsection (1) is that of the Commissioners or the High Court, no amount shall be payable if, within the thirty day time limit provided by that subsection, an appeal against that decision is lodged with the High Court or the Court of Appeal, as the case may be.