

NB: Unofficial translation, legally binding only in Finnish and Swedish
National Board of Customs, Finland

Customs Act

(1466/1994; amendments up to 763/2010 included)

In accordance with a decision of Parliament the following is enacted:

General Provisions

Section 1

This Act applies to customs taxation and customs control of goods imported from and exported to third countries in addition to what is prescribed in respect thereof in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (the Code), Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (Implementing Regulation) and Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty or elsewhere in the legislation of the European Communities (the Community). This Act also applies, together with Community legislation, to the compilation of statistics on trade between Finland and other countries and to criminal investigation of customs offences.

Section 2

The powers under customs legislation may also be exercised, in compliance with Community legislation, in the internal traffic of the Community in order to supervise compliance with the prohibitions and restrictions concerning the importation and exportation of goods.

If the importation of the goods is subject to a permit granted by an authority, but no appropriate permit has yet been granted when the goods are imported into the customs territory of Finland, the goods must be declared to the customs authority even where they are directly imported from another Member State. (331/1996)

Section 3

For the purposes of this act:

- 1) *the customs territory of Finland* means the territory consisting of the land area, the territorial waters and the air space of the Republic of Finland, the customs border nevertheless extending two nautical miles beyond the outer limit of the territorial sea, unless otherwise agreed at international level;
- 2) *the customs territory of the Community* means the territory defined in Article 3 of the Code;
- 3) *third country* means an area not belonging to the customs territory of the Community;
- 4) *customs measure* means any measure taken within the competence of Customs with the exception of the preliminary investigation of customs offences;
- 5) *customs offence* means an offence which constitutes violation of this or any other Act that Customs is responsible for supervising and enforcing, or violation of the provisions or

regulations issued under or by virtue of such Acts as well as unlawful dealing in imported stolen goods referred to in Chapter 46 of the Penal Code, and the offence of concealment referred to in Chapter 32 section 1(2) of the Penal Code or any other infringement involving the import and export of property; (331/1996)

- 6) *technical monitoring* means the viewing or audio monitoring of undefined passenger and goods transports, performed with the help of a technical device, as well as the automatic recording of voice or image; (331/1996)
- 7) *surveillance* means continuous or repeated gathering of information on certain persons or their activities; (331/1996)
- 8) *technical surveillance* means the continuous or repeated audio monitoring of certain persons with the help of a technical device, as well as the recording of voice (interception), viewing and photographing or videotaping (technical observation), and tracking the movements of a vehicle or goods (technical tracking); (241/2001)
- 9) *the investigation and administrative assistance system, being a technical part of the data system for police matters, and its archive index* are defined as the data system for police matters referred to in Chapter 2 section 2 of the Act on Police Personal Data Files (761/2003) in respect of the data entered by Customs into these systems; (774/2003)
- 10) *telecommunications monitoring* is defined as the obtaining of confidential identification information from telecommunications messages transmitted from or received in a telecommunications subscription linked to a public telecommunications network or another network within the scope of application of the Telecommunications Market Act (396/1997), as well as the temporary disabling of such a connection. (774/2003)

Apart from the definitions provided in subsection 1 above, the definitions of Article 4 of the Code apply.

Competence of the authorities

Section 4

The customs authority and competent authority referred to in the Community customs legislation is Customs, unless separately provided elsewhere. For this purpose, the National Board of Customs shall determine the internal distribution of powers within Customs.

The National Board of Customs may also in general lay down procedures under the Community customs legislation, unless elsewhere provided for. The Ministry of Finance may make decisions on a matter of principle or other matters of importance, including matters relating to the application of Community legislation concerning the reduction or abolition of a customs duty.

Section 5

Any exemptions to the rules on reliefs from custom duty, where it is possible under the Regulation on reliefs from customs duty, shall be granted by the National Board of Customs. A decision taken under this Section cannot be appealed.

Section 6

The procedure to be followed for the determination of origin in order to be granted the treatment referred to in agreements on tariff preferences or systems of preferences applied unilaterally by the Community, and mutatis mutandis in other cases, may be determined by the National Board of Customs. If needed, the National Board of Customs shall also issue regulations in order to harmonise the application of the rules of origin.

The National Board of Customs may authorise a body with sufficient expertise to grant general certificates of origin other than those giving entitlement to preferential tariff treatment.

Section 7 (1240/2001)

The National Board of Customs shall confirm the conversion rates for amounts of money expressed in foreign currency into euros in connection with importation and exportation.

Section 8 (331/1996)

On application and on conditions laid down by it, the National Board of Customs may grant permission to establish a free zone or free warehouse. In a matter of economic or regional policy importance, or in any other matter of importance, the Ministry of Finance may, however, decide on the matter.

Exemption from duty

Section 9

Goods intended for normal victualling, as well as fuels and lubricants, brought into the customs territory of Finland by a vessel or aircraft in professional international traffic, or supplied for its own use in the customs territory of Finland, shall be duty-free, unless otherwise provided in subsection 4. Exemption from duty also applies to goods consumed onboard a vessel in the customs territory of Finland. The National Board of Customs shall prescribe the procedure on supplying the above mentioned goods onboard, as well as accountability for alcohol and tobacco products related to victualling control. The customs authority has the right to restrict the amounts of duty-free goods supplied to the vessel as necessary according to the number of passengers, the size of the vessel, its area of operation, and other circumstances. (715/2003)

The Ministry of Finance may prescribe that goods referred to in subsection 1 are duty-free also in the case of a vessel used by an authority, a research or fishing vessel or a train in traffic between Finland and a third country. The Ministry of Finance may lay down the restrictions and conditions related to the exemption from duty of the goods imported by these means of transport.

Fuels and lubricants of a motor vehicle or any special container arriving in the customs territory of Finland from a third country shall be duty-free as provided for in Articles 112 to 116 of the Regulation on reliefs from customs duty. The fuel contained in the fuel tank of a commercial vehicle arriving by road from outside the European Economic Area shall, however, be duty-free only up to 400 litres, and the fuel contained by the fuel tank of a special container up to 200 litres per journey. (1104/1998)

Goods sold during an intra-Community journey and taken as luggage shall, however, not be duty-free. An intra-Community journey means a journey not containing a stop outside the customs and fiscal territory of the Community. What is prescribed on the taxation of goods sold onboard passenger vessels in international traffic in certain cases (397/1969) also applies to the liability of duty on goods sold to passengers. (764/1999)

Section 9 a (9 December 2005/979)

Section 9 a has been repealed by Act 979/2005 (9 December 2005).

Section 10

Goods coming to foreign diplomatic representations and other representations of a similar rank in Finland and to commissioned consulates for official use or for the personal use of diplomatic representatives, commissioned consuls or members of foreign nationality of the administrative or technical personnel of the said representations and members of their family belonging to their household shall be duty-free in accordance with the Vienna Convention on Diplomatic Relations (Treaty Series 4/70) and the Vienna Convention on Consular Relations (Treaty Series 50/80). The Ministry of Foreign Affairs shall confirm whether the conditions laid down by the Conventions are met.

The goods referred to in subsection 1 above shall not be sold or otherwise disposed of or leased or given, even without compensation, for the use of anyone else but to a representation or person entitled to a similar exemption from customs duty before three years have lapsed from the time the goods were released to the said use.

If a person referred to in subsection 1, in moving away from Finland before the defined period of time laid down in subsection 2 has expired, sells in Finland a motor vehicle which has been in his use, he must pay 1/36 in customs duty for each full or incomplete month of the remaining period.

Section 11

In accordance with the agreement signed with a third country which has acceded to the Convention on International Civil Aviation (Treaty Series 11/49), the ground and security equipment, instructional equipment and spare parts and necessary accessories of the said goods used in the international aviation of an air carrier of that Contracting State shall be duty-free.

Section 12 (28 November 2008)

Section 12 has been repealed by Act 740/2008 (28 November 2008).

Powers of the customs authority (241/2001)

Section 13

A customs measure must be carried out without causing greater inconvenience or damage than may be deemed justified for its implementation. Customs measures must be justifiable in proportion to the importance and urgency of the task and the factors affecting the overall assessment of the situation. (1104/1998)

Every person is obliged to submit to a customs measure and to contribute to its proper implementation.

The person submitted to a customs measure infringing personal liberty or his representative must be informed of the grounds of the measure, unless the condition of the person or the circumstances make it impossible. Unless otherwise provided by law, the person whose rights are affected by a customs measure or his representative also has the right to be informed of the grounds for the measure as soon as it is possible without endangering the implementation of the measure. (1104/1998)

Section 14

In order to undertake a customs measure, the customs authority or another competent authority has the right to:

- 1) stop and inspect a means of transport;
- 2) stop a person and undertake a search of a person arriving in or departing from the customs territory, visiting a means of transport or another place where goods are unloaded, loaded or stored and, for special reasons, elsewhere within the customs territory;
- 3) stop and, where required, seize goods which have not been appropriately cleared through customs;
- 4) have access to warehouses, premises and other places where goods are manufactured, stored or offered for sale, excluding any part thereof used exclusively as residence or any part of the building serving as living quarters, and undertake the required inspection;
- 5) without violating the secrecy of correspondence inspect the goods, their manufacture and accounting material, and control funds carried by a person in order to uncover money laundering referred to in Chapter 32 section 6 of the Penal Code; (65/2003)
- 6) obtain all necessary documents and information related to the goods holder, other parties concerned, goods, means of transport, passenger and crew of the means of transport
- 7) issue orders relating to the unloading, loading, release, transport and warehousing of the goods;
- 8) attach a customs seal, customs lock, or other identification mark onto a means of transport, goods, warehouse, or another site placed under customs supervision;

- 9) isolate, close, or empty a place or area intended for manufacture, loading or unloading of goods or another place or area of control as well as a means of transport if necessary with a view to maintaining public safety or undertaking a customs measure, and prohibit or restrict movements in such a place, area or means of transport;
- 10) prevent the exportation of goods out of the customs territory of Finland in accordance with legislation and international contractual obligations.

If it is probable that a Finnish vessel or a vessel lacking nationality or sailing under a false flag is being used for smuggling goods into Finland or from Finland, the vessel may be stopped and inspected also outside the customs territory, not, however, in the territorial waters of a foreign state. The vessel may be brought to port for necessary investigation.

The customs authority may retain goods exported from or imported to the country, if there is reasonable cause for this in order to prevent or investigate an offence. The authority deciding upon seizure must be notified of the retention without delay. (331/1996)

Section 14 a (4 June 2010/482)

A customs officer has the right to carry out border control measures with powers provided by sections 28, 36 and 38 of the Border Guard Act (578/2005). Moreover, with regard to automatic identification at a border crossing point, Customs has corresponding powers to use images and audio generated in enforcement, as provided for in section 29 of the Border Guard Act concerning the Border Guard.

Section 15 (1299/2003)

A bodily search or other search than that of a person's luggage or outer garments may in cases referred to in section 14(1)(2) be carried out without preliminary investigation on a person suspected with probable cause of a crime for which the maximum penalty is more than six months of imprisonment. The decision to take the measure shall be made by a designated customs officer acting as the head of customs crime prevention or customs enforcement. In other cases, the procedure for a personal search provided for in the Act on Coercive Measures (450/1987) shall *mutatis mutandis* apply to these measures.

Section 16

A customs officer has the right to search a person in connection with a personal search referred to in section 15, as well as in connection with apprehension, arrest, detention or taking into custody, in order to assure that the said person does not carry objects or substances with which he might jeopardise the search or custody or cause danger to himself or to others.

The dangerous objects or substances referred to in subsection 1 above may be taken away from the person searched. They must be returned to him after the search or at his release, unless prevented by law.

A customs officer has, however, the right to temporarily seize dangerous objects and related or component parts, and other dangerous substances from anyone reasonably suspected of posing immediate danger to public order and safety, judging from his age, drunkenness, state of mind or

other circumstances. The seized goods must be returned within 14 days, unless another authority has taken measures to cancel the retention permit.

Section 17 (13 June 2003/519)

The provisions of section 27 subsections 1, 2 and 4 of the Police Act (493/1995) regarding a policeman's right to use force in certain cases shall apply correspondingly to a customs officer. The Police Act section 46 shall apply to a person assisting a customs officer at his request or with his consent in carrying out an official duty.

Section 18

On the demand of the National Board of Customs or a customs district, every person must, within the time prescribed, provide information necessary for another person's customs taxation or an appeal based on this given in the documents in his possession, unless these concern a matter in which he has the right, according to law, to refuse testifying. However, disclosing information on another person's economic situation cannot be refused (1299/2003).

The National Board of Customs may oblige a person who fails to comply with the obligations imposed under subsection 1 or Article 14 of the Code, to fulfil them, under penalty of a fine.

Section 19

The customs authority has the right to receive administrative assistance from another authority in order to carry out a task prescribed for Customs.

Section 20

The customs authority has the right to receive, from the owner or holder of a traffic place, without compensation, such necessary premises for controls with equipment that are required by the amount of traffic and other circumstances in order to carry out customs measures.

Acquisition of information (331/1996)

Section 20 a (331/1996)

Interception, telecommunications monitoring and technical surveillance for criminal investigation are provided for in the Act on Coercive Measures (450/1987).

Section 20 b (331/1996)

In order to prevent customs offences and identify persons suspected of customs offences, the customs authority has the right, subject to a prior notice, to carry out technical monitoring at border crossing points as well as at passenger terminals, harbour areas reserved for goods traffic, warehouses intended for goods traffic and in other such places or premises which the Customs is authorised to monitor.

Section 20 c (331/1996)

In order to prevent or interrupt criminal activity, a customs officer has the right to carry out surveillance of a person, however not in a dwelling, if his behaviour or other circumstances give reasonable cause to suspect that he is guilty of a customs offence.

Surveillance may also be directed, for the purpose referred to in subsection 1, to a person not covered by the right to domiciliary peace, if there is reasonable cause to suspect that he is contributing to a customs offence, the maximum penalty of which is more than six months of imprisonment.

Section 20 d (774/2003)

A customs officer has the right to carry out technical surveillance of a person outside a room or space used for permanent housing or of a means of transport or object, if there is reason to presume this will provide information that is needed to prevent or uncover a customs offence. The order for the measure shall be given by the designated customs officer acting as the head of customs crime prevention, and for interception lasting more than three days by the Head of Enforcement Department or, within the Enforcement Department, the heads of units responsible of customs crime prevention the National Board of Customs, or an official acting as the head of a customs district. (1299/2003)

A device used for technical surveillance may be placed in premises where technical surveillance is allowed under subsection 1 if the technical surveillance so requires. A customs officer has the right to access such premises to install or remove a device on the order of a designated customs officer acting as head of customs crime prevention. If the device consumes energy in a means of transport or other place, a compensation must be paid for more than insignificant consumption. (1299/2003)

A further precondition for interception is that the behaviour of the person or other circumstances give reason to believe that he is likely to commit a customs offence the maximum penalty of which is at least four years of imprisonment, a narcotics offence considered a customs offence or an aggravated customs clearance offence. A precondition for technical observation or technical surveillance is, correspondingly, that the behaviour of the person or other circumstances give reason to believe that he is likely to commit a customs offence the maximum penalty of which is more than six months of imprisonment, or to contribute to such a customs offence. (426/2009)

Subsection 3 has been amended by Act 426/2009, which enters into force on 1 October 2009. The earlier wording is:

A further precondition for interception is that the behaviour of the person or other circumstances give reason to believe that he is likely to commit a customs offence the maximum penalty of which is at least four years of imprisonment, or a narcotics offence considered a customs offence. A precondition for technical observation or technical surveillance is, correspondingly, that the behaviour of the person or other circumstances give reason to believe that he is likely to commit a customs offence the maximum penalty of which is more than six months of imprisonment, or to contribute to such a customs offence.

Section 20 e (774/2003)

In order to prevent or uncover an offence, a customs officer has the right to target telecommunications monitoring at a telecommunications subscription or terminal in the person's possession or presumably otherwise used by him, or temporarily disconnect such subscription or terminal, if the person's statements, threats or behaviour or something else give reason to justifiably suspect him of committing a customs offence for which a penalty of at least four months of imprisonment has been imposed, or a narcotics crime regarded as a customs offence.

Section 20 f (774/2003)

A court or a district court referred to in Chapter 1 section 9 of the Coercive Measures Act, in which the handling of the matter is convenient, decides on telecommunications monitoring and technical surveillance in cases referred to under section 20 d(2), in which interception or technical observation requires placing the device used for surveillance inside the means of transport used by the person intercepted or observed or in a room or a space where the person stays. The matter shall be decided without hearing the holder of the intercepted or observed premises. Moreover, the provisions on handling the matter under the Coercive Measures Act, Chapter 5 a section 5-9, section 11(1), as well as sections 12 and 14, are *mutatis mutandis* in force.

A designated head of customs crime prevention has the right to decide on starting telecommunications monitoring or technical surveillance referred to in subsection 1, if it is necessary due to urgency to carry out the measure without delay. Then the court referred to in subsection 1 must be notified of the measure without delay and within 24 hours at the latest from starting the measure. The notification must be accompanied by an application for telecommunications monitoring or technical surveillance if such measures are to be continued after the court has received the notification. (1299/2003)

After receiving the notification referred to in subsection 2, the court may prohibit continuing telecommunications monitoring or technical surveillance, or set restrictions on the use of the measure or conditions deemed necessary for the use of the information. Moreover, the provisions on handling the matter in court under the Coercive Measures Act, Chapter 5 a section 5-9, section 11(1), as well as sections 12 and 14, are *mutatis mutandis* in force.

Section 20 g (774/2003)

The customs officer who has made the decision on the technical surveillance or on placing a device used for technical surveillance referred to in section 20 d above, or the the designated customs officer acting as head of customs crime prevention, who has made the decision on telecommunications monitoring under section 20 f(2), or the customs officer who informed the court must inform the targeted person of the measure after the telecommunications monitoring or technical surveillance has been terminated, unless the informing jeopardizes the purpose of such measure or the preliminary investigation of a crime.

A notice on surveillance or its grounds is not necessary.

A record on the interception referred to in section 20 d above, and the telecommunications monitoring referred to in section 20 f(1-2), must be drawn up and delivered to the National Board of Customs without delay by the customs officer who has carried out the measure. The National Board of Customs shall annually report to the Ministry of the Interior on the use of interception and

telecommunications monitoring referred to in this subsection. The Ministry of the Interior reports annually to the Parliamentary Ombudsman how the afore-said rules have been applied.

Section 20 h (774/2003)

The designated customs officer acting as the head of customs crime prevention must without delay inspect the information gathered by means of the measures referred to in sections 20 c - 20 e, and the recordings acquired by means of technical surveillance referred to in section 20 d. The information solely concerning a third person must be destroyed without delay after the inspection, unless it is needed for the investigation of a customs offence. (1299/2003)

Rules concerning the incorporating of the material referred to in subsection 1 above into the personal data registers of Customs shall be separately provided for by law. If the information acquired by means of interception concerns a crime other than the one whose prevention or interruption the interception was targeted at, the data may be entered in the personal data file only if it concerns a customs offence for the prevention and interruption of which interception can be carried out.

The material gathered and recordings not entered in a register or preliminary investigation files must be destroyed after one year at the latest from the time the material is no longer needed for the purpose it was acquired for.

Section 20 i (774/2003)

What is prescribed in Chapter 5 a section 10 of the Coercive Measures Act on prohibitions for targeting interception at a suspect, also applies to other interception than the one targeted at a suspect under this law.

The personal data registers of Customs

Section 21 (774/2003)

The personal data registers of Customs include the enforcement data register, the system of investigation and administrative assistance as technical part of the Police matters data system and its archive index, the Customs archive of investigation and administrative assistance system as well as the licence plate and container recognition system, the European Union Customs Information System, and the data registers set up on the basis of section 22 of this law for carrying out the tasks referred to in the Act on Finnish Customs (228/1991). Unless otherwise prescribed in this Act, the Personal Data Act (523/1999) applies to the registers.

Section 22

A Customs personal data register may be created:

- 1) for the nation-wide use of Customs;
- 2) for the use of one or more customs districts;
- 3) for the use of a single Customs employee or a working group consisting of Customs employees.

A temporary register to be used according to subsection 1(2-3) can be established to prevent, uncover and investigate customs offences the penalty for which may be imprisonment. In the register, it is allowed to combine, save and otherwise process data from the registers referred to in sections 23, 23 a, 23 c and 23 d, data gathered by the customs authority through criminal intelligence, surveillance or observations in connection with carrying out an individual task as well as data from other information systems, files and registers that the customs authority has the right to receive data from by virtue of section 28. (690/2009)

Section 2, added by act 690/2009, enters into force on 1 January 2010.

The data in the Customs enforcement and investigation data registers is confidential, if not otherwise stipulated.

Section 23

The enforcement data register maintained by Customs is a permanent personal data register intended for the use of Customs for the prevention and investigation of customs offences. Only officers assigned to prevent and investigate customs offences may acquire information from the register through a technical interface. Information necessary for the prevention and investigation of customs offences may be gathered and entered in the register of persons reasonably suspected of: (1104/1998)

- 1) committing or having committed an offence punishable by imprisonment;
- 2) contributing or having contributed to an offence punishable by more than six months of imprisonment.

The following data on a person's identity can be entered into the enforcement data register: name, name normally used, identity number, sex, personal description, mother tongue, nationality, place of residence and address, information on the travelling document of a foreign citizen and information relevant to the person's own safety or the occupational safety of a customs officer, as well as information concerning a suspected offence, a vehicle used in connection with the offence, and information on business activities related to the suspected offence. (1104/1998)

Section 23 a (774/2003)

The investigation and administrative assistance system as part of the Police matters information system is a permanent information system intended for the nation-wide use of Customs and maintained by automatic data technology. Customs is allowed to gather and enter into the system information referred to in subsection 2 in order to prevent, uncover and prosecute offences under Customs responsibility.

In order to carry out and register investigation and administrative assistance, information gathered during pretrial investigation referred to in the Pretrial Investigation Act, in connection with measures or administrative assistance task conducted by the customs authority, or in connection with the application of the Coercive Measures Act is allowed to be entered into the investigation and administrative assistance system as part of Police matters information system in the following way:

- 1) information on persons suspected of an offence as well as persons acting as informants, witnesses or complainants or otherwise related to the report of an offence
- 2) information on the descriptions, coercive measures, customs authority measures as well as pretrial investigative stages on the reports of an offence or other reports
- 3) information on other necessary descriptions, conditions and identifications related to a task, measure or incident of the customs authority

The archive index as part of Police matters information system is a permanent information system intended for the nation-wide use of Customs and maintained by automatic data processing. Customs is for archive search allowed to gather and enter into the system identification data of the report and incident from the investigation and administrative assistance data as well as the synopsis of the investigation report. The information can be used for preventing, uncovering and prosecuting offences under Customs responsibility.

In addition, provisions under the Police Act Chapter 2 section 2(2) and Chapter 3 section 10 on handling of personal data, regarding the data to be entered into the information systems referred to in subsections 1 and 3 above, are in force.

Section 23 b (1104/1998)

In the European Union Customs Information System, it is permitted to enter the personal data referred to in article 4 of the Convention on the use of information technology for customs purposes and other information necessary to prevent, investigate or prosecute any breach of the prohibitions or restrictions provided by law and concerning the importation, exportation and transit of goods, or to prevent, investigate and prosecute offences involving transfer, conversion, concealment or disguise of property or proceeds derived from or used in illicit drug trafficking or breach of provisions of the second indent of Article 1 (1) of the above-mentioned Convention if the suspected offence is punishable by imprisonment. (905/2005)

In the Customs Files Identification Database of the European Union Customs Information System, it is, however, permitted to enter only the personal data referred to in article 12 b of the Convention on the use of information technology for customs purposes and other information to investigate and prosecute offences referred to in subsection 1, if the suspected offence is punishable by one year of imprisonment or by a more severe penalty. (1213/2006)

The personal data retrieved from the European Union Customs Information System can, without advance permission from the state that entered the data into the system, be used only for the purpose referred to in subsection 1. However, the personal data retrieved from the Customs Files Identification Database of the Customs Information System can, without advance permission from the state that entered the data into the database, be used only for the purpose referred to in subsection 2. (1213/2006)

Data in the Customs Information System cannot be copied to other personal registers without permission from the state that entered the data into the system.

Data is entered into the Customs Information System by the National Board of Customs, which is also responsible for the impeccable application of the information system in Finland.

Section 23 c (774/2003)

The archive index of the investigation and administrative assistance system of Customs is a permanent information system intended for the nation-wide use of Customs and maintained by automatic data processing. For archive search, Customs is allowed to enter identification data of the report and incident from the data on customs and other offences as well as the synopsis of the investigation report into the system. The information can be used for preventing, uncovering and prosecuting offences under Customs responsibility.

Section 23 d (774/2003)

The licence plate and container recognition system is a permanent information system for the nation-wide use of Customs, Police and Border Guard maintained by automatic data processing to prevent, uncover and prosecute crime, in which the data of vehicles and containers obtained under technical monitoring at border-crossing points are stored.

In addition to the data stored according to subsection 1, Customs, Police and Border Guard can gather and enter into the licence plate and container recognition system necessary data of vehicles and license plates and identification data of containers, and of persons who are reasonably suspected of:

- 1) having committed or committing an offence punishable by imprisonment;
- 2) having contributed or contributing to an offence punishable by more than six months of imprisonment.

The following identification and contact information on a person is allowed to be gathered and entered into the licence plate and container recognition system: name, name normally used, identity number, sex, personal description, photograph, mother tongue, nationality, place of residence and address, information on the travelling document of an alien and information relevant to the person's own safety or the occupational safety of a customs officer. Information concerning a suspected offence, a vehicle used in connection with the offence, and information on business activities related to the suspected offence may also be gathered and entered into the licence plate and container recognition system.

Customs is the register keeper of the licence plate and container recognition system. Police and Border Guard are responsible for the authenticity of the information entered into the system as well as for the legitimacy of the storing and use in carrying out their own tasks.

Section 24 (774/2003)

The necessity of storing personal data entered or stored in the personal data registers of Customs must be checked at least once a year. Data must be deleted from the enforcement data register within ten years from the date of the last entry. Personal data must be deleted from the system of investigation and administrative assistance as part of the Police matters data system as well as from its archive index according to what is provided in Police Act Chapter 5 section 22 on the handling of personal data. Data shall be deleted from the Customs investigation and administrative assistance system archive within 50 years from the entry of the report into the register at the latest. Data shall be deleted from the licence plate and container recognition system within 10 years from the entry of the data into the register at the latest. Data stored under monitoring referred to in section 23 d(1) shall, however, be deleted within one year from the storing of the data at the latest.

Data from the European Union Customs Information System shall be deleted as provided in Articles 12 and 12 e of the Convention on the use of information technology for customs purposes. (1213/2006)

Data found incorrect must be indicated as incorrect, and the data can be stored if it is necessary to safeguard the rights of the registered person, other interested party or a Customs employee. Such data can only be used for the said purpose. Incorrect data shall be deleted immediately after the storing of the data for safeguarding the rights is no longer necessary, however within five years at the latest from the time limit prescribed for the deletion.

Subject to subsection 3, data must be deleted from an analysis register established by virtue of section 22(2) as provided in section 26(1)(2) and subsections 2 and 4 of the Act on Police Personal Data Files. (690/2009)

Subsection 4, added by Act 690/2009, enters into force on 1 January 2010.

Confidentiality and transfer of information

Section 25

Everyone is obliged to keep secret and restrain from using what he has learned in office or otherwise from documents related to the customs clearance, warehousing or transportation of goods or in any other way of the business activities of another party.

Information obtained from analyses carried out for consumer protection or other information can, however, be published if it serves general interest.

The National Board of Customs and the customs district are permitted to disclose to the rights holder referred to in Council Regulation (EC) No 3295/94 on measures to prohibit the release for free circulation, export, re-export or entry or suspensive procedure of counterfeit and pirated goods information on probably counterfeit or pirated goods referred to in the Regulation and discovered by the customs authority. (1299/2003)

In addition, the National Board of Customs is permitted to disclose information concerning business activities to an authority or a public corporation which on the grounds of its statutory duty needs to obtain information on a confidential matter. The customs authority is permitted to disclose additional information in an individual case, if this is necessary to prevent a threat to life or health or an offence against liberty or property or to avoid considerable environmental or property damage. It is not permitted to pass on this information or to use it without the permission of the National Board of Customs for any other than the original purpose. (1299/2003)

Section 26

The customs authority is permitted to disclose, notwithstanding what is prescribed for confidentiality of information, also through a technical interface, personal data which is necessary for:

- 1) Police or a border guard authority for preventing or investigating offences or dealing with matters concerning aliens as well as for controlling an alien's entry into or exit from the country;
- 2) The Finnish Immigration Service for dealing with matters under the Nationality Act (359/2003) and the Aliens Act (301/2004); (983/2007)
- 3) the Ministry for Foreign Affairs and Finnish representations abroad for issuing a passport, a visa, a residence permit or a work permit;
- 4) the tax authorities for implementation of taxation, collection of taxes or charges, handling appeals relating to taxation or for distraint.

(774/2003)

However, data in the enforcement data register and in an analysis register established by virtue of section 22(2) can only be disclosed to the Police and the border guard authorities for prevention and investigation of offences. This data, as well as the data referred to in subsection 1, can also be disclosed to the National Bureau of Investigation to be further passed on to the European Police Office under the Convention on establishing the European Police Office (Treaty Series 79/1998), or to be entered into the central database of the Schengen Information System. (690/2009)

Subsection 2, amended by Act 690/2009, enters into force on 1 January 2010. The subsection was previously worded as follows:

However, data in the enforcement data register can only be disclosed to the Police and the border guard authorities for prevention and investigation of offences. This data, as well as the data referred to in subsection 1, can also be disclosed to the National Bureau of Investigation to be further passed on to the European Police Office under the Convention on establishing the European Police Office (Treaty Series 79/1998), or to be entered into the central database of the Schengen Information System. (1104/1998)

Data in the European Union Customs Information System can, without the permission of the Member State that entered the data into the system, only be disclosed to Police, Border Guard or prosecution authorities to be used in accordance with section 23 b. Data can be disclosed to Police and Border Guard also through a technical interface. (1104/1998)

However, information obtained from foreign authorities as administrative assistance cannot be disclosed without their consent. (241/2001)

Prior to sharing information through a technical interface, the requesting party shall present a clarification on data protection as referred to in section 32(1) of the Personal Data Act. (774/2003)

Section 26 a (774/2003)

To the use and disclosure of the data in the investigation and administrative assistance system as part of the Police matters data system applies what is prescribed for the handling of personal data in Chapter 4 sections 16, 19 and 20 of the Police Act. Prior to sharing information through a technical interface, the requesting party shall present a clarification on data protection as referred to in the Personal Data Act, section 32(1). However, the decision on transferring customs data abroad is

made by the customs authorities.

Section 27 (241/2001)

The customs authority is permitted to disclose information stored in the personal data registers of Customs and other information abroad as follows:

- 1) to the Customs Co-operation Council (CCC) on customs offences punishable by imprisonment;
- 2) to a customs authority in order to prevent, investigate and prosecute crime or to bring;
- 3) to the European Union Customs Information System in accordance with Council Regulation (EC) No 515/1997 on the mutual assistance between the administrative authorities of the Member States and on co-operation between the administrative authorities of the Member States and the Commission in order to ensure impeccable application of the legislation on customs and agricultural matters.
- 4) to an authority other than a customs authority if the data is necessary to prevent or investigate an offence which, if committed in Finland, is punishable by imprisonment.

Obtaining information from certain registers

Section 28

The customs authority has the right to obtain, notwithstanding what is prescribed for confidentiality of information, data needed for carrying out tasks under Customs responsibility, also through a technical interface, as agreed upon with the register keeper: (774/2003)

- 1) for the prevention and investigation of customs offences from corporations and consortia, information from passenger and crew data registers as well as from the registers of the Tax Administration and the vehicle administration also for taxation and collection; (11 June 2010/533)
- 2) for passport control, information from the data systems of the Ministry for Foreign Affairs on visa, residence and work permit decisions, from the data systems of the Finnish Immigration Service and from the Border Guard's registers for the control of the entry and exit of aliens; (983/2007)
- 3) for the prevention and investigation of customs offences and for passport control, information from Police registers intended for national use;
- 4) for the prevention and investigation of customs offences as well as monitoring of foreign traffic, information from the Border Guard's registers for the control of the entry and exit of aliens; (774/2003)
- 5) for collection, customs control, prevention and investigation of customs offences and for passport control, information from the population register;

- 6) information stored in the register of fines regarding pecuniary penalties and their implementation; from the implementation register of the Criminal Sanctions Agency, information regarding persons who are serving a prison sentence or who have served a prison sentence; from the national processing system of records and case management subordinate to the national data system of the judicial administration, information regarding criminal matters which are pending or which have been pending with the prosecuting authority or the court; and from the decision notification system subordinate to the national data system of the judicial administration, information regarding decisions given in criminal matters and their validity, should such information be available. (406/2010)

Paragraph 6, amended by Act 406/2010, enters into force on 1 December 2010. The paragraph was previously worded as follows:

- 6) from the data system of the judicial administration, information on criminal cases previously or presently under consideration of charges, summary penal orders issued, criminal cases in court, fines imposed, legally valid judgements whereby a charge has been dismissed, and on persons who have previously served or are presently serving a prison sentence; however, the Criminal Records Act (770/1993) provides for obtaining information from the criminal records.

Prior to sharing information through a technical interface, the customs authority shall present a clarification on data protection as referred to in section 32(1) of the Personal Data Act. (774/2003)

A customs officer has the right on the request of the designated head of customs crime prevention, in order to prevent or uncover a customs offence, to obtain necessary information from a private corporation or person, notwithstanding the company, bank or insurance secrecy binding a member, accountant, executive director, board member or employee of a corporation. (1299/2003)

For the prevention or investigation of customs offences, the customs authority also has the right to obtain contact information from a corporation operating in the field of telecommunications on a telecommunication subscription not listed in a public directory. For the same purpose, a customs officer has the right to obtain information on postal addresses from a corporation carrying out postal activities. (774/2003)

For carrying out official duties, the customs authority has the right to obtain information free of charge from an authority and from a corporation assigned for a public task. (1104/1998)

Notification of the amount of customs duties (1299/2003)

Section 28 a (1299/2003)

The amount of customs duties registered in the accounts will be notified by a reply message to the customers of Customs who use IT-based electronic data transfer. The customer shall be deemed to have been informed of the amount of duties, unless otherwise proved, at the time the reply message has arrived in the customer's data system.

Other customers of Customs than the ones referred to in subsection 1 will be informed of the amount of customs duties by a clearance decision. The customer shall be deemed to have been informed of the amount of duties, unless otherwise proved, at the time the clearance decision has been issued to the customer, or on the seventh day from the day the clearance decision has been

subjected to postal delivery. The day in which the clearance decision has been issued to a registered customer of Customs or subjected to postal delivery is the following workday after the day when the clearance decision was confirmed. The day in which the clearance decision has been issued to a cash customer is the day when the clearance decision was confirmed.

After the amount of customs duties has been registered in the accounts in accordance with Article 220 of the Customs Code, the amount of the duties will be declared by a subsequent assessment decision. The notification of a subsequent assessment decision shall be subject to the provisions on evidential communication in the Administrative Procedure Act. (434/2003)

Payment of duty

Section 29 (399/2000)

Duty must be paid into the bank account of Customs within ten (10) days from the date on the customs invoice, unless the time of payment has been extended or respite of payment or any other arrangement has been granted. Customers that are not registered by the National Board of Customs (*cash customer*) can also pay the customs invoice at a customs office.

Section 30 (179/2003)

If not otherwise prescribed by the Community legislation, what is laid down in the Act on Surtax and Penalty Interest on Arrears (1556/1995), the Act on the Recovery of Taxes and Fees by Way of Distraint (367/1961), excluding the provisions on material appeals, and the Act on the Securing of the Recovery of Taxes and Fees (395/1973) shall apply to the consequences for default of the payment of duty and for the recovery and securing the recovery of duty by execution measures.

Section 30 a (179/2003)

The payments specified by the debtor shall be used for paying outstanding accounts imposed by the clearance and subsequent levy decisions presented by the debtor. The outstanding accounts for non-specified payments and assets received from a security shall be paid in chronological order, starting from the earliest issued decision.

For the levied or recovered assets as well as for assets received from a security, a duty imposed by a decision is paid first. After that, the assets shall be used as a payment for an outstanding account in the following order:

- 1) interest for deferment of payment;
- 2) interest on arrears;
- 3) increase of customs duty, tax or payment and penalty fee;
- 4) national duties and payments;

The customs authority may allocate the payment in an individual case otherwise than stated in subsection 1 in order to prevent the time-barring of a customs debt or to safeguard the entry of duty in the accounts. To ensure equal treatment of the tax recipients, the customs authority may in an

individual case use the funds recovered from the debtor in an order other than provided for in subsection 2.

Increase of duty and penalty fee

Section 31

Duty can be increased:

- 1) by no less than 10 and no more than 2 500 euros, if the customs declaration or any other data or document required for customs taxation has been lodged after the date due, and by no more than 3 500 euros, if the customs declaration, any other data or document has been lodged only after being requested; (1240/2001)
- 2) by no more than 30 percent, if the customs declaration or other document or particular is incomplete or incorrect or if the duty to declare has been partly or completely neglected;
- 3) by no more than 50 percent, if an incomplete or incorrect customs declaration or other document or particular has been lodged knowingly or by gross carelessness or one has failed in any other way to fulfil his duty to declare and this conduct has caused a situation where a duty could have been avoided;
- 4) by 100 percent, if a person arriving in Finland has knowingly or by gross carelessness neglected his duty to declare goods by importing or attempting to import without declaring goods in quantities exceeding those allowed and if the matter is not dealt with as customs offence.

If the conduct defined in subsection 1(3), considering the amount of the profit gained and other circumstances relevant to the case, is to be considered gross, the duty must be increased by no less than 50 percent and no more than 100 percent.

If the incompleteness or incorrectness defined in subsections 1 and 2 is only related to a part of the goods, the increase must be imposed only on these goods.

Section 32 (1299/2003)

A penalty fee of no less than 10 and by no more than 2 500 euros can be imposed, if:

- 1) the delay or any other fault referred to in section 31(1)(1-3) is related to a customs procedure not liable to duty or liable to a small amount of duty and no duty increase has been imposed, or an incomplete or incorrect document or particular has been lodged in the application procedure or in order to gain a customs benefit;
- 2) the delay or any other fault is related to the internal trade statistics of the Community, importation of goods into the customs territory of the Community, presentation of goods to the customs authority, summary declaration and unloading of the goods presented to the customs authority as well as temporary warehousing of goods or other customs-approved treatment or use referred to in the Code other than placement under a customs procedure; or

- 3) an obligation, other than that referred to in paragraphs 1 and 2 and section 31, according to the Community customs legislation or according to this Act or a decree given under this Act or according to a decision or stipulation issued by the customs authority on the basis of these provisions has been completely or partly neglected

Section 33

The duty increase referred to in section 31 or the penalty fee referred to in section 32 can also be imposed after notification of the debt has been given within three years from the date when the customs debt has been incurred or, if the goods are duty-free, from the date when the customs authority has endorsed the data given in the declaration.

If the delay or any other fault relates to the internal trade statistics of the Community, a penalty fee can be imposed within three years from the date when the declaration for statistics has or should have been given.

Duty increase or penalty fee remains valid despite the extinction of customs debt or refund of duty, if the reasons under which the duty increase or penalty fee have been imposed, still exist.
(241/2001)

Disposal of goods and abandonment to the State

Section 34

Non-Community goods can be destroyed or abandoned to the State on the request of the declarant provided that these have been properly declared to the customs authority, and measures referred to in the Customs Code have been taken in order to establish the form of customs clearance of the goods. Goods can also be destroyed or abandoned to the State after they have been released into free circulation if import duties are to be refunded or remitted according to Article 238 of the Code.

Customs auction

Section 35

The following goods shall be sold at customs auction:

- 1) goods which have been pronounced by a legally valid decision to be forfeited to the State;
- 2) goods which have been abandoned to the State;
- 3) goods which are under customs control and which have not been declared within the set time limit;
- 4) goods which could not have been transferred due to the reasons referred to in Article 75 of the Code and which have not been collected within six months from the date of their release into free circulation.

If goods referred to in subsection 1 can not be sold due to legislation restricting its usage or trade, or due to any other reason relating to the quality of the goods, or if it were inappropriate and if there is no legislation prescribing the use, abandonment or destruction of these goods, they can by the decision of the Ministry of Finance or according to the instructions of the Ministry be abandoned to a state institution or, for a specific reason, to some other body, or be destroyed. The ownership of the goods referred to in subsection 1(3-4) shall be deemed to pass to the State or any other acquiring party at the time of the abandonment.

Section 36

Funds raised at customs auction will be used to pay the costs related to the goods in the following order:

- 1) auction expenses;
- 2) duty;
- 3) other expenses.

The surplus must be accounted to the State unless the owner of the goods claims it within one year of the auction. The owner of the goods must be, where possible, notified of the surplus.

If any customs debt remains on goods sold at auction, the deficit will be levied from the owner of the goods.

Appeal

Section 37

Appeals against a decision by the customs authority shall be lodged with Helsinki Administrative Court. The right of appeal on behalf of the State against a decision of a customs district lies with the Customs Attorney at the customs district and against a decision of the National Board of Customs, with the Customs Attorney at the National Board of Customs. (1299/2003)

The petition of appeal must be lodged within the appeal period with the customs authority against whose decision the appeal is lodged. (1378/1997)

The appeal period in a case concerning customs duty or duty refund or nullification of duty is three years from the date the duty was imposed, or from the beginning of the calendar year following that during which the repayment or remission of customs duty was granted, but always at least 60 days counted from the date the appellant was notified of the decision. When lodging an appeal against other decisions, the appeal period shall be 30 days counted from the date the appellant was notified of the decision. For the Customs Attorney, the time limit shall be 30 days counted from the date the decision was given.

Section 38 (1378/1997)

After the appeal has been lodged, the customs authority must investigate whether the prerequisites defined in Article 236 of the Code on the duty refund or the prerequisites for the rectification or

correction of any other issue exist. If according to the request made, the customs authority grants a duty refund or nullification of duty or in any other way rectifies or corrects his decision, the appeal becomes void.

In so far as the request made in the appeal does not give cause for duty refund or rectification or correction of any other issue stated in the appeal, the customs authority shall give a statement on the appeal and send the documents originated during the case to the Helsinki Administrative Court without delay. (1299/2003)

Section 39

If duty has been abolished or it has been reduced by the decision of the Administrative Court, the duty paid in excess shall, regardless of the appeal, be refunded without delay. (1299/2003)

If duty has been refunded based on a request for duty refund referred to in Article 236 of the Code or based on an appeal, interest will be paid on the refunded sum. The interest will be calculated as an annual interest corresponding to the reference rate referred to in section 12 of the Interest Act (633/1982) for the half-year preceding the calendar year in question, reduced by two percentage points, however, at least 0.5 per cent. The interest will be calculated from the beginning of lis pendens of the request for duty refund or of the appeal or, if the customs duty has been paid after the dates referred to, from the date of payment of duty to the date of repayment. If a request for duty refund has been made on the issue referred to in the appeal, and this request has been rejected, the interest will be calculated from the beginning of lis pendens of the request. Interest will not be paid for a duty refund of less than 17 euros. Interest on refund is not considered taxable income within income taxation. (1258/2009)

Subsection 3 has been repealed by Act 1378/1997.

Section 40

Appeal against a decision of the Administrative Court can be lodged in the Supreme Administrative Court, if the Supreme Administrative Court grants permission to appeal. (1299/2003)

The grounds for granting permission to appeal are:

- 1) it is important with regard to the application of law in other similar cases or for the unity of the legal praxis to bring the matter to be decided on in the Supreme Administrative Court;
- 2) there exist special reasons for bringing the matter into the Supreme Administrative Court because an obvious mistake occurred in connection with the case;
- 3) there exists a weighty financial reason for granting leave.

Permission to appeal can also be granted to apply only to a certain part of the Administrative Court decision which is the subject of the appeal. (1299/2003)

The appeal must be made within 60 days after receiving notice of the decision of the Administrative Court. The petition of appeal must be submitted within the appeal period to the Supreme Administrative Court or to Helsinki Administrative Court. The right of appeal on behalf of the State lies with the Customs Attorney at the National Board of Customs. (1299/2003)

Section 41 (1378/1997)

If not otherwise prescribed in this Act, the provisions of the Administrative Judicial Procedure Act shall be applicable to appeals. (586/1996)

Customs offences and their investigation

Section 42

It is prohibited, without appropriate permission, to break a lock, plomb or seal or any other obstacle affixed or approved by Finnish or foreign customs authorities for the purpose of sealing goods or isolating premises, or in any other way to gain access to premises closed as aforesaid. The punishment for breaking an official prohibition related to property is laid down in Chapter 16 section 10 of the Penal Code. (584/1998)

The punishment for illegal avoidance of duty, or an attempt to do so, is laid down in Chapter 29 sections 1-3 of the Penal Code. The punishment for customs clearance offences is laid down in Chapter 46 sections 7-9 of the Penal Code. (426/2009)

Subsection 2, amended by Act 426/2009, enters into force on 1 October 2009. The subsection was previously worded as follows:

The punishment for illegal avoidance of duty, or an attempt to do so, is laid down in Chapter 29 sections 1-3 of the Penal Code.

Any person who intentionally or by gross negligence fails to fulfil the obligation to declare goods or any other obligation provided for by customs legislation, shall be liable, unless a more severe punishment is prescribed elsewhere in the law and the act is not punishable as a petty customs clearance offence, to a fine for a *customs violation*. (426/2009)

Subsection 3, amended by Act 426/2009, enters into force on 1 October 2009. The subsection was previously worded as follows:

Any person who intentionally or by gross negligence fails to fulfil the obligation to declare goods or any other obligation provided for in customs legislation or in any other way violates the said regulations, shall be liable, unless a more severe punishment is prescribed elsewhere in the law, to a fine for a *customs violation*.

Section 43

In the investigation of customs offences, the provisions of this Act shall be followed in addition to separate provisions concerning preliminary investigation and coercive measures.

A customs officer shall have the same powers to take investigative measures in a preliminary investigation carried out by the customs authority as a police officer in a preliminary investigation carried out by the police authority. Chapter 1 section 6 paragraph 3 of the Coercive Measures Act lays down provisions on customs officers with powers of arrest.

The investigation leader of preliminary investigation carried out by the customs authority shall be a customs officer with powers of arrest. For special reasons, another customs officer working in customs crime prevention can be authorized to lead an investigation with restricted powers based

on orders received. Such a customs officer shall have the same powers to decide upon seizures and searches as an officer with powers of arrest. (1299/2003)

Any person assumed able to provide information regarding a customs offence is required on invitation to attend the nearest customs office in order to be heard in a preliminary investigation. Otherwise, the provisions of the Criminal Investigations Act (449/87) shall apply to attendance at a preliminary investigation.

Section 43 a (844/2006)

The provisions of the Act on the Treatment of Persons in Police Custody (841/2006) shall be applied in the treatment of persons in the custody of and arrested and apprehended by the customs authority.

The provision of subsection 1 concerning the Police also applies to the customs authority as regards persons in its custody. The provisions of the said Act on police officers or guards apply to customs officers. The provisions of the said Act on the supervising officer of the place of custody or an official with powers of arrest acting under the orders of the supervising officer apply to the supervising officer of the place of custody in Customs premises.

Exceptions to the Act referred to above in subsection 1:

- 1) as an exception to Chapter 2 section 1, a place of custody administered by the customs authority shall be approved by the National Board of Customs;
- 2) as an exception to Chapter 8 section 3, the regulations of a place of custody administered by the customs authority shall be confirmed by the National Board of Customs, which shall also decide on the monitoring and locking of facilities;
- 3) as an exception to Chapter 17 section 3(1), decisions on claims of correction shall be made by the head of the customs district concerned, and;
- 4) as an exception to Chapter 18 section 1, a customs officer with powers of arrest who works for the customs district concerned shall be assigned as the supervising officer of the place of custody.

Section 44

If an arrested or remanded person has no permanent residence in Finland and it is likely that he will by leaving the country try to avoid a trial or the execution of a sentence, he may be discharged only on condition that he lodges a security regarded as sufficient to guarantee that he will appear in court and assume the possible legal consequences. If a person so discharged fails to appear in court or to serve his sentence of imprisonment within the period during which the sentence may be imposed or the imposed imprisonment may be executed, the court may declare the security wholly or in part forfeited to the state. A fine imposed or a claim by the state to be collected on the basis of the Act on the Enforcement of a Fine (318/63) may be collected out of the security.

Section 45

A customs officer can refrain from taking action for bringing charges against a guilty party if the anticipated punishment would be no more severe than a fine and the offence as a whole must be regarded as evidently minor. A customs officer can, however, give an admonition to a person who is guilty of such an offence.

Section 45 a (690/2009)

When carrying out measures of information acquisition for customs crime prevention, a customs officer can postpone intervention into an offence being committed if the offence does not cause immediate danger to life, health or liberty, or an immediate risk of considerable damage to the environment, to property or assets, and if postponing the measure is necessary in order to prevent the exposure of information acquisition or to ensure meeting the objectives of the activity.

Section 45a, amended by Act 690/2009, enters into force on 1 January 2010.

Section 46 (763/2010)

If a fine and forfeiture may be imposed due to a customs offence with a decision to impose a fine or a summary penal judgment, the investigation leader or a customs officer assigned to the task can issue a claim for a fine, a decision to impose a fine or a summary penal judgment concerning the said sanctions as provided for by the Act on Imposing a Fine and a Petty Fine (754/2010).

If the consequence of an offence under Customs investigation may be a petty fine and forfeiture, the customs officer referred to in subsection 1 has the right to impose the said sanctions or to issue an appropriate summary penal order as provided for by the Act on Imposing a Fine and a Petty Fine.

Section 46, amended by Act 763/2010, will enter into force on the date to be defined by law. The subsection was previously worded as follows:

Section 46 (1299/2003)

If a matter involving a customs offence can be processed under summary penal proceedings, the investigation leader or a customs officer assigned to the task may issue a summary penal order as provided for by the Summary Penal Proceedings Act (692/1993).

If the consequence of an offence under Customs investigation may be a petty fine, the customs officer referred to in subsection 1 has the right to impose a petty fine as provided for by the Petty Fine Act (66/1983). The provisions of the said Act on the tasks of the head of a police district in a petty fine matter apply to the tasks of the head of a customs district in a petty fine case being handled by Customs.

Section 47

In customs crime matters, the preliminary investigation leader or a customs officer assigned to the task is authorised to serve a summons or other notice in the capacity of a summoner.

In customs crime matters, a summons may also be served on an agent authorised by the defendant for this purpose.

A customs officer may, at the request of an authority empowered to serve a summons, serve a summons also in connection with matters other than customs crime matters.

The appropriate provisions of the Bailiffs Act (505/86) and Bailiffs Decree (506/86) shall be applicable to the serving of summonses and other notices by the customs authority.

An officer referred to in the Agreement on Frontier Customs Cooperation who is carrying out customs measures for the Finnish government, may in a customs crime matter serve a summons as well as a claim for a fine, a decision to impose a fine or a petty fine, and a summary penal order referred to in section 46 in a control zone referred to in the Agreement. An order or claim related to a customs crime matter may be issued in a control zone without an order from the Prosecutor General also to persons other than Finnish citizens. (763/2010)

Subsection 5, amended by Act 763/2010, will enter into force on the date to be defined by law. The subsection was previously worded as follows:

An officer referred to in the Agreement on Frontier Customs Cooperation who is carrying out customs measures for the Finnish government, may in a customs crime matter serve a summons and a summary penal order referred to in section 46 in a control zone referred to in the Agreement. A summary penal order related to a customs crime matter may be issued in a control zone without an order for prosecution from the Chancellor of Justice also to persons other than Finnish citizens. (331/1996)

Section 47 a (331/1996)

The provisions of section 44 of the Police Act (493/95) on the right of the members of Police personnel to remain silent are also applicable to the members of Customs personnel.

Seized goods

Section 48

If the owner or the holder of seized goods is unknown or has no known permanent domicile in Finland, he shall be summoned with a public summons to appear in the court on a due date, which can not be set for sooner than the seventh day from the publication of the summons. The summons must be available for public inspection in the office of the court of law.

If the legally summoned owner or holder of the seized goods does not appear to answer for himself on the matter and shows no legal impediment, the claim for the forfeiting of the goods will be decided upon regardless of his absence.

Section 49

The confiscated goods can be, unless elsewhere otherwise prescribed, before they are declared forfeited:

- 1) handed over to the owner against a security considered by the Customs District; (1299/2003)
- 2) sold at auction, if the owner agrees to it or if warehousing of the goods is difficult;

- 3) used for a purpose which the National Board of Customs may direct if it is illegal to import or export the goods and their keeping is impracticable.

If a court of law declares the seized goods to be forfeited, the right of ownership shall be deemed to have passed to the State when the seizure was made. In the cases referred to in subsection 1 of this section, the value of the goods declared to be forfeited shall be deemed as forfeited instead of the goods themselves.

Section 50

A Customs District shall enforce the decision applicable to the goods declared as forfeited in a customs offence case. (1299/2003)

Seized goods which have been ordered to be returned to the proprietor or to another person having the right to them shall undergo customs clearance in the appropriate form.

Miscellaneous provisions

Section 51

Duty must be assessed based on evaluation, if a customs declaration has not been presented or if it cannot, even supplemented, be considered as basis for duty. However, the owner of goods must first be given, if possible, the opportunity to explain matters. In a decision concerning the assessment of the duty, the basis for evaluation must be stated.

Section 52

If a circumstance or an operation has been given a judicial form which does not comply with the actual nature and object of the case, any action in the case has to be taken as if the correct form had been employed.

In addition to what has been provided in the Code, the debtor can also be a person who has given such information in the declaration which he has known or he reasonably should have known to be false, and if this has led to the duty not being properly assessed.

Section 52 a (1299/2003)

The Customs Attorney shall be heard and he shall receive notice of the decision so that the customs authority making the decision gives the Customs Attorney an opportunity to go through the decision and the documents it is based on.

Section 53

The minimum amount of duty to be entered in the accounts is defined by government decree.

Section 53 a (1299/2003)

The provisions on duty apply, as appropriate, to the collection and payment of charges imposed by virtue of the Act on Criteria for Charges Payable to the State (150/1992) and of other charges under public law collected by Finnish Customs, as well as to appeal and penalty fees. The minimum amount of duty to be entered into accounts, referred to in section 53, is, however, not applied to them.

Section 54

More detailed provisions on the implementation of Customs legislation may be issued by decree.

Transitional provisions and entry into force

Section 55

This act will enter into force on a date to be defined by government decree.

With this act are hereby repealed the Customs Act (573/78) of 14 July 1978, the Customs Taxation Act (575/78) of 14 July 1978, the Customs Valuation Act (906/80) of 19 December 1980, the Customs Tariff Act (660/87) of 10 July 1987, and the Act on Duty and Import Levy Preferences for Goods Originating in Developing Countries (973/71) of 31 December 1971, and all the amendments later made to them, the act concerning the amendment procedure of rules of origin applicable to free trade treaties and other customs preference arrangements and on the provisions concerning the rules (460/93) of 28 May 1993, and the act concerning the duty-free import of clothes in certain cases (47/92) of 24 January 1992.

The legislation to be repealed, referred to in subsection 2, will be applied on goods delivered from Customs control or goods which should have been declared to Customs before this Act enters into force.

In addition to what is provided in subsection 3, the provisions on the transition period (Treaty Series 103/94), which are in annex VI of the agreement, signed on 24 June 1994, on the integration to the European Union of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden, are observed.

The permits concerning the keeping and managing of a tax-free shop, given on the basis of the Customs Act to be repealed, shall remain in force as Customs warehouse permits and they will be applied according to the provisions of subsection 4.

505/1995:

This Act enters into force on 1 October 1995.

1700/1995:

This Act enters into force on 1 January 1996.

331/1996:

This Act enters into force on 1 July 1996.

1378/1997:

This Act enters into force on 1 January 1998.

The cases under appeal which are pending in National Board of Customs when the act enters into force shall be transferred to the County Administrative Court of Uusimaa.

584/1998:

This Act enters into force on 1 January 1999.

694/1997 of 1998:

This Act will enter into force on a date to be defined by decree (Act 694/1998 entered into force according to Decree 695/1998 on 1st October 1998).

1104/1998:

This Act enters into force on 1 January 1999.

764/1999:

This Act enters into force on 1 July 1999.

399/2000:

This Act enters into force on 1 May 2000.

876/2000:

This Act enters into force on 1 November 2000.

241/2001:

This Act enters into force on 25 March 2001.

1240/2001:

This Act enters into force on 1 January 2002.

65/2003:

This Act enters into force on 1 April 2003.

179/2003:

This Act will enter into force on a date to be defined by government decree (Act 197/2003 entered into force according to Government Decree 342/2003 on 15 May 2003).

519/2003:

This Act enters into force on 1 January 2004.

715/2003:

This Act enters into force on 1 September 2003.

774/2003:

This Act enters into force on 1 October 2003.

1299/2003:

This Act enters into force on 1 January 2004.

570/2004:

This Act enters into force on 1 July 2004.

To the end of the month following the date of entry into force, the interest paid on repayment of customs duty will be calculated according to an annual interest of nine per cent.

584/2005:

This Act enters into force on 1 September 2005.

905/2005:

This Act will enter into force on a date to be defined by government decree (Act 905/2005 entered into force according to Government Decree 93/2008 on 14 April 2008).

979/2005:

This Act enters into force on 1 January 2006.

844/2006:

This Act enters into force on 1 October 2006.

1213/2006:

This Act enters into force on 15 October 2007 (Government Decree 875/2007).

983/2007:

This Act enters into force on 1 January 2008.

Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

740/2008:

This Act enters into force on 1 December 2008.

426/2009:

This Act enters into force on 1 October 2009.

690/2009:

This Act enters into force on 1 January 2010.

1258/2009:

This Act enters into force on 1 January 2010.

This Act shall be applied to interest calculated for 1 January 2010 and onwards.

406/2010:

This Act enters into force on 1 January 2010.

482/2010:

This Act enters into force on 15 June 2010.

533/2010:

This Act enters into force on 1 September 2010.

763/2010:

Separate provisions regarding the entry into force of this Act shall be issued by law.